

COPYRIGHT INFRINGEMENT AND PEER-TO-PEER POLICIES

Peer to Peer Sharing Policy

H.R 4137, the Higher Education Opportunity Act (HEOA), is a reauthorization of the existing Higher Education Act. 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 that informs students that the illegal distribution of copyrighted materials may subject them to criminal and civil penalties and describes the steps that institutions will take to detect and punish illegal distribution of copyrighted materials.
- Institutions certify to the Secretary of Education that they have developed plans to “effectively combat” the unauthorized distribution of copyrighted material.
- Institutions describe their policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in illegal downloading or unauthorized distribution of copyrighted materials using the institution's information technology system.
- Institutions implement technology-based deterrents to reduce the potential for illegal file sharing.
- Institutions, “to the extent practicable,” offer alternatives to illegal file sharing.
- Institutions identify procedures for periodically reviewing the effectiveness of the plans to combat the unauthorized distribution of copyrighted materials.

Users of the Ohio Business College’s network may not use P2P file sharing programs. As a definition for the policy, a peer-to-peer file sharing application is any application that transforms a personal computer into a server that distributes data simultaneously to other computers. Please note that copyrighted materials cannot be shared by any means without proper permission. This includes sharing via the World Wide Web, network file sharing, or any other means and is not limited to P2P programs.

Ohio Business College reserves the right to monitor the network and all attached computers to ensure compliance with this policy. The college’s firewall recognizes most popular forms of P2P traffic. Any user who violates this policy will be subject to disciplinary action up to and including termination or dismissal; additionally, if found liable for copyright infringement, legal actions may be taken. Ohio Business College will fully cooperate with any authority in determining liability.

Scope

This policy is primarily used to educate and set expectations for the users of the campus network. It deals with the issues, impacts and concerns with file sharing aspects of P2P applications using the campus network. This applies to all computers connected to the campus network. This includes, but is not limited to, desktop computers, laptops, file/ftp/tftp/proxy servers, and any lab based equipment.

Background

A peer-to-peer computer network refers to any network that does not have fixed clients and servers but a number of peer nodes that functions as both clients and servers to the other nodes on the network. Any node is able to initiate or complete any supported transaction. P2P computing is sharing computer resources and services by direct exchange between systems.

The most used type of P2P technology is used for the distribution of copyrighted content. Some file sharing applications such BitTorrent, Kazaa, BearShare, iMesh, Shareaza, and etc. can be used inappropriately when sharing

copyrighted content. Along with copyright infringement, other concerns of peer-to-peer file sharing application include network resource utilization, security, viruses, and inappropriate content.

Downloading or distributing (e-mailing) copyrighted material, i.e. music, documents, videos, text, movies, etc., without permission from the owner of the copyright violates the United States Copyright Act <http://www.copyright.gov/title17/>.

Additional Information on copyright infringement can be found in the Ohio Business College Copyright Policy. Peer-to-peer sharing and networks can allow the security of the Ohio Business College network to be infiltrated by worms and viruses quite easily. If P2P applications are modified they can allow users outside the college to gain access to data on the user's computer or the college network itself. Some peer-to-peer applications will allow the user's IP address to be seen. Spyware is a common installation with several P2P applications.

Legal Alternatives for Downloading or Otherwise Acquiring Copyrighted Material

There are institutions, national associations, and commercial entities that have developed and maintain up-to-date lists of legal sources for downloading or otherwise acquiring copyrighted material. Below the College references such entities and lists they maintain for the convenience of the College community.

EDUCAUSE:

<http://www.educause.edu/legalcontent>

EDUCAUSE is a nonprofit association whose mission is to advance higher education by promoting the intelligent use of information technology.

RIAA

<http://www.riaa.com/>

The Recording Industry Association of America (RIAA) is the trade organization that supports and promotes the creative and financial vitality of the major music companies.

MPAA

<http://www.mpaa.org/contentprotection/get-movies-tv-shows>

The Motion Picture Association of America, Inc. (MPAA), together with the Motion Picture Association (MPA) and MPAA's other subsidiaries and affiliates, serves as the voice and advocate of the American motion picture, home video and television industries in the United States and around the world. MPAA's members are the six major U.S. motion picture studios: The Walt Disney Studios; Paramount Pictures Corporation; Sony Pictures Entertainment, Inc.; Twentieth Century Fox Film Corporation; Universal City Studios, LLLP; and Warner Bros. Entertainment Inc. We are a proud champion of intellectual property rights, free and fair trade, innovative consumer choices, freedom of expression and the enduring power of movies to enrich and enhance people's lives.

Summary of 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 178 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 4750k 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 and 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 website of the U. S. Copyright Office at www.copyright.gov.