

Basic Information on Copyright Infringement

Copyright

Copyright Infringement

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Copyright - (noun) the exclusive right to produce copies and to control an original literary, musical, or artistic work, granted by law.

The creator of the original work has legal control over their work and how it is used and distributed. Since the work is protected by the law, the creator has the right to take legal action against anyone who uses their work without permission and outside of "Fair Use".

Copyright Infringement - (noun) violation of the rights of a copyright.

If you are downloading music or movies or videos, and you do *not* have permission from the owner, in the eyes of the law, you are stealing – and there are hefty penalties.

You may purchase and download content from a legitimate source. You have the right to use that content. However, that may *not* give you the right to distribute that content to others.

Being a student does not give you immunity.

DMCA (Digital Millennium Copyright Act) Infringement Notice

For all the details of the DMCA, go to <http://www.copyright.gov/legislation/dmca.pdf>

Franklin Pierce is considered an internet service provider and complies with DMCA.

Upon receiving notice from our provider of a copyright infringement, the University will track down and notify the person who is charged with copyright infringement and deny access to the illegal copies of the copyrighted content. The issue will then be turned over to Judicial Affairs.

Enforcement

Unless purchased legitimately for your own use, it is against the law to download copyrighted content. Unless you have express permission, it is illegal to share copyrighted content.

Disciplinary Action: The University is responsible for investigating possible violations of University code and enforcing rules, which could result in the monitoring of stored material and/or disciplinary action. All allegations of abuse of this policy will be handled by the judicial system. See [Student Computer Use Policy](#), [Student Code of Conduct](#).

Financial Penalties: 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.

Being a student does not give you immunity.

Fair Use of a Copyrighted Work

The section of the copyright law (<http://www.copyright.gov/title17/92chap1.html#107>) that defines Fair Use says:

“the fair use of a copyrighted work...for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.”

Uploading and downloading materials for non-academic use does not fall under the protection of Fair Use.

The Higher Education Opportunity Act of 2008 (HEOA)

(Pub. L. 110-315)

Added provisions to the Higher Education Act of 1965, as amended, (HEA) ***requiring institutions to take steps to combat the unauthorized distribution of copyrighted materials through illegal downloading or peer-to-peer distribution of intellectual property.***

These requirements were effective upon enactment of the HEOA, August 14, 2008.¹ On October 29, 2009, the Department published final regulations implementing the statutory requirements (74 FR 55902). These regulations go into effect July 1, 2010.

For more information about HEOA, go to
<http://www2.ed.gov/policy/highered/leg/hea08/index.html>

Illegal File Sharing

There are programs (P2P) written specifically for file sharing. Using these programs to download the files for free so that you do not have to purchase the copyrighted materials is illegal. If you do not have permission from the owner, or if you have not paid a fee for the right to download the file, chances are you are illegally downloading the file and you are breaking the law.

Legal Alternatives

There are dozens authorized sites where you can purchase or stream copyrighted content.

Some popular music sites are:

Amazon: <http://www.amazon.com>
Apple iTunes Music Store: <http://www.itunes.com>
Google Play: <http://play.google.com>
Pandora: <http://www.pandora.com>
Spotify: <http://www.spotify.com>

Some popular video streaming sites are:

Amazon: <http://www.amazon.com>
Netflix: <http://www.netflix.com>
Hulu: <http://www.hulu.com>
Apple iTunes Music Store: <http://www.itunes.com>
YouTube: <http://www.youtube.com>

Online Piracy

Uploading, downloading, and/or sharing of copyrighted files without the owner's permission is referred to as online piracy. Engage in online piracy and you could be charged with and possibly convicted of a felony called [copyright infringement](#) .

Peer-to-Peer (P2P) Networks

Peer-to-Peer (P2P) software and networks are mostly used for illegally downloading and sharing of copyrighted content. Buying the P2P application does *not* make the files you download legal.

Since the files shared over P2P networks are usually copyrighted works, you are putting yourself at risk for downloading content from these networks. To avoid these risks, there are services on the Internet that allow you to legally purchase copyrighted works online. By purchasing the content legally through these services, you not only avoid the risk of copyright infringement, but you also reduce your exposure to computer viruses and spyware.

