

Copyrighted Material and File Sharing (Compliance with the Higher Education Opportunity Act)

Legal use of Copyrighted Material and File Sharing

Pursuant to the Higher Education Opportunity Act (“HEOA”), California Western School of Law (“CWSL”) has a policy regarding the use of copyrighted materials by students and employees and provides information on the steps CWSL takes to enforce its policies. The information below is intended to demonstrate good faith compliance with the HEOA regulations. There are four main requirements listed below, with a brief explanation following each one stating what action steps CWSL is taking:

1. Annual disclosure to the campus community describing copyright law and campus policies related to violating copyright law.

ACTION: CWSL sends an email at the start of each new academic year to the campus community to inform it of CWSL’s policy related to the use of copyrighted material and the steps CWSL takes to enforce its policies. CWSL students must sign an [acceptable use policy](#) (“AUP”) in order to maintain a campus network account. Paragraph 6 of the AUP addresses the campus policy and procedures which comply with the requirements of the Digital Millennium Copyright Act (“DMCA”). CWSL’s policy on these matters is also published in the CWSL Student Handbook. Employees are also subject to the AUP as set forth in the following link: https://www.cwsl.edu/-/media/files/it/heoa_aup_facultystaff.ashx?la=en.

The annual disclosure also includes a summary of civil and criminal penalties for violation of Federal Copyright Laws. Such language will be updated periodically.

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.

Copyright infringement may result in 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.

2. CWSL works diligently to effectively combat the unauthorized distribution of copyrighted material.

ACTION: CWSL takes a number of steps to combat the unauthorized distribution of copyrighted material, including the following:

- Block connections to workstation IP addresses (except for commonly-needed ports). This deters the creation and use of publicly-visible P2P (Peer to Peer) file sharing sites.
- Monitor Internet connection bandwidth usage to alert IT staff of heavy download activity.
- Enable connection policies at the firewall level to severely reduce the throughput of BitTorrent and similar file downloading software.
- Utilize managed switches and wireless access points that allows the disconnection of an individual responsible for excessive downloading.

CWSL’s policy also sets forth the steps to be followed in responding to DMCA notices. As stated in both the [student](#) and [employee](#) AUPs, “Whenever California Western becomes aware of probable violations of copyright law, the school will investigate and take timely action to stop such infringement. In the case of repeat infractions by a single network user, such action may include terminating the user's computer account and other access privileges.” Phillip Gragg, Associate Dean for Library and Information Services, is CWSL’s Designated Agent to receive notification of claimed copyright infringement. Copyright claims can be emailed to pgragg@cwsl.edu, or mailed to:

Phillip Gragg
California Western School of Law
225 Cedar St.
San Diego, CA 92101

3. “To the extent practicable,” offer alternatives to illegal file sharing.

ACTION: EDUCAUSE has created and published a detailed listing of “Legal Sources of Online Content” at: <http://www.educause.edu/legalcontent>, which is an informative and up to date listing.

4. Annual Review of Plan for Effectiveness.

ACTION: CWSL’s General Counsel reviews this plan for effectiveness each year and revises it as needed to remain in compliance. The overall effectiveness of the policy to promote the legal use of copyrighted materials will also be evaluated.

CWSL periodically surveys community members to assess the extent to which its anti-piracy messages are reaching them, the extent to which community members are taking advantage of legal alternatives, the impact of CWSL’s technical efforts to combat illegal file sharing, and other aspects of CWSL’s plans to combat the unauthorized distribution of copyrighted materials.