E-Rate, CIPA, and Library Filters:
What You Need to Know

Infopeople Webinar

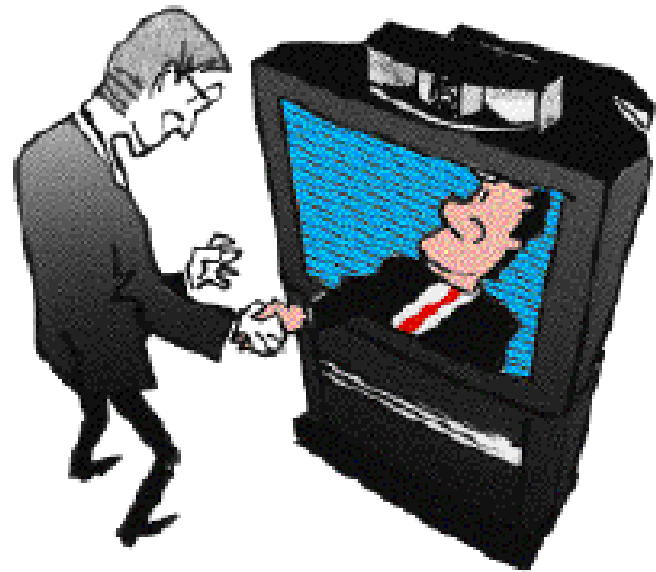Wednesday, December 15, 2010

12:00 noon to 1:00 p.m

Lori Bowen Ayre, M.L.I.S.

Galecia Group

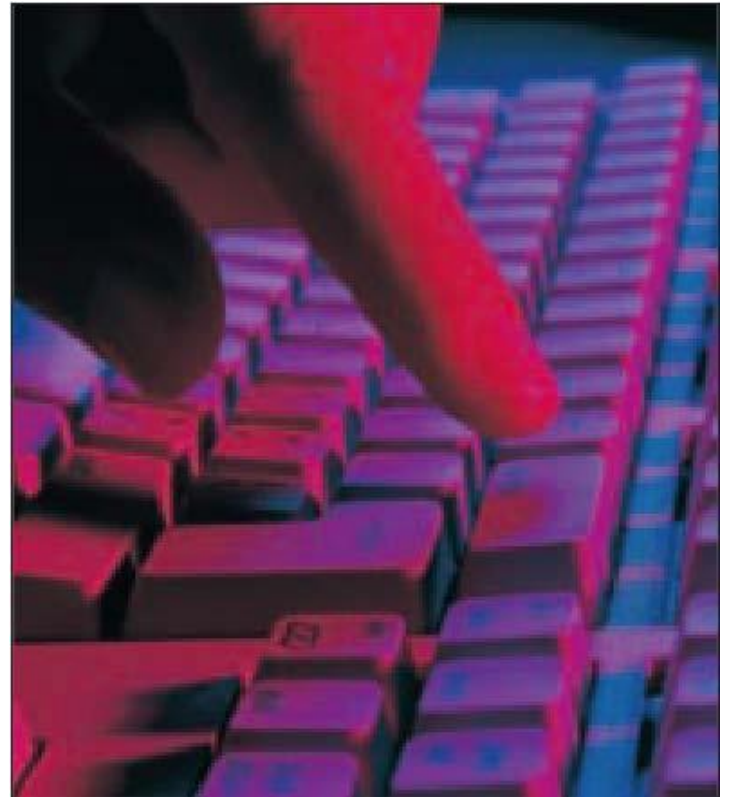Mary Minow, J.D., A.M.L.S.

LibraryLaw.com

Legal Disclaimer

- Legal information

- **Not** legal advice!

Children's Internet Protection Act: CIPA Overview

- **Federal Requirements**
  - Who is a CIPA library?
  - What's required?
- **State Law**
- **How Filters Work**
- **Policy and Procedure Pitfalls**
- **Where to Get More Information**

Federal Requirements
Who Is a CIPA Library?

E-rate discounts

for Internet service or
internal connections*

LSTA grants

computers and direct costs
to access Internet

ESEA title III funds

School libraries: funds for computers or accessing the Internet

E-rate 47 U.S.C. § 254(h)(1)(B)
LSTA 20 U.S.C. § 9134(f)
*CIPA does not apply to VoIP, see 75 FR 17586. For telecom carriers as service providers see 75 FR
75393 (II)(A)(1)(5) http://federalregister.gov/a/2010-29386

Federal Requirements for CIPA

- "Technology Protection Measures"

