

# INSTITUTIONAL COMPLIANCE REQUIREMENTS

## PUBLIC LAW 110-315

### **The Digital Millennium Copyright Act (DMCA) and Peer-to-Peer File Sharing Policy**

Copying, distributing, and downloading copyrighted materials, including music, videos, and games for which you do not have the owner's (copyright holder's) permission are a violation of federal law. Compliance with federal copyright law is expected of all students, faculty, and staff. If you download and/or distribute unauthorized copies of copyrighted music recordings and movies, you are breaking the law and may be held legally liable for thousands of dollars in damages. Federal law provides severe penalties for the unauthorized reproduction, distribution, or digital transmission of copyrighted materials. The FBI investigates allegations of criminal copyright infringement and violators are prosecuted.

### **What Students Should Know**

Most P2P software turns file sharing on by default as soon as the software is installed. This means that others may access materials on their computer without their knowledge, whether they have given permission or not. Downloading copyrighted music or movie files without permission is illegal. It is also illegal to share purchased music or movie files with others, again, whether they are aware that they have done it or not.

If they install P2P software, they should turn the file sharing options off. They should also be made aware that if they are sharing materials inadvertently, they are still liable for violating copyright law.

Distribution of copyrighted material, including music, games, and movies, for which you do not have the owner's permission is a violation of federal law and college policy.<sup>1</sup> Popular file-sharing programs, such as KaZaA, LimeWire, Grokster, and Morpheus, commonly share downloaded music, movie and other files from your computer with users worldwide if you do not take specific actions to prevent this.

Copyright holders and their agents frequently scan colleges' networks for copyrighted materials (especially music, games, or movies) that are available to others from computer systems on the college network. The college receives many notices from organizations acting as agents for media companies, alleging copyright infringement by users of the college's computing network.

**Alleged Repeat Offenders:** The process for student alleged "repeat offenders", i.e. for students who are the subjects of more than one DMCA notice, is to file charges with the college's Student Judiciary organization for prosecution as student misconduct. An additional procedure for alleged employee repeat offenders is that his/her department head will be informed that the complaint is not the first one.

## **Reporting Alleged Copyright Infringement Policy**

Faculty, staff, students and affiliates utilizing college infrastructure must comply with U.S. copyright laws. The college reserves the right to remove or limit access to material posted on college-owned computers if it is alleged that U.S. copyright laws have been violated. If the college determines that U.S. copyright laws have in fact been violated, the infringing material will be permanently removed.

**The Information Technology division of the College shall periodically monitor the college network for violations of this policy and report findings to the appropriate college staff.**

## **Commonly Asked Questions**

### **How does the Digital Millennium Copyright Act (DMCA) affect me?**

The distribution of copyrighted material from your computer, including music, games, and videos, for which you do not have the owner's permission is a violation of federal law (DMCA) and college policy. A purpose of copyright law, including the DMCA, is to encourage creative work by giving creators exclusive rights (with some limits) to distribute their products.

### **What do I need to know about downloading music, videos, games, and other media?**

In April, 2003, four college students paid fines ranging from \$12,000-\$17,500 in a settlement of a file-sharing suit brought by the Recording Industry Association of America (RIAA). The RIAA complained that the students were illegally distributing copyrighted music, sharing thousands of copyrighted MP3 music files.

Downloading files puts you at risk personally if you are found to possess copyrighted material that you have not obtained legally. It may also result in harm to your system if you download a malicious computer program disguised as a movie or other media. The widespread use of file-sharing programs to download and distribute media for recreational purposes has generated a high volume of network traffic and damaged the performance of other applications used for college work. To preserve bandwidth, the college uses a technique called "bandwidth shaping" to limit network traffic for specific peer-to-peer programs.

If you are using a peer-to-peer (P2P) file-sharing program <sup>1</sup> or have set up an ftp server, make sure that you are not "serving" copyright-protected materials to the world. If the College is notified by policing organizations such as the RIAA, MPAA, or their agents <sup>2</sup> that you are serving copyright-protected materials from your computer, you will be requested to appear at College's Discipline Office to discuss the complaint. Failure to appear could result in deactivation of your college privileges.

### **Is it ok to use a peer-to-peer service legally to download files that aren't protected by copyright?**

Many music, games, and videos downloaded through file-sharing programs fall into the category of copyright infringement. That is, the users downloading the files do not have the permission of the copyright owner. In addition, peer-to-peer file-sharing programs do not determine whether requests for media files are requests for copyright-licensed or freely-sharable materials. This means that if you copy music to your computer from a CD you purchased and are signed on to a peer-to-peer service with file-sharing enabled; you are making the copyrighted music you purchased available to others. YOU are distributing copyrighted material and the copyright owner can hold you liable for a copyright violation.

