

HEOA P2P Compliance

The Higher Education Opportunity Act contains provisions for the regulation of peer-to-peer (P2P) applications when used in ways that infringe on the copyrights of commercial works (usually entertainment media files). Several sections of the HEOA deal with unauthorized file sharing on campus networks, imposing three general requirements on all U.S. colleges and universities:

- An annual disclosure to students describing copyright law and campus policies related to violating copyright law.
 - A statement that explicitly informs its students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities
 - A summary of the penalties for violation of Federal copyright laws (see sample below) ; and
 - A description of the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in illegal downloading or unauthorized distribution of copyrighted materials using the institution's information technology system.
- A plan to "effectively combat the unauthorized distribution of copyrighted materials" by users of its network, including "the use of one or more technology-based deterrents".
 - Bandwidth shaping
 - Traffic monitoring to identify the largest bandwidth users
 - A vigorous program of accepting and responding to Digital Millennium Copyright Act (DMCA) notices
 - A variety of commercial products designed to reduce or block illegal file sharing
- A plan to "offer alternatives to illegal downloading".

OLC complies with these provisions in the following ways:

- Pending the availability of the US Dept of Education's **Federal Student Aid Handbook**, OLC provides disclosure reminders through our Acceptable Use Policy whenever users:
 - register for classes
 - apply for admission
- OLC has chosen to deploy "a vigorous program of accepting and responding to Digital Millennium Copyright Act (DMCA) notices" as our technology-based deterrent.
- OLC maintains links to EduCause's list of [legal alternative sources of online content](#) at various web locations frequented and referenced by new users and others interested in information about this issue (e.g. acceptable use policy, student services)

OLC is evaluating additional ways to comply with provisions of the HEOA, including:

- Add P2P/Copyright compliance information to the annual email notification of all HEOA provisions
- Additional technology based deterrents including router based protocol dropping and vendor-provided filtering.

The US Department of Education provides the following summary of penalties for violation of Federal copyright laws:

Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws

(sample text for compliance with annual notification of penalties for violation)

Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement.

Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or "statutory" damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For "willful" infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys' fees. For details, see Title 17, United States Code, Sections 504, 505.

Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense.

For more information, please see the Web site of the U.S. Copyright Office at www.copyright.gov, especially their FAQ's at www.copyright.gov/help/faq.