Franklin Pierce University actively blocks P2P networks to deter illegal sharing of copyrighted content.

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.

Example of an Infringement Notice

RE: Unauthorized Distribution of the Copyrighted Motion Picture Entitled Clash of the Titans

Dear General Manager:

We are writing this letter on behalf of Warner Bros. Entertainment Inc. ("Warner Bros.").

We have received information that an individual has utilized the below-referenced IP address at the noted date and time to offer downloads of copyrighted motion picture(s) through a "peer-to-peer" service, including such title(s) as:

Clash of the Titans

The distribution of unauthorized copies of copyrighted motion pictures constitutes copyright infringement under the Copyright Act, Title 17 United States Code Section 106(3). This conduct may also violate the laws of other countries, international law, and/or treaty obligations.

Since you own this IP address (74.220.233.58), we request that you immediately do the following:

- 1) Contact the subscriber who has engaged in the conduct described above and take steps to prevent the subscriber from further downloading or uploading Warner Bros. content without authorization; and
- 2) Take appropriate action against the account holder under your Abuse Policy/Terms of Service Agreement.

On behalf of Warner Bros., owner of the exclusive rights to the copyrighted material at issue in this notice, we hereby state, that we have a good faith belief that use of the material in the manner complained of is not authorized by Warner Bros., its respective agents, or the law.

Also, we hereby state, under penalty of perjury, under the laws of the State of California and under the laws of the United States, that the information in this notification is accurate and that we are authorized to act on behalf of the owner of the exclusive rights being infringed as set forth in this notification.

Please direct any end user queries the following.

Warner Bros. Entertainment Inc. Attn:
Worldwide Anti-Piracy

4000 Warner Blvd.
Burbank, CA 91522 818.954.3091
- phone
infringements@warnerbros.com - email

Kindly include the Case ID 996669198, also noted above, in the subject line of all future correspondence regarding this matter.



40 University Drive
Rindge, NH 03461
(603) 899-4000
franklinpierce.edu

We appreciate your assistance and thank you for your cooperation in this matter.
Your prompt response is requested.

Respectfully,

A Kempe
Enforcement Coordinator
MediaSentry

INFRINGEMENT DETAIL

Infringing Work: Clash of the Titans
First Found: 20 Apr 2010 05:28:35 EDT (GMT -0400) Last Found: 20 Apr 2010
05:28:35 EDT (GMT -0400) IP Address: 74.220.233.58 IP Port: 15928
Protocol: BitTorrent
Torrent InfoHash: B4CF91396E8330F648308ECE6F7E11B6822CCDFD
Containing file(s):
Clash.Of.The Titans.2010.TS.Xvid-Classified.torrent (768,762,665 bytes)

[IFAP HOME](#)[CLOSE WINDOW](#)

Publication Date: June 4, 2010

DCL ID: GEN-10-08

Subject: Institutional requirements for combating the unauthorized distribution of copyrighted material by users of the institution's network

Summary: This letter reminds institutions that participate in the Title IV, HEA programs of the new requirements for combating the unauthorized distribution of copyrighted material by users of an institution's network. This letter also provides a sample summary of civil and criminal penalties for copyright infringement that may be used by institutions to meet one of the requirements of the regulations.

Dear Colleague:

The Higher Education Opportunity Act of 2008 (HEOA) (Pub. L. 110-315) added provisions to the Higher Education Act of 1965, as amended, (HEA) requiring institutions to take steps to combat the unauthorized distribution of copyrighted materials through illegal downloading or peer-to-peer distribution of intellectual property. These requirements were effective upon enactment of the HEOA, August 14, 2008.¹ On October 29, 2009, the Department published final regulations implementing the statutory requirements (74 FR 55902). These regulations go into effect July 1, 2010. The final regulations are available at

<http://www.ifap.ed.gov/fregisters/FR102909GeneralandNonLoanProgrammaticFinalRule.html>

This letter describes the requirements of the final regulations and provides a sample summary of civil and criminal penalties for copyright infringement that may be used by institutions to meet one of the requirements of those regulations.

