

Trustee Tip: Trustees and the Children's Internet Protection Act

(A CALTAC Trustee Tip)

Introduction: Trustee Tips are intended to supplement CALTAC's Board Development materials. They may be used to stimulate a more-in-depth discussion of a topic included in Training sessions, or to cover topics pertinent to trustees beyond those included in the training curriculum. Also, as an option available to Board Presidents and Library Directors, a Trustee Tip may be used as a 10 minute topic for stimulation of discussion on a regular Board agenda, or they may be used as handouts at one meeting with an opportunity for comments and questions at the beginning of the next meeting.

This Trustee Tip was written by Mary Minow (Nov, 2003)

On June 23, 2003, the U.S. Supreme Court upheld the constitutionality of the Children's Internet Protection Act (CIPA). What does this mean for your library?

Essentially, the library has two choices.

1. Accept federal money and comply with federal law
2. Do not accept federal money and reexamine local policy

1. Accept federal money and comply with federal law

The Act does not apply to all federal money, but specifically to libraries that get

- A) E-rate discounts for Internet access

Note: The Act does not apply to libraries that get e-rate discounts only for telecommunication costs

- B) LSTA grants for Internet access or for computers with Internet access

If a library gets either of these sources of federal discounts or funds, it must comply with the conditions below. The consequences of noncompliance do not subject a library to a lawsuit, but instead to a loss of these funds.

Compliance conditions:

Technology protection measures to block child pornography, obscenity and material "harmful to minors."

A library must enforce a policy to use a technology protection measure to protect children from sites that are considered "harmful to minors" on the Internet. In addition, a library must enforce a policy to use a technology protection measure to protect both children and adults from child pornography and obscenity on the Internet.

Note: "harmful to minors" refers to sexually prurient sites, and **NOT** to hate sites, violent sites, disgusting sites etc.

The Supreme Court and Congress recognize that filters are not a fool proof method, as they both overblock and underblock sites. The Supreme Court (unlike the lower federal court), determined that it was acceptable to tolerate this imperfection, so long as adults are readily able to ask that filters be disabled.

Adults may ask the library to unblock sites for bonafide research purposes (and they need not explain their reasons). If the library gets only LSTA funds (and no e-rate discounts), then children may also ask for unblocking or disabling of filters.

Internet Safety Policy

Additionally, the legislation has a portion entitled the "Neighborhood Children's Internet Protection Act" that applies only to libraries that get the e-rate discounts.

These libraries must have an Internet Safety Policy that addresses five issues. The actual policies may be set by the governing body and will vary considerably library to library. The law provides that that the process to determine the policy **must be open**. There must be (or have been) a public meeting that discusses:

- (i) access by minors to inappropriate matter on the Internet and World Wide Web;
- (ii) the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;
- (iii) unauthorized access, including so-called 'hacking' and other unlawful activities by minors online;
- (iv) unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and
- (v) measures designed to restrict minors' access to materials harmful to minors; and

2. Do not accept federal money and reexamine local policy

Here, the library has much more flexibility to set its own policy. Policies that are purely open access or patron choice (each individual may choose to use a filter or not without intervention by the librarian), are on pretty safe ground. The Supreme Court noted that CIPA does deny libraries the right to provide their patrons with unfiltered Internet access. Moreover, in California, a state appellate court ruled for the library when the City of Livermore was sued by the mother of a teenage boy who downloaded pornography from a library computer. The court said that the library did not have a constitutional obligation to protect the boy from that material. See *Kathleen R. v. City of Livermore*, 87 Cal. App. 4th 684 (2001)

Multiple possibilities have been tried by various libraries, such as filters on some terminals, acceptable use policies, parental permission and combinations thereof. The Supreme Court gives libraries a nod to use filters and policies to keep patrons from child pornography, obscenity and materials considered "harmful to minors." This does not mean that further restrictions (such as gambling sites, hate sites etc.) would likely be acceptable.

For more information, trustees may go to <http://www.ala.org/cipa> and are invited to view an archived online webcast at <http://www.infopeople.org/training/> Click on webcasts, and then look through the archived webcasts for the CIPA webcast July 17, 2003.



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