



# School Business Law Update

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## CHANGE IN E-RATE REQUIREMENTS FOR SCHOOL DISTRICTS

New E-Rate rules have been established that will require school districts to amend their existing Internet Safety Policy ("ISP") if it does not already comply with the new standards.

If your district held a public hearing at the time it adopted its existing ISP, a new public hearing on the amendment is not required. However, if your district did not hold a public hearing or, if you cannot find proof of having held a public hearing at the time of adoption of your existing ISP, a public hearing to adopt the revised ISP before July 1, 2012 is required.

These changes are the result of Congress passing the "Protecting Children in the 21st Century Act" in 2008. When this law was passed, it amended Children's Internet Protection Act ("CIPA") and mandated that Internet safety education be taught in any elementary or secondary schools having computers with Internet access that apply for services through the E-Rate program.

The FCC has recently decided how to implement the act in its CIPA requirements. CIPA compliance for school districts has now been changed to include a requirement that education of online behavior be taught. **Changes to your ISP must be in place by July 1, 2012.** We encourage you to begin working on the required addition promptly in order to meet the deadline.

The new rule is as follows: *For all school districts applying for Internet Access, Internal Connections or Basic Maintenance, the Internet safety policy must provide for the education of minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.*

It continues to be Congress's intent that local authorities have the ultimate role in deciding what is and is not appropriate for their communities, as well as what this education should look like. Therefore, this rule speaks to the fact that there must be a provision for education of online behavior in your ISP. It does not mandate how you choose to implement that education.

School districts must comply with the requirements of CIPA in order to receive E-Rate funding for Internet services. As part of the process for filing for E-Rate, school authorities must certify either that

they have complied with the requirements of CIPA or that they are undertaking actions to comply with the requirements of CIPA.

The attached sheet summarizes the requirements that your school district should already be following as well as the addition to the ISP.

**If your school district is selected for audit, you must have documentation to support your CIPA compliance. Failure to provide documentation may result in the loss of continued E-Rate funding and/or obligate your district to reimburse the full costs for Internet services for any fiscal year in which your district was found to be non-compliant.**

If you have any questions concerning this update or related issues, do not hesitate to contact our office.

– Christopher P. Burger

*School Business Law Updates are intended to alert clients to developments in legislation, opinions of courts and administrative bodies and related matters. They are not intended as legal advice in any specific situation. Please consult legal counsel as to how the issue presented may affect your particular circumstances.*

## **CIPA Regulations for E-Rate Funding for Schools**

Must be in effect as of July 1, 2012.

### **1. Technology Protection Measure**

A technology protection measure (e.g. Internet filtering software) is a specific technology that blocks or filters Internet access. It must protect against access by adults and minors to visual depictions that are obscene, child pornography, or - with respect to use of computers with Internet access by minors - harmful to minors. It may be disabled for adults engaged in bona fide research or other lawful purposes. The policy must also include monitoring the online activities of minors. Retain documentation of the technology protection measure (e.g. bills from a service provider or filter logs) for at least five years.

### **2. Internet Safety Policy**

Your Internet Safety Policy must address the following issues:

- Access by minors to inappropriate matter on the Internet and World Wide Web
- The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications
- Unauthorized access including "hacking" and other unlawful activities by minors online
- Unauthorized disclosure, use, and dissemination of personal information regarding minors
- Measures designed to restrict minors' access to materials harmful to minors
- NEW - A statement that you are "educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response."

Retain a copy of the Internet safety policy for at least 5 years after the funding year in which the policy was relied on to obtain E-Rate funding.

### **3. Public notice of and public meeting or hearing on the Internet Safety Policy**

The authority with responsibility for administration of the school district must provide reasonable public notice and hold at least one public hearing to address a proposed technology protection measure and Internet Safety Policy. If a public hearing was held at the time of adoption of your original ISP, you will not be required to hold a new public hearing to amend your policy to comply with the new CIPA regulations.

Retain documentation of the notice and public hearing (e.g. flyer or newspaper notice, agenda, board minutes) for at least five years beyond the year in which you rely on it to obtain E-Rate funding.