

## **PROPOSED:**

### **Concordia University Plan for Compliance with the Higher Education Opportunity Act (HEOA) Copyright and Peer-to-Peer File Sharing Requirements**

U.S. federal law treats the unauthorized uploading, downloading, or sharing of copyrighted material as a serious offense that carries serious consequences. In order to protect you and the University from legal actions, we want to help you better understand the acts that constitute violations of federal copyright law, especially with regard to peer-to-peer (P2P) networks. If you use Concordia's network to access, download, upload, or otherwise share copyrighted materials without permission or without falling under an exception under copyright law, you are likely infringing copyright laws.

In general, copyright infringement occurs whenever someone makes a copy of any copyrighted work, such as songs, videos, software, cartoons, photographs, stories, or novels, without permission (i.e., a license) from the copyright owner.

Downloading, copying and sharing material (including peer-to-peer file sharing), such as music, movies, games, and applications, for which the copyright holder has not given you rights, is both against the law and Concordia University's [Network and Computer Appropriate Use Policy](#). The University will take disciplinary action with students when it is aware of such behavior. In addition, illegal copyright and file sharing may subject a student to civil or criminal penalties.

The Higher Education Opportunity Act (HEOA), also referred to as H.R. 4137, was signed into law on August 14, 2008. It includes provisions that are designed to reduce the illegal uploading and downloading of copyrighted works through peer-to-peer (P2P) file sharing. Specifically, the HEOA requires institutions to:

- Make an annual disclosure to students describing copyright law and campus policies related to violating copyright law
- Develop and implement a plan to effectively combat unauthorized distribution of copyrighted materials by users of Concordia's network, including the use of one or more technology based deterrents
- Provide a plan to offer alternatives to illegal downloading

## **ANNUAL DISCLOSURE**

Concordia University will use the following methods to inform the University community about the law and responses to copyright infringement claims:

- Students will receive an annual email message notifying them of [Concordia's Copyright Infringement Policy](#)
- Information and guidelines on copyright laws, including the University's policy and its response to DMCA takedown notices will be provided on the Information Technology Services website
- Entering students will receive information during New Student Orientation's required Technology Orientation session, which includes information about copyright law, illegal downloading and file sharing, appropriate use of the CU network, and potential consequences for inappropriate use.
- New resident students will receive information during their required Resident Student Orientation about copyright law, illegal downloading and file sharing, and appropriate use of the CU network, and potential consequences for inappropriate use.

## **FAIR USE**

Copyright law provides no blanket exception from liability for college students based solely upon their status as students. There are limited circumstances where use of copyrighted materials without permission is allowable. One of these circumstances is under the legal doctrine of "fair use," such as for purposes of news reporting, criticism, commentary, or teaching. Whether use of copyrighted material without permission is "fair use" depends on a very detailed, case-by-case analysis of various factors. For a better understanding of these factors, please visit the [U.S. Library of Congress website](#)

## **PENALTIES FOR COPYRIGHT INFRINGEMENT**

The unauthorized copying, sharing or distribution of copyrighted material is strictly prohibited. It is a violation of federal law, the Copyright Act, and of University policy. Students who infringe a copyright may have their network access terminated and be referred to Student Affairs for further disciplinary action.

In addition, copyright infringement may result in 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 additional information, see [Federal Copyright Laws and Penalties](#).

## **LEGAL ALTERNATIVES (instead of illegal downloading)**

EDUCAUSE maintains a comprehensive list of Legal Downloading Resources at their website <http://www.educause.edu/legalcontent>.

## **PLANS TO "EFFECTIVELY COMBAT" UNAUTHORIZED DISTRIBUTION OF COPYRIGHTED MATERIALS**

Concordia will use educational pieces as a part of its plan to combat illegal copyright: annual disclosure via email, education sessions with students during New Student Orientation and residential orientation, and policy information on the ITS website and in the Student Handbook.

While Concordia University does not actively search for instances of copyright violation, investigations into degradation of service and network problems, excessive bandwidth use, as well as routine security administration, can expose violations. In such cases, the University is obligated to investigate, just as it is for complaints of illegal activities or inappropriate use taking place on the CU network. Concordia will accept and respond to Digital Millennium Copyright Act (DMCA) notices.

### **CONCORDIA PROCESS FOR DMCA NOTIFICATIONS**

1. When a DMCA notice is received, the University's ITS department will attempt to identify the building, office or residential area associated with the IP address specified in the notice and also try to determine the owner of the machine identified in the notice.
2. If the University traces the DMCA notice to a specific user, the user is notified that the DMCA notice has been received and that he or she may be found, subject to the user's defense, to have violated the University's policies with respect to copyrights and use of its networks.
3. The student will have 72 hours to resolve the matter with Student Affairs

4. Students found to have engaged in infringement of copyrights are subject to termination of their network access and may be reported to Student Affairs for possible further disciplinary action.

#### **REVIEWING EFFECTIVENESS**

This plan will be reviewed on an annual basis by Information Technology Services and Student Affairs for effectiveness and appropriateness.

