

Digital Millennium Copyright Act (DMCA) and Higher Education Opportunity Act (HEOA)

The Higher Education Opportunity Act (HEOA), signed into law in August 2008, was the first major revision in a decade of the Higher Education Act of 1965. The HEOA sets new requirements for institutions of higher education to address the issue of unauthorized distribution of copyrighted material on their networks. These P2P provisions of the HEOA do not change copyright law. Rather, they add a new set of responsibilities.

The **Higher Education Opportunity Act** requires academic institutions to increase the university's response to copyright infringements. Universities must have a three-pronged approach to address this act:

1. Educate students on copyright and DMCA issues,
2. Prevent inappropriate use of peer-to-peer (P2P) programs and software through utilizations of a variety of technologies to deter the behavior, and
3. Suggest alternatives for downloading programs (Pandora, iTunes, etc.).

The University of North Carolina School of the Arts is addressing this act in all three venues.

- For education, we are creating a variety of publications (brochures, newsletters, web sites, and email) regarding peer-to-peer, DMCA, and copyright infringements. We discuss DMCA in orientation sessions, and also do presentations for student groups and residence halls.
- For preventing inappropriate use of P2P and copyright infringement, we utilize tools like Packet Shaper and a software program called Integrity by Red Lambda. The Integrity product detects use of P2P applications like Limewire and Bit Torrent and will send notices to users discussing the ramifications of P2P, copyright infringement, and DMCA. This software does NOT look at the contents of files. These notices are used as an educational opportunity first and foremost. An entire list of P2P alternatives may be found at: <http://www.educause.edu/legalcontent>.
- The University of North Carolina School of the Arts has developed policy for responding to DMCA takedown notices for our end users. UNCOSA's takedown policy can be found at <http://www.uncsa.edu/generalcounsel/GCpolicies/InformationTechnology/Pol507TakedownNotices.pdf>. One of the big things that affect students on campus is the ability that the DMCA (Digital Millennium Copyright Act) grants copyright holders to send out what are known as DMCA Takedown Notices. A student will typically get one of these when he or she commits an act of copyright infringement by either hosting a copyrighted file on a website or sharing that file on a peer to peer network such as LimeWire, BitTorrent, or Kazaa. This notice states that the copyright owner believes that you are hosting and allowing redistribution of their content without their expressed permission and is

requesting that you take the content down from your website or from being shared. Even after removing the offending content, the recipient has the possibility of receiving a lawsuit as much as three years after receiving the notice. Student violations are handled as follows:

- 1st Violation:
 - Violation report received from Information Technology Department.
 - Information Technology Department will identify room(s)/IP addressee(s) not in compliance.
 - Student rooms in violation are identified by College Life Housing Coordinator.
 - E-mail and letter sent to the student in violation.
 - College Life Housing Coordinator will create a file for each student in violation.
 - Student has 2 weeks to sign a “statement of understanding”. After 2 weeks, student’s port is disabled by Information Technology Department if the “statement of understanding is not signed”.
- 2nd Violation:
 - Violation report received from Information Technology Department.
 - Information Technology Department will identify room(s)/IP addressee(s) not in compliance.
 - Student rooms in violation are identified by College Life Housing Coordinator.
 - Student file and letter sent to College Life Judicial Coordinator.
 - Student port is disabled pending the outcome of the judicial case.

More information about the Digital Millennium Copyright Act may be found at:

www.copyright.gov/legislation/dmca.pdf

A Summary of the Higher Education Opportunities Act may be found at:

<http://www.educause.edu/node/645/tid/34600?time=1283733516>