



**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)
_____)

**REPLY COMMENTS ON THE PROPOSED CIPA REQUIREMENTS
FOR SCHOOLS AND LIBRARIES UNIVERSAL SERVICE MECHANISM
(FCC 09-96)**

The State E-Rate Coordinators' Alliance (SECA) submits these Reply Comments in accordance with the FCC's Notice of Proposed Rulemaking released November 5, 2009 (designated FCC 09-96) seeking comment on the FCC's proposed revisions to its CIPA rules.

In its initial comments on this rulemaking, SECA agreed with the Commission's proposal to codify provisions to require local determination of what matter is inappropriate for minors. Not only would such provisions parallel the statutory language of the Children's Internet Protection Act, but they would avoid bogging down both USAC and the FCC in endless determinations of the appropriateness of student access to specific Web sites and/or content.

Although SECA believes that the Commission is fully supportive of the principle of local determination, it encourages the Commission to more explicitly address this principle in its forthcoming CIPA Order.

SECA's concern in this matter is driven by a recent USAC audit decision citing, as a CIPA rule violation, the failure of a school district's filter to block access to two specific social networking sites, Facebook.com and MySpace.com, which might contain harmful material. This decision is included in USAC's Management Response (dated December 24, 2009, and subsequently approved by the USAC Board) to an audit of the Jennings School District. The audit finding in question and USAC's Management Comment are as follows:

Finding ID: SL2008BE035_F05

Finding/Comment Narrative:

For all of Funding Year 2006 and through April 20, 2008 for Funding Year 2007, the District's Acceptable Use Policy (AUP) did not contain one of the five required criteria for CIPA compliance. The missing criteria was for the following: § The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications. The Facebook.com and MySpace.com websites, which contain forms of direct electronic communication, were accessible during site visits of each school within the District. However, other websites containing harmful materials or visual depictions were not accessible. The District updated the AUP on April 21, 2008. The updated AUP contained the required criteria for CIPA compliance.

Management Comment:

Since the audit disclosed certain sites that may contain harmful materials were accessible by the students, USAC will seek recovery of \$102,978.82 identified by the auditors. It should be noted that this recovery amount is included in Finding SL2008BE035_F03. USAC management concurs with the finding and recommendation.

It is important to note that USAC did not comment at all on the missing AUP criteria — which under the FCC's Table C guidance may or may not have been a recoverable rule violation — but only on the district's failure to block access to the two specific social networking sites.

Although the general principle of appropriate Web site access is the primary issue in this instance, SECA opines that social networking sites, if properly monitored as required by CIPA rules, may provide valuable educational benefits. SECA notes the following:

1. A number of schools maintain an active presence on social networking sites. The FCC, itself, encourages followers of its own activities on Twitter, another social networking site.

2. The draft of the U.S. Department of Education’s National Educational Technology Plan (released last week), expresses concern that filters might “...block access to legitimate learning content and tools such as blogs, wikis, and social networks that have the potential to support student learning and engagement.” *[Emphasis added]*

3. Access to such social networking sites for instructional purposes may be necessary to comply with the new CIPA requirement for educating minors about appropriate online behavior, “...including interacting with other individuals on social networking websites...” *[Emphasis added]* Teaching proper usage without actual access would be less effective.

Potentially blocking access to what others might deem to be appropriate educational resources is but one more reason to rely on local determinations.

SECA believes that this decision, while set within a single audit report, sets a dangerous precedent which must be corrected. The Commission must make it clear that USAC’s role in the administration and enforcement of CIPA rules does not extend of interpretations of what Web sites must be blocked by E-rate applicants — either by USAC or its independent auditors. The determination of what is or is not harmful material subject to filtering must remain a local responsibility.

Respectfully Submitted by:

/s/ Gary Rawson

Gary Rawson, Chair
State E-Rate Coordinators’ Alliance

Mississippi Department for Information Technology Services
301 North Lamar Street, Suite 508
Jackson, Mississippi 39201
601-359-2613
rawson@its.state.ms.us

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