



Illegal File Sharing and the Higher Education Opportunity Act

The Higher Education Opportunity Act (HEOA) includes provisions to reduce the illegal uploading and downloading of copyrighted works through peer-to-peer (P2P) file sharing. Specifically, HEOA requires that we develop and implement written plans to document how we will effectively combat the unauthorized distribution of copyrighted material by users of the institution's network without unduly interfering with the educational use of the network. An institution must include in its plans:

- The use of one or more technology-based deterrents
- Mechanisms for educating and informing its community about appropriate versus inappropriate use of copyrighted material, including the consumer information an institution must provide, upon request
- Procedures for handling unauthorized distribution of copyrighted material, including disciplinary procedures; and
- Procedures for periodically reviewing the effectiveness of the plans to combat the unauthorized distribution of copyrighted materials by users of the institution's network using relevant assessment criteria.

Additionally,

- An institution must, to the extent practicable, offer legal alternatives to illegal downloading or otherwise acquiring copyrighted material, as determined by the institution
- An institution must include information regarding institutional policies and sanctions related to the unauthorized distribution of copyrighted material in the list of institutional information provided upon request to prospective and enrolled students
- An institution must provide to enrolled students an annual notice containing a list and brief description of the consumer information it must disclose and the procedures for obtaining this consumer information. An institution must add to this list information regarding institutional policies and sanctions related to the unauthorized distribution of copyrighted material. Consistent with current regulations (34 CFR 668.41(a)), an institution must provide this annual notice on a one-to-one basis through a direct individual notice to each enrolled student.

1. **Technology-based deterrents** - At the Vermont State Colleges we employ bandwidth-shaping. For all but the Community College of Vermont, all known peer-to-peer signatures are blocked using a commercial packet shaper. For the Community College, a rigorous approach combining a daily cleansing of all public computers and restrictions on downloads provide effective technology- based deterrents.

2. **Mechanisms for educating and informing the college communities** – In addition to the annual notice provided by college IT departments colleges may provide information on web sites, in student handbooks, during orientations, and in other printed and digital materials.
3. **Procedures for handling unauthorized distribution of copyrighted material** - Digital Millennium Copyright Act (DMCA) notices are responded to within one working day and include removal of Internet privileges on the offending computer until the issue is resolved. Each college requires that the offending material be removed and may require that the computer be rebuilt. Other disciplinary actions may be taken by the college.
4. **Periodic review of the effectiveness of the plans to combat the unauthorized distribution of copyrighted material** – Once a year, IT Council will meet to review the effectiveness of current policies, procedures, and practices and make changes as necessary.
5. **Legal Alternatives** – Links to pay and free services are available via a site maintained by the Educause community, <http://www.educause.edu/legalcontent>
6. **Institutional information** provided to prospective and enrolled students upon request may include information on web sites and in student handbooks, student orientations, and in other printed and digital materials.
7. **Annual notice** At the beginning of each term, each Vermont State College IT department will send an e-mail notice informing all enrolled students of the liabilities and issues associated with illegal file sharing. Students will be reminded of the VSC Conditions of Use Policy and Copyright policy. Colleges may add more specific disciplinary actions taken against students who engage in illegal downloading or unauthorized distribution of copyrighted materials using the institution's information technology systems. The notice will include:
 - i. A statement that explicitly informs students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, is illegal and may subject students to civil and criminal liability;
 - ii. A summary of the penalties for violation of Federal copyright laws
 - iii. A description of VSC policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that may be taken against students who engage in illegal downloading or unauthorized distribution of copyrighted materials using the institution's information technology system.