

Why doesn't VLS give visitors guest access to our local area network and/or our wireless network when other schools do?

CALEA (*Communications Assistance for Law Enforcement Act*)

Pub. L. No. 103-414, 108 Stat. 4279

FCC 04-187, 2004 WL 1774542

American Council on Education vs. FCC, United States Court of Appeals for the District of Columbia Circuit, Decision 05-1404, June 9, 2006

Large schools can afford to be “public” institutions under CALEA and grant open access to their networks. For ethical and financial reasons, VLS must be construed as a private network for purposes of CALEA. To be construed as a private network, each person who accesses our network must have a unique user id and password and show a mission-based connection to Vermont Law School. Alumni status, friends of the library status or conference participation are not strong enough connections under CALEA to grant network access. We recognize the inconvenience of this policy, but we ask your patience and understanding as we work to comply with federal rules and legislation.

Please remember that VLS staff do not like this law and the accompanying rules any more than you. If you'd like more information or to preach to the choir please contact Jeanne Eicks, Director of Technology, at jeicks@vermontlaw.edu or Fran Rhyhart, Help Desk Coordinator, at frhyhart@vermontlaw.edu.

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For those who want more detail on CALEA and our policy

THE APPLICATION OF CALEA TO HIGHER EDUCATION NETWORKS*

In September 2005, the FCC issued an order extending the Communications Assistance for Law Enforcement Act (“CALEA”) to providers of broadband Internet access and interconnected voice-over-IP services. The U.S. Court of Appeals for the D.C. Circuit recently upheld that order on appeal. Unless and until a party obtains a reversal in a further appeal, the FCC order is the law of the land.

The FCC order briefly discussed the obligations of colleges and universities that operate broadband networks, and the Government’s court briefs and the court’s opinion provide further guidance. Generally speaking, a higher education or research institution should be fully exempt from CALEA if it satisfies two criteria: (1) its network qualifies as a “private network,” and (2) it does not “support” the connection of the private network to the Internet.

In practical terms, this means that an institution should be exempt where it restricts the use of its network to particular classes of users (e.g., students, faculty, and administrators), and where the institution relies on a third party (such as a commercial ISP or a regional network) to provide the transmission and switching facilities used to route traffic to the Internet, rather than self-supplying such facilities. Each criterion is discussed in more detail below.

Because the limits on qualifying as a private network operator have yet to be clarified or tested, institutions that seek to avoid any obligations under CALEA should adopt policies that prohibit public access to campus networks.

**** From: "THE APPLICATION OF CALEA TO HIGHER EDUCATION NETWORKS" by ACE (American Council on Education)***

VLS has selected to take a very restrictive approach to CALEA for several reasons. Having to comply with CALEA might place the confidentiality (from an attorney client privilege perspective) of our legal clinics in jeopardy. This issue has yet to be litigated, but would place us at risk. Additionally, VLS would need to acquire additional significant pieces of equipment to comply with the "network listening" provisions of CALEA. Acquiring this equipment would be cost prohibitive. Finally, VLS would have to file reports on our internet status and activity on a quarterly basis. The reports would be quite lengthy and would require additional staffing.

For all of these reasons, we've opted to remain a restricted private network. This means we can no longer give wireless access to VLS visitors, friends, alumni and the general public. We understand that this is very restrictive. In hopes of alleviating some of the aggravation this will cause visitors and friend alike, we will provide two or three free access "Hot Spots" through our ISP. We will be using our ISP's hardware and software to accomplish this and will pay for a separate cable wireless connection at each location. We already have one such "Hot Spot" in place in the lounge area of the first floor of Chase Center. We plan to put another such "Hot Spot" in the lobby area of the library very soon.