



Responsible Department: Provost and Executive Vice Chancellor

Recommended By: Provost and Executive Vice Chancellor, Vice Provost for Faculty Affairs, Vice Chancellor for Information Technology, University Libraries

Approved By: Chancellor

Policy Number
PROV 4.10.040

Effective Date
2/15/2024

I. INTRODUCTION

- A. University faculty, staff, and students are required to comply with all U.S. copyright laws, including Title 17 U.S. Code, the United States Copyright Act, the Digital Millennium Copyright Act of 1998 (DMCA), and the Technology, Education, and Copyright Harmonization (TEACH) Act.
- B. The Higher Education Opportunity Act (HEOA) requires institutions to take steps to combat the unauthorized distribution of copyrighted materials through illegal downloading or peer-to-peer distribution of intellectual property.

II. POLICY OVERVIEW

- A. The University expects and requires all University community members to comply with applicable copyright laws.
- B. University students, faculty, and staff members are responsible for making a good faith determination of whether an intended use falls within specific or fair use exemptions in copyright law. When permission to use copyrighted material is required, the individual must obtain that permission prior to use of the copyrighted materials.
- C. In order to meet the requirements of the Higher Education Opportunity Act (HEOA) pertaining to peer-to-peer file sharing of copyrighted material, the University will:
 - 1. publish an annual disclosure statement explicitly informing members of the University community (including students) that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;
 - 2. publish a summary of the penalties for violation of federal copyright laws;
 - 3. publish a description of the University's policies with respect to

unauthorized peer-to-peer file sharing, including actions that may be taken when a member of the University community (including students) is found responsible for engaging in illegal downloading or unauthorized distribution of copyrighted materials using the institution's information technology system;

4. implement technology-based deterrents to reduce the potential for illegal file sharing;
5. offer alternatives to illegal file sharing; and
6. periodically review the effectiveness of technology solutions to prevent illegal file sharing.

III. PROCESS OVERVIEW

A. The Copyright Act, Copyright Protection, and Copyright Infringement

1. The Copyright Act is a federal law that provides protection in the United States for creative works (termed “original works of authorship”) in the form of copyright. Copyright infringement, which is a violation of the Copyright Act, generally occurs when an individual or entity reproduces, distributes, performs, publicly displays or creates a derivative work of a copyrighted work without the copyright owner’s permission.
2. Copyright protection arises in original works of authorship that are fixed in any tangible medium of expression (e.g., written or typed on paper, stored in a computer, recorded in an audio or video format). Works of authorship include the following categories: (1) literary works; (2) musical works, including any accompanying words; (3) dramatic works, including any accompanying music; (4) pantomimes and choreographic works; (5) pictorial, graphic, and sculptural works; (6) motion pictures and other audiovisual works; (7) sound recordings; and (8) architectural works.
3. Copyright infringement is a violation of law that carries substantial penalties for the infringer. An individual found liable for copyright infringement may be liable for actual damages and profits or statutory damages of no less than \$750 and up to \$30,000 per act of infringement, plus attorney’s fees and costs. If the infringement is found to be willful, the infringer may be liable for statutory damages up to \$150,000 per act of infringement. In cases in which the infringement was found to be for purposes of commercial advantage or private financial gain, an infringer can face criminal penalties including imprisonment for up to five years and fines of up to \$250,000 per offense.
4. In addition to being illegal, copyright infringement is a violation of University policy and can result in employment and/or student conduct action by the University, up to and including dismissal for faculty and staff and expulsion for students.

- B.** The University expects students, staff, and faculty to have a basic understanding of copyright law to comply with the law and this Policy. Various units at the University have developed informational materials on copyright law, including the Office of Teaching and Learning and the University Libraries (See Section V Resources below).
- C.** Students with questions about copyright law should consult their instructors or department chairs. Faculty with questions about copyright law should consult their department chairs or administrator(s) of their unit. Administrators with questions about copyright law should consult the Office of General Counsel.
- D.** Section 121 of the Copyright Act provides limitations on the exclusive rights of the copyright holder regarding the reproduction of copyrighted works for people with disabilities. Students, employees or third parties with disabilities or seeking assistance with those with disabilities may consult with [AccessibleDU: Student Disability Services](#) (students) or the University's ADA Coordinator (ADA.Coordinator@du.edu) (employees and third parties).
- E.** HEOA Compliance – File Sharing and Copyrighted Material

 - 1. Annual Notices and Disclosures: The University will issue an annual disclosure to members of the University community in compliance with the HEOA and DMCA.
 - 2. The Division of Information Technology conducts: (a) an annual security awareness campaign to remind the community of their obligations to comply with University Policy 13.10.010-*Use of Computer and Network Systems*, including but not limited to the provisions regarding copyright infringement; and (b) maintains a webpage addressing copyright infringement and including DMCA notice and takedown procedures.
- F.** Actions Taken Against Persons Found to be Illegally Sharing Files

 - 1. The University will attempt to identify alleged copyright infringers in compliance with the DMCA.
 - 2. Individuals who are reported for or suspected of possible violation of this Policy will be referred to the [Office of Student Rights and Responsibilities](#) (for students) or the Department of Human Resources and Inclusive Community (for employees) for appropriate action. Individuals who are found to have violated this Policy are subject to the removal of their network access, among other actions.
- G.** Technology-Based Deterrents Used to Combat Illegal File Sharing

The University uses technology, including next-generation firewalls that identify and block peer to peer sharing applications, to reduce and/or eliminate the

practice of illegally sharing copyrighted material. Known vectors used to share files are blocked from the University network.

H. Alternative Resources For Sharing Copyrighted Material

A comprehensive list of legal downloading sites is available from [Educause](#). The University encourages all students to take advantage of these resources.

I. Plan Effectiveness Review

The University will regularly evaluate and implement, as necessary, technology-based solutions to combat illegal file sharing.

IV. DEFINITIONS

None

V. RESOURCES

A. [Higher Education Opportunity Act \(HEOA\)](#)

B. [Digital Millenium Copyright Act](#)

C. [Technology, Education, and Copyright Harmonization Act \(TEACH\)](#)

D. [Office of Teaching and Learning](#)

E. University Libraries [BIOL 1260: Research Workshop – Images and Copyright and Fair Use](#)

F. [United States Copyright Office](#)

Revision Effective Date	Purpose