

Copyright Web Page

General Information

Copyright is a form of protection provided by the laws of the United States (title 17, U.S. Code) to the creators of “original works of authorship,” including literary, dramatic, musical, artistic and certain other works. Protection is available to both published and unpublished works, but the work must be fixed in a tangible medium of expression.

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.

Saint Mary’s University of Minnesota respects the copyright of third parties and requires all members of its community to comply with copyright law.

Disclaimer

The information provided on these pages is intended to assist Saint Mary’s University of Minnesota students, faculty, and staff in abiding by federal copyright laws. Ultimately, students, faculty, and staff are individually responsible for compliance with copyright law.

Drop Down Menu

Fair Use:

The right to use a copyrighted work under specific circumstances without the owner's consent is known as fair use. The theory aids in avoiding a strict interpretation of copyright law that would inhibit the very innovation that the law is intended to promote. It permits one to utilize and expand upon earlier works without unjustly denying earlier copyright holders the ability to manage and profit from their creations.

Fair use of a work “for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use, scholarship, or research)” is not an infringement of copyright. To determine whether a given use is fair use, the following four factors are assessed:

- the purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes;
- the nature of the copyrighted work;
- the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- the effect of the use upon the potential market for or value of the copyrighted work.

For a more detailed description of fair use, Please see the Association of Research Libraries' [Code of Best Practices in Fair Use for Academic and Research Libraries](#) for more detailed information.

Copyright and Peer-to-Peer File (P2P) Sharing

The distribution of and copying of copyrighted digital files (music, videos, books, etc.) is a direct violation of copyright law and could subject persons to criminal or civil penalties. Violations of copyright law, as noted in the university's Appropriate Use of Technology Policy, are grounds for disciplinary review and loss of computing and networking privileges.

Using a peer-to-peer file-sharing program or sharing non-copyright protected content, such as one's own creations or works in the public domain, is not illegal. A person has the right to save a copy of a song or movie on their computer for personal use if they buy it. However, if they have P2P software on their computer, they can be sharing it with unpaid users. The user using the P2P software on their computer may then be held accountable for copyright infringement.

P2P File Sharing Action Plan

Compliance with HEOA Peer-to-Peer File Sharing Requirements

The Higher Education Opportunity Act of 2008 (HEOA) is a reauthorization of the Higher Education Act of 1965. It includes provisions that are designed to reduce the illegal uploading and downloading of copyrighted works through peer-to-peer (P2P) file sharing. These provisions include requirements that:

- Institutions make an annual disclosure that informs students that illegal distribution of copyrighted materials may subject them to criminal and civil penalties and describes steps the institution takes to detect and punish illegal distribution activities.
- 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.

Plans Designed to Address the Unauthorized Distribution of Copyrighted Material

The university maintains a strong procedure for accepting and responding to all DMCA notices. The Assistant Vice President for Information Technology, or that person's designee, upon receipt of a Digital Millennium Copyright Act notice, initiates the process to investigate the claims asserted in the notice, and works in partnership with the Dean of Students (for students) or other appropriate senior staff member (for faculty and staff) to notify the alleged offender of receipt of the DCMA notice and commence the appropriate action steps based on the nature of notice received.

In addition, the university presently shapes bandwidth on the wireless and resident hall networks using a technology deterrent. This device is set up to give educational network uses top priority. Lastly, the university uses tools to keep an eye on network activity. If a device is discovered to be consuming excessive bandwidth, the owner will be contacted to verify that the user is aware of campus policies and that the bandwidth consumption is for legitimate university reasons.

Alternatives to Illegal File Sharing

While the university does not endorse any specific services, Educause's [list of legal alternatives for obtaining music, videos, and other digital content](#) is a good resource for members of the university community..

Reviewing of Plan

Every year, this plan will be examined and updated as needed to maintain compliance. Based on the number of DMCA notices received in relation to the number of devices capable of infringement, the number of repeat offenders annually, the outcomes of traffic shaping and monitoring, and user comments, the plan will evaluate the overall efficacy of the university's approach. Any modifications will go into effect at the start of the subsequent school year.

Copyright Frequently Asked Questions

Is the Work I Want to Use Protected by Copyright?

Copyright is automatic. The moment an original expression of an author/creator becomes fixed in a tangible medium, the author/creator has exclusive rights. Since 1989, no copyright symbol (©) is necessary, although it can be helpful for users to see the symbol with the year created and the copyright owner (© 2023, John Smith) As an author/creator, you are not required to register your copyright with the U.S. Copyright Office in order for it to be protected. However, you can voluntarily register it for a fee. For more information, consult *What is Copyright?* (a publication of the U.S. Copyright Office).

Always assume a work you want to use is copyrighted.

If I share digital copies of songs or movies, am I violating copyright law?

Yes, unless you get permission from the copyright holder to distribute it or you are the owner of the copyright (i.e., you created the work yourself). Without the owner's permission, it is against the Digital Millennium Copyright Act (DMCA) to copy or distribute intellectual property, which includes music, films, games, software, books, and more. Therefore, if you reproduce or distribute these items without the owner's permission, you are in violation of the law. Never assume that you have the right to share anything digitally just because you purchased it.

If I shared my music online or even simply on campus, who would ever find out?

Organizations like the Motion Picture Association of America (MPAA) and the Recording Industry Association of America (RIAA) frequently search the Internet for people who are spreading copyrighted content and take appropriate action. A criminal prosecution, a civil lawsuit, and fines ranging from \$750 to \$250,000 per copyrighted song, video, etc., are all possible outcomes. Penalties can be rather harsh.

If I don't serve the content, is it okay to simply download it via peer-to-peer services?

No, downloading copyrighted content without the owner's consent is prohibited. Videos or music can be obtained legally and at a reduced cost. It's crucial to remember that some file-downloading software automatically converts your computer into a server without your involvement. Without realizing it, you might be delivering copyrighted content.

Doesn't "fair use" protect sharing music, movies, etc.?

No, the vast majority of online music sharing is done in ways that do not constitute fair use.

Are there any campus ramifications if I engage in P2P file sharing?

Yes, there will be ramifications. You could face disciplinary actions and/or may lose the privilege to connect your computer(s) and other devices to the university network.

Copyright Resources

- [Digital Millennium Copyright Act \(DMCA\)](#)
- [Recording Industry Association of America](#)
- [Motion Picture Association of America](#)
- [United States Copyright Office](#)
- [Electronic Frontier Foundation](#)