

# Complying with CIPA

## What Schools Need To Know

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# Complying with CIPA

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**This brief is divided into the following areas:**

- Quick E-rate CIPA Review
- Basic Requirements of the Law
  - CIPA: Technology Protection Measure
  - NCIPA: Internet Safety Policy and Public Meeting
  - BDIA: Internet Safety Policy and Online Safety Education
- Sources for More Information



# Quick E-rate CIPA Review

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## CIPA (Children's Internet Protection Act)

- Non-telecom FRN(s) must be CIPA compliant at the start of service or when the Form 486 is filed, whichever is earlier.
- Applicants must retain documentation demonstrating their CIPA compliance [possibly beyond the normal 5 years]



# Quick E-rate CIPA Review

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- PIA review occurs to ensure CIPA compliance for that funding year by the time services begin or the filing of Form 486
- During PIA review applicants are informed about any deficiencies (*non-compliance issues*)
  - Advisory email is sent after the review
  - FCDL comment provides an explanation
- Applicants may cure the deficiency prior to the start of service or the filing of the Form 486, whichever is earlier
- FCC can deny or recover funds for non-compliance



# Basic Requirements

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**Q. What are the basic requirements of CIPA?**

**A:** A school or library must have some type of filter or blocking technology on all of its computers with Internet access. The filters must protect against access to certain visual depictions.

**Q. What are the basic requirements of NCIPA?**

**A:** A school or library must have an Internet safety policy and hold a public hearing or meeting, before which reasonable public notice is provided, to review the policy. For schools, the policy must address monitoring the online activities of minors. The law does not require "tracking of Internet usage by any identifiable minor or adult user."

**Q. What are the basic requirements of BDIA?**

**A:** A school's Internet safety policy must include educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.



# Basic Requirements

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- CIPA/NCIPA
  - Public Notice & Public Hearing [or meeting]
  - Technology Protection Measure (Filter)
  - Internet Safety Policy (required elements)
    - Access by minors to inappropriate matter on the Internet
    - Safety & security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications
    - Unauthorized access including "hacking" & other unlawful activities by minors online
    - Unauthorized disclosure, use, & dissemination of personal information regarding minors
    - Measures designed to restrict minors' access to materials harmful to minors



# Basic Requirements

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- CIPA/NCIPA TPM Requirements
- As required by CIPA, § 54.520(c)(i) of the Commission's rules requires that the Internet safety policy must include a technology protection measure that protects against Internet access **by both adults and minors to visual depictions that are (1) obscene, or (2) child pornography**, or, with respect to use of the computers by minors, (3) harmful to minors. In addition, § 54.520(c)(i) requires the entity to certify that its policy of Internet safety includes monitoring the online activities of minors. Applicants make their CIPA certifications annually on the Confirmation of Receipt of Services Form (FCC Form 486).



# What has to be filtered?

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- The law does not require the filtering of text. But the TPM must protect against access to visual depictions that are:
  1. Obscene: This is defined in a reference to section 1460 of title 18, U.S. Code.
  2. Child pornography: This is defined in a reference to section 2256 of title 18, U.S. Code.
  3. Harmful to minors: This is applicable only to Internet access by minors. It is defined in CIPA and means any picture, image, graphic image file, or other visual depiction that:
    - a. taken as a whole, appeals to a prurient interest in nudity, sex, or excretion;
    - b. depicts, describes, or represents, in a patently offensive way, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
    - c. taken as a whole, lacks serious literary, artistic, political, or scientific value.



# FCC Statements...

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- Schools have always had wide latitude when it comes to implementing Internet safety curriculum, policy and protection measures...

"We have attempted to craft our rules in the most practical way possible, while providing schools and libraries with maximum flexibility in determining the best approach. We conclude that local authorities are best situated to choose which technology measures will be most appropriate for their relevant communities."  
—FCC regulations, April 2001



# ...Mirror The Law

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- While the statute does indicate in Section 254(l)(2) that a determination regarding what matter is inappropriate for minors shall be made by the school board, local educational agency, library, or other authority responsible for making the determination, it should be further noted in this discussion that the same section of the statute further states that:

“ No agency or instrumentality of the United States Government may—

- (A) establish criteria for making such determination;
- (B) review the determination made by the certifying school, school board, local educational agency, library, or other authority; or
- (C) consider the criteria employed by the certifying school, school board, local educational agency, library, or other authority in the administration of subsection (h)(1)(B) of this section.”



# BDIA Update

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- **Protecting Children in the 21<sup>st</sup> Century Act**
  - Enacted in Fall 2008 to address Internet Safety in schools, specifically social network and chat room behavior and cyberbullying awareness and response
  - Before USAC can enforce new requirements the following must occur:
    - FCC will issue a Notice of Proposed Rulemaking (NPRM) seeking comment on the Act ✓
    - FCC will draft new rules and the new rules must be voted by the FCC Commissioners
    - FCC will release guidance to USAC in an Order



# BDIA Update

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- **The FCC NPRM published in the Federal Register January 19, 2010 contains proposed rule revisions related to BDIA. The FCC will vote on the proposed revisions following the comment and reply comment periods. The NPRM language is as follows.**

The existing information collection requires schools and libraries to certify that they have in place certain Internet safety policies, pursuant to the Children's Internet Protection Act (CIPA), 47 U.S.C. 254(h) and (l), in order to receive E-rate discounts for Internet access. This information collection is being revised to add a new certification that the E-rate applicant **has updated its Internet safety policy to include plans for educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response**, as required by the Protecting Children in the 21st Century Act.



# BDIA Update

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- According to the FCC NPRM, which includes proposed rule revisions related to BDIA, along with several other proposed rule revisions related to CIPA, the proposed rule revisions will not require any changes to the current Form 486 certifications. Likewise, according to the NPRM, the proposed rule revisions will not require any changes to the Form 479, nor will consortium members need to file a revised Form 479



# BDIA Update

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- So what/when then?
- Many of the posted comments point out the fact that it would be extremely difficult for schools and libraries to update their Internet Safety Policy in time to certify compliance on Funding Year 2010 Forms 486.
- It is expected **[but not guaranteed]** that the FCC will target FY2011 Forms 486 for BDIA compliance certification.



# “Off-Hours” Use Update

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- So what/when then?
- The TPM should remain on during adult “off-hours” use.
- Administrative authority will have to decide policy and procedure for “off-hours” scheduling, unblocking for bona fide research or other lawful purposes, etc.



# More Resources

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- For specific SLD-provided information pertaining to CIPA, deadlines, and forms, see the CIPA guidance provided by the SLD:  
[www.usac.org/sl/applicants/step10/cipa.aspx](http://www.usac.org/sl/applicants/step10/cipa.aspx).
- FCC NPRM, refer to [Public Notice DA 10-102](#).
- E-rate Central CIPA Primer/Sample Policy:  
[http://www.e-ratecentral.com/CIPA/cipa\\_policy\\_primer.pdf](http://www.e-ratecentral.com/CIPA/cipa_policy_primer.pdf).

## Q & A

