iPads, Mobile Devices, and CIPA Compliance: an Update An Infopeople Webinar October 16, 2014 Mary Minow J.D., A.M.L.S.

Legal Disclaimer

- Legal information
- **Not** legal advice!



iPads, Mobile Devices, and CII an Update	PA Compliance:
Children's Internet Protection Act	Find and follow posts tagged #library settle
Selfies: Photos, Videos, Recordings	
Library Devices: Pre-loaded content Disability access User agreements	On Maddy Ferguson
user agreements	II seed II see

Children's Internet Protection Act (CIPA)

- Legal requirements schools versus public libraries
- Looking at porn on your own device
- CIPA 10 years later report





858 CIPA Compliant. If your library is compliant with CIPA (Children's Internet Protection Act) compliant, Y = Yes; N = No.	
NOTE: For CIPA compliance your library must have an Internet safety policy that includes technology protection measures and provide a means to block images that constitute obscenity, child pornography and prevent minors from obtaining access to material that is harmful to them. All library	
computers, including staff computers, must have a technology protection measure installed and running that blocks obscene/child pornography images. An authorized person may disable the blocking or filtering measure during use by an adult to enable access for bona fide research or other lawful purposes.	
California Public Library Report	
Callotlia Futule Library Reput https://www.library.ca.gov/ids/docs/ CA1213PublicInstructions.pdf	
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Mobile Devices and CIPA	
Some E-rate recipients have sought guidance regarding the potential application of CIPA requirements	
to the use of portable devices owned by students and library patrons, such as laptops and cellular telephones, when those devices are used in a school or library to obtain Internet access that has been funded by E-rate.	
We recognize that this is an increasingly important issue, as portable Internet access devices proliferate in schools and libraries. We believe it may be helpful to	-
clarify the appropriate policies in this area, and intend to seek public comment in a separate proceeding.	
https://apps.fcc.gov/edocs_public/attachmatch/FCC-11-125A1.pdf	

Federal Common	Gration Commission FCC 11-125		
Foderal Commun	ine the destines Commission se, D.C. 2004	Don't block social media (per se) (para 17)	
In the Matter of Schools and Libraries Universal Service Support Machanism	CC Dustier No. 62.6	Help students "participate in online social networks where people from all over the world share ideas, collaborate, and learn new things."	
A National Broadhard Plan for Our Fusion	GN Docker No. 09-51	Declaring such sites categorically	
REPORT	AND ORDER	inconsistent with the Protecting Children in the 21st Century Act's	
Adopted: August 19, 2011	Robsenti August 11, 2011	focus on "educating minors about appropriate online behavior,	
By the Commission:		including interacting with other	
TABLEO	CONTENTS	individuals on social networking websites and in chat rooms, and	
Heading	Paragraph #	cyberbullying awareness and	
INTRODUCTION BACKGREENED DESCUSSION A. Prescrion Children in the 21° Conserv Act	Indian 3	response."	
B. Ober Proposed Rafe Revisions IV. PROCEDURAL MATTERS A. Find Regulatory Flexibility Analysis B. Paperwork Roduction Act Analysis V. CONCRESSIONAL REVIEW ACT	25 26 26 27 29		
VI. ORDERING CLAINER APPENDEX A: Final Rules APPENDEX B: Final Regulatory Flexibility Analy APPENDEX C: Commonts and Ruply Commons is	10 sh		