Institutional plans

Under 34 CFR 668.14(b)(30), an institution, as a condition of participation in any Title IV, HEA program, must have developed and implemented written plans to effectively combat the unauthorized distribution of copyrighted material by users of the institution's network without unduly interfering with the educational and research 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, in accordance with 34 CFR 668.43(a)(10) (described below). These mechanisms may include any additional information and approaches determined by the institution to contribute to the effectiveness of the plans, such as including pertinent information in student handbooks, honor codes, and codes of conduct in addition to e-mail and/or paper disclosures;
- 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. It is left to each institution to determine 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 will be, including those that prohibit content monitoring.

In recognition of the diversity among institutions and how technology is continuously evolving, it is up to an institution's discretion to determine how many and what type of technology-based deterrents it uses as a part of its plans—although every institution must employ at least one. Technology-based deterrents include bandwidth shaping, traffic monitoring, accepting and responding to Digital Millennium Copyright Act (DMCA) notices, and commercial products designed to reduce or block illegal file sharing. An institution also has discretion to determine what relevant assessment criteria are for reviewing the effectiveness of its plans. In some cases, appropriate assessment criteria might be process-based, so long as the institution's information system information does not contradict such a determination. Such process-based criteria might look at whether the institution is following best practices, as laid out in guidance worked out between copyright owners and institutions or as developed by similarly situated institutions that have devised effective methods to combat the unauthorized distribution of copyrighted material. In other cases, assessment criteria might be outcome-based. The criteria might look at whether there are reliable indications that a particular institution's plans are effective in combating the unauthorized distribution of copyrighted material. Among such indications may be "before and after" comparisons of bandwidth used for peer-to-peer applications, low recidivism rates, and reductions (either in absolute or in relative numbers) in the number of legitimate electronic infringement notices received from rights holders. An institution is expected to use the assessment criteria it determines are

relevant to evaluate how effective its plans are in combating the unauthorized distribution of copyrighted materials by users of the institution's networks.

Offering of legal alternatives

34 CFR 668.14(b)(30) also requires that an institution, in consultation with the chief technology officer or other designated officer of the institution, to the extent practicable, offer legal alternatives to illegal downloading or otherwise acquiring copyrighted material, as determined by the institution. An institution must periodically review the legal alternatives for downloading or otherwise acquiring copyrighted material, and make the results of the review available to its students through a Web site or other means.

The Department anticipates that individual institutions, national associations, and commercial entities will develop and maintain up-to-date lists that may be referenced for compliance with this provision.

Consumer Information

Under 34 CFR 668.43(a)(10), 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. This information must:

- Explicitly inform its students that unauthorized distribution of copyrighted material, including peer-to-peer file sharing, may subject a student to civil and criminal liabilities;
- Include a summary of the penalties for violation of Federal copyright laws; and
- Describe 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.

Under 34 CFR 668.41(c), 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. This notice must be made through an appropriate mailing or publication, including direct mailing through the U.S.

Postal Service, campus mail, or electronic mail. Posting on Internet or Intranet Web sites does not constitute notice. If the institution discloses the consumer information by posting the information on a Web site, it must include in the notice the exact electronic address at which the information is posted, and a statement that the institution will provide a paper copy of the information on request.

Although an institution is required to disclose the required information only to students, we encourage institutions to make the information available to employees and the general public if they believe it will be beneficial.

Sample summary of Federal civil and criminal penalties

The Department has worked with representatives of copyright holders and institutions to develop a sample summary of the civil and criminal penalties for violation of Federal copyright laws (34 CFR 668.43(a)(10)(ii)) that an institution may use to meet the requirement that an institution include such a summary in the information it provides upon request to prospective and enrolled students. The use of this sample summary is optional.

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.

Thank you for your continued participation in the Title IV programs. If you have any questions regarding this letter, please contact Wendy Macias by e-mail at wendy.macias@ed.gov or by phone at 202-502-7526.

Sincerely,

Daniel T. Madzellan
Delegated the Authority to Perform
the Functions and Duties of the
Assistant Secretary for
Postsecondary Education

Attachments/Enclosures:

[Institutional requirements for combating the unauthorized distribution of copyrighted material by users of the institution's network in PDF Format, 186KB, 4 Pages](#)

¹ As the Department noted in the December 2008, Dear Colleague Letter that provided a summary of the provisions of the HEOA (GEN-08-12), because passage of the HEOA required program participants to implement a large number of new provisions before receiving guidance from the Department, during subsequent reviews of compliance with the HEOA, we will take into account whether any written guidance had been provided by the Department during the period under review.