- Internet Safety Policy*

    New School policies must discuss chat, social networking, cyberbullying

Noncompliance: Lose the Money

Become compliant

Restart discounts

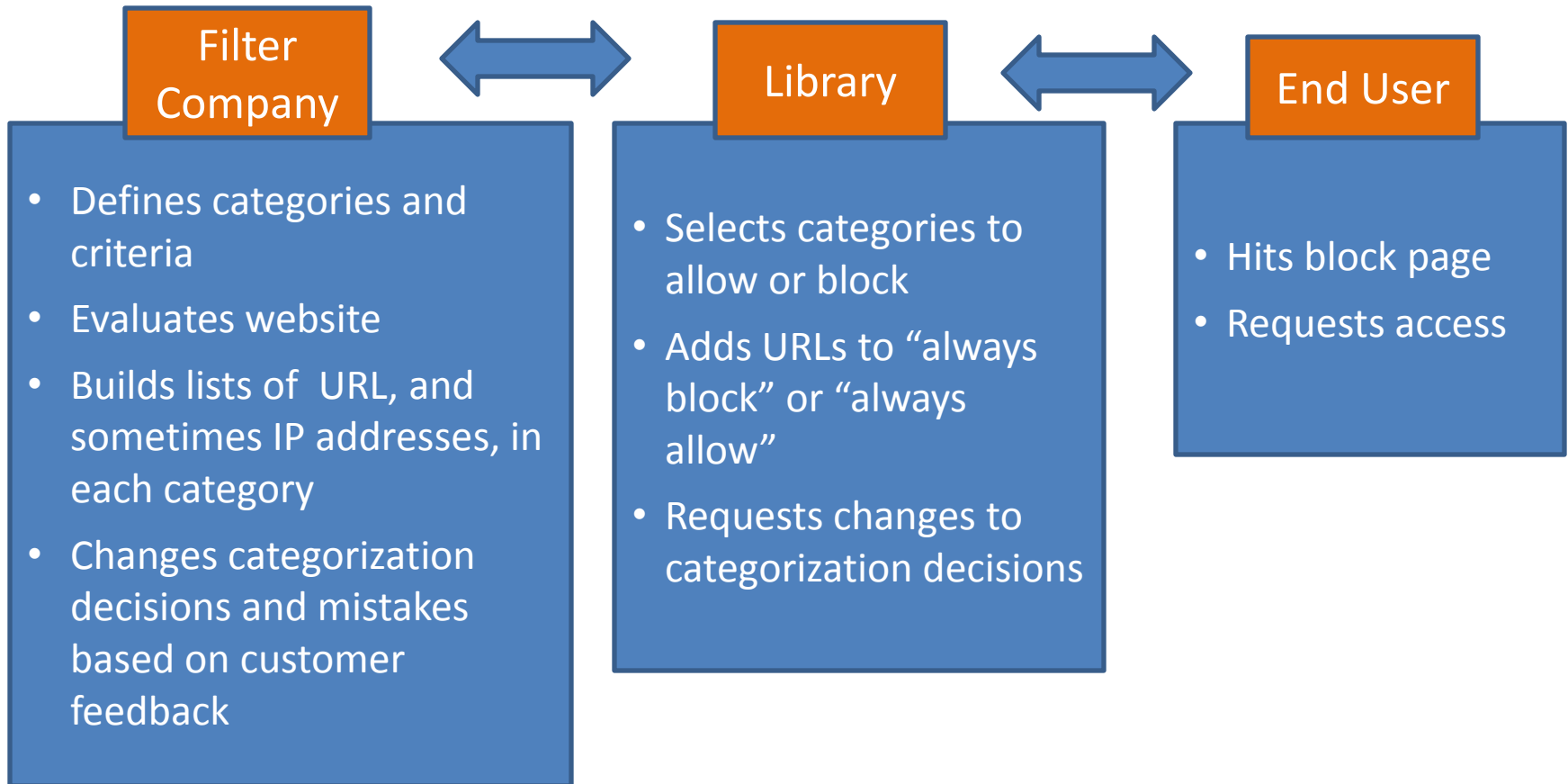**Not** jail time, lawsuit – unless librarian knowingly commits fraud.

