

## **Copyright Infringement and Peer-to-Peer File Sharing Policy**

Copyright is a form of legal protection provided by U.S. law, Title 17 U.S.C. §512(c) (2), that protects an owner's right to control the reproduction, distribution, performance, display and transmission of a copyrighted work. The public, in turn, is provided with specific rights for fair use of copyrighted works.

Copyrighted works protect original works of authorship and include:

- Books, articles, and other writings
- Songs and other musical works
- Movies and television productions
- Pictures, graphics, and drawings
- Computer software
- Pantomimes and choreographic works
- Sculptural and architectural works

The Higher Education Opportunity Act (HEOA) was signed into law on August 14, 2008 and regulations for implementing the law were issued by the Department of Education on October 29, 2009. Several sections of the HEOA are designed to reduce the illegal distribution of copyrighted works, including the unauthorized uploading and downloading of copyrighted works through peer-to-peer (P2P) file sharing on campus networks. These provisions require all U.S. colleges and universities to make available to current and prospective students the institution's policies and sanctions related to copyright infringement, including:

- An annual disclosure that explicitly informs students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;
- a summary of the penalties for violation of federal copyright laws; and
- the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions taken against students who engage in illegal downloading or unauthorized distribution of copyrighted materials using the institution's information technology system.

Additionally, the institution must certify that the institution:

- has developed plans to effectively combat the unauthorized distribution of copyrighted material, including through the use of a variety of technology-based deterrents; and
- will, to the extent practicable, offer alternatives to illegal downloading or peer-to-peer distribution of intellectual property, as determined by the institution in consultation with the chief technology officer or other designated officer of the institution.

### **Copyright Infringement and Peer-to-Peer File Sharing**

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.

P2P file sharing describes software programs that allow computer users, utilizing the same software, to connect with each other and directly access digital files from one another's hard drives. Many copyrighted works may be stored in digital form, such as software, movies, videos, photographs, etc. Through P2P file sharing it has become increasingly easy to store and transfer these copyrighted works to others thus increasing the risk that users of P2P software and file sharing technology will infringe the copyright protections of content owners.

If P2P file-sharing applications are installed on a student's computer, the student may be sharing someone else's copyrighted materials without realizing they are doing so. As a user of the school's network, recognizing the legal requirements of the files that a student may be sharing with others is important. A student should be careful not to download and share copyrighted works with others. Transfer and distribution of these works without authorization of the copyright holder is illegal and prohibited.

**The Seattle School takes the following steps to combat unauthorized distribution of copyrighted materials:**

At the beginning of each academic year, the *Copyright Infringement and Peer-2-Peer File Sharing Policy* will be incorporated into the *Student Handbook* and *Employee Handbook* and posted to the website (readily accessible to current and prospective students).

*The Acceptable Use of Computing Resources* policy explicitly prohibits unauthorized publishing of copyrighted material. Faculty and staff acknowledge and accept this policy when they are provided with the Employee Handbook during their new-hire orientation. Students acknowledge and accept this policy when they sign The Seattle School Statement of Agreement prior to enrollment.

All students, faculty, and staff *must* abide by federal and state copyright laws when using school computing or network resources. The unauthorized publishing or use of copyrighted material on the school's network is strictly prohibited; users are personally liable for the consequences of such unauthorized use. This specifically applies to P2P file-sharing of copyrighted music and movies. Students should be aware that by engaging in unauthorized sharing of copyrighted material, they not only violate school policy, but they may also be held criminally and civilly liable by federal and/or state authorities.

The school may monitor traffic or bandwidth on the networks utilizing programs designed to detect and identify indicators of illegal P2P file sharing activity, and/or may employ other technical means to reduce or block illegal file sharing and other impermissible activities. Any Digital Millennium Copyright Act (DMCA) notices of unauthorized copyright use will be responded to promptly.

Disciplinary sanctions for students who violate this policy will be based on the seriousness of the situation and may include limiting and/or denial of network access.

## **Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws**

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 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.

## **Plan to offer legal alternatives for illegal file sharing**

The Seattle School is committed to making you aware of legal options for downloading and sharing music, movies and other digital media. Some resources that offer these media at for no charge, or for a reasonable cost include:

- Educase's [Legal Sources of Online Content](#)
- [Campus Downloading](#)
- [RIAA Frequently Asked Questions for Students](#)
- [Copyright Alliance](#)

More information on copyright law and fair use may be found at the following sites:

- The U.S. Copyright Office: [www.copyright.gov](http://www.copyright.gov)
- The Electronic Frontier Foundation fair use frequently asked questions: [eff.org/IP/eff\\_fair\\_use\\_faq.php](http://eff.org/IP/eff_fair_use_faq.php)