

DePaul University

DMCA Response Plan

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INTRODUCTION

Pursuant to the Higher Education Opportunity Act (HEOA) and the Digital Millennium Copyright Act (DMCA), DePaul has created this DMCA Response Plan (the “Plan”). This plan is a vigorous program of combating illegal downloading and peer-to-peer file sharing of copyrighted materials over DePaul’s computer network. This plan expands upon DePaul’s established procedures for deterring and eliminating illegal downloading and file sharing of music, movies, and other copyrighted material. The University has a zero tolerance policy towards this activity, and that policy has resulted in a consistent decrease each year in the number of complaints received about illegal downloading at DePaul.

Nevertheless, DePaul seeks to do more through this Plan. Last year, the Office of the General Counsel assembled a special task force to develop the Plan, including representatives from Information Services, the Dean of Students Office, Human Resources, and the Office of Institutional Compliance. All of these offices will have a role in educating students, faculty and staff about the Plan and in disciplining persons who disregard it. The Office of Information Services will work towards blocking access from the University’s wireless networks to Limewire, an application frequently used to conduct illegal peer-to-peer file sharing.

DePaul has taken this strong stance against copyright piracy not only because it is wrong. DePaul has also done so to protect the University from liability under the DMCA and to reduce the number of DePaul network users facing copyright infringement claims. The consequences of those claims can be harsh. Between March 2007 and September 2008, the Recording Industry Association of America (RIAA) initiated formal legal proceedings against almost fifty (50) DePaul students who used its network. In each instance, the RIAA claimed that the student engaged in copyright infringement by illegally sharing copyrighted music files. The RIAA sought thousands of dollars in damages from each of these students and a number of them ended up paying the RIAA to settle the claims. In total, the RIAA has pursued legal action against more than 35,000 individuals, the vast majority of whom were college or university students.

Fortunately, all it takes to ensure that you are not the next defendant in an RIAA lawsuit is to remove any peer-to-peer file sharing programs from your computer and switch to one of the many legal alternatives that we have identified toward the end of this document.

I strongly encourage all DePaul students, faculty, and staff to familiarize themselves with this DMCA Response Plan, and to actively participate in the various educational opportunities the university offers throughout the year on this subject. And please do not hesitate to contact the Office of the General Counsel if you have any questions or concerns.

DePaul takes copyright infringement seriously – and so should you.

Sincerely,

José D. Padilla

Vice President and General Counsel
DePaul University

DMCA RESPONSE PROCEDURES

How to Notify DePaul of Copyright Infringement

In order for DePaul University to take action, a notice of infringement must be submitted in writing to DePaul's [Designated Agent](#). The notice must include all of the information requested below.

- Identify the copyrighted work that allegedly has been infringed. If multiple copyrighted works at a single on-line site are involved, please provide a list of the works on that site.
- Describe the material that is claimed to be infringing and provide sufficient information to permit DePaul University to locate that material.
- Provide your contact information, including an address, telephone number, and, if available, an e-mail address.
- Certify or include a statement that the complainant has a good faith belief that the use of the copyright-protected material in the manner complained of is not authorized by the copyright owner, the owner's agent or law.
- Certify that the information that you have provided DePaul University is accurate. The complainant should attest under penalty of perjury that s/he is authorized to enforce the copyrights that have allegedly have been infringed.
- Include a physical or digital signature of the copyright owner or person authorized to act on behalf of the owner.