Required: Technology Protection Measure

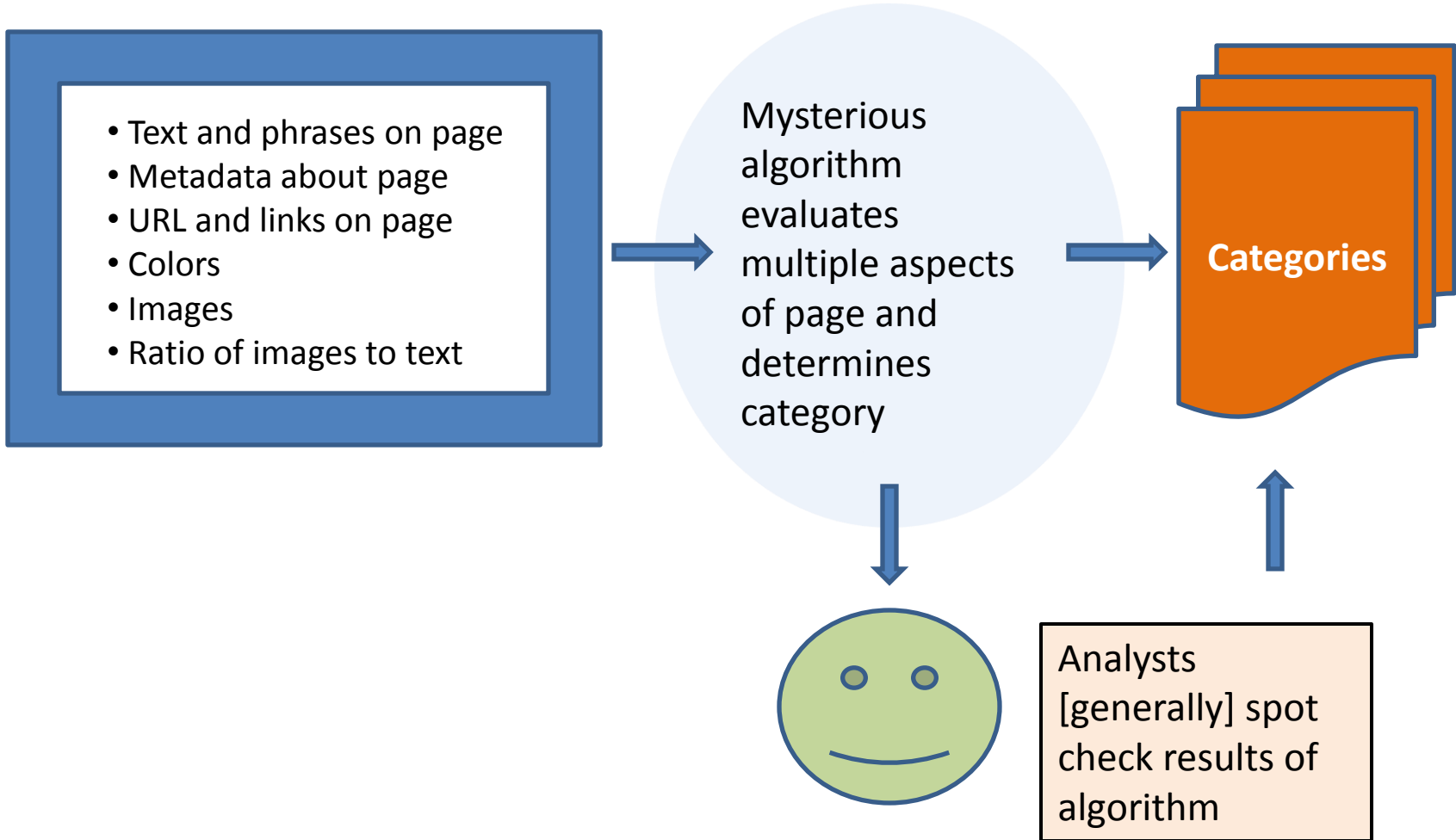"a specific technology that blocks or filters Internet access" to visual depictions

- C
- O
- H

How Most Decent* Filters Work

Filter Company

- Defines categories and criteria
- Evaluates website
- Builds lists of URL, and sometimes IP addresses, in each category
- Changes categorization decisions and mistakes based on customer feedback

Library

- Selects categories to allow or block
- Adds URLs to "always block" or "always allow"
- Requests changes to categorization decisions

End User

- Hits block page
- Requests access

How Filters Categorize Pages

- Text and phrases on page
- Metadata about page
- URL and links on page
- Colors
- Images
- Ratio of images to text

Mysterious algorithm evaluates multiple aspects of page and determines category

Categories

Analysts [generally] spot check results of algorithm

Possible Categories To Choose From Websense

Category	Description	CIPA?
Adult Content	Sites that display full or partial nudity in a sexual context but not sexual activity; erotica; sexual paraphernalia; sex-oriented businesses; and sites supporting online purchase of such goods and services	
Illegal or Questionable -	sites that provide instruction in or promote nonviolent crime or unethical or dishonest behavior or the avoidance of prosecution.	
Lingerie and Swimsuit	sites offering views of models in suggestive but not lewd costume, with semi-nudity permitted	
Nudity	sites that offer depictions of nude or seminude human forms, singly or in groups, not overtly sexual in intent or effect.	
Sex	sites that depict or graphically describe sexual acts or activity, including exhibitionism; also sites offering direct links to such sites.	
Tasteless	sites with content that is gratuitously offensive or shocking, but not violent or frightening. Includes sites devoted in part or whole to scatology and similar topics or to improper language, humor, or behavior.	

