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# **COPYRIGHT COMPLIANCE POLICY**

**Copyright Compliance Policy Statement**

**Date: 02/04/2011**

**Applicability: University-wide**

**Issued by: Office of General Counsel and Institutional Compliance**

**I. Purpose**

The purpose of this policy is to reaffirm the commitment of New York Medical College to ensure that U.S. and international copyright laws are respected, that copyright works are used appropriately by faculty, employees, students and visitors using our computers or networks and to remind such users that the failure to do so may result in disciplinary action or termination of access.

This policy also serves as the "written plan" required of the College under the copyright-related regulations associated with the Higher Education Opportunity Act of 2008.

**II. Policy**

It is the policy of New York Medical College to comply with copyright law, to combat the unauthorized downloading or peer-to-peer distribution of copyrighted material by users of the College’s network and to respond to all notices from copyright holders alleging inappropriate activity across our networks. If an individual chooses to host or exchange files unlawfully, that individual will be personally responsible for any consequences from that activity. Ignorance of the law is not a useful defense. The College strongly recommends that individuals using the College’s networks and computers learn the rules and the laws before sharing files online.

**III.** **Effective Date**

This policy is effective on November 1, 2010.

**IV**. **Overview of U.S. Copyright Law**

**A. General Information**

U.S. Copyright Law protects a wide range of creative works and grants to the owner of the work the exclusive right to make copies of the work, to make new works using part of the original work, distribute copies of the work, and display or perform the work publicly. Copyright exists in any original work which exists or is fixed in any tangible medium of expression. Works protected by copyright include: written works, movies, music, photographs, art, computer software, Images displayable on computer screens, books, magazines, scientific and other journals and articles and other original works of authorship. A copyright notice is not required.

Subject to exceptions contained in 17 U.S.C. §§ 107 and 108 at [www.copyright.gov/title17/92chap1.html](http://www.copyright.gov/title17/92chap1.html)), it is a violation of copyright law to copy, distribute, display, exhibit or perform copyrighted works without the authority of the owner of the copyright. (For information about copyright law and various exceptions, see <http://guides.library.jhu.edu/copyright>.) In short, 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). In the file sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement.

A provision in Copyright Law known as the *Digital Millennium Copyright Act*("DMCA") allows internet service providers to shield themselves from liability for copyright infringement due to infringing activity by users of the service provider’s networks. Owners of copyright materials, including record companies, movie studios and software manufacturers, routinely monitor internet traffic and identify IP addresses that are hosting or sharing files that appear to be unauthorized copies of the owners’ works. In compliance with the DMCA, the copyright owners notify the service provider and the service provider must expeditiously remove or disable access to the allegedly infringing material. The individual responsible for infringing activity, not the service provider, will be responsible should the copyright owner wish to seek damages for infringing activity. Upon proper notice of infringement from the copyright owner to the College as the Internet service provider in accordance with the DMCA, College investigates, takes down any infringing site or material on the College network, and blocks access to any infringing sites or material. College also investigates to identify the infringing user and takes appropriate action to address misuse in accordance with College policies.

Read more about the DMCA at [www.copyright.gov/legislation/dmca.pdf](http://www.copyright.gov/legislation/dmca.pdf)

**B. Summary of Civil and Criminal Penalties for Violations of Federal Copyright Laws**

The unauthorized distribution of copyrighted material, including unauthorized downloading or peer-to-peer file sharing, may subject the individual involved to civil and criminal liabilities. Penalties for 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.

Willful copyright infringement also can 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 [www.copyright.gov](http://www.copyright.gov/) and [www.copyright.gov/help/faq](http://www.copyright.gov/help/faq).

##### **C. Other Consequences of Misuse**

As set forth in the policies of the College including the *Information Services 101, Computer Usage, Authorized Access and Data Integrity*, the *Code on Academic Integrity and Professionalism* and the *Student Code of Academic Integrity and Professionalism,* all users of the College’s computers and networks are expected to comply with copyright law. Consequently, a violation of copyright law by users of the College’s networks and computers, including the unauthorized downloading or unauthorized peer to-peer distribution of copyrighted material, shall constitute a violation of College policy, which can result in suspension of user accounts and referral to the appropriate divisional authority for disciplinary action.

##### **D. Legal Alternatives**

For legal alternatives to illegal downloading, please see

[www.educause.edu/legalcontent](http://www.educause.edu/legalcontent).

##### **E. *Digital Millennium Copyright Act* ("DMCA")**

Content owners or the person entitled to enforce a copyright on their behalf may notify the College of any violation of a copyright on the College's system by sending a notice in the form required by the DMCA to:

Dana Lee

Associate Vice President for Legal Affairs

E-mail: Dana\_Lee@nymc.edu

##### **V. Plan to Address Copyright Infringement**

In order to comply with College policy and with federal laws and regulations, the College employs technology-based deterrents including: (i) blocking known peer-to-peer traffic; (ii) network segmentation; (iii) using intrusion prevention system and blocking of inbound ports to client computers on campus at the internet firewall. In addition, the College educates the College community regarding copyright laws and internal policies via various web-based educational materials (see, for example: <http://library.nymc.edu/informatics/studcopy.cfm>, and through an annual letter to students.

**VI.** **Oversight and Review**

This policy shall be periodically reviewed through ongoing discussions between the chief information officer, the General Counsel's Office (which functions as the College's DMCA agent) and various College stakeholders considering the frequency and management of legitimate DMCA notices. Strategic changes to the plan will be made to address perceived inefficiencies. The College shall annually disseminate information on this policy and legal alternatives for downloading or otherwise acquiring copyrighted material through the annual letter to faculty, employees and students. Such information shall also be available on the College’s website.

**VII**. **Responsibilities and Enforcement**

All Faculty, employees, students and trainees of the College must adhere to the terms of this policy. Failure to comply with this policy can result in disciplinary action and penalties as applicable by law.

All questions regarding this policy are to be directed to the Office of General Counsel and Institutional Compliance.

*Presented and Reviewed by the Institutional Compliance Committee of New York Medical College on October 12, 2010 and by the Audit Committee of the Board of Trustees of New York Medical College on October 25, 2010.*

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