

HEOA P2P Disclosure

From HEOA 2008:

§ 668.43 Institutional information.

(a) Institutional information that the institution must make readily available upon request to enrolled and prospective students under this subpart includes, but is not limited to—

(10) Institutional policies and sanctions related to copyright infringement, including—

(i) 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;

(ii) A summary of the penalties for violation of Federal copyright laws; and

(iii) 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

Notification Statement for Current and Prospective Students (and others):

Unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the user of OLC IT systems and services to civil and criminal liabilities.

In plain, non-technical, non-legal language:

If you have a program, application or service on your computer that allows you to get any song, video, game or other entertainment file that you want for free even though you could buy it in the store or online, you are at risk of violating copyright and being discovered and prosecuted.

When you use one of those programs, usually a peer-to-peer file sharing utility like Limewire, Gnutella, Morpheus, KaZaA, BitTorrent or others, you don't just receive files. In an "honor among thieves" arrangement your computer silently and automatically becomes an illegal **provider** of those files to other peer-to-peer users on the Internet.

The consequences of this illegal filesharing, whether intentional or not, according to the US Department of Education, include:

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

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.

Additionally, when a DMCA-compliant notice of copyright infringement is received by the DMCA Agent for OLC, the user of record of the infringing OLC IP address is subject to the following administrative and disciplinary actions:

- The user of record is identified from the infringing IP address and the timestamp provided in the complaint. The corresponding network access is disabled for a violation of OLC's Acceptable Use Policy.
- The copyright owner's representative is NOT provided with the identity of the user of record.
- Contact information for the user of record is obtained from the Jenzabar preferred email address. Failure to maintain a current email address will thwart contact about the actions being taken and the remedies available, but will not relieve the user of responsibility for the infringement.
- The user of record is provided with the notice of infringement (minus the contact information for the copyright agent) as well as local instructions to regain network access.
- The user of record is required to affirm that the infringing file(s) and filesharing software have been removed from the computer. The user of record should respond to OLC's DMCA Agent and not to the copyright owner's representative.
- Repeat infringements are referred to the Office of Student Services for an interview and possible disciplinary action.
- If the infringing IP address is assigned to a user's wireless router, it is the user's responsibility to secure the router so that it cannot be used for this or other purposes by anonymous users. This explanation is not a defense against a copyright infringement complaint.