Possible Categories To Choose From iPrism

Category	Description	CIPA?
Adult Themes	sites that are adult in nature and are not defined in other rating categories. Sites that have adult themes are those that are associated with the following concepts: Adult oriented entertainment not defined as Porn, sale of penis enlargement products, erectile dysfunction products, online pharmacies, and mail order brides	
Nudity	sites that provide images or representations of nudity. They may be in any artistic or non artistic form like magazines, pictures, paintings, sculptures, etc. Sites may display partial or full nudity but are not pornographic in nature	
Pornography	anything relating to pornography, including mild depiction, soft pornography and hard-core pornography. Pornography pertains to writings, photographs, movies, etc. intended to arouse sexual excitement. Also, any site offering memberships that may provide access to other pornographic sites will fit into this category.	
Sex	sites that provide information, images or implications of body piercing, tattoos and any form of body art. Sites not in this category are those that contain images or information about sexual acts as discussed in the Pornography and Nudity categories. Note: This category implies adult content in nature.	

Visual Depictions

- Child Pornography

- Obscenity

- Harmful to Minors

Categories unprotected by First Amendment

	Adults	Children
Child Pornography	X	X
Obscenity	X	X
Harmful to Minors		X

Child Pornography

Visual depiction of minor engaged in sexually explicit
 conduct

Not at home
Not research purpose
DO NOT UNBLOCK!
Call Police

18 U.S.C. Sec. 2256; Calif. Penal Code Sect. 311.11

Obscenity

Obscenity:

Judicially determined

EXTREMELY HARD CORE
(rape, bestiality)

very few cases

CIPA categories to block

	Adults	Children
Child Pornography	X	X
Obscenity	X	X
Harmful to Minors		X

CIPA cites 18 U.S.C. § 1460; Courts likely to apply *Miller v. California*, 413 U.S. 15, 24 (1973). See also "Judicial Erosion of Protection for Defendants in Obscenity Prosecutions?: When Courts Say, Literally, Enough is Enough and When Internet Availability Does Not Mean Acceptance." *Harvard Journal of Sports & Entertainment Law*, (Spring 2010) http://tinyurl.com/obscenityprosecutions

Harmful to Minors
defined by CIPA

Legal definition (federal)

The term "harmful to minors" means any picture, image, graphic image file, or other visual depiction that–

(A) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(B) (B) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, 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 as to minors.

Children's Internet Protection Act (Pub. L. 106-554)

SEXUAL
Not merely nudity

Violence is NOT HARMFUL TO MINORS
(…. but stay tuned)

Many courts have ruled that graphic violence is not "harmful to minors"

… California case now on appeal to Supreme Court

Video Software Dealers Ass'n v. Schwarzenegger 556 F.3d 950 (9th Cir. 2009)(struck law as unconstitutional*);
Schwarzenegger v Entertainment Merchants Association*, (oral arguments heard Nov. 2, 2010) www.scotusblog.com/case-files/cases/eanf/

Possible Categories To Choose From Websense

Category	Description	CIPA?
Adult Content	sites that display full or partial nudity in a sexual context but not sexual activity; erotica; sexual paraphernalia; sex-oriented businesses; and sites supporting online purchase of such goods and services	
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Sex	sites that depict or graphically describe sexual acts or activity, including exhibitionism; also sites offering direct links to such sites.	✓
Tasteless	sites with content that is gratuitously offensive or shocking, but not violent or frightening. Includes sites devoted in part or whole to scatology and similar topics or to improper language, humor, or behavior.	

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Other Filtering Categories

- **Anonymizer -** sites that allow the user to surf the net anonymously. It also refers to sites that allow the user to send anonymous emails. This also includes sites providing proxy bypass information or services.

- **Gambling**- sites that provide information about or promote gambling or support online gambling, involving a risk of losing money

- **Illegal or Questionable –** sites that provide instruction in or promote nonviolent crime or unethical or dishonest behavior or the avoidance of prosecution

- **Instant Messaging –** sites that enable instant messaging

- **Militancy and Extremist** - sites that offer information about or promote or are sponsored by groups advocating antigovernment beliefs or action

- **Racism and Hate** - sites that promote the identification of racial groups, the denigration or subjection of groups, or the superiority of any group

- **Social Networking /Dating** – Sites that offer free or paid services that promote interaction, dating or other networking through forums, chat, email or other methods.

- **Streaming Media** – sites that primarily provide streaming media (e.g. movie trailers)

- **URL Translation** – sites that offer online translation of URLs

What about the Children?