LAWS & GUIDANCE / HIGHER EDUCATION

Higher Education Opportunity Act 2008

The Higher Education Opportunity Act (Public Law 110-315) (HEOA) was enacted

on August 14, 2008, and reauthorizes the Higher Education Act of 1965, as amended

(HEA). This page provides information on the Department's implementation of the HEOA.

institution in the United States

- [Dear Colleague Letter](#)
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What's New

In accordance with the Higher

Education Opportunity Act of

2008 (HEOA), by October 29,

2011, each postsecondary

institution that participates in Title IV

student aid programs must post

a net price calculator on its

Web site that uses institutional

Some parts of the law will be implemented through new or revised regulations. The

negotiated rulemaking process will be used for some regulations, as explained below. Other

areas will be regulated either through the usual

To notice and comment process or, where regulations will merely reflect the changes to

the HEA and not expand upon those changes,

data to provide estimated net price information to current and

prospective students and their

families based on a student's

individual circumstances.

assist institutions in meeting

this obligation, The National

Center for Education Statistics, as



U.S. Department of Education

Dear Colleague Letter To use or review the template,

How Do I Find...

- Student loans, forgiveness
- College accreditation
- Every Student Succeeds Act (ESSA)
- FERPA
- FAFSA
- 1098, tax forms

[More >](#)

Information About...

- Transforming Teaching
- Family and Community Engagement
-

Related Topics

Student Loans	Grants	Laws	Data
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technical changes. in cooperation with the Office of

Postsecondary Education and

As we move through the implementation

IT Innovative Solutions Corp.,

process, we will be updating this page, so

has designed and developed a

check back often. fully functional net price

Higher Education Opportunity Act (P.L. 110-315)

calculator available to all Title

IV postsecondary institutions

for use on their institutional

Web sites.

 [Text](#) | [PDF](#)

[Early Learning](#)

[Office of Federal Student Aid](#)

[Office of Postsecondary Education](#)

The Department has published a [Dear Colleague Letter](#) which provides a summary of each provision of the HEOA. However, affected parties are responsible for taking the steps necessary to comply by the effective dates established by the HEOA. The provisions of the HEOA are effective upon enactment unless otherwise noted in the law. Potentially affected parties should review the legislation immediately to determine the proper measures they must take to comply.

Negotiated Rulemaking

Negotiated Rulemaking 2009-10: On go to: <http://npc.inovas.net/institution/>.

[Information Required to Be Disclosed Under the Higher Education Act of 1965:](#)

September 9, 2009, the Department published a [notice in the Federal Register](#) announcing its intent to establish two [negotiated rulemaking committees](#) to prepare proposed regulations under Title IV of the Higher Education Act of 1965, as amended. This notice also solicits nominations for negotiators.

On May 29, 2009, Deputy Undersecretary Robert Shireman held a conference call with analysts and investors who monitor the career college and education industry to discuss the purpose and nature of these negotiated rulemaking sessions.

- Transcript of the Call  [PDF](#) (48K)

On May 29, 2009, Deputy Undersecretary Robert Shireman also held a conference call with the career college community to discuss the negotiated rulemaking sessions.

- Transcript of the Call  [PDF](#) (52K)

Negotiated Rulemaking Spring 2009: The Web page for each team provides information such as schedules, lists of negotiators, team protocols, issue papers, and other materials.

