

Compliance with the Higher Education Opportunity Act Peer-to-Peer File-Sharing Requirements

Compliance with the Higher Education Opportunity Act
Peer-to-Peer File-Sharing Requirements
Bethel University
January 2010

Legal use of Copyrighted Material and File Sharing at Bethel University

The **Higher Education Opportunity Act of 2008 (HEOA)** is a reauthorization of the Higher Education Act of 1965. 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:

1. Make an annual disclosure that informs students that the illegal distribution of copyrighted materials may subject students to criminal and civil penalties and that describes the steps that institutions will take to detect and punish illegal distribution of copyrighted materials.

Bethel's response:

- Annually at the start of each new CAS academic year a joint message to students will go out from the Dean of Students and Community Life and the CIO informing students about college policy related to the use of copyright-protected materials and the steps Bethel will take to enforce its policies.
- In order to use college computing resources, all members of the Bethel Community must endorse a Network-Use Policy that includes a section on copyright compliance.
- Students are required to take a technology orientation in which copyright law and these requirements are discussed.
- Annually residence life staff members discuss formally and informally our policies regarding the distribution and use of copyrighted materials.
- Annual briefing to governance bodies such as the Bethel Information Technology Governance Committee, the Information Security Committee and the University Technology Advancement Committee.

2. Institutions certify to the Secretary of Education that they have developed plans to “effectively combat” the unauthorized distribution of copyrighted material.

Bethel's response:

- At the recommendation of the IT advisory committee, Bethel ITS has implemented a system designed to block peer-to-peer traffic between the Internet and residence halls. While this system is not perfect, it effectively prevents most inappropriate uploading and downloading of copyright-protected materials in the halls.
- Violations of copyright law can lead to criminal charges and civil penalties. Under current copyright law, criminal cases of copyright violation carry a penalty of up to five (5) years in prison and a \$250,000 fine. Civil penalties for copyright infringement include a minimum fine of \$750 for each work. While criminal prosecution for illegal downloading is rare, civil law suits are quite common for some institutions.
- In addition, Bethel takes the following steps when a user is alleged to be illegally file sharing:
 1. Their computers will be blackholed; e.g., the computers will be unable to connect to Bethel's network.
 2. They will be required to set up an appointment with a Student Life dean or other appropriate staff member.
 3. Upon satisfactory removal of offending materials from their computers (assuming the accusation is accurate), students will be required to pay a \$100 fee to reconnect to Bethel's network. This fee will help defray the cost of connecting a personal computer to the network.

3. To the extent practicable, institutions offer alternatives to illegal file sharing.

Bethel's response:

The Bethel web site includes a link to the Educause page that maintains a current set of links listing legal alternatives for obtaining digital content such as movies, music, and games (<http://www.educause.edu/focus-areas-and-initiatives/policy-and-security/educause-policy/issues-and-positions/intellectual-property/legal-sources-onli>).

4. Institutions identify procedures for periodically reviewing the effectiveness of the plans to combat the unauthorized distribution of copyrighted materials.

Bethel's response:

The institution will assess the overall effectiveness of the University's policy and procedures to promote the legal use of copyrighted materials based upon the volume of DMCA notices Bethel receives. Any changes to the policy and/or procedures will take effect at the commencement of the following academic year.