

## Higher Education Opportunity Act Cedarville University Compliance June, 2010

The Higher Education Opportunity Act of 2008 (HEOA) identifies three requirements for higher education institutions in regards to unauthorized file sharing:

- An annual disclosure to students describing copyright law and University policies related to violating that law
- A plan to “effectively combat the unauthorized distribution of copyrighted materials”
- A plan to “offer alternatives to illegal downloading”

This document describes Cedarville University’s approach to complying with these provisions and the University’s method for assessing compliance.

### ***Distributing Annual Disclosure***

Within the first three weeks of each fall semester, a disclosure statement will be sent via e-mail to all enrolled students. The actual disclosure statement to be used is attached to this document.

### ***Combating Unauthorized Distribution***

The University employs a traffic-limiting device that severely restricts peer-to-peer applications that are often used for illegal file sharing. The University also responds promptly to complaints submitted by copyright holders as per the Digital Millennium Copyright Act (DMCA). This response includes a preliminary investigation by Computer Services and possible disciplinary referral to Student Life.

### ***Offering Alternatives to Illegal Downloading***

The University encourages students to use streaming and downloading from organizations that have acquired legal rights to distribute copyrighted materials. There are a large variety of such services:

- Major content producers (television networks, independent film producers, musicians)
  - Sample sites include [www.abc.com](http://www.abc.com), [www.nbc.com](http://www.nbc.com), and [www.cbs.com](http://www.cbs.com)
- Streaming services with licensed content
  - Sample sites include [www.blip.fm](http://www.blip.fm), [www.hulu.com](http://www.hulu.com), and [www.pandora.com](http://www.pandora.com)
- Store sites that aggregate and sell content for downloading
  - Sample sites include [www.apple.com/itunes](http://www.apple.com/itunes), <http://mp3.walmart.com/store/home>, and <http://marketplace.xbox.com>.

As of the date of this writing (June 2010), Educause maintains an extensive list of sources for legal content:

<http://www.educause.edu/legalcontent>

## **Assessing Compliance**

As part of its routine quarterly assessment review, Computer Services will document compliance with each major requirement of the HOEA in regards to file sharing (distributing annual disclosure, combating unauthorized distribution, offering alternatives to illegal downloading).

## **The Annual Disclosure Statement**

Students—

As Christians, we are to be salt and light in the world. Part of being “salt and light” is that we are to be exemplary in our compliance with the laws of the land. I want to encourage you to keep this in mind as you explore the Internet to stream media or download files. Please do your best to ensure that your sources have the legal right to provide the materials to you.

We typically do not receive very many complaints about copyright violations, but we do take those complaints seriously. The complaints are investigated by Computer Services and, where appropriate, referred to Student Life for disciplinary action. You should also note that violation of copyright laws is a Federal offense which can carry significant penalties (see the quoted statement below).

Thank you for your continued efforts to be careful in your conduct.

Dr. David Rotman  
Chief Information Officer

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Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws  
United States Department of Education  
<http://ifap.ed.gov/dpcletters/GEN1008.html>

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 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 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).