

Unauthorized distribution of copyrighted material by users of the York College network

Unauthorized distribution of copyrighted material, including peer-to-peer file sharing, may subject a student to civil and criminal liabilities.

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.

Almost all forms of digital artistic expression that can be stored on a computer are covered by copyright. This includes but is not limited to photographs, music, video, text, and software. The holder of a copyright has certain rights granted by law, namely: the exclusive right to control when a copy of the covered work is allowed to be made. Court rulings have determined that any access of a digital work by a computer effectively copies it, and so these rights extend to cover nearly all uses of digital material.

Unauthorized copying of copyrighted material is a civil offense subject to punitive monetary damages that can far exceed the value of the copied work. Unauthorized distribution of copyrighted material is subject to criminal penalties as well.

There are exceptions to copyright. After a certain period of time a work enters the public domain and may be freely copied and distributed. All works created directly by the government are automatically part of the public domain. Additionally, there is a special set of exceptions known as "fair use" that allow

you to copy works without permission under certain circumstances. If you only copy a small portion of the work, use it non-commercially, *and* do not impact the economic viability of the work, *or* if you significantly transform the work, the copy *might* be considered fair use.

It is the policy of York College to comply with all federal laws and regulations, including the Higher Education Act of 1965, the Copyright Act of 1976, The Digital Millennium Copyright Act, and The Higher Education Opportunity Act of 2008. These acts require that York College take certain steps to combat the unauthorized distribution of copyrighted materials through illegal downloading or peer-to-peer file sharing. To that end, York College has implemented the following:

- Block traffic on TCP ports commonly used for file sharing (less common ports are still available)
- Traffic shaping to reduce (not block) available bandwidth for connections with traffic signatures consistent with file sharing
- This policy is to be distributed to all students at the beginning of each fall semester and made available via the York College web site.
- Allow access to legal alternatives to file sharing, including the iTunes music store.

York College does not actively monitor or record P2P traffic, since much of it is legal. However, if we are presented by a copyright owner, in the proper legal manner, a request to help with their investigation, we are required by law to provide the requested assistance.

Unauthorized distribution of copyrighted material by users of the York College network is considered a section II violation as outlined in the York College handbook. Section Two violations per the York College Student Handbook:

“Disciplinary responses range from disciplinary probation (as allowed by the Federal Education Rights and Privacy Act [FERPA], parents may be notified; other appropriate school officials will be informed) to suspension from the College (as allowed by FERPA, parents may be notified; academic advisors, professors and other appropriate school officials will be informed). Probation and/or suspension sanctions generally will be assigned for a period of 10 to 16 weeks (a full semester). Community service, restitution, loss or reduction of college scholarships, fines, restitution, medical or psychological counseling/treatment, drug and/or alcohol testing and/or assessment, accountability agreements, or other requirements may be added to either of these disciplinary responses.”

