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Colleges Express Concern About State Laws That Require Them to Fight Online Piracy

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Higher-education officials say that the entertainment industry is pushing for state laws that would force colleges to police their networks for illegal trading of music and video files and to buy software to stem the problem.

Lawmakers in Tennessee and Illinois recently considered such legislation, and a similar bill may be brewing in California, according to officials who spoke at a technology-policy conference here on Thursday. The conference was sponsored by Educause, the nonprofit higher-education technology group.

College officials were advised by Educause leaders to watch for lobbying efforts in state capitols across the country by the Recording Industry Association of America and the Motion Picture Association of America. The attendees were told to prepare to start a counterattack, which would involve telling state lawmakers that the bills would be burdensome and costly for colleges, and would be ineffective in preventing students from swapping music and movie files on their campuses.

A spokeswoman for the recording-industry group, Cara Duckworth, would neither confirm nor deny that the group is singling out state legislatures.

"We value our relationships with higher-education officials and are always looking for opportunities to work directly with universities on an appropriate and customized approach to curbing piracy," said Ms. Duckworth in an e-mail interview.

The entertainment industry has been complaining to federal lawmakers for years that colleges are not doing enough to curb peer-to-peer trading of music and video files via their networks. The industry maintains that college students bear much of the responsibility for the activity nationwide. But college officials say industry data are unreliable, and that piracy happens everywhere on the Internet, not just at colleges.

Another Front in the Battle

At the Educause conference, college technology officials expressed frustration about the possibility that they would need to fight antipiracy bills in state legislatures. Most are already aware of legislation pending in the Congress that could force colleges to install

detection software on campus networks. The measure is under discussion by negotiators for the U.S. House of Representatives and the Senate, as part of the higher-education reauthorization bill.

Thomas S. Danford, chief information officer of the Tennessee Board of Regents, described how he and other higher-education officials in the state successfully fought back what they saw as the most onerous provisions of the state antipiracy bill, SB 3974. A lobbyist for the RIAA, who previously worked for Tennessee's governor, pushed the bill, Mr. Danford said. It would have forced public colleges to analyze their networks for transmission of copyrighted material. Institutions would have been asked to prove to the Tennessee higher-education commission that each college had not received 10 or more infringement notices from owners of copyrighted works. Failing that, colleges would have to install antipiracy software on their networks.

Mr. Danford said that he and other critics of the legislation told lawmakers that the bill was flawed since it failed to distinguish between legal and illegal peer-to-peer traffic. Critics also said the bill would cost colleges millions of dollars and would essentially turn college administrators into online police officers.

The amended bill, which was signed into law and took effect this month as Public Chapter Number 819, will require private and public colleges to develop and "reasonably implement" policies to deter students from online infringement of copyrighted works. Colleges that have received 50 or more infringement notices in the past year are required to "reasonably attempt" to prevent infringement over their networks. In addition, by April 1, 2009, college groups must issue a report to the Tennessee Higher Education Commission about the steps their members have taken to curtail illegal file sharing.

Lawmakers in Illinois are also considering a bill to deter online swapping of music files on college campuses. The bill, HB 4380, specifies that a public college must install antipiracy software if it has received at least 10 infringement notices.

In recent weeks, the RIAA has greatly increased the number of infringement notices to colleges, although officials insist that the spike in notifications has nothing to do with their legislative and legal battles (The Chronicle, May 7).

### Similar Language

Much of the language in the Illinois bill mirrors that in the Tennessee law. For example, both measures state that public colleges must "adopt and reasonably implement a policy defining computer and network usage and ethics that applies to students, staff, and faculty; that clearly describes and prohibits the infringement of copyrighted works over the institution's computer and network resources."

At the behest of lawmakers, Walter L. Czerniak, associate vice president for information technology at Northern Illinois University, has been meeting with lobbyists for the entertainment industry to see if the bill can be made more palatable to colleges.

But, he said, despite his efforts to convince the lobbyists that the bill would be burdensome and unnecessary, they have refused to modify the legislation.

"We will continue fighting," he said during an interview on Thursday.

Mr. Czerniak said Northern Illinois has been aggressive in trying to deter students from swapping copyrighted music and movie files. The university offers students the opportunity to buy music online through Ruckus Network, and uses packet shapers, devices that prioritize network traffic and make it more difficult for students to transfer large files, he said.

Mr. Czerniak said that one of the lobbyists for the recording-industry group told him that the RIAA is moving ahead with a plan to push for state laws to stem music swapping on college campuses.

There is no legislation in California to deter file sharing on college campuses. But Kent Wada, director of information-technology strategic policy at the University of California at Los Angeles, told the technology officials at the conference Thursday that there was an "informational hearing" in the State Capitol in March to discuss the issue. Among those speaking at the meeting was Mitch Glazier, senior vice president of government relations and industry relations for the RIAA.

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