



# CHILD PORNOGRAPHY POLICY

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## DEFINITIONS

**Child Pornography** is defined to be any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where:

1. The production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;
2. Such visual depiction is a digital image, computer image, or computer-generated image that is, or indistinguishable from, that of a minor engaging in sexually explicit conduct; or
3. Such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.

**Minor** is defined in almost all states as a person who is under 18. Note: the age of consent for sexual activity in New Mexico is 16.

**Child** is defined as a person 14 years and under. A child should be distinguished from a minor.

## APPLICABLE FEDERAL LAWS

There are a number of Federal laws applicable and are referenced in the Congressional Research Service Report 95-406, *Child Pornography: Constitutional Principles and Federal Statutes*. A copy of this report is attached to the original of this policy on file in the library. The Federal child pornography statutes are codified at 18 U.S.C., sections

2251 – 2260. Laws recently enacted as a result of Supreme Court rulings are summarized as follows:

1. Child Pornography Prevention Act of 1996, P.L. 104-208, 110 Stat. 3009-26 added a definition of “child pornography” that include visual depictions of what appears to be a minor engaging in explicit sexual conduct, even if no actual minor was used in producing the depiction. In *Ashcroft v. Free Speech Coalition* (2002), the Supreme Court held this provision unconstitutional to the extent that it prohibited pictures that were not produced with actual minors. In response, Congress enacted the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Act of 2003, or the PROTECT Act, P.L. 108-21 which would again ban some non-obscene child pornography that was produced without an actual minor.
2. Children’s Internet Protection Act (CIPA), P.L. 106-554 (2000), amended three federal statutes to provide that a school or library may not use funds it receives under these statutes to purchase computers used to access the Internet, or pay the direct costs of accessing the Internet, and may not receive universal discounts, unless the school or library enforces a policy to block or filter minors’ Internet access to visual depictions that are obscene, child pornography, or harmful to minors; and enforces a policy to block or filter adults’ Internet access to visual depictions that are obscene or child pornography. Filters may be disabled, however, “for bona fide research or other lawful purposes.” In *United States v. American Library Association* (2003), the Supreme Court held CIPA constitutional.

### **POLICY**

As a non-filtering library, Vista Grande Public Library does not restrict access to internet sites that may contain inappropriate content; however, Vista Grande Public Library’s policy is that patrons, staff, and volunteers shall not access printed materials of websites that feature or show child pornography.

If any patron, volunteer, or staff member is discovered to be creating items or accessing websites that feature or show child pornography, the library director or a Board member will inform the police. Further, the individual may be subject to actions such as revocation of library privileges or termination of employment or volunteer status.

It is the responsibility of the library staff, the library volunteers, and the library Board of Directors to enforce this policy.

## **PROCEDURES**

The Library shall take the following actions to restrict patron access to printed materials or websites that feature or show child pornography:

- Volunteers and staff shall be trained to recognize child pornography as described in the applicable statutes.
- No materials that feature or show child pornography shall be included in the collection.
- If any patron, volunteer, or staff member is discovered to be creating items or accessing websites which feature or show child pornography, the library director or Board member will inform the police.
- Files created by patrons and stored on library computers shall be removed on a routine basis.