

Southwestern College

Copyright Infringement Policy

Copyright Infringement. Almost all forms of original expression that are fixed in a tangible medium are subject to copyright protection, even if no formal copyright notice is attached. Written text (including e-mail messages and news posts), recorded sound, digital images, and computer software are some examples of works that can be copyrighted. Unless otherwise specified by contract, the employer generally holds the copyright for work done by an employee in the course of employment.

Copyright holders have many rights, including the right to reproduce, adapt, distribute, display, and perform their work. Reproducing, displaying or distributing copyrighted material without permission infringes on the copyright holder's rights. However, "fair use" applies in some cases. If a small amount of the work is used in a non-commercial situation and does not economically impact the copyright holder it may be considered fair use. For example, quoting some passages from a book in a report for a class assignment would be considered fair use. Linking to another web page from your web page is not usually considered infringement. However, copying some of the contents of another web page into yours or use of video clips without permission would likely be infringement.

Penalties for Copyright Infringement. Copyright infringement is the act of exercising without permission or legal authority, one or more of the exclusive rights guaranteed to the copyright owner under section 106 of the Copyright Act (Title 17 of the United State Code). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading 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 by 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 up to \$250,000 per offense. For more information, please see the website of the U.S. Copyright Office at (www.copyright.gov).

If you reproduce or offer full-length video or audio recordings for download without the authorization of the copyright owner, you are in violation of federal copyright law and could face civil as well as criminal penalties. Placing statements on your web site, such as "for demo purposes only" or that the video and audio files must be "deleted within 24 hours," does not prevent or extinguish this liability.

There are several entities you may need to contact before you can use recorded music online. First, you should understand that the copyright in a sound recording is distinct from the copyright in the recording's underlying musical composition. Thus, even if you have secured the necessary licenses for publicly performing musical compositions (from, for example, ASCAP, BMI and/or SESAC) or for making reproductions of musical compositions (from, for examples, the Harry Fox Agency), these licenses only apply to the musical composition, not the audio recording.

Licenses to utilize particular video and audio recordings must be secured from the video and audio recording copyright owners—generally the record company that released the recording.

Software Piracy. Unauthorized duplication, distribution or use of someone else's intellectual property, including computer software, constitutes copyright infringement and is illegal and subject to both civil and criminal penalties. The ease of this behavior on-line causes many computer users to forget the seriousness of the offense. As a result of the substantial amounts of money the software industry loses each year from software piracy, the software companies enforce their rights through courts and by lobbying for and getting stiffer criminal penalties.

Video and Audio Recording Piracy. Another form of copyright infringement is the unauthorized duplication and distribution of sound recordings. Online piracy is increasing as many people use the Internet to illegally distribute digital audio files (e.g. MP3 format). The Recording Industry Association of America (RIAA) monitors the Internet daily and scans for sites that contain music. They have been successful in getting the sound recordings removed from those sites. You can report violations to the RIAA directly.

Federal copyright law grants the copyright owner in a video and audio recording (typically, a record company) the exclusive right to reproduce, adapt, distribute and, in some cases, digitally transmit their sound recordings. Therefore, the following activities, if unauthorized by the copyright owner, may violate their rights under federal law:

- a. Making a copy of all or a portion of a video and audio recording onto a computer hard drive, server or other hardware used in connection with a web site or other online forum. This includes converting a sound recording into a file format (such as a .wav or mp3 file) and saving it to a hard drive or server;
- b. Transmitting a copy or otherwise permitting users to download video and audio recordings from a site or other forum; and/or
- c. Digitally transmitting to users, at their request, a particular sound recording chosen by or on behalf of the recipient.

Steps to combat unauthorized distribution of copyrighted material. Southwestern currently uses bandwidth-shaping technology to prioritize network traffic. We limit the amount of bandwidth available to P2P applications but we do not filter nor monitor such applications since much of the traffic is legal. 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 all necessary assistance.

Alternatives to illegal file sharing. Southwestern College actively encourages our users to use legal sources for their media needs. All laptops are installed with iTunes and our website includes a link to the Educause list of legal download sources.

The entire computing policies of Southwestern College is available in the college's policy manual, [Volume 2, section 2.11.](#)