

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

In the Matter of)	
)	
Federal-State Joint Board on Universal)	CC Docket No. 96-45
Service)	
)	
)	

FURTHER NOTICE OF PROPOSED RULE MAKING

Adopted: January 22, 2001

Released: January 23, 2001

Comment Date: 15 days after publication in Federal Register

Reply Date: 22 days after publication in Federal Register

By the Commission:

I. INTRODUCTION

1. On December 21, 2000, the President signed into law the Children's Internet Protection Act (the CHIP Act), included as part of the Consolidated Appropriations Act, 2001.¹ Section 1721 and related sections of the CHIP Act provide that in order to be eligible under section 254 of the Communications Act of 1934, as amended (the Act),² to receive discounted Internet access, Internet services, and internal connection services, schools and libraries that have computers with Internet access must have in place certain Internet safety policies.³ In this Further Notice of Proposed Rulemaking (Notice), we seek comment on implementation of the legislation.

¹ Pub. L. No. 106-554. Section 1721 of the CHIP Act amends section 254 (h) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151 *et seq.* Section 1721 references section 1732 of the Children's Internet Protection Act, which amends section 254 of the Communications Act by adding a new subsection (l) at the end of section 254. Sections 1711 and 1712 of the Children's Internet Protection Act amend, respectively, the Elementary and Secondary Education Act of 1965, 20 U.S.C. §§ 6801 *et seq.*, and the Museum and Library Services Act, 20 U.S.C. § 9134(b), and therefore do not fall under the jurisdiction of the Commission.

² 47 U.S.C. § 254(h).

³ Although the CHIP Act refers to the provision of discounts for Internet access and Internet services, *see* 47 U.S.C. § 254(h)(5)(A)(ii), (h)(6)(A)(ii), the schools and libraries universal service support mechanism does not support Internet services.

II. BACKGROUND

2. The CHIP Act, the full text of which is attached as Appendix A, amends, *inter alia*, section 254 of the Communications Act of 1934, as amended, to impose new requirements on schools and libraries receiving discounted services supported by the schools and libraries universal service support mechanism. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounted eligible telecommunications, Internet access, and internal connections services.⁴

3. The CHIP Act addresses the issue of Internet safety, mandating certifications by schools and libraries receiving Internet access and internal connection services supported by the schools and libraries support mechanism that they are enforcing a policy of Internet safety and enforcing the operation of a technology prevention measure. Recipients must have in place an Internet safety policy that includes the operation of a technology prevention measure that protects against Internet access for both adults and minors to visual depictions that are obscene, child pornography, and, with respect to use of the computers by minors, harmful to minors.⁵ Schools (but not libraries) must also certify that their policy includes monitoring the online activities of minors.⁶ The legislation also requires schools and libraries to certify that they have adopted and implemented a separate Internet safety policy to address other issues, such as unauthorized access by minors online, and the safety and security of minors when using electronic mail, chat rooms, and other forms of communication.⁷

4. Sections 254(h)(5)(E)(i)(I) and 254(h)(6)(E)(i)(I) of the Act, as amended, provide that schools and libraries shall make the certifications under subparagraphs (B) and (C) “with respect to the first program funding year under this subsection following such effective date, not later than 120 days after the beginning of such program year . . .”⁸ Funding year 4 of the schools and libraries universal service funding mechanism, which begins on July 1, 2001 and ends on June 30, 2002, is the first program year after the effective date. Therefore, the first CHIP Act certifications pursuant to sections 254(h)(5) and (h)(6) are due on or before October 28, 2001. The CHIP Act requires the Commission to ensure that regulations pursuant to section 254(h) are effective within 120 days of the December 21, 2000 date of enactment of the Act.⁹

⁴ 47 C.F.R. §§ 54.502, 54.503.

⁵ 47 U.S.C. § 254(h).

⁶ 47 U.S.C. § 254(h)(B).

⁷ 47 U.S.C. § 254(l); 254(h)(5)(A)(II), (h)(6)(A)(II).

⁸ 47 U.S.C. § 254(h)(5)(E)(i)(I), (h)(6)(E)(i)(I).

⁹ 47 U.S.C. § 254(h)(7)(h). Those regulations must thus be in effect by April 20, 2001. The Commission must prescribe regulations pursuant to section 254(l) as of that date as well. See the Consolidated Appropriations Act, 2001 (Pub. L. 106-554) § 1733.

III. ISSUES FOR COMMENT

5. In this Notice, we seek comment generally on implementation of the CHIP Act as it affects section 254 of the Communications Act of 1934, as amended. We seek comment in particular on the following issues.

6. We tentatively conclude that the most efficient and effective way of obtaining the certifications required under the legislation, while imposing the least burden on recipients, is to modify an existing FCC Form to include a certification that the recipient is in compliance with the requirements of the legislation, or that the statute does not apply. We propose that recipients use one of the following certifications: “I certify that the recipient complies with all relevant provisions of the Children’s Internet Protection Act, 42 U.S.C. § 254(h).” Or, “I certify that the requirements of the Children’s Internet Protection Act, 42 U.S.C. § 254(h), do not apply.” We seek comment on this proposal.

7. We contemplate for funding year 4 that FCC Form 486, the Receipt of Service Confirmation Form, could serve as the appropriate means of certification pursuant to the CHIP Act when modified to include the required certification.¹⁰ In future years, we contemplate adding the certification to the Form 471. We invite comment on use of these forms for this purpose.

8. Under the schools and libraries universal service funding mechanism, applicants often include entire school districts, comprising numerous schools, or consortia that include eligible schools and libraries. We therefore seek comment on which entities in these and other situations may make the certifications required under the CHIP Act.

