# CHILDREN'S ONLINE PRIVACY PROTECTION ACT (COPPA)

# OVERVIEW

## Overview

The Children's Online Privacy Protection Act (COPPA) was passed by Congress in October 1998, with a requirement that the Federal Trade Commission (FTC) issue and enforce regulations concerning children's online privacy. The FTC issued the implementing regulations, 16 C.F.R. Part 312, effective April 21, 2000. The primary goal of COPPA and its rule is to place parents in control over what information is collected from their children online. The COPPA rule was designed to be strong, yet flexible, to protect children while recognizing the dynamic nature of the Internet. NCUA issued Regulatory Alert No. 01-RA-07 in July 2001 addressing COPPA.

- The COPPA rule applies to operators of commercial websites and online services directed to children under the age of 13 that collect personal information from children, and operators of general audience sites with actual knowledge that they are collecting information from children under 13.

- Those operators must:

  (1) Post clear and comprehensive Privacy Policies on the website describing their information practices for children's personal information;

  (2) Provide notice to parents, and with limited exceptions, obtain verifiable parental consent before collecting personal information from children;

  (3) Give parents the choice to consent to the operator's collection and use of a child's information while prohibiting the operator from disclosing that information to third parties;

  (4) Provide parents access to their child's personal information to review and/or have it deleted;

  (5) Give parents the opportunity to prevent further collection or use of the information

  (6) Maintain the confidentiality, security, and integrity of information they collect from children.

  - In addition, the COPPA rule prohibits operators from conditioning a child's participation in an online activity on the child's providing more information than is reasonably necessary to participate in that activity.

## Exceptions

The COPPA rule includes several exceptions (16 C.F.R. § 312.5(c)) that allow operators to collect a child's email address without getting the parent's consent in advance. These exceptions cover many popular online activities for kids, including *contests*, *online newsletters*, *homework help*, and *electronic postcards*.

Prior parental consent is not required when:

- An operator collects a child's or parent's email address to provide notice and seek consent;
- An operator collects an email address to respond to a *one-time* request from a child and then deletes it;
- An operator collects an email address to respond *more than once to a specific* request. (for example, for a subscription to a newsletter, the operator must notify the parent that it is communicating regularly with the child and give the parent the opportunity to stop the communication before sending or delivering a second communication to a child);
- An operator collects a child's name or online contact information to protect the safety of a child who is participating on the site. In this case, the operator must notify the parent and give him or her the opportunity to prevent further use of the information;
- An operator collects a child's name or online contact information to protect the security or liability of the site or to respond to law enforcement, if necessary, and does not use it for any other purpose.

## Associated Risks

- Compliance risk can occur when the credit union fails to implement the necessary controls to comply with COPPA.

- Reputation risk can occur when the credit union incurs fines or damaging publicity as a result of failure to comply with COPPA.

## Additional Information

For additional information visit the FTC online at http://www.ftc.gov/kidzprivacy/ . You also may call the FTC's Consumer Response Center toll-free at 1-877-FTC-HELP (382-4357), or write Consumer Response Center, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

# CHILDREN'S ONLINE PRIVACY PROTECTION ACT (COPPA)
# OPERATIONAL REQUIREMENTS

## Disclosures / Notices

Privacy Notice (16 C.F.R. § 312.4)

If the credit union is subject to the requirements of COPPA, a link to its privacy notice must appear on the home page of its website or online service and at each area where it collects personal information from children. If the credit union operates a general audience site with a separate children's area, it must post a clear and prominent link to its privacy notice on the home page of the children's area. Credit unions may wish to emphasize the link by using a larger font size or a different color type on a contrasting background.

COPPA requires a clearly written and understandable privacy notice that includes the following information:

- Name and contact information of the credit union;
- Types of personal information collected from children and the procedures used for collecting the information;
- How the credit union uses the personal information;
- Whether the credit union discloses the information to third parties;
- Notification that the parent has the option to agree to the collection and use of the child's information without consenting to its disclosure to third parties;
- Notification that the credit union may not require a child to disclose more information than is reasonably necessary to participate in an activity as a condition of participation; and
- Notification that the parent can review the child's personal information, ask to have it deleted, and refuse to allow any further collection or use of the child's information. The notice also must state the procedures for the parent to follow.

Notice to Parents (16 C.F.R. § 312.5)

The notice to parents must contain the same information included on the notice on the website.

- The credit union must notify a parent that it wishes to collect personal information from the child.
- The notice must also state that the parent's consent is required for the collection, use, and disclosure of the information and how the parent can provide consent.
- The credit union must obtain verifiable consent, meaning that the credit union must make reasonable efforts to ensure that the parent receives the notice and consents.

- The required method of consent depends on the use of the child's information.

New Notice for Consent (16 C.F.R. § 312.5)

An operator is required to send a *new notice and request for consent to parents* if there are material changes in the collection, use or disclosure practices to which the parent had previously agreed.

Access Verification (16 C.F.R. § 312.6)

At a parent's request, operators must disclose the general kinds of personal information they collect online from children (for example, name, address, telephone number, email address, hobbies), as well as the specific information collected from children who visit their sites. Operators must use reasonable procedures to ensure they are dealing with the child's parent before they provide access to the child's specific information.

They can use a variety of methods to verify the parent's identity, including:

- obtaining a signed form from the parent via postal mail or facsimile;
- accepting and verifying a credit card number;
- taking calls from parents on a toll-free telephone number staffed by trained personnel;
- email accompanied by digital signature; or
- email accompanied by a PIN or password obtained through one of the verification methods above.

Operators who follow one of these procedures acting in good faith to a request for parental access are protected from liability under federal and state law for inadvertent disclosures of a child's information to someone who purports to be a parent.

## Recordkeeping

Record Retention

COPPA is intentionally silent as to how long records must be retained. NCUA recommends that credit unions retain all records associated with COPPA and their compliance efforts for at least an examination and audit cycle.

## Enforcement / Liability

Administrative Enforcement Authority

COPPA gives the NCUA authority to enforce compliance with COPPA for federal credit unions. The FTC has authority to enforce compliance with COPPA for all other credit unions.

Civil Liability

The NCUA and FTC have the authority to hold website operators who violate the COPPA rule liable for civil penalties of up to $11,000 per violation and/or may bring enforcement actions. The level of penalties assessed may depend upon a number of factors including the egregiousness of the violation, such as: the number of children involved, the amount and type of personal information collected, how the information was used, whether it was shared with third parties, and the size of the credit union.

A credit union may be in violation of the COPPA rule if the NCUA or FTC has determined that a representation, omission, or practice is deceptive if it is likely to: mislead consumers and affect customers' behavior or decisions about the product or service. In addition, an act or practice is unfair if the injury it causes, or is likely to cause, is: substantial, not outweighed by other benefits, and not reasonably avoidable.