

Purpose

This document was drafted to demonstrate Makana Esthetics and Wellness Academy's efforts to comply with the Higher Education Opportunity Act (HEOA) and 34 CFR Sec. 668.14(b)(30). The unauthorized distribution of copyrighted material such as songs, videos, games, textbooks, or other types of creative content, including through peer-to-peer (P2P) file sharing, is prohibited by Makana Esthetics and Wellness Academy policy and may violate civil or criminal law. Makana Esthetics and Wellness Academy has developed this plan in accordance with the HEOA to combat the illegal uploading and downloading of copyrighted works through P2P file sharing.

Introduction

Under 34 CFR 668.14(b)(30), an institution, as a condition of participation in any Title IV, HEA program, must develop and implement written plans to effectively combat the unauthorized distribution of copyrighted materials by users of the institution's networks without unduly interfering with the educational and research use of the networks. The following provisions must be included in the plan:

Use of one or more technology-based deterrents

- Mechanisms for educating and informing users about appropriate versus inappropriate use of copyrighted material, including, but not limited to, an annual notification
- Procedures for handling unauthorized distribution of copyrighted material, including disciplinary procedures
- Procedures for periodically reviewing the effectiveness of the plans to combat unauthorized distribution of copyrighted materials by users of the networks using relevant assessment criteria
- Publicize legal alternatives to illegal downloading or otherwise acquiring copyrighted material, to the extent practicable.
- Technology Deterrents

Makana Esthetics and Wellness Academy provides Internet access to faculty, staff, students, and guests. Network traffic is monitored and prioritized traffic for critical applications such as video and audio sharing technologies. P2P applications that are known for illegal file sharing or negatively impact the University's technology resources and do not provide educational purpose are blocked. In addition, all network traffic is monitored to ensure the quality of service for all users of the University. This policy is subject to change if monitoring of the network indicates current technological deterrents aren't effective.

Reporting Violations

Makana Esthetics and Wellness Academy users should report violations of this policy along with any defects in system accounting, concerns with system security, or suspected unlawful or improper system activities to the Director of Education.

Penalties for Violations

Users must not violate copyright law and must respect licenses to copyrighted materials. For the avoidance of doubt, unlawful file sharing using the Academy's information resources is a

violation of this policy. Unauthorized distribution of copyrighted material, including unauthorized peer-to-peer or other file sharing, may subject a user to civil and criminal liabilities. Specifically, copyright infringement is prohibited. 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 attorney’s 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 website of the U.S. Copyright Office at (www.copyright.gov).

Legal Alternatives to Acquire Copyrighted Material

In compliance with the requirement to publicize legal alternatives to illegal downloading or otherwise acquiring copyrighted material under 34 CFR 668.14(b)(30), Makana Esthetics and Wellness Academy directs network users to a website maintained by Educause for a comprehensive list of legal downloading resources. Although these sites are deemed legal alternatives for acquiring copyrighted material, Makana Esthetics and Wellness Academy does not guarantee access to these sites using University resources.

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