Library computer arrangement important

Some libraries prohibit display if children likely to walk by

"Displaying material harmful to minors may violate CA Penal Code 313.1 and may be subject to criminal prosecution"

Internet Use Policy Informs Filter Settings

Internet Use Policy

Define the activities that are not allowed

Match categories to block to what activities are not allowed
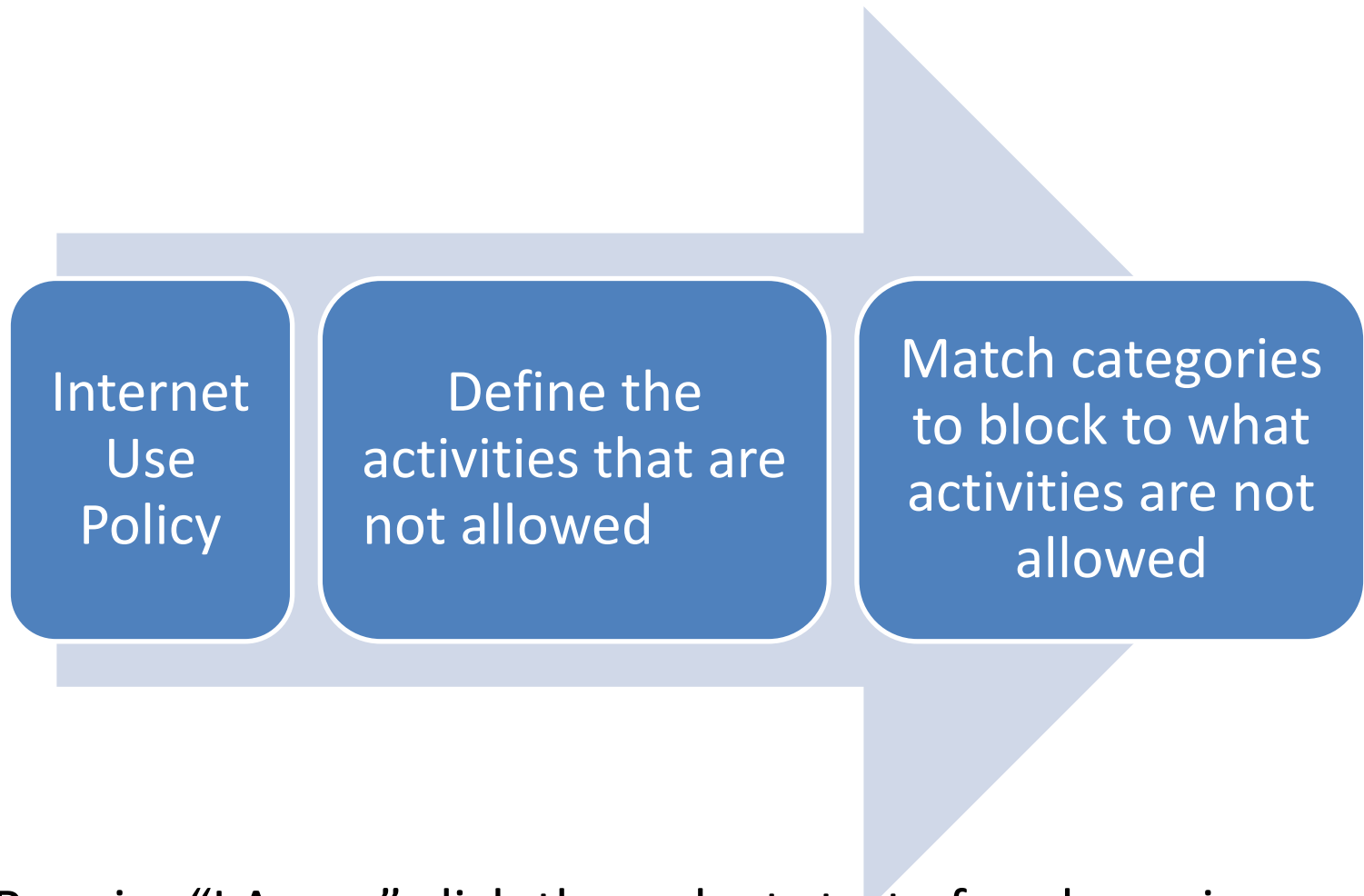
Require "I Agree" click-through at start of each session

State Law: California

Public libraries that receive state funds must adopt policy regarding minors' Internet access (by January 1, 2000)

Policy available at every branch

Internet Use Policy

California Ed. Code Sect. 18030-18030.5

State Laws

NCSL
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Children and the Internet