9. Although the CHIP Act specifies when eligible entities must make the certifications under 254(h) for enforcing, for both minors and adults, a policy of Internet safety that includes operation of a technology protection measure,¹¹ the statute does not similarly specify when eligible entities must certify that they are in compliance with the separate Internet safety policy described in section 254(l).¹² We seek comment on whether the timing requirements under section 254(h)(5)(E) and 254(h)(6)(E) also apply to certifications by schools and libraries regarding the adoption and implementation of an Internet safety policy as required by section 254(l).

10. Sections 254(h)(5)(F) and 254(h)(6)(F) set forth consequences for schools or libraries that fail to submit certifications or fail to comply with the CHIP Act certifications.¹³

¹⁰ FCC Form 486 must be filed before the Schools and Libraries Division of the Universal Service Administrative Company can process service provider invoices for discounts.

¹¹ 47 U.S.C. § 254(h)(5)(E), (h)(6)(E).

¹² In particular, the timing requirement set forth in section 254(h)(5)(E) and 254(h)(6)(E) refers only to certifications under subparagraphs (B) and (C), and does not on its face refer to the certification required in section 254(h)(5)(A)(i)(II) and 254(h)(6)(A)(i)(II).

¹³ 47 U.S.C. § 254(h)(5)(F)(i-ii), (h)(6)(F)(i-ii).

These sections also set forth procedures for remedying noncompliance.¹⁴ We seek comment on whether any rules are necessary to implement these remedial provisions of the statute, and how these provisions can be implemented in a way that is administratively efficient and fair to applicants. We invite comment on how these provisions should be implemented in light of the annual funding cycle, our rule imposing a cap on the amount of federal universal service support for schools and libraries, and our rule that provides priority for applicants that file within a specified filing period.¹⁵ Finally, we invite commenters to address any additional issues regarding effective implementation of the CHIP Act by the Commission.

IV. PROCEDURAL MATTERS

A. Paperwork Reduction Act

11. As part of our continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on information collections contained in this Further Notice, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Public and agency comments are due at the same time as other comments on this Further Notice. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

B. Initial Regulatory Flexibility Analysis

12. As required by the Regulatory Flexibility Act (RFA),¹⁶ the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice provided below in section IV.C. The Commission will send a copy of the Further Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).¹⁷ In addition, the Notice and IRFA (or summaries thereof) will be published in the Federal Register.¹⁸

¹⁴ 47 U.S.C. § 254(h)(5)(F)(iii), (h)(6)(F)(iii).

¹⁵ 47 C.F.R. § 54.507.

¹⁶ See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

¹⁷ See 5 U.S.C. § 603(a).

¹⁸ See *id.*

1. Need for, and Objectives of, the Proposed Rules

13. The Children's Internet Protection Act, included as part of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, requires the Commission to prescribe regulations in order to implement the legislation.¹⁹ This Notice seeks to obtain comments about procedures that may be implemented in accordance with those requirements.

2. Legal Basis

14. The legal basis for this Notice is contained in the Children's Internet Protection Act, included as part of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, and in sections 1 through 4, 201 through 205, 254, 303(r), and 403 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. §§ 1-4, 201-205, 254, 303(r), and 403, and section 1.411 of the Commission's rules, 47 C.F.R. § 1.411.

3. Description and Estimate of the Number of Small Entities To Which Rules Will Apply

15. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.²⁰ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."²¹ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.²² A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).²³ A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."²⁴ Nationwide, as of 1992, there were approximately 275,801 small organizations.²⁵ "Small

¹⁹ See Consolidated Appropriations Act, 2001 (Pub. L. 105-554), §§ 1721(f), 1733.

²⁰ 5 U.S.C. § 603(b)(3).

²¹ 5 U.S.C. § 601(6).

²² 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register." 5 U.S.C. § 601(3).

²³ Small Business Act, 15 U.S.C. § 632.

²⁴ 5 U.S.C. § 601(4).

²⁵ 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

governmental jurisdiction”²⁶ generally means “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.”²⁷ As of 1992, there were approximately 85,006 such jurisdictions in the United States.²⁸ This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.²⁹ The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96 percent) are small entities.

16. Under the schools and libraries universal service support mechanism, which provides support for elementary and secondary schools and libraries, an elementary school is generally “a non-profit institutional day or residential school that provides elementary education, as determined under state law.”³⁰ A secondary school is generally as “a non-profit institutional day or residential school that provides secondary education, as determined under state law,” and not offering education beyond grade 12.³¹ For-profit schools and libraries, and schools and libraries with endowments in excess of \$50,000,000, are not eligible to receive discounts under the program, nor are libraries whose budgets are not completely separate from any schools.³² Certain other statutory definitions apply as well.³³ The SBA has defined as small entities elementary and secondary schools and libraries having \$5 million or less in annual receipts.³⁴ In funding year 2 (July 1, 1999 to June 20, 2000) approximately 83,700 schools and 9,000 libraries received funding under the schools and libraries universal service mechanism. Although we are unable to estimate with precision the number of these entities that would qualify as small entities under SBA’s definition, we estimate that fewer than 83,700 schools and 9,000 libraries would be affected annually by the rules proposed in this Notice, under current operation of the program.³⁵

²⁶ 47 C.F.R. § 1.1162.

²⁷ 5 U.S.C. § 601(5).

²⁸ U.S. Dept. of Commerce, Bureau of the Census, “1992 Census of Governments.”

²⁹ *Id.*

³⁰ 47 C.F.R. § 54.500(b).

