

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 outlines a vigorous program to combat 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.

DePaul takes a strong stance against copyright piracy because it is illegal. DePaul further does 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 student network users. 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 a copyright infringement lawsuit is to disable and/or remove any peer-to-peer file sharing programs on your computer and switch to using one of the many legal alternatives 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. 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
DMCA Designated Agent
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 network user 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 the computer can be identified and is owned by DePaul.
- If able to identify a specific DePaul network user 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 (or her designee). 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.

Student Affairs Response Procedures

- 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 as follows, and/or pursuant to the [Code of Student Responsibility](#).

First violation – A student will be contacted by the Dean of Students (or her designee) regarding the consequences of illegal downloading, including internal disciplinary measures and the various civil and criminal penalties available to copyright owners by law. The student will receive an educational resource as a takeaway.

Second violation – A student will receive a sanction of at least a 1 year suspension of personal internet privileges at DePaul

Third violation – A student will receive a 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 Dean of Students (or her designee) confirming 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.

Office of Human Resources Response Procedures

- 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.

Academic Affairs Response Procedures

- The Dean of a College of School 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 [Faculty Handbook](#).
- 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 require assurance 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.

**DEPAUL UNIVERSITY
COPYRIGHT EDUCATION MATERIALS**

Overview of United States Copyright Law

In the United States, the protection of music, writings, and art dates back to the drafting of 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.*

Copyrights extend to all original works of authorship fixed in any tangible medium of expression (17 U.S.C. § 102). Copyrights attach to such 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.***

What is Copyright Infringement?

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.***

Illegal downloading may constitute a violation of one or more University policies, including the Acceptable Use Policy/Network Security, the Copyright and Fair Use Policy, and the Code of Student Responsibility. In addition to any actions taken internally by the University, copyright infringers may be subject to the civil and criminal penalties described below.

Civil and Criminal 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 an infringer earned by using the copyright owner's intellectual property without having a legal right to do so (17 U.S.C. § 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 U.S.C. § 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 an infringer knew that his or her actions were illegal, courts may award damages of up to ***\$150,000.00 per work***. This means that ***downloading just ten songs without permission could result in damages of up to \$1,500,000.00!*** In addition, 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

Annual Notification to Students

- Pursuant to 34 CFR § 668.43(a)(10), the Dean of Students Office sends an annual notification to all enrolled students that includes the following: (a) a reminder that unauthorized distribution of copyright material may subject students to civil and criminal liabilities, a summary of the penalties for violation of Federal copyright laws, a description of the institution's policies with respect to peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in illegal downloading or unauthorized distribution of copyrighted materials using the institution's computer networks..

New Student Orientation

- The Dean of Students Office 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.

Residence Hall Meetings

- 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.

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](#) for employees highlights University policies related to 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, frequently 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

Please visit these sites to access legal music, movies, and other content online:

ABC.com TV Shows	Hallmark Instant Streaming	PureVolume
[adult swim] Video	HBO GO	RCDR LBL
Amazon MP3 Downloads	Hulu Movies & TV	Rdio
Amazon Instant Video	iLike	Record & Tape Traders
AOL Music	iMDb	Redbox Instant
ARTISTdirect Network	iMesh	Reeltime Television
AudioCandy	Independent Records &	Network
Audio Lunchbox	Videos	Rhapsody
BearShare	IndieFlix	Road Runner Video Store
Best Buy	iTunes Movies, Music, & TV	Showtime Online
BET Music	Jaman	Slacker
BET Shows	Jamendo	Sony Entertainment
Blackberry World	Jinni	Network
Blip.fm	Lala	South Park Episode Player
Blockbuster on Demand	Last.fm	SpikeTV
Bravo TV	Latinoise	Spinner
Buy.com	LifeWay Music	Spotify
Cartoon Network Video	Liquid Digital Media	STARZ PLAY
Zap2it	Listen.com	Steam
Catsmusic	Live Well Network	TBS Videos
CBS Video	M-Go	Thumbplay Music
CD Baby	Magnatune	TheWB
Christian MP Free	Matcha	TidalTV
CinemaNow	MAX GO	TNTdrama.com
Clicker (formerly Modern	MediaNet	Top Hits Entertainment
Feed)	Mindawn	Toys R us Movies
Comedy Central Video	MOG	TV.com
Crackle	MovieFlix	TVGuide
Criterion Online	Movies.com	TVLand Video
The CW Video	MTV Music	USA Network Full Episodes
Dimple Records	MTV Video	Uverse Online
DirecTV Watch Online	MUBI	Verizon On Demand
Disney Videos	Music Millennium	VEVO
Dish Online	MusicRebellion	VH1 Full Episodes
Download Fundraiser	Muve Music	Viewster
DramaFever	myLifetime Video	Vudu
The Electric Fetus	MySpace Music	Walmart Movies & TV
eMusic.com	Napster	Walmart MP3 Music
Epix HD	NBC Video	Downloads
ESPN360	Netflix Movies & TV	Warner Archive Instant
EZTakes	Neurotic Media	Wheretowatch.com
Fandor	Nick.com Videos	Windows Media Guide
Film Fresh	Nick Jr. Video	Xbox Video
Flixster	Nook Video	X Factor USA
FOX on Demand	Pandora	Xfinity TV
FX Networks Video	Paramount Movies	Yahoo! Music
FYE	PBS KIDS GO!	YouTube Shows
Gallery of Sound	PlayStation Store	YouTube Movies
GameFly	Plurent	YouTube Music
GameTap	Popcorn Flix	7digital
Google Play	Public Domain Torrents	

List Provided Courtesy of EDUCAUSE:

<http://www.educause.edu/focus-areas-and-initiatives/policy-and-security/educause-policy/issues-and-positions/intellectual-property/legal-sources-onli>

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 review 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.