

Cuyahoga Community College  
Higher Education Opportunity Act  
Combating unauthorized distribution of Copyrighted Material  
and Peer-to-Peer file sharing

## 1.0 Purpose

The Higher Education Opportunity Act (HEOA) was signed into law on August 14, 2008. Final regulations were issued on October 29, 2009.

Enforcement of the HEOA provisions formally begins July 1, 2010, and all colleges and universities are required to make a good-faith effort at compliance.

Several sections of the HEOA outlined under 34 CFR Part 668 deal with unauthorized file sharing on campus networks, imposing general requirements on all U.S. colleges and universities:

1. An annual disclosure to students describing copyright law and campus policies related to violating copyright law including disciplinary procedures.
2. A plan to "effectively combat the unauthorized distribution of copyrighted materials" by users of its network, including "the use of one or more technology-based deterrents". Including a plan to "offer alternatives to illegal downloading".
3. An annual review to determine the effectiveness of the plan.

## 2.0 Definitions

**Copyright:** Set of exclusive rights granted by law of a jurisdiction to the author of an original work, including the right to copy, distribute and adapt the work.

**DMCA Notice:** Digital Millennium Copyright Act Notice of Claimed infringement received from the holder or authorized agent.

**Peer-to-Peer (P2P):** Distributed application architecture that partitions tasks or workloads between peers.

**File Sharing:** Practice of distributing or providing access to digitally stored information.

**User:** Any individual utilizing the College's technology infrastructure or resources.

**Communication protocol:** Formal description of digital message formats and the rules for exchanging those messages in or between computing systems.

### **3.0 Plan**

#### **3.1 Annual Disclosure and Awareness**

The College maintains and provides accessible to all users information for the campus community on appropriate versus inappropriate uses of copyrighted material and the risks associated with such.

Through the College's eCommunications management notifications, this information is sent to students on an annual basis at the beginning of each calendar year.

#### **3.2 Effectively combat unauthorized distribution of materials**

The College utilizes the following deterrents to combat unauthorized activity.

- **Technology**

Web filtering technology is deployed and routinely monitored and updated which prohibits P2P communication protocols on the College's infrastructure.

- **Administrative**

The following policies and procedures and acceptable use policy define prohibited user behavior.

3354-1-50-05 Technology resources policy

3354-1-50-05.1 Technology resource procedure

#### **3.3 Legal Alternatives**

The following resource is provided and maintained by EDUCAUSE to provide colleges legal alternatives to unauthorized downloading.

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

### **4.0 Enforcement**

#### **4.1 Student**

Disciplinary proceeding will be handled by the appropriate Dean's office in accordance with the following college policy

**3354:1-30-03.6 Student judicial system** <https://kweb.tri-c.edu/president/policies/3354130xx%20Academic%20%20Student%20Affairs%20Policies%20%20Proc/3354-1-30-03.6%20%20Student%20judicial%20system.pdf>

#### **4.2 Faculty/Staff**

Disciplinary proceeding will be handled by Human resources in accordance with the following college policy

3354:1-43-03 Corrective action policy <https://kweb.tri-c.edu/president/policies/3354140xx%20Human%20Resources%20Policies%20%20Procedures/3354-1-43-03%20Corrective%20action%20policy.pdf>

#### **4.3 Criminal**

Infractions incurring criminal penalties will be handled by Campus Police and Security Services

In addition, if a user violates the copyright laws through unauthorized activities, the user may be found liable for civil or criminal copyright 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 \$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.

### **5.0 Review**

The College will evaluate the effectiveness of this plan annually to ensure that best practices are being followed and advancements in technology are considered. The College will also review DMCA notices received to make sure they fall within an acceptable level.