³¹ 47 C.F.R. § 54.500(j).

³² 47 C.F.R. § 54.501.

³³ *See id.*

³⁴ 13 C.F.R. § 121.201, SIC Codes 8211, 8231.

³⁵ The number of small entities affected by these rules may also be affected by a determination of which entities may make the required certification, which is an issue on which this Notice seeks comment, see ¶ 8. For example, if a school district may certify on behalf of all of its schools, that district may well have annual receipts in excess of \$5 million and therefore would not be a small entity under SBA’s definition, whereas an individual school in that district might be a small entity with annual receipts of less than \$5 million, and thus would be affected by these rules.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

17. The measures under consideration in this Notice would, if adopted, result in minimal additional reporting. Specifically, the Notice proposes to require eligible schools and libraries receiving federal universal service support for Internet access or internal connections to make one of the following certifications: “I certify that the recipient complies with all relevant provisions of the Children’s Internet Protection Act, 42 U.S.C. § 254(h);” or, “I certify that the requirements of the Children’s Internet Protection Act, 42 U.S.C. § 254(h), do not apply.” The Commission proposes modifying FCC Form 486 to include a certification for funding year 4, and modifying FCC Form 471 to include the certification for future years. These forms are already completed on a regular basis, and the modification would merely require the checking of one additional box prior to signing the form. We estimate that it would take no more than one minute to review and check the appropriate certification box. The Commission tentatively concludes that this approach would be the most effective procedure for implementation of the CHIP Act’s requirements, and the least burdensome to applicants.

5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

18. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance and reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or part thereof, for small entities.³⁶

19. This requirement is legislatively mandated, and the Commission is merely attempting to implement it in most effective and least burdensome manner possible. Given that a certification is required by the legislation, we considered the alternative of having each school and library submit separate documentation, including the appropriate certification, but such an approach would likely be unnecessarily burdensome on these entities. As discussed above, the Commission tentatively concludes that adding a certification requirement to an existing FCC form is the least burdensome alternative for implementing the requirements of the CHIP Act. The Commission will consider other options as well, based in part on input from commenters.

6. Federal Rules that may Duplicate, Overlap, or Conflict with the Proposed Rules

20. None.

C. Comment Due Dates and Filing Procedures

³⁶ See 5 U.S.C. § 603.

21. We invite comment on the issues and questions set forth in the Further Notice of Proposed Rulemaking and Initial Regulatory Flexibility Analysis contained herein. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules,³⁷ interested parties may comment on or before 15 days after this Notice is published in the Federal Register, and reply comment on or before 22 days after this Notice is published in the Federal Register. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998).

22. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

23. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Parties also should send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 5-B540, Washington, D.C. 20554.

24. Parties who choose to file by paper should also submit their comments on diskette to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 5-B540, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM-compatible format using Microsoft Word 97 for Windows or a compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read-only" mode. The diskette should be clearly labeled with the commenter's name, proceeding, including the lead docket number in the proceeding (CC Docket No. 96-45), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ("Disk Copy Not an Original.") Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street,

³⁷ 47 C.F.R. §§ 1.415, 1.419.

N.W., Washington, D.C. 20037.

25. Written comments by the public on the proposed and/or modified information collections pursuant to the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, are due on or before 15 days after date of publication in the Federal Register. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before 60 days after date of publication in the Federal Register. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, S.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Edward Springer, OMB Desk Officer, 10236 NEOB, 725 - 17th Street, N.W., Washington, D.C. 20503.

V. ORDERING CLAUSES

26. Accordingly, IT IS ORDERED that, pursuant to the authority contained in the Children's Internet Protection Act, included as part of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, and in sections 1-4, 201-205, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201-205, 254, 303(r), 403, and section 1.411 of the Commission's rules, 47 C.F.R. § 1.411, this FURTHER NOTICE OF PROPOSED RULEMAKING IS ADOPTED, as described herein.

27. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

APPENDIX A
CHILDREN'S INTERNET PROTECTION ACT (Pub. L. 106-554)

TITLE XVII--CHILDREN'S INTERNET PROTECTION

SEC. 1701. SHORT TITLE.

This title may be cited as the ``Children's Internet Protection Act".

SEC. 1702. DISCLAIMERS.

DISCLAIMER REGARDING CONTENT.--Nothing in this title or the amendments made by this title shall be construed to prohibit a local educational agency, elementary or secondary school, or library from blocking access on the Internet on computers owned or operated by that agency, school, or library to any content other than content covered by this title or the amendments made by this title.

(b) **DISCLAIMER REGARDING PRIVACY.**--Nothing in this title or the amendments made by this title shall be construed to require the tracking of Internet use by any identifiable minor or adult user.

SEC. 1703. STUDY OF TECHNOLOGY PROTECTION MEASURES.

IN GENERAL.--Not later than 18 months after the date of the enactment of this Act, the National Telecommunications and Information Administration shall initiate a notice and comment proceeding for purposes of—

- (1) evaluating whether or not currently available technology protection measures, including commercial Internet blocking and filtering software, adequately addresses the needs of educational institutions;
- (2) making recommendations on how to foster the development of measures that meet such needs; and
- (3) evaluating the development and effectiveness of local Internet safety policies that are currently in operation after community input.

DEFINITIONS.--In this section:

TECHNOLOGY PROTECTION MEASURE.--The term ``technology protection measure" means a specific technology that blocks or filters Internet access to visual depictions that are—

- (A) obscene, as that term is defined in section 1460 of title 18, United States Code;
- (B) child pornography, as that term is defined in section 2256 of title 18, United States Code; or
- (C) harmful to minors.

