

Copyright Infringement Policy (From 2026-2027 Academic Catalog)

Copyright Infringement

In compliance with the amendments to the Higher Education Act (HEA) under the Higher Education Opportunity Act of 2008 (HEOA), Dean College is required to disseminate information on the College's policies and sanctions related to copyright infringement, including a summary of the penalties for violation of federal copyright laws.

Unauthorized copying and distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject students to civil and criminal liabilities. Students should be aware, however, that not all uses of copyrighted materials are illegal. The U.S. Copyright Act allows for the copying and distribution of certain copyrighted materials when such use is a "fair use." If you have questions regarding what may constitute fair use, please contact our librarian at 508-541-1771.

As required under HEOA, the penalties for violation of federal copyright laws are summarized as follows.

If there is infringement, Section 504 of the U.S. Copyright Act gives the copyright holder the choice of recovering the following:

- The copyright owner's actual damages and any attributable profits of the infringer; or statutory damages, ranging from \$750 to \$30,000 for each copyrighted work that is infringed.
- If the copyright holder can prove that the infringement was committed "willfully," a court has the discretion to increase statutory damages to \$150,000 per copyrighted work.
- As a general rule, to qualify for statutory damages, the copyright holder must have registered the infringed work with the U.S. Copyright Office prior to the date of the infringement. If the work was not registered before the infringement, then the copyright holder can only recover actual damages and the infringer's profits.

If the work was registered with the U.S. Copyright Office prior to the infringement, Section 505 of the Copyright Act also gives a court the discretion to award reasonable attorney's fees and court costs to the copyright holder.

Sections 502 and 503 of the Copyright Act detail other civil remedies, including a court order barring the infringer from making further copies and an order to seize and destroy unauthorized copies.

Section 506 of the Copyright Act and Section 2319 of Title 18 of the U.S. Code authorize criminal liability for willfully infringing copyright under the following circumstances:

- If the willful infringement was for purposes of commercial advantage or private financial gain;
- If the willful infringement involved the reproduction or distribution during any 180-day period of one or more copies of one or more copyrighted works that have a total retail value that exceeds \$1,000; or
- If the willful infringement involved the distribution of a work being prepared for commercial distribution, by making it available on a computer network accessible to members of the public, if the infringer knew or should have known that the work was intended for commercial distribution.
- Criminal penalties can include fines and imprisonment for up to five years. Imprisonment can be for up to 10 years for a second or subsequent offense.

Sections 1201 and 1202 of the Copyright Act also detail civil remedies for: (i) circumventing technological measures that protect copyrighted works (Section 1201) (e.g., circumventing a firewall); and (ii) intentionally removing, altering or falsifying copyright management information to conceal, induce or facilitate an infringement (Section 1202) (e.g. removing or altering an author's name or a copyright notice on a photograph found online and redistributing the photo). A violation of Sections 1201 or 1202 is separate from copyright infringement with its own separate statutory damages ranges and does not require a prior registration to be eligible for statutory damages or attorneys' fees and costs.

If there is a violation of Section 1201, the copyright holder has the choice of recovering the following:

- The copyright owner's actual damages and any additional profits of the violator; or statutory damages, ranging from \$200 to \$2,500 for each violation.
- The Copyright Act also gives a court the discretion to award reasonable attorney's fees and court costs to the prevailing party.
- If there is a violation of Section 1202, the copyright holder has the choice of recovering the following: The copyright owner's actual damages and any additional profits of the violator; or statutory damages, ranging from \$2,500 to \$25,000 for each violation.
- The Copyright Act also gives a court the discretion to award reasonable attorney's fees and court costs to the prevailing party.
- Criminal penalties are also possible against any person who violates section 1201 or 1202 willfully and for purposes of commercial advantage or private financial gain. Those penalties include fines of up to \$500,000 and/or five years in prison for a first offense and \$1,000,000 and/or up to 10 years for a second or subsequent offense.

Downloading & P2P File Sharing

Dean College strictly prohibits the unauthorized uploading, downloading or sharing of copyrighted material. Peer-to-peer (P2P) file sharing occurs when digital files are transferred between “peer” computers over the Internet using services such as BitTorrent or Gnutella.

In compliance with the HEOA, unauthorized peer-to-peer file sharing may subject students to civil and criminal liabilities (see Copyright Infringement section). Furthermore, unlawful distribution of copyrighted material may result in sanctions imposed by the College. College sanctions may include, but are not limited to, expulsion from the College and/or payment of any legal fees that the College may incur in its defense. The entity whose copyright was infringed may also bring legal action.

Legal Downloading

The HEOA requires all colleges and universities to offer legal alternatives to unauthorized downloading. Educause provides a list of these legal alternatives at www.educause.edu/legalcontent. The products or services listed are in no way endorsed or evaluated by Dean College.