

Presbyterian College
Information Technology Policy For
Technology Based Deterrence of Copyright Infringement
June 23, 2010

Introduction

As required by the Higher Education Opportunity Act of 2008 (HEOA) (Pub. L. 110-315), Presbyterian College and all other institutions of higher learning are required to deter copyright infringement through the deployment of network technologies and through making users aware that such policies exist. More specifically, this rule requires institutions to take steps to combat the unauthorized distribution of copyrighted materials through illegal downloading or peer-to-peer distribution of intellectual property. Every computer user at Presbyterian College is hereby informed that technologies are deployed within the College's network to deter copyright infringement through controlling or limiting peer to peer sharing. These measures have been taken both as a means of maintaining a reliable network and as a means of compliance with HEOA requirements.

What students need to know

The HEOA specifically requires Colleges to inform its students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities. In addition to civil or criminal charges in court, unauthorized distribution of copyrighted material may result in sanctions imposed by the College.

A summary of penalties follows.

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.

Summary of College Policy and Potential Sanctions

As stated in the College's Acceptable Use Policy, students who engage in illegal downloading or unauthorized distribution of copyrighted materials using the college's network are subject to loss of computing privileges and other disciplinary actions as deemed appropriate by the college, up to and including suspension or expulsion.

Network Technologies to Deter Copyright Infringement

The College may use one or more of the following technology-based deterrents to comply with HEOA requirements.

1. **Bandwidth shaping.** Users and categories of users are allocated capacity on the College's network based on realistic computing needs. Devices installed in the network are designed to classify and prioritize internet traffic, in an attempt to ensure that appropriate access is available to all users. Similarly, these devices will deny overuse of the network, including overuse by peer to peer applications.
2. **Traffic monitoring.** Presbyterian College has the ability to identify users who are causing congestion or other problems in the College's network.
3. **Disclosing identities, as required by law.** Presbyterian College will make a good faith effort to comply with valid Digital Millennium Copyright Act (DMCA) notices and subpoenas, as required by law. If a College computer user publishes copyrighted materials without the proper permissions, it is possible that the owner of the material will ask that the material be removed. Copyright owners may also present the College with a subpoena asking for the identity of the user that posted the material on the College's network. The College may use network management technologies to assist in such identification. (Copyright owners have sued individual College students at a number of institutions in recent years, and have declared publically that they will continue to do so. See the summary of civil and criminal penalties, above.)
4. **Other measures.** The College may deploy software or hardware designed to reduce or block illegal file sharing: The College retains the right to block any content that interfere with the smooth and reliable functioning of its network or cause harm or nuisance to other users.

Alternative for Legal Downloading

The Higher Education Opportunity Act requires all colleges and universities to offer legal alternatives to unauthorized downloading. A variety of such sites are listed on the College's web site at www.presby.edu/it/legalmusic.htm, however no endorsement or evaluation of any listed site is intended. Some of the sources listed charge for downloading content and some are free.

The College reasonably believes that, on or about the date of this policy, the following sites were in operation and offered music for legal downloading or streaming. The College bases this belief on the fact that these sites were listed by the Recording Industry Association of America (RIAA) as “some of the more popular online music sources” offering “legal music on the web¹.” However, it remains the individual student’s responsibility to check the policies of any third-party music site.

amazonMP3	AOL Music	Artist Direct
BearShare v. 6 or higher	Download Fundraiser	eMusic
iLike	imeem	iMesh
iTunes		MP3.com
MySpace Music	Napster	Pro-Music
Qtrax	Rhapsody	Yahoo! Music
YouTube	VEVO	7digital

EDUCAUSE, a national association focused on computing in Colleges and Universities, maintains a somewhat longer list of sites that offer legal music (including some free) at <http://www.educause.edu/legalcontent>. The College makes no representation on the accuracy of that list, but notes it as a convenience to students.

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Current as of June 28, 2010. This policy will be reviewed and updated at least annually.

¹ Source: http://www.riaa.com/toolsforparents.php?content_selector=legal_music_sites retrieved 6/24/2010