Copyright owners frequently hire agents to scan college networks for copyrighted materials that are available to others from computer systems on the college network. The College receives many notices from these organizations alleging copyright infringement. They focus on college campuses because of the high level of file-sharing activity. The DMCA makes Internet Service Providers (ISPs) liable if they do not act to ensure removal of infringing materials when they receive notice of copyright infringement. The college is an ISP for many at the college who use campus network services.

The DMCA provides procedures that may be used by ISPs in dealing with claims of copyright infringement. A member of the college community learns that s/he has been named in a

notice of copyright infringement when the college IT account access is denied. The deactivation message contains instructions to contact the campus Discipline Officer to discuss the copyright infringement. Access to a college account is reinstated after the meeting with the college Discipline Officer has taken place and the allegedly infringing material has been removed. The college is sensitive to the academic calendar and academic deadlines of the campus community, realizing the impact to academic work that results from deactivating accounts in response to copyright infringement notices.

### **Does the DMCA make the use of peer-to-peer services illegal?**

It is not against the law or campus policies to use peer-to-peer file-sharing programs or to swap materials that are not copyright-protected. It is against the rules to download and/or distribute copyright-protected material. If you are using a peer-to-peer file-sharing program, make sure that you are not "serving" copyright-protected materials to the world.

Most file-sharing programs have worldwide file sharing turned on by default when they are installed. If you have copyright-protected materials on your computer, you need to disable file sharing so that the programs are no longer serving these materials from your computer.

There are other good reasons to disable file sharing. File-sharing sites often covertly package Spyware software that gathers personal information without your knowledge. This means that you may be giving hackers access to your personal files and programs when you use file-sharing services. As stated above, the college network staff restricts P2P traffic to preserve bandwidth for college work.

### **I don't like the DMCA: what can I do?**

There is a great deal of debate about the DMCA and copyright law in the digital age. If you disagree with the law, learn more about it and become involved in trying to change the law. A Digital Media Consumers' Rights Act was re-introduced in Congress in January, 2003. This act would make "fair use" exceptions to the DMCA. Supporters of this act include Intel, Verizon, Philips Electronics North America Corporation, Sun Microsystems, Gateway, the Consumer Electronics Association, Computer and Communications Industry Association, the Association for Computing Machinery, the Computer Research Association, and a variety of trade associations representing technology companies, the American Library Association, the American Association of Universities, the National Humanities Alliance, the Digital Future Coalition, the Consumers Union, the Home Recording Rights Coalition, the Electronic Frontier Foundation, Public Knowledge, the National Writers Union, and other organizations representing the public interest and the consumers of digital media.

## What are the consequences of sharing copyrighted materials?

Copyright infringement constitutes a violation of college policy and may create potential liability for both civil and criminal actions.

<sup>1</sup> Popular file-sharing programs include KaZaA, LimeWire, Gnutella, Grokster, and Morpheus.

<sup>2</sup> Many media companies have designated policing organizations and agents to pursue DMCA violations. These include the Recording Industry Association of America (RIAA), the Motion Picture Association of America (MPAA), and others.

## Top Three Ways to Ensure Compliance with the Law

### Do not install P2P file-sharing software on your computer

By default, P2P applications will search for and share content on your computer with others. P2P applications usually run as soon as you turn on your computer and continue to run in the background. Even if you disable uploading, copyrighted content in a “shared” folder can be seen by others using the same P2P network and many P2P programs may reset preferences to resume uploading.

The Recording Industry Association of America (RIAA) and other content owners use the same P2P software that file sharers do! Their aim is to catch file sharers sharing their protected content with others. If you’re running a P2P program, chances are that the RIAA is running the same software. In fact, the person downloading a song from you may be working for the RIAA and may be compiling evidence against you. It has happened to thousands of P2P users, and it can happen to you.

### Do not use a College network for file sharing

Content owners specifically target illegal file sharing on college networks. The RIAA has employed aggressive legal strategies, such as forwarding the College legal documents for alleged infringers and filing infringement lawsuits. **Always be sure to secure your wireless router in your residence hall or home**

If you’ve registered your wireless router using your NetID, any activity that occurs on the router can be traced back to you. This means that if your roommate is sharing copyrighted works using the wireless connection that you set up in your residence hall, you can be held personally responsible, and be sued by the RIAA.

If you use VPN connections from home, your home network becomes visible as part of the college’s network.