

## Copyright Infringement and Illegal File Sharing Policy

What is the Higher Education Opportunity Act 2008 (HEOA) and how is it related to file sharing?

HEOA is a reauthorization of the Higher Education Act of 1965. Mount Mercy University is obligated to comply with various aspects of HEOA. Included in the Act is the provision designed to reduce the illegal uploading and downloading of copyrighted works through peer-to-peer (P2P) file sharing. Included in this provision, are the following requirements:

### 1) Annual Disclosure

Each institution must provide annual notification to students containing the following:

- a. *A statement that explicitly informs its students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities.*

A disclosure statement is provided to students via email both the beginning of the Fall and Spring semesters, informing students of the liabilities and other issues associated with illegal file sharing on the campus infrastructure. The email notification will include the exact web address of where the policy is found

- b. *A summary of the 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 17 of the United States Code). The unauthorized copying, sharing or distribution of copyrighted material is strictly prohibited. Students who infringe a copyright are subject to disciplinary action under the Code of Student Conduct.

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 \$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.

- c. *A description of the institution’s 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.*

Additionally, students will be reminded of the acceptable use policy located in the University’s *Good Book*. The policy can be found at [Improper Computer Usage](#).

**2) A plan to effectively combat unauthorized distribution using technology-based deterrents.**

Mount Mercy University has developed and adopted a plan to combat copyright infringement. To satisfy the HEOA requirement of using technology-based deterrent to reduce illegal file sharing, Mount Mercy University uses bandwidth shaping; receives notices from the Digital Millennium Copyright Act (DMCA); uses traffic monitoring to identify the largest bandwidth users; and uses Sonicwall e3500 for the students which allows IT to see what IP address a high user is coming from and the Nfsen tool to locate the user.

Mount Mercy's Good Book outlines the Student Acceptable Use Policy. The University distributes email notifications to students annually with information about the University's copyright policy. Information on the HEOA File Sharing provision is located on the University's Compliance web page.

**3) Legal Alternatives**

The HEOA requires all colleges and universities to offer Legal Alternatives to unauthorized downloading. EDUCAUSE \* maintains a list of sites both for pay and other free services where you can legally download music, videos and other digital content. The list can be found at <http://www.educause.edu/legalcontent>.

\*EDUCAUSE is a non-profit association whose mission is to advance higher education by promoting the intelligent use of information technology.

**4) Reviewing Effectiveness**

Mount Mercy University will review the effectiveness of its deterrents on an annual basis. We will continue to monitor any takedown notices and to watch for unexpected increases that would require additional measures.