(2) **HARMFUL TO MINORS.**--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) 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.

(3) **SEXUAL ACT; SEXUAL CONTACT.**--The terms "sexual act" and "sexual contact" have the meanings given such terms in section 2246 of title 18, United States Code.

Subtitle A--Federal Funding for Educational Institution Computers

SEC. 1711. LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR SCHOOLS.

Title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.) is amended by adding at the end the following:

"PART F--LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR SCHOOLS

"SEC. 3601. LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR SCHOOLS.

"(a) INTERNET SAFETY.—

"(1) **IN GENERAL.**--No funds made available under this title to a local educational agency for an elementary or secondary school that does not receive services at discount rates under section 254(h)(5) of the Communications Act of 1934, as added by section 1721 of Children's Internet Protection Act, may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such school unless the school, school board, local educational agency, or other authority with responsibility for administration of such school both—

"(A)(i) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

"(I) obscene;

"(II) child pornography; or

"(III) harmful to minors; and

"(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

"(B)(i) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

“(I) obscene; or
“(II) child pornography; and
“(ii) is enforcing the operation of such technology protection measure during any use of such computers.

“(2) **TIMING AND APPLICABILITY OF IMPLEMENTATION.**--

“(A) **IN GENERAL.**--The local educational agency with responsibility for a school covered by paragraph (1) shall certify the compliance of such school with the requirements of paragraph (1) as part of the application process for the next program funding year under this Act following the effective date of this section, and for each subsequent program funding year thereafter.

“(B) **PROCESS.**—

“(i) **SCHOOLS WITH INTERNET SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES IN PLACE.**--A local educational agency with responsibility for a school covered by paragraph (1) that has in place an Internet safety policy meeting the requirements of paragraph (1) shall certify its compliance with paragraph (1) during each annual program application cycle under this Act.

“(ii) **SCHOOLS WITHOUT INTERNET SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES IN PLACE.**--A local educational agency with responsibility for a school covered by paragraph (1) that does not have in place an Internet safety policy meeting the requirements of paragraph (1)—

“(I) for the first program year after the effective date of this section in which the local educational agency is applying for funds for such school under this Act, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

“(II) for the second program year after the effective date of this section in which the local educational agency is applying for funds for such school under this Act, shall certify that such school is in compliance with such requirements.

Any school covered by paragraph (1) for which the local educational agency concerned is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this title for such second program year and all subsequent program years until such time as such school comes into compliance with such requirements.

“(iii) **WAIVERS.**--Any school subject to a certification under clause (ii)(II) for which the local educational agency concerned cannot make the certification otherwise required by that clause may seek a waiver of that clause if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that clause. The local educational agency concerned shall notify the Secretary of the applicability of that clause to the school. Such notice shall certify that the school will be brought into compliance with the requirements in paragraph (1) before the start of the third program year after the effective date of this section in which the school is applying for funds under this title.

“(3) **DISABLING DURING CERTAIN USE.**--An administrator, supervisor, or person authorized by the responsible authority under paragraph (1) may disable the technology protection measure concerned to enable access for bona fide research or other lawful purposes.

“(4) **NONCOMPLIANCE.**—

“(A) **USE OF GENERAL EDUCATION PROVISIONS ACT REMEDIES.**--Whenever the Secretary has reason to believe that any recipient of funds under this title is failing to comply substantially with the requirements of this subsection, the Secretary may—

“(i) withhold further payments to the recipient under this title,

“(ii) issue a complaint to compel compliance of the recipient through a cease and desist order, or

“(iii) enter into a compliance agreement with a recipient to bring it into compliance with such requirements, in same manner as the Secretary is authorized to take such actions under sections 455, 456, and 457, respectively, of the General Education Provisions Act (20 U.S.C. 1234d).

“(B) **RECOVERY OF FUNDS PROHIBITED.**--The actions authorized by subparagraph (A) are the exclusive remedies available with respect to the failure of a school to comply substantially with a provision of this subsection, and the Secretary shall not seek a recovery of funds from the recipient for such failure.

“(C) **RECOMMENCEMENT OF PAYMENTS.**--Whenever the Secretary determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments, the Secretary shall cease the withholding of payments to the recipient under that subparagraph.

“(5) **DEFINITIONS.**--In this section:

“(A) **COMPUTER.**--The term ‘computer’ includes any hardware, software, or other technology attached or connected to, installed in, or otherwise used in connection with a computer.

“(B) **ACCESS TO INTERNET.**--A computer shall be considered to have access to the Internet if such computer is equipped with a modem or is connected to a computer network which has access to the Internet.

“(C) **ACQUISITION OR OPERATION.**--A elementary or secondary school shall be considered to have received funds under this title for the acquisition or operation of any computer if such funds are used in any manner, directly or indirectly—

“(i) to purchase, lease, or otherwise acquire or obtain the use of such computer; or

“(ii) to obtain services, supplies, software, or other actions or materials to support, or in connection with, the operation of such computer.

“(D) **MINOR.**--The term ‘minor’ means an individual who has not attained the age of 17.

“(E) **CHILD PORNOGRAPHY.**--The term ‘child pornography’ has the meaning given such

term in section 2256 of title 18, United States Code.

“(F) **HARMFUL TO MINORS.**--The term ‘harmful to minors’ means any picture, image, graphic image file, or other visual depiction that—

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

“(ii) 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

“(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

“(G) **OBSCENE.**--The term ‘obscene’ has the meaning given such term in section 1460 of title 18, United States Code.

