

# Copyright Compliance and Electronic File Sharing of Media

## **Kean University Policy on Electronic File Sharing of Media**

University computing resources are the property of Kean University, and are provided to current students, faculty, staff members, visitors, and agencies as a privilege rather than a right. Users must comply with all local, state and federal laws, including, but not limited to, laws regarding libel, harassment, privacy, copyright infringement, theft, and threats. All of Kean University's policies extend to computer use. All persons who use University computer resources have the responsibility to respect and follow the policies set below and to honor the ethical norms associated with the highest standards of professional conduct.

Downloading, copying and sharing material, such as music, movies, games, and applications, for which the copyright holder has not given permission is a violation of Federal copyright law ([www.copyright.gov](http://www.copyright.gov)), the [Digital Millennium Copyright Act](#) (*a federal law which protects the interests of copyright holders in regard to digital media*) as well as, the [Kean University Acceptable Use Policy](#) (<http://www.kean.edu/~ocisweb/PDFfiles/Computer%20Related%20Acceptable%20Use%20Policy.pdf>).

More recently the Federal government amended the Higher Education Opportunity Act of 2008 to explicitly outline the process colleges and universities must employ to combat the unauthorized use of copyrighted materials.

## **Higher Education Opportunity Act 2008**

Effective July 1, 2010 all colleges and universities that receive Federal funding for Title IV Programs must be in full compliance with the Higher Education Opportunity Act of 2008 (HEOA), Public Law 110-315, also referred to as H.R. 4137. **HEOA** requires colleges and universities to proceed as follows to combat the unauthorized distribution of copyrighted materials:

- Institutions must make an annual disclosure that informs students that the illegal distribution of copyrighted materials may subject them to criminal and civil penalties.
- Institutions certify to the Secretary of Education that they have developed plans to “effectively combat” the unauthorized distribution of copyrighted material.
- Institutions, “to the extent practicable,” offer alternatives to illegal file sharing.
- Institutions identify procedures for periodically reviewing the effectiveness of the plans to combat the unauthorized distribution of copyrighted materials.

## **University Plan to Keep the Campus Informed and Prevent Electronic Copyright Infringement**

Consistent with the University's academic principles and ethical practices, we view education as the most important element in combating illegal sharing of copyrighted materials. Therefore, in order to use University computing resources, all members of the Kean University community are advised of the Acceptable Computer Use Policy upon accessing the University network.

In addition the following strategies are in place:

- Effective fall 2010, posters will be mounted in student life areas and various computer labs to discourage illegal file sharing;
- Computing support staffs, student Help Desk workers, Resident Assistants, and Academic Instructional Mentors, are regularly trained on the University's policies with respect to copyright issues. Student workers provide an important channel for communicating with the student community;
- Kean University's policies and procedures concerning the Digital Millennium Copyright Act and our response to infringement claims are published on the OCIS web site, and in *The Guide*.
- Each semester, all University employees will receive an email from the Office of Computer Information Services (OCIS) regarding copyright infringement and related issues, effective July 1, 2010.
- The 2010 Orientation issue of the Cougars Byte newsletter will include an article outlining the University's policy concerning illegal downloading of copyrighted materials.
- A paper copy of the Kean University Policy on Electronic File Sharing of Media will be supplied upon request by contacting the Office of the Vice President for Student Affairs, Kean Hall, room 124, or by calling (908) 737-7080.

## **Criminal Penalties and University Sanctions for Illegal File Sharing**

Federal Copyright Law [www.copyright.gov](http://www.copyright.gov), specifies that the reproduction or distribution of copyrighted work is illegal and the following penalties apply:

### **Civil and Criminal Penalties for Violation of Federal Copyright Laws**

In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or "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, Sections 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.

## **University Procedures and Sanctions for Illegal File Sharing**

The Office of Computer Information Services (OCIS) will disable computer network access if a computer appears to be connecting to multiple other computers or exhibiting other properties that violate the University's network usage policy. When a port is disabled, the registered owner of that computer will be notified that the computer could potentially be compromised, and will be offered contact information to assist in cleaning/repairing the software on that computer. Once the problem has been rectified, the computer will be allowed back on the network. Kean University does not support or tolerate in any way the downloading or sharing of copyrighted material and this is an explicit violation of university policy and United States copyright laws.

When notifications of copyright violations are received from recognized groups, such as the Recording Industry Association of America's (RIAA), the registered owner of the computer will be notified. Access to the network will be removed for 14 days. After 14 days, if the offending material has been removed, the computer will be allowed back on the network. The appeal process is through the Office of the Vice President for Student Affairs.

A second violation will result in the computer being banned from the network for one month. After one month, if the offending material has been removed, the computer will be allowed back on the network.

A third violation will result in the computer being banned for a semester. In addition, the user will be required to meet with the Office of Student Conduct and further disciplinary action may be taken against the user at that time (<http://www.kean.edu/~conduct>).

## **OCIS Monitoring and Technology-based Deterrents**

In order to monitor against misuse of the network, Kean University is utilizing a packet shaper to all but eliminate P2P access from on campus. This plan is reviewed on an annual basis. The plan will continue to be considered successful as long as the University is not receiving "Notice of Claimed Infringement" by a copyright holder.