Information Services/CSRT Response Procedures

- A report of an alleged copyright violation is received via abuse-dmca@depaul.edu.
- DePaul's Computer Security Response Team (CSRT) will send an initial response to the complaining party acknowledging receipt of the report within three (3) to five (5) business days.
- A CSRT security analyst will determine whether network activity occurred during the timeframe stated in the report and will attempt to identify a specific user assigned to the IP address identified in the report.
- If unable to identify a specific DePaul student or employee associated with the IP address during the timeframe stated in the report, CSRT will inform the complaining party accordingly and ensure that any copyrighted information is removed from the computer in question.
- If able to identify a specific DePaul student or employee associated with the IP address during the timeframe stated in the report, CSRT will proceed as follows:
 - CSRT will log the report in the incident database and generate a request to deactivate network connectivity for the computer identified in the report.
 - If the network user is a DePaul student, CSRT will notify the Dean of Students. If the network user is a DePaul staff member, CSRT will notify the Employee Relations Director. If the network user is a DePaul faculty member, CSRT will notify the appropriate Dean.
 - CSRT will coordinate the restoration of the user's network connectivity upon notice from the appropriate party that any infringing content has been removed from the user's computer.

Judicial Procedures – Student Network Users

- The Dean of Students Office receives a report from CSRT that a student network user has engaged in an apparent violation of the [Acceptable Use/Network Security Policy](#).
- The student's conduct will be addressed pursuant to the [Code of Student Responsibility](#).
- The student will be provided with a copy of the complaint submitted by the complaining party.
- The student will be required to meet with the Assistant Dean (or his designee). During this meeting the Assistant Dean will discuss the consequences of illegal downloading with the student, including both internal disciplinary measures, as well as the various civil and criminal penalties available to copyright owners by law. In addition, the student will receive an educational resource as a takeaway.
- Consequences
 - 1st violation – A judicial discussion with the Assistant Dean (or his designee)
 - 2nd violation – Sanction of at least a 1 year suspension of personal internet privileges at DePaul
 - 3rd violation – Sanction of at least a permanent loss of personal internet privileges at DePaul
- To have internet access restored following the first offense, the Dean of Students Office provides the student the following instructions:
 - Delete any software applications used for illegal downloading
 - Delete any copyrighted material that has been downloaded illegally
 - Email the Assistant Dean stating that these items have been removed from the student's computer
- Following receipt of the student's email, the Dean of Students Office will notify CSRT that internet access may be restored to the student's computer.

Disciplinary Procedures – Employee Network Users – Staff

- The Employee Relations Director receives a report from CSRT that a DePaul staff member has engaged in an apparent violation of the [Acceptable Use Policy/Network Security Policy](#).
- The Employee Relations Director notifies the staff member's supervisor who, in turn, notifies the staff member.
- The staff member's conduct will be addressed pursuant to the [Progressive Discipline Policy](#).
- The staff member will be directed to remove any infringing material stored on his/her computer, as well as any unauthorized peer-to-peer file sharing applications. The staff member must promptly notify the Employee Relations Manager and his/her supervisor once this process is complete. The Employee Relations Director will, in turn, notify CSRT.
- In consultation with the Employee Relations Director and the staff member's supervisor, CSRT will require assurance that any infringing material has been removed from the staff member's computer prior to restoring the staff member's network connectivity.

Disciplinary Procedures – Employee Network Users – Faculty

- The Dean receives a report from CSRT that a DePaul faculty member has engaged in an apparent violation of the [Acceptable Use Policy/Network Security Policy](#).
- The Dean notifies the faculty member.
- The faculty member's conduct will be addressed pursuant to the [Progressive Discipline Policy](#).
- The faculty member will be directed to remove any infringing material stored on his/her computer, as well as any unauthorized peer-to-peer file sharing applications. The faculty member must promptly notify the Dean once this process is complete. The Dean will, in turn, notify CSRT.
- In consultation with the Dean, CSRT will verify that any infringing material has been removed from the faculty member's computer and will coordinate the restoration of the faculty member's network connectivity.