“(H) **SEXUAL ACT; SEXUAL CONTACT.**--The terms ‘sexual act’ and ‘sexual contact’ have the meanings given such terms in section 2246 of title 18, United States Code.

“(b) **EFFECTIVE DATE.**--This section shall take effect 120 days after the date of the enactment of the Children's Internet Protection Act.

“(c) **SEPARABILITY.**--If any provision of this section is held invalid, the remainder of this section shall not be affected thereby.”

SEC. 1712. LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR LIBRARIES.

AMENDMENT.--Section 224 of the Museum and Library Services Act (20 U.S.C. 9134(b)) is amended—

(1) in subsection (b)--

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following new paragraph:

“(6) provide assurances that the State will comply with subsection (f); and”; and

by adding at the end the following new subsection:

“(f) **INTERNET SAFETY.**—

“(1) **IN GENERAL.**--No funds made available under this Act for a library described in section 213(2)(A) or (B) that does not receive services at discount rates under section 254(h)(6) of the Communications Act of 1934, as added by section 1721 of this Children's Internet Protection Act, may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such library unless—

“(A) such library—

“(i) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

“(I) obscene;

“(II) child pornography; or

“(III) harmful to minors; and

“(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

“(B) such library—

“(i) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are--

“(I) obscene; or

“(II) child pornography; and

“(ii) is enforcing the operation of such technology protection measure during any use of such computers.

“(2) **ACCESS TO OTHER MATERIALS.**--Nothing in this subsection shall be construed to prohibit a library from limiting Internet access to or otherwise protecting against materials other than those referred to in subclauses (I), (II), and (III) of paragraph (1)(A)(i).

“(3) **DISABLING DURING CERTAIN USE.**--An administrator, supervisor, or other authority may disable a technology protection measure under paragraph (1) to enable access for bona fide research or other lawful purposes.

“(4) **TIMING AND APPLICABILITY OF IMPLEMENTATION.**—

“(A) **IN GENERAL.**--A library covered by paragraph (1) shall certify the compliance of such library with the requirements of paragraph (1) as part of the application process for the next program funding year under this Act following the effective date of this subsection, and for each subsequent program funding year thereafter.

“(B) **PROCESS.**—

“(i) **LIBRARIES WITH INTERNET SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES IN PLACE.**--A library covered by paragraph (1) that has in place an Internet safety policy meeting the requirements of paragraph (1) shall certify its compliance with paragraph (1) during each annual program application cycle under this Act.

“(ii) **LIBRARIES WITHOUT INTERNET SAFETY POLICIES AND TECHNOLOGY**

PROTECTION MEASURES IN PLACE.--A library covered by paragraph (1) that does not have in place an Internet safety policy meeting the requirements of paragraph (1)—

“(I) for the first program year after the effective date of this subsection in which the library applies for funds under this Act, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

“(II) for the second program year after the effective date of this subsection in which the library applies for funds under this Act, shall certify that such library is in compliance with such requirements.

Any library covered by paragraph (1) that is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this Act for such second program year and all subsequent program years until such time as such library comes into compliance with such requirements.

“(iii) **WAIVERS.**--Any library subject to a certification under clause (ii)(II) that cannot make the certification otherwise required by that clause may seek a waiver of that clause if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that clause. The library shall notify the Director of the Institute of Museum and Library Services of the applicability of that clause to the library. Such notice shall certify that the library will comply with the requirements in paragraph (1) before the start of the third program year after the effective date of this subsection for which the library is applying for funds under this Act.

“(5) **NONCOMPLIANCE.**—

“(A) **USE OF GENERAL EDUCATION PROVISIONS ACT REMEDIES.**--Whenever the Director of the Institute of Museum and Library Services has reason to believe that any recipient of funds this Act is failing to comply substantially with the requirements of this subsection, the Director may—

“(i) withhold further payments to the recipient under this Act,

“(ii) issue a complaint to compel compliance of the recipient through a cease and desist order, or

“(iii) enter into a compliance agreement with a recipient to bring it into compliance with such requirements.

“(B) **RECOVERY OF FUNDS PROHIBITED.**--The actions authorized by subparagraph (A) are the exclusive remedies available with respect to the failure of a library to comply substantially with a provision of this subsection, and the Director shall not seek a recovery of funds from the recipient for such failure.

“(C) **RECOMMENCEMENT OF PAYMENTS.**--Whenever the Director determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for

the withholding of payments, the Director shall cease the withholding of payments to the recipient under that subparagraph.

“(6) **SEPARABILITY.**--If any provision of this subsection is held invalid, the remainder of this subsection shall not be affected thereby.

“(7) **DEFINITIONS.**--In this section:

“(A) **CHILD PORNOGRAPHY.**--The term ‘child pornography’ has the meaning given such term in section 2256 of title 18, United States Code.

“(B) **HARMFUL TO MINORS.**--The term ‘harmful to minors’ means any picture, image, graphic image file, or other visual depiction that—

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

“(ii) 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

“(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

“(C) **MINOR.**--The term ‘minor’ means an individual who has not attained the age of 17.

“(D) **OBSCENE.**--The term ‘obscene’ has the meaning given such term in section 1460 of title 18, United States Code.

“(E) **SEXUAL ACT; SEXUAL CONTACT.**--The terms ‘sexual act’ and ‘sexual contact’ have the meanings given such terms in section 2246 of title 18, United States Code.”

EFFECTIVE DATE.--The amendment made by this section shall take effect 120 days after the date of the enactment of this Act.

