

# Messiah College Compliance with the Higher Education Opportunity Act Peer-to-Peer File Sharing Requirements

## Introduction

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The Higher Education Opportunity Act of 2008 (HEOA), includes provisions that are designed to reduce the illegal uploading and downloading of copyrighted works through peer-to-peer (P2P) file sharing. This statute and the federal regulations which interpret it require that a college or university will:

- A. Develop and implement written plans to effectively combat the unauthorized distribution of copyrighted material by users of the institution's network, without unduly interfering with the educational and research use of the network. The plans must include
  - a. One or more technology-based deterrents;
  - b. Mechanisms (including distribution of the annual disclosure described in Requirement C below) for educating and informing its community about appropriate versus inappropriate use of copyrighted material;
  - c. Procedures for handling unauthorized distribution of copyrighted material, including disciplinary procedures; and
  - d. Procedures for periodically reviewing the effectiveness of the plans to combat the unauthorized distribution of copyrighted materials by users of the institution's network using relevant assessment criteria.
- B. "To the extent practicable," offer legal alternatives for downloading or otherwise acquiring copyrighted material. Periodically review the legal alternatives for downloading or otherwise acquiring copyrighted material, and make the results of the review available to its students through its Web site.
- C. Make annual disclosure informing students of institutional policies and sanctions related to copyright infringement, including—
  - a. A statement that explicitly informs its students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;
  - b. A summary of the penalties for violation of Federal copyright laws; and
  - c. A description of the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students

who engage in illegal downloading or unauthorized distribution of copyrighted materials using the institution's information technology system.

This document outlines Messiah College's plan to comply with these requirements.

## Technology-Based Means to "Effectively Combat" the Unauthorized Distribution of Copyrighted Material

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Messiah College employs the following technology-based deterrents to unauthorized distribution of copyrighted material:

- We currently use bandwidth-shaping technology to prioritize network traffic and to minimize traffic to and from certain sources. We limit the amount of bandwidth available to P2P applications but we do not filter such applications since much of the traffic is legal.
- We follow a vigorous program of accepting and responding to Digital Millennium Copyright Act (DMCA) notices. The College's policies and procedures concerning the Digital Millennium Copyright Act and our response to infringement claims are found on the College Web site at **Alleged Copyright Infringement by Messiah College Students or Employees**.

## Educating and Informing the Messiah College Community

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Consistent with our educational principles, we view education as the most important element in combating illegal sharing of copyrighted materials at Messiah College. We use a wide variety of methods to inform our community about the law and Messiah's response to copyright infringement claims:

- In order to access the campus network or the Internet each year, all Messiah College students must review and agree to abide by the College's acceptable usage policies at its **Computer Registration** page. This page includes disclosure of College policies relative to computer access, copyright infringement, and wireless communication, as well as material

regarding illegal downloading, virus protection, and unauthorized access. It also contains links to additional information relevant to these topics.

- Messiah’s policies and procedures concerning the **Digital Millennium Copyright Act** and our response to infringement claims are published on the College Web site.
- Messiah will annually disclose to all students its institutional policies and sanctions related to copyright infringement, including all information described in Requirement C above. The required summary of the civil and criminal penalties for violation of Federal copyright laws will be as follows:

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 and 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 FAQs at [www.copyright.gov/help/faq](http://www.copyright.gov/help/faq).

- Messiah College’s Faculty Services office maintains a **Copyright Acquisitions** page on its Web site. The page contains links to the College’s Copyright Clearance Guidelines and relevant forms, as well as an instructional video regarding copyright basics, additional copyright information links and public domain specifics.
- Messiah College’s Information Technology Services office maintains a Web page documenting **Copyright Guidelines for Showing Movies on Campus**.
- **Website Content and Copyright Information** is accessible by link from the footer of every page of the College Web site.

## Procedures for Handling Unauthorized Distribution of Copyrighted Material

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- Any Messiah College student or employee who is found to be responsible for illegal downloading or unauthorized distribution of copyrighted materials using the College's information technology system in violation of **Alleged Copyright Infringement by Messiah College Students or Employees** will be subject to applicable disciplinary procedures as published in the *Student Handbook* or *Policy and Procedure Manual*. He or she may also be subject to appropriate legal sanctions.

## Offering Alternatives to Illegal File Sharing

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The Messiah College Web site provides a link to an EDUCAUSE-maintained Web page containing a list of **legal alternatives for downloading music, videos, and other digital content**. Members of the Messiah community are encouraged to take advantage of these legitimate sources of digital content. The College will periodically review the contents of this page and continue to provide a functioning link.

## Reviewing Effectiveness

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Beginning in 2011-2012 and yearly thereafter, Information Technology Services will survey community members to assess the extent to which our anti-piracy messages are reaching them, the extent to which community members are taking advantage of legal alternatives, the impact of our technical efforts to combat illegal file sharing, and other aspects of our plans to combat the unauthorized distribution of copyrighted materials. Procedures to accomplish the goals of these plans will be adjusted as required.

Adopted January 2010