Schools only 28. In this present document, we require any school receiving E-rate funding to certify that its Internet safety policy provides for the education of minors about appropriate online behavior, including interacting with other individuals on social networking websites and in clast rooms and cyberboullying awareness. We have assessed the effects of this new certification requirement and find that it will not significantly impact the burden on small business. Congress adopted this new certification requirement promote coline safety education in schools. We also codify the existing stantory requirement that schools and libraries make Internet selfey policies available upon request by the Commission. We have assessed the effects of adding this requirement to our rules and find that it will not significantly impact the burden os small business because it was an already existing statutory requirement with which schools and libraries have had to comply. https://apps.fcc.gov/edocs_public/attachmatch/FCC-11-125A1.pdf FCC 13-100 Modernizing the E-rate Program for Schools and Librar WC Docket No. 13-184 NOTICE OF PROPOSED RULEMAKING A. The Children's Internet Protection Act 271. Stakeholders have sought clarification on the applicability of CIPA to devices not owned by E-rate recipients but using E-rate supported networks and to off-premises use of devices owned by schools and libraries. 30 We seek injust from interested parties about the measures schools and libraries are taking and need to take to comply with CIPA when they allow third-party devices to connect to their E-rate supported networks. ¹⁶⁶ Also in response to scance to their schools and libraries are taking and must take to ensure that they are not violating CIPA when they provide employees, students and library patrons with portable, Internet-enabled devices that can be used off-premises. ¹⁸⁷ https://apps.fcc.gov/edocs_public/attachmatch/FCC-13-100A1.pdf **ALA**AmericanLibraryAssociation The Children's Internet Protection Act Our position on CIPA compliance is straight-forward and we believe it is fully supported by the language in the law. In brief, we believe that—when read in the context of the law—the phrase "any of its computers with Internet access" [emphasis added] clearly refers to school or library owned devices (§274). Therefore, CIPA applies to devices owned by the school or library but does not apply to devices owned by students, staff or library patrons. If libraries or schools want to filter devices they do not own, that is a local decision but is not a requirement of the law. We strongly oppose the broader interpretation of this key phrase that CIPA covers any device, regardless of ownership (§274).

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Sept. 13, 2013

http://apps.fcc.gov/ecfs/document/view?id=7520944024

Federa	al Communications Commission	FCC 14-99
Federa	Before the al Communications Commission Washington, D.C. 20554	
In the Matter of Modernizing the E-rate Program for Schools and Libraries REPORT AND ORDER AND	WC Docket No. 13-184	
Adopted: July 11, 2014	R	eleased: July 23, 2014
Comment Date: September 15, 2014 Reply Comment Date: September 30,	2014	
	p://transition.fcc.gov/Daily_R ily_Business/2014/db0723/FC	

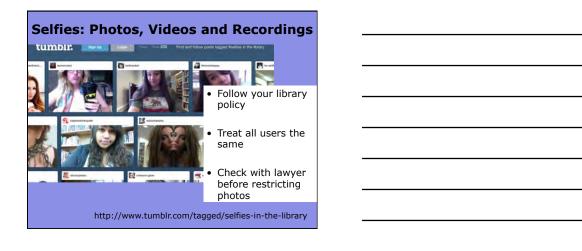
ı	NCSL NATIONAL CONTABNES OF STATE LEGISLATURES
	ABOUT US LEGISLATORS & STAFF RESEARCH MEETINGS & TRAINING NCSLIND.C. BOOKS
	CHILDREN AND THE INTERNET
	LAWS RELATING TO FILTERING, BLOCKING AND USAGE POLICIES IN SCHOOLS AND LIBRARIES
	Last update: Jan. 8: 2014
	Overview Federal Children's Interest Protection Act (CIPA) U.S. Bupreser Court Ruling on CIPA Blade Fillering (Blocking Law)
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	Overview of State Laws
	Teachy-door states have intermed filtering state, that apply to planting framed schools or libraries. The imports of these states interfy require school describe or public interests in apply interior to produce produce in produce and apply access to recursing explorit, placement or hardwise interior schools not intered interior schools not intered interior interior schools not intered interior interior schools not intered interior interior component. In creat different publication of their primarities of state controlled.

California
Public libraries with state funds must have policy on Internet access by children, by majority vote of governing board.
Policy must be available to the public.
18030.5. (a) Every public library that receives state funds pursuant to this chapter and that provides public access to the Internet shall, by a majority vote of the governing board, adopt a policy regarding access by minors to the Internet by January 1, 2000. (b) Every public library that is required to adopt a policy pursuant to subdivision (a) shall make the policy available to members of the public at every library branch.
Calif. Educ. Code Sect. 18030.5 http://www.leginfo.ca.gov/cgi-bin/displaycode? section=edc&group=18001-19000&file=18030-18032