Subtitle B--Universal Service Discounts

SEC. 1721. REQUIREMENT FOR SCHOOLS AND LIBRARIES TO ENFORCE INTERNET SAFETY POLICIES WITH TECHNOLOGY PROTECTION MEASURES FOR COMPUTERS WITH INTERNET ACCESS AS CONDITION OF UNIVERSAL SERVICE DISCOUNTS.

SCHOOLS.--Section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (7); and
by inserting after paragraph (4) the following new paragraph (5):

“(5) REQUIREMENTS FOR CERTAIN SCHOOLS WITH COMPUTERS HAVING INTERNET ACCESS.—

“(A) INTERNET SAFETY.—

“(i) IN GENERAL.--Except as provided in clause (ii), an elementary or secondary school having computers with Internet access may not receive services at discount rates under paragraph (1)(B) unless the school, school board, local educational agency, or other authority with responsibility for administration of the school—

“(I) submits to the Commission the certifications described in subparagraphs (B) and (C);

“(II) submits to the Commission a certification that an Internet safety policy has been adopted and implemented for the school under subsection (I); and

“(III) ensures the use of such computers in accordance with the certifications.

“(ii) APPLICABILITY.--The prohibition in clause (i) shall not apply with respect to a school that receives services at discount rates under paragraph (1)(B) only for purposes other than the provision of Internet access, Internet service, or internal connections.

“(iii) PUBLIC NOTICE; HEARING.--An elementary or secondary school described in clause (i), or the school board, local educational agency, or other authority with responsibility for administration of the school, shall provide reasonable public notice and hold at least 1 public hearing or meeting to address the proposed Internet safety policy. In the case of an elementary or secondary school other than an elementary or secondary school as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), the notice and hearing required by this clause may be limited to those members of the public with a relationship to the school.

“(B) CERTIFICATION WITH RESPECT TO MINORS.--A certification under this subparagraph is a certification that the school, school board, local educational agency, or other authority with responsibility for administration of the school—

“(i) is enforcing a policy of Internet safety for minors that includes monitoring the online activities of minors and the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

“(I) obscene;

“(II) child pornography; or

“(III) harmful to minors; and

“(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors.

“(C) CERTIFICATION WITH RESPECT TO ADULTS.--A certification under this

paragraph is a certification that the school, school board, local educational agency, or other authority with responsibility for administration of the school—

“(i) is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

“(I) obscene; or

“(II) child pornography; and

“(ii) is enforcing the operation of such technology protection measure during any use of such computers.

“(D) **DISABLING DURING ADULT USE.**--An administrator, supervisor, or other person authorized by the certifying authority under subparagraph (A)(i) may disable the technology protection measure concerned, during use by an adult, to enable access for bona fide research or other lawful purpose.

“(E) **TIMING OF IMPLEMENTATION.**—

“(i) **IN GENERAL.**--Subject to clause (ii) in the case of any school covered by this paragraph as of the effective date of this paragraph under section 1721(h) of the Children's Internet Protection Act, the certification under subparagraphs (B) and (C) shall be made—

“(I) with respect to the first program funding year under this subsection following such effective date, not later than 120 days after the beginning of such program funding year; and

“(II) with respect to any subsequent program funding year, as part of the application process for such program funding year.

“(ii) **PROCESS.**—

“(I) **SCHOOLS WITH INTERNET SAFETY POLICY AND TECHNOLOGY PROTECTION MEASURES IN PLACE.**--A school covered by clause (i) that has in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C) shall certify its compliance with subparagraphs (B) and (C) during each annual program application cycle under this subsection, except that with respect to the first program funding year after the effective date of this paragraph under section 1721(h) of the Children's Internet Protection Act, the certifications shall be made not later than 120 days after the beginning of such first program funding year.

“(II) **SCHOOLS WITHOUT INTERNET SAFETY POLICY AND TECHNOLOGY PROTECTION MEASURES IN PLACE.**--A school covered by clause (i) that does not have in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C)--

“(aa) for the first program year after the effective date of this subsection in which it is applying

for funds under this subsection, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C); and

“(bb) for the second program year after the effective date of this subsection in which it is applying for funds under this subsection, shall certify that it is in compliance with subparagraphs (B) and (C).

Any school that is unable to certify compliance with such requirements in such second program year shall be ineligible for services at discount rates or funding in lieu of services at such rates under this subsection for such second year and all subsequent program years under this subsection, until such time as such school comes into compliance with this paragraph.

“(III) **WAIVERS.**--Any school subject to subclause (II) that cannot come into compliance with subparagraphs (B) and (C) in such second year program may seek a waiver of subclause (II)(bb) if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by such subclause. A school, school board, local educational agency, or other authority with responsibility for administration of the school shall notify the Commission of the applicability of such subclause to the school. Such notice shall certify that the school in question will be brought into compliance before the start of the third program year after the effective date of this subsection in which the school is applying for funds under this subsection.

“(F) **NONCOMPLIANCE.**—

“(i) **FAILURE TO SUBMIT CERTIFICATION.**--Any school that knowingly fails to comply with the application guidelines regarding the annual submission of certification required by this paragraph shall not be eligible for services at discount rates or funding in lieu of services at such rates under this subsection.

“(ii) **FAILURE TO COMPLY WITH CERTIFICATION.**--Any school that knowingly fails to ensure the use of its computers in accordance with a certification under subparagraphs (B) and (C) shall reimburse any funds and discounts received under this subsection for the period covered by such certification.

“(iii) **REMEDY OF NONCOMPLIANCE.**—

“(I) **FAILURE TO SUBMIT.**--A school that has failed to submit a certification under clause (i) may remedy the failure by submitting the certification to which the failure relates. Upon submittal of such certification, the school shall be eligible for services at discount rates under this subsection.

