

# Seattle Pacific University

## Computer and Information Systems

### Policies, Procedures, Plans and Standards

#### Peer-to-Peer File Sharing Policy and Copyright Compliance

Effective: February 5, 2009  
Updated and Approved by CIS: August 18, 2010  
Including specific guidelines to comply with the 2008 Higher Education Opportunity Act (HEOA)

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#### **1.0 Introduction/Purpose**

Copyright law protects the owners and creators of intellectual property from having their works stolen, copied, or distributed without permission. File sharing software that copies and distributes songs, movies, videos, games, and software applications without the permission of the owner can create both a criminal and civil liability for the user of the computer performing those actions. Content owners, such as the Recording Industry Association of America (RIAA) and the Motion Picture Association of America (MPAA) use technological means to track the file sharing of their intellectual property on the Internet.

The University encourages the legal and authorized sharing of information and the free expression of ideas. SPU also recognizes and respects intellectual property rights. Willfully taking, copying, or distributing other people's property without their permission or authorization is stealing and violates the University's standards for conduct and morale principles. There is an obligation on the part of all those who use these campus facilities to respect the intellectual and access-rights of others who own or use the resources.

All campus computer users are warned to refrain from using peer-to-peer software applications to infringe on the distribution of copyrighted material. Note that many of these applications may scan your computer for other "legal copies" of music or movies and distribute those files automatically and without notice. Whether or not you have legally downloaded data, you are still responsible for the activities of your computer when connected to the campus network.

This policy was created to outline the issues and obligations on all campus content consumers, and describe the procedures for addressing incidents. Under federal rules and regulations, the University is obligated to educate, notify and inform all campus constituents of our policies regarding copyright infringement, P2P files sharing abuses, and the ramifications for violations.

## **2.0 Definitions**

- A. Copyright Act – the United States copyright law is written to protect the intellectual works of content creators. The law grants exclusive rights to creators of original works for a set period of time. There are volume's written on the role and formulation of copyright law, but for the purposes of this policy, if a piece of content (a song, a recording, a book, a movie, etc...) is copyrighted, it falls under the protection of this law. There are several exclusions for the use of copyright works in teaching, learning, research, fair use, library materials, etc... but for the most part this policy deals with the willful duplication and distribution of copyright materials without the owner's permission, in violation of copyright law.
- B. Higher Education Opportunity Act (HEOA) was signed into law in 2008. Specific sections are intended to stem unauthorized distribution of copyrighted material. The Department of Education requires the following provisions for compliance;
  - B..1 Provide an annual disclosure to students informing them of federal copyright laws and University policies related to violations.
  - B..2 Develop and implement a plan to combat the unauthorized distribution of copyrighted materials by users of the campus network.
  - B..3 Periodically review and, to the extent practical, offer legal alternatives for acquiring copyrighted material.
- C. Digital Millennium Copyright Act (DMCA) - the DMCA criminalizes certain actions used to violate copyright in the creation, distribution, dissemination, of protected materials. Most of the copyright enforcement over the past several years has been established under the provisions of the DMCA.
- D. Recording Industry Association of America (RIAA) and Motion Picture Association of America (MPAA) – the RIAA and MPAA are trade groups that serve as agents for the content owned by their members. Many of the largest recording and movie companies are members of these associations. More recently these trade groups have taken on the duties to monitor and enforce the distribution, licensing, and royalties of the content owned by their members.
- E. Peer-to-Peer (P2P) applications – software that is created to distribute and share digital material is generally referred to as P2P tools. While often used to bypass and circumvent copyright law, there are legitimate uses of P2P software as well. Over time, many of these software products have come under the attention of the various content owners and have either been removed from the marketplace, or in some cases the subject of lawsuits.
- F. Take-down-notices, settlement letters, preservation letters, subpoenas – the courts and various content owners have taken many routes to reduce the illegal copying and distribution of copyright materials. A “take-down-notice” is the first communication that a content owner believes that their materials are being used in an illegal manner. The violator is notified to remove the offending content. Settlement letters have been used by the various trade groups to provide an opportunity to resolve a DMCA violation by the infringer paying a set amount to settle the complaint. Often a settlement letter to an individual is accompanied by a preservation letter to the university to collect evidence in network logs that would substantiate a legal claim of violation. The content owners may also pursue a violation through the courts and issue a subpoena to collect evidence of a violation.
- G. Network traffic shaping – the campus network is a finite resource that is expensive to create and operate, and is shared among all users. In the late 1990's the network was being heavily used to transmit digital music and movies with P2P software applications. This use was saturating the network so heavily, that other academic, instructional, and business use could not be performed. A network appliance to monitor, control, and limit the use of the campus network by certain software applications was put in place to keep the campus network operational for core academic and instructional activities.
- H. Acceptable Use Policy (AUP) – the AUP describes a wide range of activities that our performed on campus computer and network resources. It points to the priorities of use that govern how shared resources can be maintained in a secure and effective manner.

