



American Council on Education
Office of the President

July 23, 2007

United States Senate
Washington, DC 20510

Dear Senator:

During consideration of S. 1642, the Higher Education Amendments of 2007, Senator Reid may offer an amendment related to unauthorized peer-to-peer file-sharing. Although we strongly support the underlying bill, we are deeply concerned by this amendment and the potential harm it presents to colleges and universities.

The Reid amendment would force the Secretary of Education to act on information provided by the entertainment industry to annually identify the colleges and universities receiving the most notices of illegal peer-to-peer file-sharing occurring on their campuses. These institutions would then be required to provide “evidence” to the Secretary that they had informed students of campus policies and procedures related to illegal file-sharing. They would also be required to submit a plan to the Secretary showing plans to address illegal file-sharing and demonstrating they have put in place a technological fix to “prevent” future problems. These requirements are included under the Title IV eligibility requirements section of the bill, which is the section that determines eligibility for federal student aid programs.

As a community, we strongly support efforts to prevent the theft of intellectual property. Our institutions have taken aggressive steps to ensure that campus computer systems are used for lawful purposes and to benefit learning. However, the Reid amendment would do little to stop illegal file-sharing, is unworkable in its current form, and would set a dangerous precedent by requiring the Secretary of Education to accept unverified information and take action based on it.

In particular, we are concerned that the amendment:

- Makes the Secretary of Education an agent of the entertainment industry.
- Requires the Secretary to take action using data given to her by the entertainment industry that is terribly inaccurate.

- Requires targeted schools to plan for implementing a "technical solution" that does not yet exist for many campus environments and would, in many instances, interfere with legitimate peer-to-peer networks used for educational purposes.
- Is only aimed at colleges and universities and NOT other internet service providers, despite the fact that the illegal file-sharing occurring on campuses is only a fraction of the overall illegal file-sharing problem.
- Represents an unwarranted intrusion by the Federal government by dictating the day-to-day operations of colleges and universities.

The higher education community and the entertainment industry are working together to develop a mutually acceptable technological solution to illegal file-sharing. That process should be allowed to continue without imposing an unworkable, one-size-fits-all system.

For these reasons, we strongly oppose the Reid and amendment and urge your opposition. We are supportive of the provisions currently in the bill requiring all colleges and universities to submit an annual report to the Secretary of Education, providing details of the education, enforcement and technological approaches being used on campus to reducing illegal file-sharing. We support greater efforts to educate students about dangers and illegality of digital piracy, and will continue to work in our communities to bring a greater awareness to students about these issues.

Sincerely,



David Ward
President

DW/mmn

On behalf of:

American Association of Community Colleges
American Association of State Colleges and Universities
American Council on Education
Association of American Universities
Association of Jesuit Colleges and Universities
EDUCAUSE
National Association of Independent Colleges and Universities
National Association of State Universities and Land-Grant Colleges