“(II) **FAILURE TO COMPLY.**--A school that has failed to comply with a certification as described in clause (ii) may remedy the failure by ensuring the use of its computers in accordance with such certification. Upon submittal to the Commission of a certification or other appropriate

evidence of such remedy, the school shall be eligible for services at discount rates under this subsection."

LIBRARIES.--Such section 254(h) is further amended by inserting after paragraph (5), as amended by subsection (a) of this section, the following new paragraph:

“(6) REQUIREMENTS FOR CERTAIN LIBRARIES WITH COMPUTERS HAVING INTERNET ACCESS.—

“(A) INTERNET SAFETY.—

“(i) IN GENERAL.--Except as provided in clause (ii), a library having one or more computers with Internet access may not receive services at discount rates under paragraph (1)(B) unless the library—

“(I) submits to the Commission the certifications described in subparagraphs (B) and (C); and

“(II) submits to the Commission a certification that an Internet safety policy has been adopted and implemented for the library under subsection (I); and

“(III) ensures the use of such computers in accordance with the certifications.

“(ii) APPLICABILITY.--The prohibition in clause (i) shall not apply with respect to a library that receives services at discount rates under paragraph (1)(B) only for purposes other than the provision of Internet access, Internet service, or internal connections.

“(iii) PUBLIC NOTICE; HEARING.--A library described in clause (i) shall provide reasonable public notice and hold at least 1 public hearing or meeting to address the proposed Internet safety policy.

“(B) CERTIFICATION WITH RESPECT TO MINORS.--A certification under this subparagraph is a certification that the library—

“(i) is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

“(I) obscene;

“(II) child pornography; or

“(III) harmful to minors; and

“(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors.

“(C) CERTIFICATION WITH RESPECT TO ADULTS.--A certification under this paragraph is a certification that the library--

“(i) is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access

through such computers to visual depictions that are—

“(I) obscene; or

“(II) child pornography; and

“(ii) is enforcing the operation of such technology protection measure during any use of such computers.

“(D) **DISABLING DURING ADULT USE.**--An administrator, supervisor, or other person authorized by the certifying authority under subparagraph (A)(i) may disable the technology protection measure concerned, during use by an adult, to enable access for bona fide research or other lawful purpose.

“(E) **TIMING OF IMPLEMENTATION.**—

“(i) **IN GENERAL.**--Subject to clause (ii) in the case of any library covered by this paragraph as of the effective date of this paragraph under section 1721(h) of the Children's Internet Protection Act, the certification under subparagraphs (B) and (C) shall be made—

“(I) with respect to the first program funding year under this subsection following such effective date, not later than 120 days after the beginning of such program funding year; and

“(II) with respect to any subsequent program funding year, as part of the application process for such program funding year.

“(ii) **PROCESS.**—

“(I) **LIBRARIES WITH INTERNET SAFETY POLICY AND TECHNOLOGY PROTECTION MEASURES IN PLACE.**--A library covered by clause (i) that has in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C) shall certify its compliance with subparagraphs (B) and (C) during each annual program application cycle under this subsection, except that with respect to the first program funding year after the effective date of this paragraph under section 1721(h) of the Children's Internet Protection Act, the certifications shall be made not later than 120 days after the beginning of such first program funding year.

“(II) **LIBRARIES WITHOUT INTERNET SAFETY POLICY AND TECHNOLOGY PROTECTION MEASURES IN PLACE.**--A library covered by clause (i) that does not have in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C)—

“(aa) for the first program year after the effective date of this subsection in which it is applying for funds under this subsection, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C); and

“(bb) for the second program year after the effective date of this subsection in which it is applying for funds under this subsection, shall certify that it is in compliance with subparagraphs (B) and (C).

Any library that is unable to certify compliance with such requirements in such second program year shall be ineligible for services at discount rates or funding in lieu of services at such rates under this subsection for such second year and all subsequent program years under this subsection, until such time as such library comes into compliance with this paragraph.

“(III) **WAIVERS.**--Any library subject to subclause (II) that cannot come into compliance with subparagraphs (B) and (C) in such second year may seek a waiver of subclause (II)(bb) if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by such subclause. A library, library board, or other authority with responsibility for administration of the library shall notify the Commission of the applicability of such subclause to the library. Such notice shall certify that the library in question will be brought into compliance before the start of the third program year after the effective date of this subsection in which the library is applying for funds under this subsection.

“(F) **NONCOMPLIANCE.**—

“(i) **FAILURE TO SUBMIT CERTIFICATION.**--Any library that knowingly fails to comply with the application guidelines regarding the annual submission of certification required by this paragraph shall not be eligible for services at discount rates or funding in lieu of services at such rates under this subsection.

“(ii) **FAILURE TO COMPLY WITH CERTIFICATION.**--Any library that knowingly fails to ensure the use of its computers in accordance with a certification under subparagraphs (B) and (C) shall reimburse all funds and discounts received under this subsection for the period covered by such certification.

“(iii) **REMEDY OF NONCOMPLIANCE.**—

“(I) **FAILURE TO SUBMIT.**--A library that has failed to submit a certification under clause (i) may remedy the failure by submitting the certification to which the failure relates. Upon submittal of such certification, the library shall be eligible for services at discount rates under this subsection.

“(II) **FAILURE TO COMPLY.**--A library that has failed to comply with a certification as described in clause (ii) may remedy the failure by ensuring the use of its computers in accordance with such certification. Upon submittal to the Commission of a certification or other appropriate evidence of such remedy, the library shall be eligible for services at discount rates under this subsection.”.

