

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

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:

<https://www.govinfo.gov/content/pkg/FR-2009-10-29/html/E9-25190.htm>

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. Peer-to-Peer applications are restricted on Union's wired and wireless networks and VPN. Examples of P2P applications are BitTorrent, Gnutella, Limewire, eMule and Ares Galaxy. Of these applications, BitTorrent has value in the scientific community. If your work requires the use of BitTorrent, an exception may be made for your system. A request for an exemption may be made by sending the request to helpdesk@union.edu.

What are the Risks of P2P File Sharing?

Malware

- **Dangerous files can hide behind safe file names.** Users can upload malware and name it "Shameless Season 10 Episode 1" or "Oxford English Dictionary Volume 3."
- **P2P software may not be trustworthy.** Many applications do not uninstall completely when you attempt to remove them, or do not comply with settings on which files to share and which to keep private..

Privacy Breach

- **You may share more files than you intend.** Some applications automatically share folders that contain media. Settings on file sharing applications can also be difficult to interpret, and instead of sharing a few vacation photos, you may unintentionally share an entire photo library.

Financial Penalties

- Many industries and organizations watch file sharing networks to catch and fine users sharing copyrighted materials.
- **Sharing copyrighted materials can make you liable for fines ranging from hundreds to thousands of dollars.** Companies may also decide to file a lawsuit, which can result in penalties exceeding \$100,000.
- **Companies providing content that users might find embarrassing are more likely to skip warning letters and attempt to settle immediately.** This pressures users to pay fines rather than risk publicity.

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 and video databases that offer access to members of the Union College community. The current list of available streaming audio and video can be found at

<https://libguides.union.edu/az.php?t=4622>

In addition, EDUCAUSE (a nonprofit association whose mission is to advance higher education through the use of information technology) provides a list of legal sources of online content (<https://www.educause.edu/focus-areas-and-initiatives/policy-and-security/educause-policy/legal-sources-online>)

Institutional Policies and Disciplinary Procedures

While Union College's Information Technology Services will not routinely monitor the content 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 48 hours.
- If the user does not contact the DMCA agent within 48 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 right to limit, revoke, deny, or extend privileges and access to the institution's computing and network resources at its discretion.