Laws Relating to Filtering, Blocking and Usage Policies in Schools and Libraries

Last update: December 28, 2009

http://tinyurl.com/filteringlaws

STATE	CITATION	APPLIES TO SCHOOLS	APPLIES TO LIBRARIES	SUMMARY
ARIZONA	Ariz. Rev. Stat. Ann. § 34-501 to -502	X	X	Requires public libraries to install software *or* develop policies to prevent minors from gaining access on the Internet to materials harmful to minors. Requires public schools to install computer software that would prevent minors from gaining access to materials harmful to minors.
ARKANSAS	Ark. Code § 6-21-107, § 13-2-103	X	X	Requires school districts to develop a policy and to adopt a system to prevent computer users from accessing materials harmful to minors. Requires public libraries to adopt a policy to prevent minors from gaining access to materials harmful to them.
CALIFORNIA	Cal. Ed. Code § 18030.5		X	Requires public libraries that receive state funds to adopt a policy regarding Internet access by minors.
COLORADO	Colo. Rev. Stat. § 24-90-401 to 404; § 24-90-603; § 22-87-101 to 107	X	X	Requires public schools to adopt and enforce reasonable policies of Internet safety that will protect children from obtaining harmful material. Provides grants to publicly supported libraries, including school libraries, that equip public access computers with filtering software and that have policies to restrict minors from accessing obscene or illegal information. Requires public libraries to adopt a policy of Internet safety for minors that includes the operation of a technology protection measure for computers with Internet access.

Policy and Procedure Pitfalls

Avoid these words in policy:

Pornography

Sexually Explicit

Offensive

Inappropriate

Indecent

Libertarian Party of Ventura County v. Ventura County Library Services Agency (1998)
settlement – replaced "sexually explicit" with "obscene" in policy

Better Language

Users may not (choose one)

- Violate the law

- Engage in illegal activity

- View obscenity

- Display images
    "harmful to minors"

See your attorney when revising policy

Pitfall: Don't Filter more than C-O-H

5. Maplewood City Library and University City Public Library will disable any Internet filter at the request of any adult over the age of eighteen years to enable that adult to access the Internet for bona fide research or lawful purposes.

6. Maplewood City Library and University City Public Library hereby acknowledge that any Internet filter that restricts Internet access to "hate speech" or content and viewpoints other than those proscribed by the provisions of 20 U.S.C. § 9134(f)(1) and 47 U.S.C. § 254(h)(6) of the Children's Internet Protection Act and Mo. Rev. Stat. §§182.825-7 of the Access to Computer Pornography Act is a violation of the First and Fourteenth Amendments of the United States Constitution.

7. Maplewood City Library and University City Public Library hereby agree not to implement or authorize the use of any Internet filter that restricts Internet access to "hate speech" or content and viewpoints other than those proscribed by the provisions of 20 U.S.C. § 9134(f)(1) and 47 U.S.C. § 254(h)(6) of the Children's Internet Protection Act and Mo. Rev. Stat. §§182.825-7 of the Access to Computer Pornography Act.

Baum v Maplewood City Library et al – Consent Judgment Feb. 5, 2007 (libraries acknowledge filters restricting hate speech or content other than that proscribed by CIPA is a violation of 1st and 14th Amendments http://tinyurl.com/hatefilters

Filter Accuracy

- The better it is at blocking the content you don't want, the better it is at blocking content that <u>shouldn't</u> be blocked

- Monitor how well your filtering matches your Internet Use Policy

Some Filters Easy to Get Around

Best Answer - Chosen by Voters

well, I use Proxy s at school.
www.ilikeyourhair.com is a big one at my school but it was blocked- still works but blocked by the guys at the tech office.
I signed up for this service (through facebook) that sends me a new proxy everytime the old ones are blocked.
currently, its WWW.MERCURYMOB.COM.
Sign up, its free- it might help later on.
I hope this helps!

good luck :]

EDIT: oh! and we have figured out that for some sites- like Youtube- you can go on an other country's site and access it from there. We use the UK site- even teachers do this! It won't work with Myspace- alot of freshmen get caught- but on other sites it might. :]

Common URL Shorteners like Bit.ly and tinyURL can often get you around a blocked page….

URLs Can Get Incorrectly Tied up with Others

www.time.com

An "alias" that points to →

mags1.gtimeinc.aol.com

- Categories
  - Portals
  - Search Engines

The Point: If you block "Portals" or "Search Engines", you'll block Time Magazine

Oops.
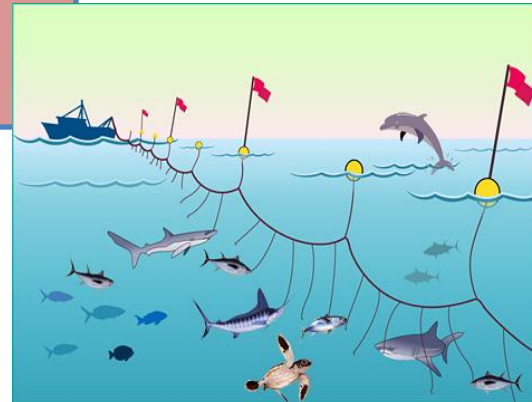
The past can catch up with you…

Sarah Houghton-Jan

The URL http://www.sjpl.org/ is rated in FortiGuard Web Filtering 3.0, as
- Category: Spyware and Malware
- Classification: Unclassified

Sarah hates filters & filters hate Sarah
It's no secret that I think internet filters are not only unethical and counter to everything librarians believe in, but that filters also don't work for crap. A...

