

# Compliance with HEOA Peer-to-Peer File Sharing Requirements

[The Higher Education Opportunity Act of 2008 \(HEOA\)](#) is a reauthorization of the Higher Education Act of 1965. It includes provisions that are designed to reduce the illegal uploading and downloading of copyrighted works through peer-to-peer (P2P) file sharing. These provisions include requirements that:

- Institutions make an annual disclosure informing the campus community that illegal distribution of copyrighted materials may subject them to criminal and civil penalties and describes steps the institution takes to detect and punish illegal distribution activities.
- Institutions certify to the Secretary of Education that they have developed plans to "effectively combat" the unauthorized distribution of copyrighted material.
- Institutions offer alternatives to illegal file sharing to the extent practicable.
- Institutions identify procedures for periodically reviewing the effectiveness of the plans to combat the unauthorized distribution of copyrighted materials.

This document outlines the Colorado School of Mines' plans to comply with these requirements.

## Annual Disclosure

Education is the most important element in combating illegal sharing of copyrighted materials by students. A variety of methods are used to inform the campus community about the law and the institution's response to copyright infringement claims:

- All users must acknowledge and agree to abide by the Mines Network Registration Agreement when registering a new device and at the time of e-key activation. This agreement covers illegal distribution of copyrighted materials and appropriate use of the network.
- Each August, the Associate Dean of Students discusses copyright infringement and associated penalties with first year students as part of new student orientation.
- Each Fall, the Office of Student life sends an email to all students regarding illegal distribution of copyrighted materials and peer-to-peer software.
- The [Mines IT Appropriate Use Policy](#) is posted on the institutional website, as are [procedures concerning the Digital Millennium Copyright Act \(DMCA\)](#) and the School's response to infringement claims.

## **Detection of Illegal File Sharing and Penalties**

### **Institutional Response:**

All students, faculty and staff are subject to disciplinary action should there be evidence of illegal distribution of copyrighted materials. When a content owner determines that an IP address has been used to violate its copyright, the owner typically sends a "Takedown Notice" to the applicable Internet Service Provider (in this case, the provider is Mines). The Takedown Notice identifies the IP address in question, and the date, time, and material involved in the alleged infringement. The notice requests that the School remove or disable access to the copyrighted material. At that point, the School will follow the [DMCA Takedown Notice Procedure](#).

### **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](http://www.copyright.gov), especially the FAQ found at [www.copyright.gov/help/faq](http://www.copyright.gov/help/faq).

## **Plans to “Effectively Combat” the Unauthorized Distribution of Copyrighted Material**

Consistent with the HEOA regulations, the Colorado School of Mines maintains a vigorous program of accepting and responding to all DMCA Takedown Notices as outlined above. In addition, Mines currently uses a technology deterrent to shape bandwidth on the Residence Hall networks. This appliance is configured to place a high priority on educational uses of the network.

## **Alternatives to Illegal File Sharing**

The School's DMCA procedures and [copyright infringement violation notice](#) include a link to [the list of legal alternatives for obtaining music, videos, and other digital content maintained by Educause](#). The link is included in the annual notice to students and other Mines web locations as appropriate.

## **Reviewing Effectiveness**

These steps will be reviewed annually and revised as necessary to remain in compliance. The review will assess the overall effectiveness of the School's plan based on the number of DMCA notices received, number of repeat offenders per year, results of traffic shaping and monitoring, and feedback from users. Any changes will take effect at the beginning of the next academic year.