



November 27, 2007

The Honorable George Miller  
House Committee on Education and Labor  
United States House of Representatives  
Washington, DC 20515

The Honorable Howard McKeon  
House Committee on Education and Labor  
United States House of Representatives  
Washington, DC 20515

Dear Chairman Miller and Ranking Member McKeon,

I would like to thank you for your efforts to address the continuing issue of copyright infringement in a fair and deliberate manner as you work on the reauthorization of the Higher Education Authorization Act. In that spirit, I am writing to ask you to delete Section 494(a)(2) from H.R. 4137, the College Opportunity and Affordability Act of 2007. EDUCAUSE is an association that represents the IT professionals at over 2,200 colleges and universities and our members are intimately involved in the operation of campus networks, including the issues of copyright infringement.

H.R. 4137 addresses the problem of copyright infringement on campus networks in two sections. Despite the fact that less than 9% of copyright infringement occurs on campus networks, the higher education community supports Section 485(a)(1) that calls for student education on campus policies and practices. We have found this to be an effective way of deterring illegal behavior. However, Section 494(a)(2) requires campuses to develop new plans that include expensive and ineffective ways of addressing this issue. Therefore, we request that the following language (bold italics) be deleted from this bill.

**SECTION 494: CAMPUS-BASED DIGITAL THEFT PREVENTION**

(a) In general---Each eligible institution participating in any program under this title shall to the extent practicable---

***2) develop a plan for offering alternatives to illegal downloading or peer-to-peer distribution of intellectual property as well as a plan to explore technology-based deterrents to prevent such illegal activity.***

Our concern with this particular language is based on several factors. Many colleges and universities have already offered legal, online music or movie services. For the most part, their students have failed to use them because they do not carry musicians that the



students want, do not work with Apple iPods, and do not provide the portability that consumers expect and demand. These services are expensive and will therefore require increased tuition and student fees. It has been estimated that as a result, \$400 million annually could be paid by higher education directly to the entertainment industry.

Technology-based deterrents are also expensive, do not solve the problem, and fail to meet basic requirements identified by higher education community experts in a workshop of the Joint Committee of Higher Education and the Entertainment Community on April 19-20, 2007. However, our community continues to work with the entertainment industry to explore technology-based deterrents that may be part of the solution in the future.

We appreciate your attention to this matter and look forward to working with the Committee to attain the goals of the College Opportunity and Affordability Act of 2007.

Sincerely,

A handwritten signature in black ink that reads 'Mark Luker'.

Mark Luker, Vice President  
EDUCAUSE

CC:

Members of the House Committee on Education and Labor