

Annual Notice Concerning Peer-to-Peer File Sharing

The central commitment of American University is to the development of thoughtful, responsible human beings in the context of a challenging yet supportive academic community. To achieve these ends, an academic community requires the knowledge, integrity, and decency of its members. In turn, the community helps individuals develop habits and values that will enable them to achieve personal satisfaction and to contribute to a better world.

In 2008, the U.S. Congress passed the Higher Education Opportunity Act, which among other things, requires that colleges and universities assist in the effort to effectively combat copyright infringement. As part of these new legal requirements, AU must send an annual notice that: (1) describes the institution's policies with respect to unauthorized 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 information technology system; (2) explicitly informs its students that unauthorized distribution of copyrighted material, including peer-to-peer file sharing, may subject a student to civil and criminal liabilities; and (3) includes a summary of the penalties for violation of Federal copyright laws.

All AU faculty, staff, and registered students are given computing and network access privileges. Each person is assigned a computer account code (user ID or user name) that provides access to university computing resources and systems for instructional, research, and administrative purposes. Resources include networks, laboratory systems, residence hall systems, library, systems, faculty and staff office systems, and software licensed by the university or its agents for use on university systems. AU computing accounts are provided to assist in university and university related work only. AU technology resources may not be used for solicitations, commercial purposes, or any business activities for individuals, groups, or organizations without prior permission obtained from the Provost or Vice President and Treasurer.

Institutional Policies With Respect to Unauthorized Peer-to-Peer File Sharing

AU respects the rights of copyright owners, their agents, and representatives and is committed to implementing procedures and policies to support their rights without infringing on legal use of those materials by individuals. Legal use can include, but is not limited to, ownership, license or permission, and fair use under the U.S. copyright law. A list of those institutional policies includes the following:

The university policy on Reproduction of Copyrighted Works (#6-80) defines software as a literary work. Software available on computers and networks is not to be copied except as permitted by the applicable software license. AU is a member of EDUCAUSE and adheres to the EDUCAUSE Code of Software and Intellectual Rights, as follows: Respect for intellectual labor and creativity is vital to academic discourse and enterprise. This principle applies to works of all authors and publishers in all media. It encompasses respect for the right to acknowledgement, right to privacy, and right to determine the form, manner, and terms of publication and distribution.

Because electronic information is volatile and easily reproduced, respect for the work and personal expression of others is especially critical in computer environments. [*Using Software: A Guide to the Ethical and Legal Use of Software for Members of the Academic Community*, EDUCOM (January 1992), p. 3.]

According to the University's Computer Use and Copyright Policy and the Student Conduct Code, users of university computer resources and systems are also prohibited from making or using illegal copies of copyrighted materials or software, storing such copies on university systems, or transmitting them over

university networks <http://www.american.edu/policies> and Prohibited Conduct Section VI. U. Student Conduct Code available at <http://www.american.edu/ocl/studentguide/upload/AU-Student-Conduct-Code.pdf>

Any misappropriation of intellectual property may be grounds for disciplinary actions. Such misappropriations include plagiarism, invasion of privacy, unauthorized access, trade secret and copyright violations, violations of federal, state or local laws, and university regulations and policies that are specific to computers and networks.

In accordance with the Digital Millennium Copyright Act (DMCA) and pursuant to the Computer Use and Copyright Policy, American University has designated an agent to receive notification of alleged copyright infringement occurring on university Web pages or computer servers. For suspicions of copyrighted infringement on a university page or server, you may notify the university's designated Agent for complaints under the DMCA:

Cathy Hubbs
Office of Information Technology – Information Security
4400 Massachusetts Ave., NW
Washington, DC 20016-8019
Phone: 202-885-3998
E-mail: dmca@american.edu
Fax: 202-885-2224

DMCA requires that all notices of alleged copyright infringement be in writing and inform the Designated Agent of the following:

- identify the work that was allegedly infringed;
- describe the allegedly infringed work and provide sufficient information to identify the location of the infringement;
- state that you have a good faith belief that the use of the work in the manner complained of is not authorized by the copyright owner, the owner's agent, or the law;
- certify that the information you provided is accurate and that you attest under penalty of perjury that you are authorized to enforce the copyrights that you allege were infringed;
- provide your contact information, which includes an address, telephone number, and e-mail address;
- and
- include your physical or electronic signature.

When properly notified of the alleged copyright infringement, the Designated Agent will send the information to university IT. IT will notify the user to take down the alleged infringing material and determine whether the alleged infringing work exists as described. If IT locates the items, it will disable access to avoid continuing the alleged infringement. Once the user has notified IT that the infringing material has been removed from his/her computer, the user's access will be reinstated.

Individuals who have been found to infringe copyrighted materials on the university network are subject to disciplinary proceedings under the Computer Use Policy, Faculty Manual, Student Conduct Code, and Staff Manual of Personnel Policies.

These policies apply to use of American University computers and networks on AU property, as well as computers and networks elsewhere if American University resources are used to gain access to those computers or networks.

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. **Students should know that unauthorized distribution of copyrighted material via peer-to-peer file sharing may subject a student to civil and criminal liabilities.**

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. Additionally, the following website may also be helpful: <http://www.copyright.gov/title17/92chap5.html>

Legal Alternatives

Given the serious consequences for illegal downloading and file sharing, it is important to know the many legal and often free options for access to copyrighted material such as:

- iTunes
- Amazon.com
- Hulu
- Pandora Internet Radio
- Last.fm
- Netflix
- Rhapsody