COPYRIGHT EDUCATION MATERIALS

Overview of United States Copyright Law

In the United States, the protection of music, writings, and art dates as far back as the Constitution. While many people associate copyrights only with copying, they actually afford a much wider range of protections. Copyrights provide authors, composers, and artists with a bundle of exclusive rights to their works. These rights include:

- ***The right to reproduce (copy)***
- ***The right to distribute***
- ***The right to make derivative works***
- ***The right to perform the work publicly***
- ***The right to display the work publicly; and***
- ***The right to produce recordings***

Copyright extends these rights to all “original works of authorship fixed in any tangible medium of expression” [cite]. The following are generally considered works of authorship:

- ***Literary works***
- ***Musical works***
- ***Dramatic works***
- ***Choreographic works***
- ***Visual or sculptural artwork***
- ***Motion pictures***
- ***Sound recordings***
- ***Architectural works***

As mentioned above, copyrights attach to these works regardless of their format. ***Musical works and motion pictures that have been converted to electronic format receive the same copyright protections as the original recordings.***

Any violation of any of the exclusive rights of a copyright owner constitutes copyright infringement. Uploading or downloading an electronic file containing music or a motion picture without the copyright owner’s permission interferes with the copyright owner’s rights to reproduce and distribute his/her work. In other words, ***unauthorized peer-2-peer file sharing is copyright infringement.***

In addition to any actions taken internally by DePaul, copyright infringers may be subject to the civil and criminal penalties described below.

Civil Penalties for Copyright Infringement

Copyright owners are entitled to legal remedies from infringers, including:

- ***Actual damages*** – the actual damages suffered by him or her as a result of the infringement;
- ***Statutory damages*** – a monetary award determined by the court in lieu of calculating actual damages;
- ***Profits*** – the amount of money the infringer earned by using the copyright owner’s intellectual property without having a legal right to do so (17 USC § 504); and/or
- ***Attorneys fees*** – the amount the copyright owner had to pay his or her attorneys in order to enforce his or her copyrights (17 USC § 505).

Statutory damages range from ***\$750.00 to \$30,000.00 per work*** in instances of accidental or non-intentional infringement. In cases of willful infringement, when the infringer knew that his or her actions were illegal, courts may award damages of up to ***\$150,000.00 per work***.

With respect to peer-to-peer file sharing, each individual song or movie downloaded illegally will be considered a separate work for purposes of calculating damages. This means that ***downloading just ten songs without permission could result in damages of up to \$1,500,000.00!***

Criminal Penalties for Copyright Infringement

Certain forms of copyright infringement, including the electronic distribution of works being prepared for commercial distribution without the copyright owners permission, are considered ***felony crimes*** and carry criminal penalties of up to ***ten (10) years in prison*** (17 USC § 506(a), 18 USC § 2319).

ADDITIONAL EDUCATIONAL RESOURCES FOR THE DEPAUL COMMUNITY

New Student Orientation

- For Students - An Assistant Dean or the Dean of Students speaks to every Premiere DePaul session held throughout the summer. The consequences of illegal downloading, both internal at DePaul and external through litigation, are discussed.
- For Parents - In a similar manner, an Assistant Dean or the Dean of Students speaks to every parent group throughout the summer and provides the same information. Additionally, every parent group is asked to discuss this information with their student.

Residence Hall Meetings

- All Hall Community Meeting – This is a meeting held at the very beginning of the year for all students living in the residence halls. The Assistant Dean speaks to the students about illegal downloading.
- Individual Floor Meetings – Every floor on campus has a meeting with the Resident Assistant (RA). The Assistant Dean gives the RA information to share with her/his residents about illegal downloading.

Campus-Wide Marketing Campaign

- Every Fall Quarter, the Dean of Students Office kicks off a campus-wide campaign to educate the DePaul community about illegal downloading. This campaign includes student-designed posters and signage in dorms, student centers, and other university facilities. Materials are refreshed throughout the academic year to ensure a consistent message.

New Employee Orientation

- Every new full-time employee is educated during an in-person new employee orientation program by CSRT staff about the DMCA and the university's policies against illegal downloading. Educational materials regarding illegal downloading are also included in the University's online orientation program, which focuses primarily on new part-time employees.

