

DES MOINES AREA COMMUNITY COLLEGE  
EDUCATIONAL SERVICES PROCEDURE

Section: LIBRARY SERVICES  
Subjective: Peer-to-Peer File Sharing  
Effective: January 1, 2011  
Number: ES4790

I. Scope

- A. Use of technology, including peer-to-peer file sharing, for the unauthorized acquisition or distribution of copyrighted materials may subject users to College disciplinary actions and civil or criminal liabilities.
- B. Peer-to-peer (P2P) file sharing applications allow users to download and share electronic files. These applications allow the user to use any computer as a server for file sharing requests. Installing such applications can result in the intentional and unintentional sharing of files. Illegal file sharing, intentional or otherwise, leaves the user open to costly liabilities.
- C. Users should be cautious in using these applications. It is possible that such applications share files without the user's knowledge and consent. In addition, file sharing activities can create a disproportionate consumption of College network resources (e.g. bandwidth) which may compromise educational activities. Peer-to-peer file sharing may also undermine the integrity of the College network via viruses, spyware, and identity theft.

II. Institutional Regulations

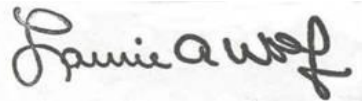
- A. There are legitimate uses of peer-to-peer file sharing and therefore the College will not ban the use of such applications. The College acknowledges some peer-to-peer activity may involve the illegal acquisition and distribution of copyrighted music and video in particular and will take the following steps to comply with Higher Education Opportunity Act (HEOA) of 2010:
  1. Provide an annual disclosure to students describing copyright law and campus policies related to violating copyright law. The disclosure will include the following:
    - a. A statement explicitly informing students about civil and criminal liabilities related to the unauthorized acquisition and distribution of copyrighted materials;
    - b. A summary of the penalties for violation of Federal copyright laws; and
    - c. 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 College's technology system.
  2. Implement a written plan to effectively combat the unauthorized distribution of copyrighted materials by users of the College network, including the use of one or more technology-based deterrents listed below. Such a plan will be reviewed periodically using relevant assessment criteria as determined by the College.
    - a. Bandwidth shaping
    - b. Traffic monitoring to identify the largest bandwidth users
    - c. A vigorous program of accepting and responding to Digital Millennium Copyright Act of 1998 (DMCA) notices
    - d. A variety of commercial products designed to reduce or block illegal file sharing
- B. The College will provide to its users a list of legitimate download services. In addition, the College will seek to comply with the DMCA by:
  1. Registering with the U.S. Copyright office designating the agent for notification of claims of infringement;
  2. Posting such information on the College website in a location accessible to the public;  
and
  3. Accepting and responding to DMCA notices.

III. Summary of College Disciplinary Actions

- A. In accordance with the College Technology Use Policy (IT6100), Information Technology personnel may temporarily or permanently disable an account or service to an individual when there is reason to believe an alleged violation of the policy has occurred. This may happen when uses:
  1. Violate Federal, State or Local law;
  2. Could result in damage or interfere with official College business; and/or could result in liability for the College.
- B. A student who is believed to have violated the DMACC Technology Use Policy (IT6100) may be charged with a violation of the Student Conduct Code according to the Student Conduct, Discipline and Appeals Procedure, ES 4630.

IV. Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws

- A. 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.
- B. 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, per work infringed. A court can, in its discretion, also assess costs and attorney's fees. For details, see Title 17, United States Code, Sections 504,505.
- C. 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.
- D. For more information, please see the Web site of the U.S. Copyright Office at [www.copyright.gov](http://www.copyright.gov), especially their FAQ's at [www.copyright.gov/help/faq](http://www.copyright.gov/help/faq).



APPROVED:

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Executive Dean, Student Services

11/23/10

Date: \_\_\_\_\_



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Executive Vice President, Academic Affairs

11/23/10

Date: \_\_\_\_\_