[Negotiated Rulemaking Spring 2009 Web Site](#)

- [Team I—Loans—Lender/General Loan Issues](#)
- [Team II—Loans—School—Based Loan Issues](#)
- [Team III--Accreditation](#)
- [Team IV--Discretionary Grants](#)
- [Team V--General and Non-Loan Programmatic Issues](#)

On March 23, 2010, the Department published in the Federal Register a [Notice of Proposed Rulemaking \(NPRM\)](#). Through this NPRM, the Secretary proposes to amend current regulations, and establish new regulations, for the High School Equivalency Program and College Assistance Migrant Program (HEP and CAMP); the Federal TRIO programs (TRIO Programs--Training Program for Federal TRIO Programs (Training), Talent Search (TS), Educational Opportunity Centers (EOC),

[Suggestions for Dissemination:](#)

A Report by the [National Postsecondary Education Cooperative \(NPEC\)](#) Working Group on the Higher Education Opportunity Act of 2008 (HEOA). (October 2009)

Upward Bound (UB), Student Support Services (SSS), and the Ronald E. McNair Postbaccalaureate Achievement (McNair) Programs; and the Gaining Early Awareness and Readiness for Undergraduate Program (GEAR UP) program. On October 29, 2009, the Department published in the Federal Register **final regulations** amending the Federal Perkins Loan (Perkins Loan) Program, Federal Family Education Loan (FFEL) Program, and William D. Ford Federal Direct Loan (Direct Loan) Program regulations to implement provisions of the Higher Education Act of 1965 (HEA), as amended by the Higher Education Opportunity Act of 2008 (HEOA), and other recently enacted legislation. These regulations are effective July 1, 2010.

On October 29, 2009, the Department published in the Federal Register **final regulations** amending the regulations for Institutional Eligibility Under the Higher Education Act of 1965, the Student Assistance General Provisions, the Federal Work-Study (FWS) Programs, the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program, the Federal Pell Grant Program, and the Leveraging Educational Assistance Partnership Program (LEAP) to implement various general and non-loan provisions of the Higher Education Act of 1965 (HEA), as amended by the Higher Education Opportunity Act of 2008 (HEOA) and other recently enacted legislation. These regulations are effective July 1, 2010.

On October 28, 2009, the Department published in the Federal Register, **final regulations** regarding Institutions and Lender Requirements Relating to Education Loans, to implement requirements relating to education loans that were added to the Higher Education Act of 1965, as amended (HEA) by the Higher Education Opportunity Act of 2008 (HEOA). The Secretary also amends the regulations for Student Assistance General Provisions, the Federal Perkins Loan (Perkins Loan) Program, the Federal Family Education Loan (FFEL) Program, and the William D. Ford Federal Direct Loan (Direct Loan) Program to implement certain provisions of the HEA that involve school-based loan issues and that were affected by the statutory changes made to the HEA by the HEOA. These regulations are effective July 1, 2010.

On October 27, 2009, the Department published in the Federal Register **final regulations** governing institutional eligibility and the Secretary's recognition of accrediting agencies. The Secretary is amending these regulations to implement changes to the Higher Education Act of 1965, as amended (HEA), resulting from enactment of the Higher Education Reconciliation Act of 2005 (HERA), and the Higher Education Opportunity Act (HEOA), and to clarify, improve, and update the current regulations. These regulations are effective July 1, 2010.

For general information on negotiated rulemaking, see The Negotiated Rulemaking Process for Title IV Regulations, [Frequently Asked Questions](#).

Integrated Postsecondary Education Data System (IPEDS)

As a result of the recent passage of Higher Education Opportunity Act of 2008, the

National Center for Education Statistics will make a number of changes to the IPEDS data collection for 2008-09, to comply with the legislated mandates regarding College Navigator by August 2009. These changes will be mandatory for 2008-09. Updated Institutional Characteristics (IC) forms, upload specifications, and instructions will be available on the IPEDS Web site. The other survey materials for the affected Winter and Spring surveys will be available in the near future. For additional information on these changes, visit the IPEDS Web site.



Reports and Studies

U.S. Department of Education's Report to Congress Regarding Simplification of the Federal Student Aid Process and the Free Application for Federal Student Aid (FAFSA)

- Letter of Transmittal to Senators Edward M. Kennedy and Michael B. Enzi and Congressmen George Miller and Howard P. "Buck" McKeon
Report to Congress PDF (55K) | MS Word (67K)
Draft Prototype of the Free Application for Federal Student Aid (FAFSA) PDF (119K) | MS Word (1.5MB)

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OPE Policy Page



Last Modified: 06/25/2010

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New IDEA Website

Nation's Report Card

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