

Union College Policy on the Use of Peer- to- Peer (P2P) File Sharing Programs

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THE HIGHER EDUCATION OPPORTUNITY ACT OF 2008 (Public Law 110-315) requires institutions to take steps to combat the unauthorized distribution of copyrighted materials through illegal downloading or peer-to-peer distribution of intellectual property. These requirements were effective upon enactment of the HEOA on August 14, 2008. The Department of Education posted the final regulations that institutions must implement effective July 1, 2010. You can read these regulations at:

<http://www.ifap.ed.gov/fregisters/FR102909GeneralandNonLoanProgrammaticFinalRule.html>.

Peer-to-peer (P2P) file sharing programs were developed to allow distribution and/or shared access to digitally stored information, such as computer programs, multimedia (music and video), documents, or electronic books. Examples of P2P file sharing programs include (but are not limited to) BitTorrent, Limewire, Kazaa, Gnutella, and Morpheus.

P2P file sharing programs are not necessarily illegal unless they aid in violating copyright laws by sharing copyright-protected files without authorization by the copyright owners. Most commercially produced music and movies are copyrighted and cannot be freely shared. Using P2P file sharing software to distribute copyrighted materials without the permission of the copyright holder is illegal and violates US copyright laws. Unauthorized distribution of copyrighted materials can lead to both civil and criminal penalties.

Union College does not examine the information **content** that is being transmitted over the network but we do limit and/or restrict the bandwidth certain **applications** (known P2P file sharing programs) can utilize on the network. Members of our community must follow institutional policies for appropriate use of technology resources as well as comply with all federal, New York State, and other applicable copyright laws.

Consumer Information

Annually, the following statement will be distributed to all Union College faculty, staff, and students:

Union College complies with the provisions of the Digital Millennium Copyright Act (DMCA). It is illegal, as described in the Federal law (Title 17 of the US Code, and more recently the Digital Millennium Copyright

Act, 105 PL 304), to download, upload, or distribute in any fashion, copyrighted material, in any form without permission or a license to do so from the copyright holder.

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 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.
- For more information, please see the Web site of the U.S. Copyright Office at www.copyright.gov, especially their FAQ's at www.copyright.gov/help/faq.

Legal Alternatives to P2P File Sharing

Schaffer Library provides a variety of music databases offering music at minimal or no cost to members of the Union College community:

- **[Classical Music Library](#)**. Classical Music Library includes tens of thousands of licensed recordings that users can listen to on the Internet. The audio selections are cross-referenced to a database of supplementary reference information.
- **[DRAM: Database of Recorded American Music](#)**. DRAM is a not-for-profit resource providing educational communities with on-demand streaming access to CD-quality audio, complete original liner notes and essays from independent record labels, and sound archives. Currently DRAM's collection contains nearly 2,300 albums worth of recordings from a distinctive set of 22 independent labels, from folk to opera, Native American to jazz, 19th century classical to early rock, musical theater, contemporary, electronic and beyond. New labels being added on a regular basis.
- **[Music Online](#)**. With Music Online, Alexander Street Press aims to provide the most comprehensive database in streaming audio, video, reference, and scores

on the web. Music Online allows users cross search all of the music databases published by Alexander Street Press. Music Online brings together on a single cross-searchable platform the entire suite of Alexander Street Press music products that Schaffer Library subscribes to: African American Music Reference; American Song; Classical Music Library; Classical Music Reference Library; Classical Scores Library; Contemporary World Music; Jazz Music Library; Dance in Video; The Garland Encyclopedia of World Music Online; Opera in Video.

- **[Naxos Music Library](#)**. Naxos Music Library is the most comprehensive collection of classical music available online. It includes the complete Naxos, Marco Polo and Da Capo catalogues of over 75,000 tracks, including Classical music, Historical recordings, Jazz, World, Folk and Chinese music. Users can read notes on the works being played as well as biographical information on composers or artists in Naxos's extensive database.
- **[Smithsonian Global Sound](#)**. Smithsonian Global Sound, produced in partnership with Smithsonian Folkways Recordings, is a virtual encyclopedia of the world's musical and aural traditions. The collection provides listeners with an unprecedented variety of online resources that support the creation, continuity, and preservation of diverse musical forms. It includes the published recordings owned by the non-profit Smithsonian Folkways Recordings label and the archival audio collections of the legendary Folkways Records, Cook, Dyer-Bennet, Fast Folk, Monitor, Paredon and other labels. It also includes music recorded around the African continent by Dr. Hugh Tracey for the International Library of African Music (ILAM).

Other sites for legal alternatives to illegal downloading include:

- [Legal alternatives to illegal downloading](#) —from Illinois State University
- [File sharing FAQs](#)— from the University of Maryland
- [Legal online sources for copyrighted material](#)—from Reed College
- [Legal sources of online content](#) —from EDUCAUSE

Institutional Policies and Disciplinary Procedures

While Union College's Information Technology Services will not routinely monitor the contents of your Internet traffic, Union College is legally required to identify a person accused of sharing copyrighted material if the information is subpoenaed. If a copyright infringement claim involving digital materials (music, video, software, or other) is received by Union College's Digital Millennium Copyright Act (DMCA) agent, the College is required to investigate. The following steps will be followed:

- Network registration information and usage logs will be checked in order to identify the computer system alleged to be involved;

- The user associated with the computer system will be identified;
- The user will be notified by the DMCA agent that there has been a copyright infringement claim made and that they must:
 - Cease and desist all file sharing activity;
 - Remove the allegedly infringing material;
 - Contact the DMCA agent within 24 hours.
- If the user does not contact the DMCA agent within 24 hours, his or her Internet access will be suspended;
- DMCA agent notifies the sender of the complaint that the user has been notified to cease and desist.

Individuals using computers and networks at the College are required to comply with copyright laws as well as the College's policies and procedures. The College reserves the rights to limit, revoke, deny, or extend privileges and access to the institution's computing and network resources at its discretion.