

Digital Millennium Copyright Act Compliance Procedure

Office: Information Technology

Procedure Contact: Chief Information Officer

Related Policy or Policies: [FAD.038 Computing Resources Acceptable Use Policy](#), [Digital Millennium Copyright Act of 1998](#)

Revision History

Revision Number:	Change:	Date:
2.0	Content and format changes	3/4/2016

A. Purpose

To detail the response of Southern Oregon University to complaints filed under the Digital Millennium Copyright Act (DMCA). To qualify under the DMCA’s safe harbor provision, SOU must respond to any and all properly submitted copyright infringement notices.

B. Definitions

Copyright Infringement: 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). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement.

Digital Millennium Copyright Act (DMCA): The Digital Millennium Copyright Act (DMCA) was signed into law by President Clinton on October 28, 1998. The legislation implements two 1996 World Intellectual Property Organization (WIPO) treaties: the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

Safe Harbor: A provision in copyright law protecting the university from liability for infringement performed by faculty, staff, and students under certain circumstances.

C. Procedures

1. Response to DMCA Notices

When the university receives a copyright infringement claim involving music, video, software, or other digital materials, it takes the following steps under the DMCA:

- We check network usage logs and registration information to examine the system alleged to be involved in copyright infringement and we identify the person using it.
- In the case of a violation by a student, we suspend the user’s Internet access.
- We notify the copyright holder (or agent) that we are handling the infringement claim under the guidelines of the DMCA.
- We do not disclose the user's identity.

A. First-Time Offenses

Refer the matter to the Office of Student Intervention and Support (student violations) or Office of Human Resources (employee violations).

1. If the user acknowledges distribution of copyrighted material without permission, we:

- a. Issue a warning letter to the user with information about the DMCA statute and copyright regulations and why their behavior is inappropriate and illegal.
 - b. Require the user to consult with the Information Technology Help Desk and verify that the copyrighted material has been removed from their computer before their Internet access is reinstated.
2. If the user denies using the copyrighted material without permission, we:
 - a. Require the user to submit a statement denying the copyright infringement claim.
 - b. Inform the claimant that the claim has been denied.
 - c. Under the DMCA, the claimant may pursue a subpoena to obtain the identity of the system user and may file a lawsuit against the user.

B. Second-Time (or more) Offenses

Refer the matter to the Office of Student Intervention and Support (student violations) or Office of Human Resources (employee violations).

1. If the user acknowledges distribution of copyrighted material without permission, we:
 - a. Consult with the user to review information about the DMCA statute and copyright regulations.
 - b. Impose additional sanctions as appropriate. Three or more violations may result in permanent limitations on Internet access for the user.
 - c. Require the user to consult with the Information Technology Help Desk and verify that the copyrighted material has been removed from their computer before their Internet access is reinstated.
2. If the user denies using the copyrighted material without permission, we:
 - a. Require the user to submit a statement denying the copyright infringement claim.
 - b. Inform the claimant that the claim has been denied.
 - c. Under the DMCA, the claimant may pursue a subpoena to obtain the identity of the system user and may file a lawsuit against the user.

2. Response to Pre-Litigation Letters

In February 2007, the Recording Industry of America (RIAA) announced a new strategy for dealing with suspected instances of copyright infringement. The RIAA is sending "settlement letters" to colleges indicating their intention to sue users of systems engaged in illegal file sharing and asking colleges to forward those letters to users. Hundreds of these letters have been sent already. A sample settlement letter can be found at: <http://www.educause.edu/ir/library/pdf/CSD4832.pdf>

The letters inform users that they can avoid lawsuits by immediately contacting the RIAA and paying settlement fees. If users decline to do this, subpoenas will be sought to require colleges to disclose users' identities. Lawsuits will then be filed. Users may, at that time, avoid a lawsuit by paying settlement fees larger than the original settlement amount. If users again decline, lawsuits will be pursued to obtain damages and recover RIAA legal fees.

In the event that SOU receives a settlement letter from the RIAA or any other association, business, or organization, the University will:

- a. Treat the letter as a DMCA copyright infringement claim and respond as per the DMCA response procedure.
- b. Forward the pre-litigation letter to the user.
- c. SOU will not disclose the identity of a user unless presented with a subpoena or other legally valid writ.

D. Appendix

Summary of Civil and Criminal Penalties for Copyright Infringement

Penalties for copyright 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 attorney's 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 of up to \$250,000 per offense.

This procedure may be revised at any time without notice. All revisions supersede prior procedures and are effective immediately upon approval.