November 16 at 8:54pm · Like · Comment · Share

👍 3 people like this.

Jessamyn West I wonder if there was anything weird at that URL before? It's hard to believe it had never been used for anything else. Oh, upon looking at archive.org I guess the library used it, then let it lapse, then it became a spam farm [i.e. domain squatted] and now it's back. That might be the problem.
November 16 at 8:56pm · Like

Mary Mi Jessamyn - good sleuthing. That makes sense. And Sarah - great post.
November 16 at 10:46pm · Like
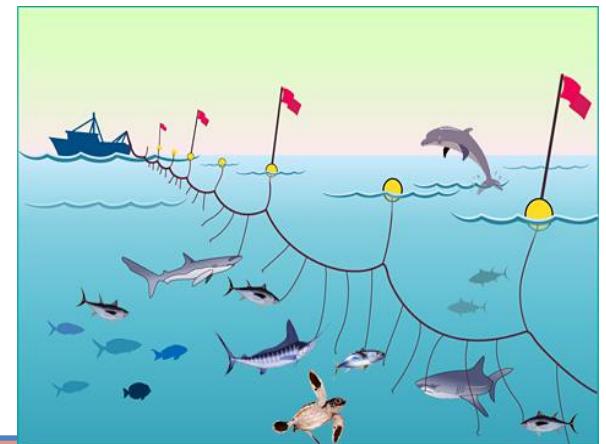
The Point: Your site could have been categorized before you started putting content on it.

Other Reasons Filters Miss Sites or Miscategorize Sites

- YouTube videos and other videos not part of anyone's "content" categories – can block tall or nothing
- Foreign language sites often missed
- Websites can change after being categorized

Pitfall: Disabling
May or Must? BURNING ISSUE

Law: Library may disable "to enable access for bona fide research or other lawful purposes"

U.S. Supreme Court (plurality): Concerns dispelled by the ease with which patrons may have filtering disabled. (2003)

WA Supreme Court (6-3): Internet sites are part of collection development. Need not disable on request Now pending in federal court.

47 U.S.C. § 254(h)(6)(D) (E-rate: disabling permitted for adults); 20 U.S.C. § 9134(f)(3) (disabling permitted without mention of age); Anten, Todd. (Fall, 2005). Note: "Please Disable the Entire Filter": Why Non-Removable Filters on Public Library Computers Violate the First Amendment, *11 Texas Journal on Civil Liberties & Civil Rights* 65; Mary Minow. (April 5, 2004). Lawfully Surfing the Net: Disabling Public Library Internet Filters to Avoid More Lawsuits in the United States *First Monday,* firstmonday.org/issues/issue9_4/minow/; *Bradburn v. North Central Regional Library District* (WA Supreme Court upholds library policy of no disabling)(now pending in federal court http://tinyurl.com/filterdisabling

Make it Easy to Use by Allowing for Override at Workstation

LibraryFiltering.org

Compare Features of Specific Products

[View] [Track]

Choose a feature set to be compared for your products.

- ○ Basic information about the platform and company
- ○ Platform and pricing information
- ○ Information about filtering technology
- ○ General administration overview
- ● Overriding capabilities

Select products to compare. If you don't check any boxes, all products will be compared.

- ☐ Awareness Technologies Web Filtering
- ☐ ContentWatch NetNanny and ContentProtect
- ☐ CyberPatrol Online Protection PRO
- ☐ CyberPatrol Parental Controls
- ☐ CyberPatrol SiteSURV Web Filtering

Compare!

	SafeSquid - A Web Filtering Proxy	SmoothWall Guardian Web Filter	Untangle Education Standard Package	Websense Web Security
Can Filter be Turned off at the Workstation	No	Yes	Yes	
Describe Process and Options Available for Turning Off Filter at Workstation	Can only be turned off by an administrator, from the server, with browser based GUI Interface	Administrator Portal	Administrator only through Web-UI.	Must be done by the Administrator
Blocked Page Can Be Overridden by Admin	Yes	Yes	Yes	Yes
Describe Process and Options For Overriding a Blocked Page	Administrators can override blocked pages, for specific or all users/groups, from the server, with browser based GUI Interface	Administrator Portal	User Bypass Some organizations may wish to allow certain users to bypass the ESoft Web Filter. This option is available under "User Bypass." If User Bypass is set to None no users will be allowed to bypass the block page. If User Bypass is set to Temporary users will be allowed to bypass the block page. If User Bypass is set to Permanent and Global then users will be allowed to bypass the block page and bypassed sites will be added to the permanent global pass list. User Bypass is best when combined with Policy Manager so that only certain users are allowed to bypass.	

Pitfall: Staff Computers and Patron Laptops*

Law is silent.

