

# Copyright Law and the Illegal Use of Peer-to-Peer File Sharing

## Policy Overview

All members of the College community, including students, employees and visitors, must respect the intellectual property rights of others and comply with federal, state and local copyright law and any College copyright policies, procedures and guidelines. Proper use of copyright materials also extends to electronic resources available on the internet. Anyone using College computing and network resources consents to the College's Appropriate Use of Information Technology Resources Policy ("Appropriate Use Policy"):

<https://www.sfcollege.edu/its/policies/employee-use/use-policies/appropriate-use-policy>. The Appropriate Use Policy outlines the responsible use of all College computing and network resources and incorporates all policies and procedures contained herein.

## Copyright Law {Title 17 U.S.C. Section 101 et seq., Title 18 U.S.C. Section 2319}

Copyright is legal protection of intellectual property, in whatever medium, that is provided for by the laws of the United States to the owners of copyright. Types of works that are covered by copyright law include, but are not limited to, literary, dramatic, musical, artistic, pictorial, graphic, film and multi-media works. Many people understand that printed works such as books and magazine articles are covered by copyright laws but they are not aware that the protection extends to software, digital works, and unpublished works and it covers all forms of a work, including its digital transmission and subsequent use. Federal law protects copyright owners from the unauthorized reproduction, adaptation, performance, display, or distribution of copyright protected works.

## Copyright Infringement and the Illegal Use of Peer-to-Peer File Sharing

File-sharing is the process of exchanging files over the Internet. One of the most common forms of file-sharing is using Peer-to-Peer (P2P) programs such as KaZaA, LimeWire or BitTorrent. Peer-to-Peer programs typically share files by default, to allow the maximum amount of sharing across the network. Most P2P usage (which comprises a significant fraction of all file-sharing) is against the law because it involves the sharing of copyrighted materials without permission from the copyright owner (copyright infringement), usually music (MP3) or movie files, but also TV programs, books and images. **Students and others who engage in unauthorized distribution of copyrighted material, including illegal P2P file sharing, may be subject to civil and criminal liabilities.**

## Federal Penalties for Copyright Violations:

Under federal law, a person found to have infringed upon a copyrighted work may be liable for actual damages and lost profits attributable to the infringement, and statutory damages from \$200 up to \$150,000, per infringement. The copyright owner also has the right to permanently enjoin an infringer from further infringing activities, and the infringing copies and equipment used in

the infringement can be impounded and destroyed. If a copyright owner hired an attorney to enforce his or her rights, the infringer of a work may also be liable for the attorney's fees as well as court costs. Finally, criminal penalties may also be assessed against the infringer and could include jail time of up to 10 years depending upon the nature of the violation. In many cases, copyright law does not require the person committing the violation, or responsible for the violation, be aware that their actions are in violation of law. The absence of knowledge -- or even intent -- does not excuse the violation and is not a defense in a copyright infringement lawsuit.

### College Discipline

Students who violate this policy prohibiting copyright infringement, including the illegal use of P2P file-sharing, are subject to disciplinary action under the Student Conduct Code and may be subject to sanctions under the Appropriate Use Policy. Penalties under the Student Conduct Code may include warnings, loss of privileges, restitution, suspension or expulsion. Under the Appropriate Use Policy, the College may temporarily suspend, block or restrict access to an account, independent of any other disciplinary procedures, when it reasonably appears necessary to do so in order to protect the integrity, security, or functionality of College or other computing resources or to protect the College from liability.

Employees who violate this policy are subject to all appropriate discipline, which may include loss of privileges, restitution, suspension or termination. In those instances where disciplinary action is warranted, the College's Office of Human Resources or appropriate academic administrators shall be consulted prior to taking such actions. Employees are also subject to any sanctions under the Appropriate Use Policy, including the temporary suspension, blocking or restriction of access to an account, independent of any other disciplinary procedures, when it reasonably appears necessary to do so in order to protect the integrity, security, or functionality of College or other computing resources or to protect the College from liability.

Other members of the College community, including visitors, who violate this policy may suffer possible consequences including termination of any relationship with the College. The College reserves the right to pursue any appropriate action against such individuals.

Any College action taken against a student, employee or other member of the College community for a violation of this policy may occur without regard to civil or criminal actions initiated by an outside agency against a member of the College community for the same violation.

### Copyright Law, P2P and Related Information Resources

- U.S. Government Copyright Office: <http://www.copyright.gov/>
- Stanford University Website on file sharing and the Digital Millennium Copyright Act: <http://rescomp.stanford.edu/info/dmca/>
- Catholic University Website listing alternatives to illegal downloading and sharing of MP3s:
- <http://counsel.cua.edu/Copyright/resources/alternatives.cfm>