

Neosho County Community College (NCCC) Compliance with the Higher Education Opportunity Act (HEOA) Peer-to-Peer File Sharing Requirements

H.R 4137, the Higher Education Opportunity Act (HEOA), is a reauthorization of the 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, “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.

Annual Disclosure

Consistent with our educational principles, we view education as the most important element in combating illegal sharing of copyrighted materials at NCCC. We use a wide variety of methods to inform our students about the law and NCCC's response to copyright infringement claims:

- In order to use college computing resources, all students of NCCC will be required to read and accept a [computer fair use policy](#) that includes a section on copyright compliance.
- Posters are being mounted in student computer labs and elsewhere to discourage illegal file sharing.
- Computing support staff, including student Help Desk workers, are regularly trained on the College position with respect to copyright issues. Student workers provide an important channel for communicating with the student community.
- NCCC's policies and procedures concerning the Digital Millennium Copyright Act and our response to infringement claims are published on the NCCC website.
- Periodically, all College employees will receive email from the President or other officers regarding copyright infringement and related issues.
- Language will be added to the Student Handbook outlining the Digital Millennium Copyright Act.

Plans to “Effectively Combat” the Unauthorized Distribution of Copyrighted Material

- We currently employ a network proxy appliance that monitors all network traffic for illegal activity. We block P2P applications when they are deemed to be used solely for illegal file sharing.
- We are investigating other software that will allow us to monitor and prioritize network traffic.
- As a member of the NCCC Community, you have many resources to help protect your privacy, your personal computer, and your good standing at NCCC.
- Respect for copyright and intellectual property are important aspects of academic integrity. You can learn how to use other people's materials appropriately by reviewing NCCC's policy on copwrite infringement on Inside NC.

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 17 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 \$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.

For more information, please see the Web site of the U.S. Copyright Office at www.copyright.gov, especially their FAQ's at www.copyright.gov/help/faq.

Alternatives to Illegal File Sharing

- Educause maintains a comprehensive list of [Legal Downloading Resources](#). Faculty and students are encouraged to take advantage of these legitimate sources of digital content.

Reviewing Effectiveness

- NCCC receives very few (averaging one per year) peer to peer file sharing takedown notices. We will continue to monitor these notices to watch for unexpected increases that would require additional measures.