Requires filters for library on **"its computers"** with Internet access

"with respect to any of its computers" 47 U.S.C. § (h)(6); 20 U.S.C. § 9134(f)(A)(1)

Network Filters Provide Flexibility and Are Easier to Manage that PC-Based Filters

1- "Pass-By" Router and Switch
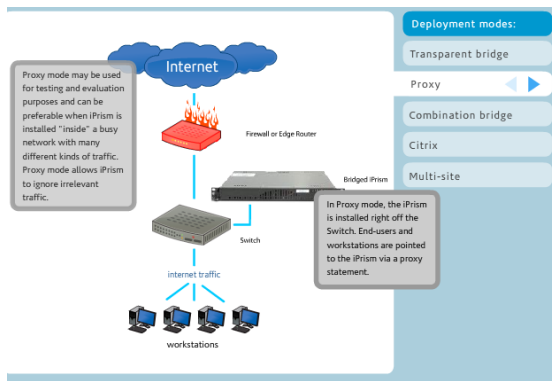
2 - "Pass-Through" Router and Switch
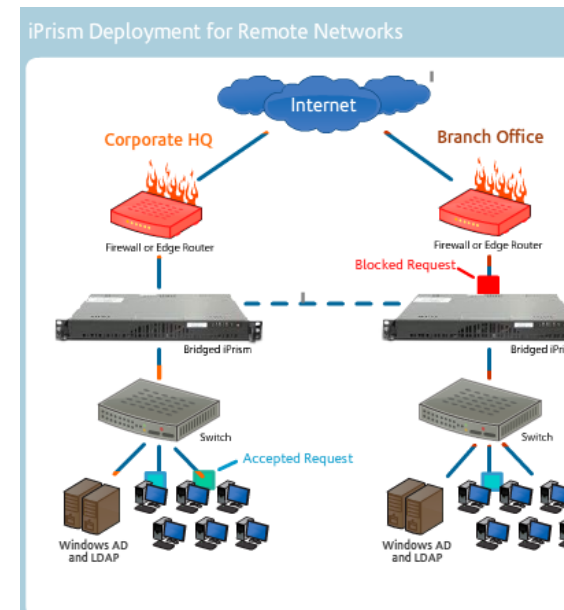
3 - DNS-Based

Crowdsourcing Comes to Filtering

Users Add Sites, Categorize and Vote

bbp.juggcrew.com

Screenshot may be offensive.

Drag cursor here to view screenshot.
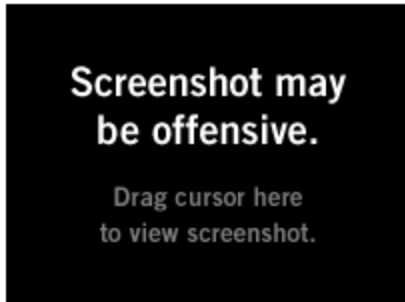
Tagged: Nudity, Pornography

Flag for Review

⤢ Launch site in a new window

Tag	Status	Is this an appropriate tag?
Adult Themes added by wackzingo	Awaiting votes	YES NO NOT SURE
Lingerie/Bikini added by Admin	Awaiting votes	YES NO NOT SURE
Nudity added by URL Examiner	Approved by opendns	
Pornography added by az1	Approved by opendns	

Library Filtering - Best Practices

1. Align filter configuration with Internet Use Policy
   - block as few categories as possible
   - use different levels of access for children and adults*
2. Keep patrons informed. Display…
   - which URL was blocked
   - why it was blocked
   - how to request unblock
3. Allow disable upon request
   - by patron* or at patron workstation

   * Ideal approach depends on library goals…

How About These Filter Profiles?

How does the library provide Internet access to young people?

- Teens (13-17 years) have the choice of filtered or unfiltered Internet access unless a parent or guardian designates filtered access.

- Children (12 years and younger) have filtered Internet access unless a parent or guardian designates they can choose between filtered and unfiltered access.

- Parents of newly registered children and teens are notified by mail about their options for making decisions about their children's level of Internet access.

- Computers in the children's areas of ██████████ libraries offer only filtered access.

- Other public computers will continue to offer both filtered and unfiltered access, depending on the access permitted each individual library user in the age categories listed above.

More information on Filtering

- http://libraryfiltering.org
  - compare filter features critical for libraries
  - "testimonials" from libraries using filters
- http://www.delicious.com/lbayre/filtering
  - sites I've tagged "filtering"
- http://bit.ly/fq7eMv
  - Chapter on filtering article by Sarah Houghton-Jan is available in the Nov-Dec, 2010 issue of Library Technology Reports entitled "Privacy and Freedom of Information in 21st Century Libraries"

More information: E-Rate

More information: LSTA

www.library.ca.gov/grants/lsta/cipa.html

CIPA information for California libraries:

Rushton Brandis
CIPA Coordinator California State Library
(916) 653-5471
rushbrandis@library.ca.gov

Or contact the state library in your part of the country.