Sample Mobile Policy Free wireless access is available for Library patrons to use with their own personal notebooks, laptops and mobile devices. Use is governed by the Library's internet use policy. Use of the Library's wireless network is entirely at the risk of the user, and the Library disclaims all liability for loss or damages. What about man with his own laptop or mobile device? Child Pornography is Any device *U.S. v. Talley,* 392 Fed. App' x. 129 (4th Cir. 2010) **CIPA: Ten Years Later Fencing Out Knowledge**

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http://connect.ala.org/files/cipa_report.pdf



Generally, Photographers Do Not Need Consent in Public Places

Taking the Photo



Attribution-Noncommercial-Share Alike 2.0 Generic www.flickr.com/photos/herzogbr/1658397241/

Cal. Civ. Code § 3344(d)

Invasion of Privacy? Google street view lawsuit

- Court: No invasion of privacy
- No disclosure or private facts

Test: highly offensive to reasonable person



Boring v Google, 362 F. App'x 273 (3d Cir. 2010)



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Cal. Civ. Code § 3344(d)

What About Bad Uses?

Q: What if photo/video/ recording is critical of library or government

Really derogatory?

A: First Amendment right.



California law forbids some *uses* of photos

Any person who knowingly uses another's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of *advertising or selling*, or soliciting purchases of, products, merchandise, goods or services, without such person's prior consent ... shall be liable for any damages sustained.

Cal. Civ. Code § 3344(a)

No Photography

Need to justify. See attorney.

Some justifications: No Flash (bothers users)



Library Responsibility for Patron Privacy?	
Expectation of privacy? Public restrooms and upskirting Calif. Penal Code 647(j)(2) CALL POLICE Library records Calif. Govt Code 6267	
-Possibly at closed children's programs mere	
presence in library not protected	
<u> </u>	
Copyright Issue	
Library is not the copyright police	
Could be perfectly legal	
	I
But Library Must Honor Contracts re Exhibits, Programs	
Protect commercial interest of exhibitors, performers	
How to enforce?	
(don't sign contracts you can't honor) For discussion of On the Road exhibit, see williampatry.logospot.com/	

Sample Library Policy

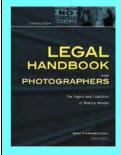
Filming and photography is allowed if it does not interfere with the delivery of library services.

Persons filming or taking photographs on library premises are responsible for gaining all necessary permissions to use the photos.

Taking photos or videos of persons in the library who ask not to be photographed is unacceptable under the Library Code of Conduct.

Library staff may terminate any photo session that violates Library policies or appears to compromise public safety or security.

Further Information



Legal Handbook for Photographers

Bert Krages, Esq. (Amherst Media: 2012)

Esp. sections on photography in public places

www.krages.com/lhp.htm

Library Mobile Devices: Pre-loaded Content, Disability Access, User Agreements



Library Mobile Devices: Pre-loaded Content, Disability Access, User Agreements

Essentially – must make material available in more than one mode

If video, must have text, or make it available reasonably soon

Library Ebook Law

Disability, Privacy, First Amendment

DISABILITY ACCESS

Brown v. Free Library of Philadelphia

Nook Lending Program Federal funds



"Fully accessible"

a blind individual needs to access same information, same transactions, and same services

as a non-disabled individual

with substantially equivalent ease of use

Settlement: purchase only fully accessible mainstream devices
SETTLEMENT Oct 23, 2012

http://docs.justia.com/cases/federal/district-courts/pennsylvania/paedce/2:2012cv02373/461996/14/
See also Dear Colleague Letter http://www2.ed.gov/about/offices/flist/ocr/docs/dcl-ebook-faq-201105.html

Similar Settlement: Sacramento Public Library

No additional inaccessible content



Provide text-to-speech and access to menus and controls

May require users to attest eligibility May not require doctor note

[See also 28 C.F.R. Sect. 35.138(h)(2)]

http://www.ada.gov/sacramento_ca_settle.htm August 28, 2012

See also IMLS Advisory: E-book Reader Lending Programs http://pld.dpi.wi.gov/files/pld/pdf/ebook_guidance.pdf



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