

Child Internet Protection Act (CIPA) POINTS

Twenty-five states have Internet filtering laws that apply to publicly funded schools or libraries. The majority of these states simply require school boards or public libraries to adopt Internet use policies to prevent minors from gaining access to sexually explicit, obscene or harmful materials. However, some states also require publicly funded institutions to install filtering software on library terminals or school computers.

Federal Children's Internet Protection Act (CIPA):

Congress in 2000 enacted the Children's Internet Protection Act (CIPA) as part of the Consolidated Appropriations Act. The act provides three different types of funding: 1) aid to elementary and secondary schools; 2) Library Services and Technology Act (LSTA) grants to states for support of public libraries; and 3) the E-rate program that provides technology discounts to schools and public libraries.

Federal Children's Internet Protection Act (CIPA):

CIPA requires public libraries that participate in the LSTA and E-rate programs to certify that they are using computer filtering software to prevent the on-screen depiction of obscenity, child pornography or other material harmful to minors. The act allows adult library patrons to request that a librarian disable the filtering software. In order to receive E-rate discounts, libraries are not allowed to disable filtering programs for minor users. The federal Communications Commission website provides background information about the Children's Internet Protection Act.

Federal Children's Internet Protection Act (CIPA):

On August 11, 2011, the FCC released a Report and Order requiring E-rate recipient schools to certify that they have updated their Internet safety policy to include provisions for educating minors about social networking websites and cyber bullying awareness. The update to the Internet safety policy is required in addition to other requirements that schools must comply with under the Children's Internet Protection Act (CIPA). Congress required this change to schools' Internet safety policies as part of the Protecting Children in the 21st Century Act, which is adopted verbatim in the Report and Order. The Report and Order also revise the Commission's rules to more accurately reflect the statutory language originally passed by Congress in CIPA in 2001. Finally, this Report and Order makes minor corrections to the E-rate program Sixth Report and Order released September 28, 2010.

Supreme Court Ruling on CIPA

In June 2003, the U.S. Supreme Court upheld CIPA, overturning an earlier court ruling that had prevented the law from taking effect in libraries. In *United States v. American Library Association*, the court ruled that CIPA does not violate the First Amendment, even though it may block some legitimate sites, because libraries may disable the filters for adult patrons upon request.

Censorship

- *Tinker v Des Moines School Dist.*, 393 U.S. 503, 515
The First Amendment's rights of a minor are not "co-extensive" with those of adults. A child... is not possessed of that full capacity for individual choice, which is presupposition of the First Amendment guarantees.
- *Ginsberg v New York*, 390 U.S. 629
The court ruled that it was constitutionally permissible to accord to minors a more restricted right than that assured to adults to judge and determine for themselves what sexual material they may read or see, and that such restrictions do not invade the area of freedom of expression constitutionally secured to minors.
- William W. Van Alstyne, Law professor at Duke University School of Law and the author of a leading textbook on the First Amendment said, "It's a nice question [whether children have a right to indecent material] and the general answer would appear to be "no". Van Alstyne went on to add that a library policy of filtering for minors and not for adults would "be" almost certain to win judicial acceptance by the courts." (NY Times 3/6/98)
- 1973 SCOTUS *Miller V. California*, Obscenity was reaffirmed, like libel, slander and perjury, as not genuine protected free speech.

- Bruce Ennis, the attorney who successfully argued against the Communications Decency Act in the Supreme Court for the ALA and ACLU recently admitted that “almost any court in the world” would uphold library filtering for minors.
- The issue of censorship is an issue of semantics. If the library is making the policy or making the decisions, it’s called selection, but if a patron questions their decision-making – they are censors.

Protected Speech Blocked

Oponents of filtering sometimes argue that children using filtered Internet access:

- will be at a competitive disadvantage because they will be denied crucial information.
- will become pregnant and catch sexually transmitted diseases because they were denied sexual education information.

Yet millions of children are required to use filters in public school settings, and there is not one confirmed instance that any of these things have happened.

Of all the millions of children who rely on filtered Internet access in the home and in school, no child has:

- committed suicide
- become pregnant
- contracted a disease
- flunked a class, or even gotten a bad grade on a paper because they were required to use a filter.