DEFINITIONS.--Paragraph (7) of such section, as redesignated by subsection (a)(1) of this section, is amended by adding at the end the following:

“(D) **MINOR.**--The term ‘minor’ means any individual who has not attained the age of 17 years.

“(E) **OBSCENE.**--The term ‘obscene’ has the meaning given such term in section 1460 of title 18, United States Code.

“(F) **CHILD PORNOGRAPHY.**--The term ‘child pornography’ has the meaning given such term in section 2256 of title 18, United States Code.

“(G) **HARMFUL TO MINORS.**--The term ‘harmful to minors’ means any picture, image, graphic image file, or other visual depiction that—

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

“(ii) 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

“(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

“(H) **SEXUAL ACT; SEXUAL CONTACT.**--The terms ‘sexual act’ and ‘sexual contact’ have the meanings given such terms in section 2246 of title 18, United States Code.

“(I) **TECHNOLOGY PROTECTION MEASURE.**--The term ‘technology protection measure’ means a specific technology that blocks or filters Internet access to the material covered by a certification under paragraph (5) or (6) to which such certification relates.”.

(d) **CONFORMING AMENDMENT.**--Paragraph (4) of such section is amended by striking “paragraph (5)(A)” and inserting “paragraph (7)(A)”.

(e) **SEPARABILITY.**--If any provision of paragraph (5) or (6) of section 254(h) of the Communications Act of 1934, as amended by this section, or the application thereof to any person or circumstance is held invalid, the remainder of such paragraph and the application of such paragraph to other persons or circumstances shall not be affected thereby.

(f) **REGULATIONS.**—

(1) **REQUIREMENT.**--The Federal Communications Commission shall prescribe regulations for purposes of administering the provisions of paragraphs (5) and (6) of section 254(h) of the Communications Act of 1934, as amended by this section.

(2) **DEADLINE.**--Notwithstanding any other provision of law, the Commission shall prescribe regulations under paragraph (1) so as to ensure that such regulations take effect 120 days after the date of the enactment of this Act.

(g) **AVAILABILITY OF CERTAIN FUNDS FOR ACQUISITION OF TECHNOLOGY**

PROTECTION MEASURES.

(1) **IN GENERAL.**--Notwithstanding any other provision of law, funds available under section 3134 or part A of title VI of the Elementary and Secondary Education Act of 1965, or under section 231 of the Library Services and Technology Act, may be used for the purchase or acquisition of technology protection measures that are necessary to meet the requirements of this title and the amendments made by this title. No other sources of funds for the purchase or acquisition of such measures are authorized by this title, or the amendments made by this title.

(2) **TECHNOLOGY PROTECTION MEASURE DEFINED.**--In this section, the term "technology protection measure" has the meaning given that term in section 1703.

(h) **EFFECTIVE DATE.**--The amendments made by this section shall take effect 120 days after the date of the enactment of this Act.

Subtitle C--Neighborhood Children's Internet Protection

SEC. 1731. SHORT TITLE.

This subtitle may be cited as the "Neighborhood Children's Internet Protection Act".

SEC. 1732. INTERNET SAFETY POLICY REQUIRED.

Section 254 of the Communications Act of 1934 (47 U.S.C. 254) is amended by adding at the end the following:

"(l) INTERNET SAFETY POLICY REQUIREMENT FOR SCHOOLS AND LIBRARIES.—

"(1) IN GENERAL.--In carrying out its responsibilities under subsection (h), each school or library to which subsection (h) applies shall—

"(A) adopt and implement an Internet safety policy that addresses—

"(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

"(B) provide reasonable public notice and hold at least one public hearing or meeting to address

the proposed Internet safety policy.

“(2) **LOCAL DETERMINATION OF CONTENT.**--A determination regarding what matter is inappropriate for minors shall be made by the school board, local educational agency, library, or other authority responsible for making the determination. No agency or instrumentality of the United States Government may—

“(A) establish criteria for making such determination;

“(B) review the determination made by the certifying school, school board, local educational agency, library, or other authority; or

“(C) consider the criteria employed by the certifying school, school board, local educational agency, library, or other authority in the administration of subsection (h)(1)(B).

“(3) **AVAILABILITY FOR REVIEW.**--Each Internet safety policy adopted under this subsection shall be made available to the Commission, upon request of the Commission, by the school, school board, local educational agency, library, or other authority responsible for adopting such Internet safety policy for purposes of the review of such Internet safety policy by the Commission.

“(4) **EFFECTIVE DATE.**--This subsection shall apply with respect to schools and libraries on or after the date that is 120 days after the date of the enactment of the Children's Internet Protection Act.”.

SEC. 1733. IMPLEMENTING REGULATIONS.

Not later than 120 days after the date of enactment of this Act, the Federal Communications Commission shall prescribe regulations for purposes of section 254(l) of the Communications Act of 1934, as added by section 1732 of this Act.

Subtitle D--Expedited Review

SEC. 1741. EXPEDITED REVIEW.

(a) **THREE-JUDGE DISTRICT COURT HEARING.**--Notwithstanding any other provision of law, any civil action challenging the constitutionality, on its face, of this title or any amendment made by this title, or any provision thereof, shall be heard by a district court of 3 judges convened pursuant to the provisions of section 2284 of title 28, United States Code.

(b) **APPELLATE REVIEW.**--Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of 3 judges in an action under subsection (a) holding this title or an amendment made by this title, or any provision thereof, unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court. Any such appeal shall be filed not more than 20 days after entry of such judgment, decree, or order.

This Act may be cited as the ‘Miscellaneous Appropriations Act, 2001.’