NOTICE TO THE CUNY COMMUNITY REGARDING FILE SHARING AND COPYRIGHT INFRINGEMENT

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File Sharing – What You Should Know

Peer-to-peer (P2P) file-sharing programs have become a popular way to exchange music, movies, games and software over the Internet. Academic applications of these programs are also expanding. P2P software, if installed and enabled on your computer, allows digital media to be downloaded or uploaded between your computer and any other computer that also has these programs installed and enabled, and is also connected to the Internet.

If you use P2P programs, we want you to be aware of certain personal risks, including the potential for both criminal and civil liability if you copy and distribute materials without permission of the copyright owner.

P2P File Sharing can Infringe Copyright

P2P file-sharing programs are not illegal. If you own the copyright in the music, movie, software or other file you want to share, if you have the permission of the copyright holder, or if the material is not covered by copyright, you can share the file. However, P2P programs are often used to distribute files without permission of the copyright holder and this is a violation of U.S. copyright law.

Under the copyright law, you could be fined between $750 and $150,000 for each work you infringe. In addition, an infringer of a work may also be liable for the attorney's fees incurred by the copyright owner to enforce his or her rights. 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, see the U.S. Copyright Office website, especially their FAQs.

How can I tell if I need permission? Most music, software, movies, television shows and other media are covered by copyright. A good rule of thumb is to never download a media file without paying for it or getting permission unless it is offered as a free download on reputable site (such as iTunes weekly free song files), it is clearly labeled as a free download by the copyright holder (such as free downloads on a band's official site), or you know the work is in the public domain. For more information about permission, take a look at the Office of General Counsel copyright permission page.

What about fair use? Some file sharing for academic purposes may be fair use. Downloading copyrighted files without permission to expand your personal media library is never fair use.

CUNY Policy Regarding P2P file Sharing

CUNY's Computer Use Policy requires users of CUNY computer resources to comply with copyright law. If you use a P2P program on a CUNY computer, network or other resource to upload or download copyrighted material without permission, you may be in breach of the Policy. According to the Policy, "Users of CUNY computer resources should generally assume that material is copyrighted unless they know otherwise, and not copy, download or distribute copyrighted material without permission unless the use does not exceed fair use as defined by the federal Copyright Act of 1976."

The Policy also requires users of CUNY computer resources to engage in safe computing practices. P2P and file-sharing programs can introduce a serious security risk to your computer and other computers connected to the same network (e.g., CUNY) since they may result in files infected with computer viruses and spy-ware being downloaded to your computer and the network.

Violation of the Computer Use Policy may result in suspension or termination of your right of access to CUNY computer resources, disciplinary action by appropriate CUNY authorities, referral to law enforcement authorities for criminal prosecution, or other legal action, including action to recover civil damages and penalties. Violations will normally be handled through the university disciplinary procedures applicable to the relevant user. For example, alleged violations by students will normally be investigated, and any penalties or other discipline will normally be imposed, by the Office of Student Affairs.

DMCA Notices and CUNY Procedures

CUNY receives "DMCA" notices every week on behalf of copyright owners alleging that people have used CUNY servers to illegally download music, software, movies, TV shows and other media. The Digital Millenium Copyright Act (DMCA) is an amendment to the Copyright Act that provides internet service providers (ISPs) such as CUNY with safe harbors from liability for copyright infringement by users of the service, if the ISP complies with certain conditions.

The DMCA requires CUNY to designate an agent to receive notice of claimed infringement by providing contact information to the Copyright Office and by posting such information on CUNY's public website. The designated agent at CUNY is:

> **Jane E. Davis**
> **Associate General Counsel**
> **The City University of New York**
> **535 E. 80th Street**
> **New York, NY 10075**
> **E-mail address: dmca@mail.cuny.edu**

In order to receive the safe harbor protection, the DMCA requires CUNY to, among other things, respond when notified of infringing material located on CUNY networks. Upon receipt of a proper notice, the Office of General Counsel, the Information Security Office, and appropriate college offices collaborate to investigate the claim, remove or disable access to material found to be infringing, and take appropriate disciplinary action against infringers.

Authors: University CIO, University Office of General Counsel, University Information Security Office

Legal Alternatives for Downloading

EDUCAUSE's Legal Downloading page lists resources and legal alternatives for downloading.

Disabling File Sharing Programs

Many P2P and file-sharing programs will continue running in the background on your computer - uploading files to other people's computers – even when the program's window is closed and you think you've turned it off. To stop this you need to disable the uploading function in the program, completely remove the program from your computer, or disconnect your computer from the network. If you have questions about removing or disabling these types of programs from your computer, the following web sites may be helpful:

Disabling File Sharing Programs – University of California, Riverside
Disabling Peer-to-Peer File Sharing – University of Chicago
Removing P2P Software – University of Delaware

CUNY's Efforts to Combat Illegal Downloading

CUNY is using this website and other programs to help educate the university community regarding copyright and file sharing. In addition, as mentioned above CUNY has a formal incident reporting program of accepting and responding to a DMCA notice. Also, CUNY campuses use bandwidth shaping and traffic monitoring to identify the largest bandwidth users.