Code of Conduct

- The University's Code of Conduct highlights policies surrounding illegal downloading and copyright infringement within the Acceptable Use of Technology section. The Code of Conduct is presented at New Employee Orientation and is reviewed annually during General Compliance Training.

General Compliance Training

- General Compliance Training, an annual requirement for all faculty, staff and student employees, includes scenarios and test questions that address copyright and illegal downloading issues relevant to all DePaul employees.

Management Standards Training

- On an annual basis, a System Access and Security training class is offered at Management Standards Training for managers. This training session covers DePaul Information Security policies and provides information about consequences of illegal downloading.

ALTERNATIVES TO ILLEGAL DOWNLOADING

Visit these sites to access legal music online:

<u>amazonMP3</u>	<u>imeem</u>	<u>Napster</u>
<u>AOL Music</u>	<u>iMesh</u>	<u>Pro-Music</u>
<u>Artist Direct</u>	<u>iTunes</u>	<u>Qtrax</u>
<u>BearShare</u>	<u>lala</u>	<u>Rhapsody</u>
<u>Download Fundraiser</u>	<u>MP3.com</u>	<u>Yahoo! Music</u>
<u>eMusic</u>	<u>MySpace Music</u>	<u>YouTube</u>
<u>iLike</u>		

Visit these sites to access legal movies and televisions shows online:

<u>ABC.com Video Player</u>	<u>FX Networks Video</u>	<u>Roxio CinemaNow</u>
<u>Amazon Video on Demand</u>	<u>Hulu</u>	<u>ShowTime Previews</u>
<u>Blockbuster Online</u>	<u>iMDb Video</u>	<u>SlashControl</u>
<u>Bravo Videos</u>	<u>iTunes</u>	<u>Sling</u>
<u>Cartoon Network Video</u>	<u>Jaman</u>	<u>South Park Episode Player</u>
<u>CBS Video</u>	<u>Jaroo</u>	<u>Superpass</u>
<u>Comedy Central Video</u>	<u>Joost</u>	<u>TBS Videos</u>
<u>Crackle</u>	<u>MovieFlix</u>	<u>TheWB</u>
<u>Criterion Online</u>	<u>MTV Video</u>	<u>TNT DramaVision</u>
<u>The CW Video</u>	<u>myLifetime Video</u>	<u>TV.com Video</u>
<u>Discovery Channel Videos</u>	<u>NBC Video</u>	<u>TVLand Video Player</u>
<u>Disney Video</u>	<u>Netflix Watch</u>	<u>USA Network Full Episodes</u>
<u>Epix</u>	<u>Instantly</u>	<u>VH1 Full Episodes</u>
<u>EZTakes</u>	<u>Nick.com Videos</u>	<u>WebMovieNow</u>
<u>Fancast</u>	<u>PBS Kids Go! Video</u>	<u>Xbox Live Marketplace</u>
<u>Film Fresh</u>	<u>PlayStation Store</u>	<u>Zune Video</u>
<u>Fox on Demand</u>	<u>Road Runner Video Store</u>	

Courtesy of **EDUCAUSE**: <http://www.educause.edu/node/645/tid/33381?time=1263922036>

RIAA: http://www.riaa.com/toolsforparents.php?content_selector=legal_music_sites

MPAA: http://www.mpaa.org/piracy_LegalOpt.asp

ANNUAL REVIEW

The University shall review and update this DMCA Response Plan on an annual basis. Each review will include:

- An assessment of the Plan's effectiveness;
- A legal audit of the University's compliance with the procedures outlined herein;
- A cost-benefit analysis of commercially available products designed to reduce or block illegal file sharing, as well as a benchmarking analysis of the technological deterrents in use at DePaul's peer institutions; and
- Further research on available alternatives to illegal downloading.

The Office of the General Counsel will develop and retain a written summary of each annual review.