

INFORMATION ON PEER-TO-PEER FILE SHARING

The Higher Education Opportunity Act of 2008 added provisions to the Higher Education Act of 1965, as amended, requiring institutions to take steps to combat the unauthorized distribution of copyrighted materials through illegal downloading or peer-to-peer distribution of intellectual property. Among other steps, colleges and universities must develop plans to combat unauthorized file-sharing and offer alternatives to illegal downloading to the extent practicable. In addition, institutions must send students an annual statement containing information concerning the penalties and potential civil liability for violation of copyright laws and the institution's policies with respect to unauthorized peer-to-peer file sharing. The following information describes Dartmouth College's procedures for complying with these requirements.

Technology-Based Deterrents

Dartmouth's Computing Services department accepts and responds to notices sent by copyright owners under the Digital Millennium Copyright Act (DMCA) alleging infringing activity on the College's computer network. When such notices are received, Computing Services seeks to identify the network user involved. When the network user is identified, Computer Services sends the user a notice informing the user that a copyright owner has detected infringing activity traceable to the user's IP address, instructing the user to cease and desist from infringing activity, advising the user to remove from his or her computer programs used for illegal file-sharing, advising the user that if he or she does not cease and desist further action will be taken by the College (including but not limited to suspension of network privileges and referral for disciplinary action) and inviting the user to contact Computing Services if he or she denies having engaged in the infringing activity.

Computing Services also monitors bandwidth use and may take action to limit use of network resources found to be excessive, depending on the circumstances. Excessive use frequently occurs as a result of unauthorized peer-to-peer sharing of movie files and other unusually large files.

Mechanisms for Educating the Community

Dartmouth uses a variety of mechanisms to educate and inform the community about appropriate versus inappropriate use of copyrighted material. These include:

- The Dartmouth College Web site on "Peer-to-Peer File Sharing and Copyright Law" www.dartmouth.edu/copyright/peer2peer/
- Information contained in the annual disclosure sent to student pursuant to 34 C.F.R. §668.43(a)(10) (see below).
- Information in the *Student Handbook*.

- Requirements of the Standards of Conduct for students.
<http://www.dartmouth.edu/~uja/standards/index.html>
- Information distributed to students during first-year orientation.
- Information contained in the Dartmouth Copyright Policy <<http://www.dartmouth.edu/copyright/index.html>> and Information Technology Policy.
<http://www.dartmouth.edu/comp/about/policies/>)
- Information contained in the Dartmouth *Employment Policies and Procedures Manual*.
<https://www.dartmouth.edu/~hrs/policy/>

Procedures for Handling Unauthorized Distribution of Copyrighted Material, Including Disciplinary Procedures

Copyright infringement can subject students to disciplinary action under the Standards of Conduct (Standards VI and VII) since violation of law or College policy is grounds for discipline. First offenses will ordinarily result in a notice from Computing Services to cease illegal activity. Failure to comply or further incidents of infringement may result in loss of network access for the infringing computer, referral to the Dean, or formal College disciplinary action.

For employees, a first offense will ordinarily result in a notice from Computing Services to cease illegal activity. Failure to comply or further incidents of infringement may result in formal reprimand, suspension without pay, and/or termination of employment.

Legal Alternatives for Acquiring Copyrighted Material

Through the Dartmouth computer network, network users may utilize the Internet to access the many free and for-pay Web sites that provide music, movies, TV programs and other copyrighted material. The Dartmouth Web site on “Peer-to-Peer File Sharing and Copyright Law” contains links to many legal downloading services. The list is updated periodically.

The Dartmouth College Library makes an enormous volume of copyrighted material available free of charge to library patrons. The Paddock Music Library contains music CDs which may be borrowed. The library’s Jones Media Center collection comprises more than 8,500 DVDs and 5,500 videotapes, as well as audiotapes, CDs, and CD-ROMs. Subjects range from the American Film Institute’s Top 100 movies of all time and popular television series, to foreign language films and videotapes of public lectures.

In addition, the Dartmouth College Library subscribes to many databases offering copyrighted material on a variety of subjects.

Periodic Review of Effectiveness of Plans

Dartmouth periodically reviews the effectiveness of its plan to combat the unauthorized distribution of copyrighted material in a number of ways. Computing Services tracks changes in the number of legitimate infringement notices received from rights holders to determine recidivism levels and identify patterns of unauthorized activity.

Computing Services also monitors network usage on an ongoing basis. Such monitoring reveals situations in which computer usage consumes excessive network resources. Investigation of such situations may reveal infringing activity.

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Annual Disclosure to Students Pursuant to 34 C.F.R. §668.43(a)(10)

The Higher Education Opportunity Act of 2008 (Pub. L. 110-315) added provisions to the Higher Education Act of 1965, as amended, requiring institutions to take steps to combat the unauthorized distribution of copyrighted materials through illegal downloading or peer-to-peer distribution of intellectual property. Under this law and the implementing regulations issued by the U.S. Department of Education, colleges and universities, as a condition of participation in federal financial aid programs, are required to send students an annual notice regarding institutional policies and sanctions related to the unauthorized distribution of copyrighted material. In compliance with this requirement, Dartmouth College provides the following notice.

Statement Concerning Civil and Criminal Liability

Unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject students to civil and criminal liabilities.

Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws

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 of “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, Section 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, please see the Web site of the U.S. Copyright Office at www.copyright.gov, especially their FAQs at www.copyright.gov/help/faq.

Dartmouth Policies With Respect to Unauthorized Peer-to-Peer File Sharing

The unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing of music, movies, television programs, or software, is a violation Dartmouth College's Copyright Policy <<http://www.dartmouth.edu/copyright/index.html>> and Information Technology Policy <<http://www.dartmouth.edu/comp/about/policies/>> and may subject students to disciplinary action under Standards VI and VII of the Standards of Conduct. First offenses will normally result in a notice from Computing Services to cease illegal activity. Failure to comply or further incidents of infringement may result in referral to the Dean's Office and loss of network access for the infringing computer. Sanctions may include suspension of network access (meaning loss of BlitzMail and course web access) and formal College disciplinary action.

Further information about peer-to-peer file sharing is available at www.dartmouth.edu/copyright/peer2peer/.