There is not one shred of evidence to suggest that any person has ever been meaningfully harmed in any way by being required to use filters.

The many real, well-documented incidents of real harm being inflicted on children by unfiltered Internet access in public libraries.

Children are:

- being accosted with pornography
- propositioned by pedophiles
- having their innocence stripped away even further in an already too grown-up world.

The failure of libraries to control these problems supports the appropriateness of laws requiring filtering software. *Dangerous Access 2000 pg.38*

Parental Responsibility

- *Ginberg v New York*
The Supreme Court has uniformly ruled that governmental regulations may also act to facilitate parental control over children’s access to sexually explicit material.
- Our society does not allow minors to exercise personal discretion over matters that are extremely harmful. Purchase and consumption of alcohol and tobacco are illegal throughout the United States. We do not allow minors to purchase pornography or to enter establishments where pornography is on prominent display. Why should our public libraries be held to a different standard?
- Most parents have no idea that their children are having sex, drinking or doing drugs. The libraries would like us to think that the topic of filtered v unfiltered Internet access has been discussed at the kitchen table. When it comes to the safety of children we cannot risk making such assumptions. This bill allows parents to get involved in the process.
- Libraries would say that filters give a false sense of security. The majority of parents now have a false sense of security with the current library policies in place. They believe that the libraries are acting responsibly on their behalf. Many are not. With proper education, parents can know that

nothing is a 100% guarantee, but good filters can be effective in blocking the majority of sexually explicit material.

Local Control

- Unfortunately, “local control” of libraries is a fiction in many communities. Many library boards are governed by appointed officials, who are never held accountable to the taxpayers for their actions.
- Additionally, the American Library Association (ALA) heavily influences the make-up of many library boards. Often board members are required to become ALA members, and attend ALA-sponsored conferences and workshops where they are schooled in the ALA philosophy.
- Let me share with you what some of those philosophies are. According to the Library Bill of Rights, which the majority of Kansas *libraries have adopted, libraries acting within their mission and objectives, must support access to information on all subjects that serve the needs of interests of each user, regardless of the user's age or the content of the material.*
- Judith Krug, director of the ALA's office of Intellectual Freedom stated, “Blocking material leads to censorship. That goes for pornography and bestiality, too. If you don't like it, don't look at it.” Krug has stated that parents who would choose not to allow their children to view Playboy “don't really care about their kids growing up and learning to think and explore.” *Dangerous Access 2000, pg.3*
- I am gripped with fear when I read such things. These are the folks that our state libraries are taking counsel and direction from. I know that the majority of Kansans would be appalled as well.

Funding

- The act provides three different types of funding: 1) aid to elementary and secondary schools; 2) Library Services and Technology Act (LSTA) grants to states for support of public libraries; and 3) the E-rate program that provides technology discounts to schools and public libraries.
- Currently, the majority of libraries in the state provide some type of filtering. They just don't require minors to use those computers. For libraries that do not have filters on their computers, Internet service is not a constitutional right. Should this bill become law, libraries would need to incorporate filters in their cost of doing business. The state's obligation is to create laws that insure the protection of our most vulnerable youth. The library boards' obligation is to ensure such laws are funded by the library budget.

Litigation

In June 2003, the U.S. Supreme Court upheld CIPA, overturning an earlier court ruling that had prevented the law from taking effect in libraries. In *United States v. American Library Association*, the court ruled that CIPA does not violate the First Amendment, even though it may block some legitimate sites, because libraries may disable the filters for adult patrons upon request.

- Qualified Immunity is given to all members of the library boards in the state of Kansas. As long as their policies abide by Kansas law, they do not have to worry about litigation.
- Responsible libraries do not need to fear lawsuits.
- When have we ever put a dollar figure on the well being of our children?
- When have we as a society allowed the fear of litigation to keep us from doing the right or responsible thing?

The arguments of the opposition hold no water. This bill is a common sense approach in handling new technology. It does not infringe on the rights of adults.. Our children deserve an adult assessment of the problem and reasonable protection from our public schools and libraries.