

HIGHER EDUCATION OPPORTUNITY ACT - COPYRIGHT AND PEER-TO-PEER FILE-SHARING

H.R. 4137, The Higher Education Opportunity Act (HEOA) of 2008, the first major revision of the Higher Education Act of 1965, was signed into law in August 2008. The subsequently negotiated regulations for implementing the Act include the section, "Campus-based Digital Theft Prevention.". This section *specifically requires* that:

- Institutions make an annual disclosure to inform students that the illegal distribution of copyrighted materials may subject them to criminal and civil penalties, summarize the penalties for violation of federal copyright laws, and describe the institutions' policies with respect to unauthorized peer-to-peer file sharing, including steps that institutions will take to detect and punish illegal downloading and 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, "to the extent practicable," offer legal alternatives to illegal file sharing.
- Institutions identify procedures for periodically reviewing the effectiveness of the plans to combat the unauthorized distribution of copyrighted materials.

The Center of Information Technology (CIT) at Oberlin College has adopted multiple mechanisms to comply with the HEOA, including the following measures:

Annual Disclosure

CIT considers awareness the most important element in combating illegal sharing of copyrighted materials at Oberlin College. We use a wide variety of methods to inform the college community of the law and our response to copyright infringement claims:

- In order to use CIT resources, all Oberlin College IT account holders are notified they must agree and comply with our "Policy for the Acceptable Use of Information Technology Resources". This policy includes a section on copyright compliance (Section C.2.e.).
- At the start of each academic year, all students receive information regarding copyright infringement, specifically with respect to peer-to-peer (p2P) file sharing. Information on the penalties for violations is included.
 - After notification to CIT by the College's DMCA agent, CIT staff members provide the initial response to violation notifications. Information is verified, the violator is identified, and a written notification of the violation is sent via email to the violator. The violator must remove the offending material and send a written response (email) to the CTO, so stating. Notifications of these infractions by students are sent to the Dean of Students Office for possible further adjudication through the Judicial Board process. Offenders may lose access to the College network if subsequent violations occur. Penalties for repeat offenders may include loss of network access and Judicial Board action, or further civil and/or criminal action.
- The CIT web site includes the College's "Policy for the Acceptable Use of Information Technology Resources". This policy is also incorporated into the annually-updated "Student Rules and Regulations" document, updated in conjunctions with CIT and provided by the Dean of Students Office.
- Information on HOAA requirements is posted in the CIT website.
- CIT support staff members, including student workers, are regularly trained on the College's position regarding copyright issues.

Plans to Effectively Combat the Unauthorized Distribution of Copyrighted Material

A core element of academic integrity is the respect for copyright and intellectual property. Users who are identified as violators are first reminded that peer-to-peer file sharing for the unauthorized distribution of copyrighted materials is illegal and against Oberlin College's Acceptable Use Policy. They are subjected to the procedures and penalties described above.

The College's plan includes the following, reflecting an emphasis on both education and deterrent measures:

- CIT conducts network bandwidth-shaping to limit the effectiveness of P2P file sharing.
- CIT uses a Network Access Control (NAC) mechanism that detects the use of many P2P programs and periodically notifies the user of the accordant issues involved.
- CIT provides information on HEOA, College policy, copyright law, and alternatives to illegal file sharing on its website as a mechanism for educating and informing the community about appropriate versus inappropriate use of copyrighted material.
- As noted above, the College has adopted procedures for handling the unauthorized distribution of copyrighted material, including disciplinary procedures.

Offering Legal Alternatives to Illegal File Sharing

Educause, a nonprofit organization whose mission is to "...advance higher education by promoting the intelligent use of information technology", maintains a list of "Legal Sources of Online Content", to which CIT links from its website. We encourage members of the campus community to take advantage of these legitimate sources of digital content. In addition, the application, iTunes, which provides ready access to an alternative, is loaded on every lab computer that is administered and maintained by CIT.

Periodic Review of Plan and Assessment Criteria

CIT views periodic review of its plans to deter the unauthorized use of copyrighted material as vital to the success of its program's effectiveness. Our review consists of the following:

- Applicable CIT staff members, often in conjunction with the College's DMCA agent, review the number and severity of reported DMCA violations regularly to determine if changes in procedures or educational materials are needed.
- Applicable CIT staff members review technical deterrents periodically to determine if these deterrents remain effective in limiting undesirable traffic.
- Applicable CIT staff members review newly available technology periodically for deployment.
- Applicable CIT staff members periodically discuss and review the procedures of other colleges and universities in order to discern additional or alternative effective measures.