## **3.0 Unauthorized Distribution of Copyrighted Material**

- A. Annual disclosure – at the start of each academic year the university will notify students about their responsibilities and obligations related to the legal and appropriate use of computing and network resources. This message will also include information about where students can read more about institutional policies. Specific mention will be made regarding copyright violations and the use of peer-to-peer file sharing applications.
- B. Education and awareness – education and awareness about copyright is an ongoing activity that takes places across many areas of the campus including in many academic settings, student life and residence life settings, and by CIS. Policies regarding copyright and P2P files sharing are also linked to Student Handbooks, Staff Handbooks and Faculty Handbooks.
- C. Policies and sanctions – the university takes complaints about copyright violations seriously. We have a vigorous program to respond to specific incident and violations.
- D. Technology based deterrents – the university employs a traffic-limiting device and bandwidth caps to restrict applications that are often used for illegal file sharing.
- E. Legal Alternatives - The University has reviewed several services that make music and movies available to on-campus computer users. As of August 2010, we have not elected to offer any of these as a legal alternative to the sharing that takes place. However, we are continuing to evaluate these services and may elect to do so at some point in the future. Educause (a higher education professional association) does maintain an extensive list of sources for legal content at: <http://www.educause.edu/legalcontent>.

#### **4.0 Incident/Violation Notification**

There are several ways that the University may become aware of a file sharing violation. The most common method is that we receive a take-down-notice from an agent of the court or of the content owners informing us of a potential violation. The source is often identified by the network IP address of the computer sharing the material on a specific date and time.

- A. Take Down Notice - CIS reviews the complaint and begins an investigation to identify the computer/IP address/named user/location of the infringement.
- B. Preserve Logs and Evidence - CIS takes action to preserve the logs associated with the notification.
- C. Confirms Complaint - CIS may also scan or review the material in question to determine if it's likely that a violation/infringement has taken place.
- D. Techniques to Monitor and Identify Infringing Activities – the University uses network-based traffic shaping to monitor, control and limit the use of many P2P file sharing applications. These techniques severely reduce the amount of bandwidth consumption allowed by the P2P tools. In addition, we have rules and filters in place on our border firewalls that prevent certain applications that may be running on student owned computers from being accessible outside of campus. While these deterrents are not perfect or complete, they do prevent a significant portion of unauthorized distribution of copyrighted material from campus computers.

#### **5.0 Incident/Violation Response**

Copyright infringement, P2P file sharing, and other network abuse infractions are handled through the regular campus disciplinary process.

Depending on the identification of the computer in question, the incident may be handled by various departments:

- A. Student - if a student computer is identified, the Office of Student Life is notified and the student disciplinary process is initiated.
- B. Staff - if a staff member is identified, the Office of Human Resources is notified.
- C. Faculty - if a faculty member is identified, the Office of Academic Affairs is notified.
- D. Legal Counsel – there are many complex laws involved in the infringement of copyright, the actions on behalf of the content owners, the roles and responsibilities of network providers (such as the University), and the rights and responsibilities of individuals accused of violation. University legal counsel may often become involved in these issues. Contact with the Office of Vice President for Business and Planning should be made if it appears that legal issues need to be reviewed or addressed.
- E. Forwarding Notices and Settlement Letters – as long as they meet all legal elements, the University will forward DMCA notices, take-down notices, and settlement letters to the individual if they can be properly identified. How that individual responds to the complaint will be up to them.
- F. Ramifications of policy violation – disciplinary actions for policy violations are intended to be redemptive and educational in the context of the University's mission. These actions can range from remedial education programs, letters in files, and community service; to fines, penalties, loss of network privileges, suspension, expulsion, and termination of employment.

#### **6.0 Internal File Sharing**

In addition to the legal and financial risks that a computer user may face by using P2P software applications to infringe copyright with others computer users across the Internet, there is also willful abuse that takes place between individuals within the confines of the campus network. This is also copyright infringement, even if the RIAA and MPAA can't monitor or identify it.

All campus computer users are encouraged to behave legally in the use of copyrighted materials.

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