

ACUTA Alert: U.S. Department of Education Issues Reminder of July 1 Deadline re: Policies to Prevent Unauthorized Distribution of Copyrighted Material

On June 4, the U.S. Department of Education issued an important "[Dear Colleague](#)" letter, reminding institutions of the July 1, 2010 effective date for [regulations](#) requiring institutions to take steps to combat the unauthorized distribution of copyrighted materials through illegal downloading or peer-to-peer distribution. These regulations came about as a result of passage of the Higher Education Opportunity Act of 2008 in August, 2008.

As stated in the letter, institutions must have developed and implemented written plans to effectively combat the unauthorized distribution of copyrighted material by users of the institution's network by the deadline of July 1.

The regulations give institutions flexibility in crafting their written plans, so long as certain basic elements are included:

- "The use of one or more technology-based deterrents";
- "Mechanisms for educating and informing its community about appropriate versus inappropriate use of copyrighted material";
- "Procedures for handling unauthorized distribution of copyrighted material, including disciplinary procedures"; and
- "Procedures for periodically reviewing the effectiveness of the plans to combat the unauthorized distribution of copyrighted materials by users of the institution's network using relevant assessment criteria."

See the letter at <http://ifap.ed.gov/dpccletters/GEN1008.html> and the regulations at <http://www.ifap.ed.gov/fregisters/FR102909GeneralandNonLoanProgrammaticFinalRule.html> for a more detailed description of these requirements.

Institutions are allowed discretion to select the specific types of technology deterrents and assessment methods that will be used. These include bandwidth shaping, traffic monitoring to identify the largest bandwidth users, a vigorous program of accepting and responding to Digital Millennium Copyright Act (DMCA) notices, and a variety of commercial products designed to reduce or block illegal file sharing.

The letter also describes requirements for offering legal alternative methods of acquiring copyrighted material (to the extent practicable), and information that must be provided to current and prospective students. It also includes sample language summarizing the civil and criminal penalties for violation of Federal copyright laws.

We urge ACUTA members to become familiar with the requirements of these regulations, and to participate wherever appropriate in developing and/or implementing institutional policies.

ACUTA Legislative/Regulatory Affairs Committee

Sidebars:

Link to the June 4, 2010 U.S. Dept. of Education letter: <http://ifap.ed.gov/dpccletters/GEN1008.html>

Link to the regulations addressed in this Alert:
<http://www.ifap.ed.gov/fregisters/FR102909GeneralandNonLoanProgrammaticFinalRule.html>