



Policy: Digital Copyright Infringement Policy

Effective Date: August 9, 2018

Division: Administration and Finance

I. Purpose:

We all recognize that downloading and sharing copyrighted material online without permission is both illegal and unethical. Thus, McDaniel College is obligated, based on federal regulations (DMCA, HEOA) to not only address, and resolve any cases of copyright infringement brought to our attention, but also implement preventative measures and policies to ensure proper use of peer-to-peer (P2P) applications on the campus network.

McDaniel College currently employs *four kinds of deterrents* to ensure compliance as listed by the HEOA's recommendations:

- We shape our bandwidth and monitor traffic to identify heavy users;
- We employ various commercially available filters;
- We accept and respond to Digital Millennium Copyright Act (DMCA) notices; and
- Although we do not offer free music services, we provide below a listing of commercial products designed to reduce or block illegal file sharing.

II. DMCA infringement notices

Students who have received a DMCA infringement notice as result of downloading illegal copyright media, should follow the directions provided in the notice as quickly as possible to prevent loss of internet access, and to avoid possible disciplinary action given multiple transgressions.

In addition to college sanctions, the owners of the copyrighted material (music, video) may also take direct legal action against alleged infringers and subpoena the college for information about those individuals implicated in sharing files. The No Electronic Theft (NET) Act provides for serious criminal penalties, including a fine of up to \$250,000 and a potential jail sentence.

Lack of knowledge about copyright infringement laws will not excuse students from legal consequences, or from college sanctions. It is the obligation of all students to be aware of the legality of their actions.

III. Questions and Answers to Infringement Notifications and College Policy

- a. I received an email from McDaniel IT saying I've been identified as having illegally copied and/or distributed copyrighted material over the Internet. What does this mean?**

It is common knowledge that most music, video, and other creative works are protected by

copyright. The unauthorized downloading or uploading of music and other media is actionable as copyright infringement.

If you have received a notice, most likely you are using “peer-to-peer” (P2P) software installed on your computer that allows your computer to exchange files with other computers that are running similar software. P2P services, like Limewire, configure their software so that any files you download (and any other files in your “shared folder”) are automatically made accessible to anyone else on the P2P network that requests them.

b. How can the DMCA identify my computer has been used to exchange media?

You’re not anonymous when you use P2P services to download and upload files. Whenever you connect to the Internet at home, your computer is assigned a unique “Internet protocol (IP) address” from your Internet Service Provider (ISP). This unique IP address is used to identify your computer as the source of available files to all other computers on a P2P network. On campus, even though you are assigned a temporary address, given sufficient information provided by the RIAA, the transfer of files can often be linked to your computer.

Thus the infringement notice you received is the result of your computer having been ‘identified’ as involved in an illegal transfer of copyrighted music/video. When we receive a notice from RIAA, or other such entity, identifying the particular infringement of material we are legally obligated to act on their behalf.

c. I didn't realize I was uploading copyrighted files? Am I still at risk for sanctions?

If you have P2P software installed on one or more of your computers connected to the Internet, it enables computers with similar P2P software to communicate with each other and transfer files. If you have P2P software on your computer, you should delete it to avoid further problems. If you have a legal reason to use the software, then you must delete any unauthorized files in your “shared folder” once notified of an infringement.

d. How can I be illegal if I paid for uTorrent Plus, or another version of my P2P file sharing software?

If you carefully read the fine print, paying for your P2P software, or paying for technical support for your P2P software, does not include a license or authorization to download or share copyright music, and it should also note that using it to share copyrighted material could result in you, the buyer, being sued and subjected to substantial damages.

e. How can I download copyright media and stay legal?

There are a number of legal, affordable or free places where you can find your favorite music to use for legal software purchase or download. Check out the following sites for available media, cost and restrictions:

- AmazonMP3
- iTunes
- YouTube
- Pro-Music
- MySpace Music
- Lala
- BearShare
- iLike
- Zune

- Rhapsody
- AOL Music
- MP3.com
- Yahoo! Music
- bt.etree.org
- Garage Band
- Spotify
- Jamendo

f. **How can I prevent further notices?**

Make sure you discontinue downloading and uploading unauthorized copies of music immediately.

- Permanently delete from your computer all infringing music from all computers linked to the account.
- If you downloaded the file from a P2P service or a website that seems too good to be legal, then it's safer to assume it is not legal.
- If you do not use P2P software for lawful purposes, delete it.
- If you use P2P for lawful purposes (to upload or download files that you are legally authorized to reproduce or distribute), make sure the only files in your P2P "shared folder" are ones you are authorized to distribute in this way.
- Talk with friends or roommates who may have used your Internet connection in ways you are not aware of.
- Secure your internet connection to ensure it is not being used in ways you have not authorized. For example, secure your home Wi-Fi network to ensure others are not accessing the Internet through your connection to download or distribute unauthorized copies of music, and use virus and spyware protection software.

g. **The McDaniel notice indicates I must delete the copies of the unauthorized music on my computer. How do I do this?**

The title of the offending material is clearly listed in your notice. Use the "search" function to find the title on your computer. If you don't find it at first, try searching for one particular word of the title, or by entering the filename indicated on the notice. You can also use this same function to search by file types commonly associated with music (i.e., .mp3, .mp4, .wav, .wma, .aac, and .ogg files).

h. **I know I've never downloaded an illegal music file or can't find the title on my computer. What do I do next?**

If you checked for illegal files and found none, and if you are sure that no one illegally downloaded any music using your computer, you need to contact IT and have your computer checked out to make sure.

i. **Why should I care if I infringe on copyrighted materials?**

First, if you do not remove copyrighted material and continue to share the material you will lose internet access and risk further disciplinary actions. Second, legal action can be brought against you by copyright owners.

On a broader scale, music and video theft impacts the enjoyment of fans throughout the world. If creative works are routinely illegally distributed over the Internet or on illegal

CDs, artists will suffer due to loss of income and there will be less new and innovative work available.

j. **Can I be sued for violations?**

The notice you received from IT about a copyright infringement complaint from the RIAA or a video company does not mean you will be sued. It is a first warning that they have detected unlawful downloading or distribution from your computer and it is meant to put you on notice that this activity should stop immediately.

In addition to disciplinary risks, why are P2P programs risky?

P2P networks can spread viruses, worms, and Trojan horses. Additionally, illegal file transfers can expose your computer files to strangers, increasing the risk of identity theft.

k. **What is the Digital Millennium Copyright Act (DMCA)?**

The Digital Millennium Copyright Act (DMCA) is legislation enacted by the United States Congress in October 1998 that made major changes to the US Copyright Act. These changes were necessary in part to bring US Copyright law into compliance with the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances Phonograms Treaty. The DMCA has strengthened the legal protection of intellectual property rights in the wake of emerging new information communication technologies.

l. **What is the Higher Education Opportunity Act (HEOA)?**

The Higher Education Opportunity Act (HEOA) of 2008 requires campuses to deal with unauthorized file-sharing on campuses including (a) an annual disclosure to students describing copyright law and campus policies related to violating copyright law; (b) a plan to “effectively combat” copyright abuse on the campus network using “a variety of technology-based deterrents”; and (c) “offer alternatives to illegal downloading.”

Policy Contact: If you have questions regarding this policy, please contact the Chief Information Officer.

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