

File Sharing and the Higher Education Opportunity Act

Sofia University recognizes that there are legitimate uses for file sharing and does not want to block or limit those who need to collaborate with others. However, due to legislation outlined in the re-authorization of the Higher Education Opportunity Act that was signed into law in 2008 with an implementation date of July 1, 2010, Sofia University is obligated to comply with the various aspects the HEOA. The peer-to-peer, file-sharing, and copyright stipulations are outlined below followed by Sofia University's proposed actions in response to comply:

Please know that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject students to civil and criminal liabilities.

All students will receive an emailed notice both at the beginning of the Fall and Spring quarters informing the students of the liabilities and other issues associated with illegal file sharing on the campus infrastructure. This email notification will contain all or part of the following verbiage provided by the Department of Education:

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, and 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.

Additionally, students will be reminded of the Acceptable Use Policy in which each student is responsible for accepting prior to using the computing resources at Sofia University. This policy can be found on the Sofia website.

Penalties will be assessed on the merits of each case and to be adjudicated by the Office of Community and Ethical Standards. Additional information about please see <https://www2.ed.gov/policy/highered/leg/hea08/index.html>

HEOA requires a plan to effectively combat unauthorized distribution using technology-based deterrents

There are four categories of “technology-based deterrents” that institutions can use to meet this requirement. Only one category has to be used, and each category is weighted equally valid in meeting this requirement.

1. Bandwidth shaping
2. Traffic monitoring to identify the largest bandwidth users
3. A vigorous program of accepting and responding to Digital Millennium Copyright Act (DMCA) notices
4. A variety of commercial products designed to reduce or block illegal file sharing

Sofia University has chosen to deploy technology-based deterrents found in categories 2 and 3. Periodically monitoring anomalies in bandwidth usage among the campus network coupled with a stringent and effective program to respond appropriately to any and all DMCA notices will effectively meet the criteria of this requirement.

Legal Alternatives

Legal Alternatives both for pay and other free services are maintained via this site maintained by the Educause community. For more information see <https://www.educause.edu/focus-areas-and-initiatives/policy-and-security/educause-policy/legal-sources-onli>

Annual Review

In addition to the above requirements, HEOA requires an annual review of the institutions plan of combating illegal and unauthorized file sharing. Each summer, Sofia IT staff will meet to review the effectiveness of current polices, procedures, and practices and make the appropriate changes as deemed necessary.