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## Network Copyrighted Materials

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### **Scope**

This policy applies to all members of the university community using the university network.

### **Policy Statement**

The Higher Education Opportunity Act (HEOA) of 2008 was signed into law on August 14, 2008. The Department of Education released final regulations that must be addressed by all U.S. colleges and universities on October 29, 2009. §§ 668.14 and 668.43 of HEOA list requirements regarding unauthorized file sharing on campus networks and are categorized into three main requirements:

1. 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."
2. An annual disclosure to students describing copyright law and campus policies related to violating copyright law.
3. A plan to "offer alternatives to illegal downloading."

The procedures detailed in this policy outline the University of Nebraska Omaha (UNO)'s response to meeting these required federal regulations.

This policy is enforced by Information Services in coordination with Human Resources (for staff), Academic Affairs (for faculty), and Student Affairs (for students). Failure to comply with this policy may result in disciplinary actions.

## Reason for Policy

This policy has been developed in response to provisions included in HEOA (§§ 668.14 and 668.43) regarding unauthorized file sharing on campus networks. HEOA provisions formally began enforcement on July 1, 2010. This policy is required in order to receive federal student aid.

## Procedures

HEOA Requirements (§§ 668.14 and 668.43)

1. 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."

1.1.668.14 (b) (30) (i) (A): The use of one or more technology-based deterrents;

UNO uses bandwidth-shaping technology on the UNO-owned network to reduce network resource use of known unauthorized peer-to-peer programs and other means to combat unauthorized distribution of copyrighted materials. Monitoring is also in place to identify high bandwidth devices for possible policy violations.

1.2.668.14 (b) (30) (i) (C): Procedures for handling unauthorized distribution of copyrighted material, including disciplinary procedures;

668.43 (a) (10) (iii) A description of the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in illegal downloading or unauthorized distribution of copyrighted materials using the institution's information technology system.

When a copyright violation has been identified on the UNO network, Information Services (IS), working with the appropriate campus technical support staff, identify the network location and block the necessary network access. Each incident is recorded utilizing the IS incident response procedures.

The following policies outline UNO and the University of Nebraska System policies regarding inappropriate use of technology, unauthorized peer-to-peer file sharing and violation of copyright laws, including disciplinary procedures:

a) University of Nebraska Executive Memorandum 16 (Responsible Use of University Computers and Information Systems) explicitly states the universities' policy on peer-to-peer file sharing:

“Misuse of university information systems is prohibited. Misuse includes the following:

i. "Using electronic communications to violate the property rights of authors and copyright owners.”

b) University of Nebraska System Copyright Law and Compliance policy details the university's policy on copyright and peer-to-peer file sharing.

c) UNO Student Code of Conduct, paragraph 8.e. states that “computer related misconduct” includes the following:

“Violating copyright laws or license restrictions with respect to the copying or use of computer programs, data, materials or information.”

The section entitled “Disciplinary Procedures and Sanctions” on page two (2) details the disciplinary procedures and sanctions for policy violations.

1.3.668.14 (b) (30) (i) (D): 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. No particular technology measures are favored or required for inclusion in an institution's plans, and each institution retains the authority to determine what its particular plans for compliance with paragraph (b) (30) of this section will be, including those that prohibit content monitoring;

The Chief Information Security Officer (CISO) or their designee(s) meets regularly with the Chief Information Officer (CIO) to review all incidents (including copyright infringement) occurring on the university network. All Information Services policies are reviewed annually for effectiveness and updated accordingly based on quantitative and qualitative analysis. UNO uses Educause as a source to maintain best practices and appropriate policy related to copyright enforcement.

1.4.668.43 (a) (10) (i) A statement that explicitly informs its students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;

(ii) A summary of the 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, §§ 504 and 505.

Willful copyright infringement may result in criminal penalties, including imprisonment of up to five (5) years and fines of up to \$250,000 per offense.

For more information, please visit the [U.S. Copyright Office site](#), especially their [FAQ's](#).

2. An annual disclosure to students describing copyright law and campus policies related to violating copyright law.

2.1.668.14 (b) (30) (i) (B): Mechanisms for educating and informing its community about appropriate versus inappropriate use of copyrighted material;

This policy is made publicly available on the [university's policy website](#)

- An annual email is sent to all university student, faculty and staff email addresses highlighting this policy, the student code of conduct, and the URL for university policies.
- All new university student email accounts receive the same notification regarding the copyright policy.
- This policy is referenced on student services web pages with a link to the full policy.

3. A plan to "offer alternatives to illegal downloading."

UNO does not provide subscription services to students. The university makes students aware of alternative legal services by linking to the [Educause site](#).

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## Policy Enforcement

This policy is enforced by Information Services in coordination with Human Resources (for staff), Academic Affairs (for faculty), and Student Affairs (for students). Failure to comply with this policy may result in disciplinary actions.

## Definitions

**Higher Education Opportunity Act of 2008:** Referred to as HEOA herein, contains provisions 668.14 and 668.43 regarding copyright infringements on U.S. college and university networks.

**University Community:** Students, faculty, staff, and other entities associated with UNO.

## Related Information

### Additional Contacts

**Chief Information Security Officer (CISO):** Responsible for enforcement of this policy.

**Student Affairs:** Responsible for discipline regarding student policy violations.

**Academic Affairs:** Responsible for discipline regarding faculty policy violations.

**Human Resources:** Responsible for discipline regarding staff policy violations.

[NU Executive Memorandum 16](#)

[UNO Privacy Policy](#)

[UNO Student Code of Conduct](#)

[NU Copyright Law and Compliance](#)

[Federal Government HEOA](#)

## History

This policy is an update to the Network Copyrighted Materials Policy that was previously updated in 2012.

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The University of Nebraska does not discriminate based on race, color, ethnicity, national origin, sex, pregnancy, sexual orientation, gender identity, religion, disability, age, genetic information, veteran status, marital status, and/or political affiliation in its programs, activities, or employment.