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## **Frequently Asked Questions**

### **Q: What is copyrighted material?**

Copyrighted material that is illegally distributed over the Internet can take many forms including, but not limited to, the following:

- **Music:** may take the form of MP3s or WAV files either ripped (or copied) from CDs or downloaded and redistributed without permission.
- **Movies or Television Shows** which have been recorded and digitized ripped (or copied) from DVDs, DVRs or TV Cards.
- **Written works:** may take the form of eBooks, PDFs, or HTML pages distributed without permission.
- **Photographs:** includes graphics copied from other web sites.
- **Software:** includes software applications such as games, operating systems, applications that were not purchased by you and have no valid license.

**Q: How are copyrighted material distributed illegally?**

Copyrighted material is illegally distributed over the Internet by several methods including, but not limited to, the following:

- **Peer-to-peer (P2P) software:** consists of many computers connected in a network for uploading and downloading files; these networks use software like BitTorrent, AresWarez, BitComet, Morpheus, DirectConnect, Limewire and many more. **FTP (file transfer protocol):** consists of one computer serving files to its clients on a continual basis.
- **IRC (internet relay chat):** a form of real-time internet chat through which users can create file servers that allow them to share files with others.

**Q: How can a copyright holder find out if I have copyrighted materials on my computer?**

Copyright holders can search the Internet to determine whether copyrighted material is being illegally distributed. They often search with the same peer-to-peer software (KaZaA, Bit Torrent, mIRC, AresWarez etc.) used by those who share files. To avoid any problems, make sure that you are not making any files available for download that you do not have permission from the copyright owner to share. The simplest way to comply with this is to delete the files or to turn off/uninstall any file sharing software you have on your computer.

When an infringing file is found, a copyright infringement notice is issued to the network provider from which the file was transmitted. Many users sharing illegal files are under the false assumption that by not providing any personal information, or providing false information, there is some anonymity when using these P2P applications. However, any activity on the Internet can be tracked back through your Internet Service Provider to your computer. Kean University, as your Internet Service Provider when you are on campus, will receive these notices, lookup the computer by IP address and forward the warning.

**Q: If my computer is found to have copyrighted materials, what steps can the copyright holder take against me?**

Copyright owners can file civil suits to recover damages and costs. In many cases, statutory damages of up to \$30,000, or up to \$150,000 for willful infringement, may be awarded even if there is no proof of actual damages. In addition, in certain cases of willful infringement, the government can file criminal charges, which can result in substantial fines and imprisonment. Use of an academic network does not provide immunity from copyright law, nor can Kean

protect its students, faculty, or staff from criminal investigations or lawsuits relating to their personal actions.

**Q: How does illegally distributed material, or sharing that material, affect me?**

Illegal file sharing affects every user on the Kean University network. If you are on the University's network either in an office, in a residence hall, in a public lab, or a visitor to our network from off-campus, you can experience the affects of slower Internet speed resulting from illegal file sharing. Most file sharing software also comes bundled with malware such as spyware or adware. Sometimes this malware remains installed on the system even if the original file sharing software is removed, and can be very difficult to eliminate. In many cases such malware can interfere with the correct operation of web browsers, anti-virus and anti-spyware software, software firewalls and can cause degraded performance on affected systems. If you are faculty, staff, or a student using the University network and you are distributing files illegally you may experience:

- Increased virus attacks against your computer. Spyware installed on your computer without your knowledge. (Especially if using P2P software)
- Potential lawsuits.

**Q: How do I prevent potential copyright problems?**

**Do not share** copyrighted material and uninstall any file sharing software on your computer. If you never install a peer-to-peer program, you will dramatically reduce the chances of your computer being infected by a virus, installing spyware, or being sued.

**Q: Is it legal to download or store copyrighted materials on my computer?**

Generally, you are infringing copyright if you download or share copyrighted materials on your computer without the permission of the copyright owner, unless fair use or another exemption under copyright law applies. Most downloading over the Internet of commercially available copyrighted works, such as music or movies, through file sharing systems is illegal.

If you purchase/download music, movies or other copyrighted material legally, via iTunes or other legal sites, you are well within your rights unless you then share that material with others who have not paid for it. That would be a copyright violation.

**Q: Where can I download legally?**

A number of services exist where you can legally download music, software, television shows and movies.

- [iTunes, from Apple](#) (Music, TV, Movies, Audio Books)
- [Napster](#) (Music)
- [Sony Connect](#) (Music)
- [WalMart](#) (Music)
- [Yahoo](#) (Music)

- [MSN](#) (Music)
- [CinemaNow](#) (Movies)
- [Audible.com](#) (Audio Books)
- [Google Video](#) (Movies and TV)

You can now also watch many television shows and other video free at the following sites:

- [ABC](#) (Many full episodes of ABC shows)
- [CBS Innertube](#) (Many full episodes of CBS shows)
- [NBC Universal](#) (Many full episodes of NBC shows)
- [Google Video](#)
- [YouTube](#)

*Frequently Asked Questions borrowed from Rowan University Technology Toolbox:*  
<http://www.rowan.edu/toolbox/policies/dmca/index.html>

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