



University of Alaska Fairbanks Guidelines for Responding to Copyright Complaints

Background

The University has a profound respect for copyright and intellectual property. This respect is reflected in the Board of Regents policy and regulation (R02.07). In addition, the university has specific legal obligations under the Digital Millennium Copyright Act (DMCA) to protect copyright holders and to respond quickly to complaints of copyright violation. This obligation to protect copyright must be implemented with due regard for privacy rights of technology users that have been created by Regents Policy.

Role and Responsibility

OIT's role is to protect against liability arising out of use of IT resources, and to prevent disruption or damage to the university's information resources. OIT may temporarily suspend access, provided the access is restored as soon as the threat of disruption, damage or liability is resolved. Such suspensions do not require assignment of responsibility and are not punitive. Only the Director of Residence Life, the Vice-Chancellor for Student & Enrollment Services or the relevant supervisor of the User may limit access or services as a punitive measure. Within OIT, the IT Security group has responsibility for investigating and responding to security and copyright complaints.

Process

1. Discovery

A case is opened when IT Security receives a complaint alleging a violation, or when OIT staff, in the course of doing their job, discover evidence of a possible violation.

Clarification of Intent:

The process of discovery is intentionally reactive. OIT does not monitor content of network traffic or routinely scan computers. OIT will investigate when it obtains sufficient, specific information indicating: 1) a possible copyright violation involving the University's network; and 2) the identity of a network address, machine or user involved in such a violation. Statements such as "Bob's got a bunch of movies" or "somebody in Student Housing downloaded Spider-Man" might be interesting, but are not grounds for action.

2. Investigation

- a. If originated through a DMCA notice, confirm compliance of the notice;
- b. Confirm the identity of the machine and the person generally associated with that machine. If unable to establish an association between a machine and a person, then *conclusion 1*;
- c. Confirm the use of the network for copyright violation;
- d. Review previous cases to establish if the current complaint relates to a prior complaint, network device, or person. If such a relationship is established, review the case for possible escalation to the relevant supervisor or Director of Residence Life or Vice-Chancellor for Student & Enrollment Services (*conclusion 4 or 5*).

3. Remediation

a. Communication

A standard letter is created and sent electronically and in writing. In the case of a Student Housing resident, the written letter is sent to the Director of Residence Life. The letter communicates

1. notice that a copyright issue has arisen regarding the network address associated with the computer or the individual;
2. a reminder of University policy (and current law) related to copyright;
3. an offer of technical assistance, if desired;
4. an expectation that any protected material will be immediately removed;
5. notice of OIT right to inspect the machine at any time; and
6. the requirement that a written response be received by OIT within 24 hours.

b. If the user:

1. does not respond, then *conclusion 2*
2. responds having addressed the complaint, then *conclusion 3 (and/or 5, if applicable because of prior history)*;
3. is uncooperative or wishes to escalate the issue, then *conclusion 4 or 5 as applicable*.

c. In all cases, OIT has the right to inspect equipment to ensure that the issue is resolved. As a general rule, this right is only exercised in special cases (e.g. multiple complaints for the same address).

Clarification of intent:

The OIT process requires no findings or conclusions regarding the association of the person and the violation. Throughout the investigation, OIT seeks the cooperation of the user -- the focus is on resolving the complaint or eliminating the misuse of resource, not on assignment of blame. The most obvious assistance the user can provide is to verify that protected material was found, removed, and measures have been taken to prevent it from "reappearing". A user who has done this has not been "slapped on the hand" - they have provided valuable assistance to the university.

4. Closure

A case is closed when the university has taken action to assure that the copyright on the specifically named material is protected. When this is done, OIT will:

- a. notify the complainant; and
- b. document the complaint and resolution

Clarification of intent:

OIT must show that complaints are resolved "expeditiously." Records must show when complaints were received and when they were addressed. It is also important to identify any patterns among complaints (e.g. multiple complaints against the same network address). Therefore, the documentation must include the observable or documented details (rather than conclusions) associating the network address, machine, and person. Such information is sensitive and must not be released to departments or personnel outside of Information Resources (other than the user), without consultation with the MAU Director of IR, University General Counsel and the System Administration Director of Information Resources.

Conclusions to Copyright Complaints

Conclusion 1:

There has been a failure in campus network security (an unauthorized device has gained access to the network) or OIT systems or procedures (our documentation is unable to establish ownership of an authorized device).

Action: Access to the network is blocked, the Helpdesk is notified and the *case is closed*.

Conclusion 2:

The copyright violation is ongoing and the person most directly impacted (the user) is unresponsive.

Action: Access to the network is temporarily blocked, the Helpdesk is notified and the *case is closed*. Access is restored as soon as the user assures OIT that the copyright violation has ceased, *e.g.* the material has been removed.

Conclusion 3:

The copyright violation has been addressed and the user is cooperative

Action: *The case is closed*. Training and assistance is offered to prevent reoccurrence.

Conclusion 4:

The copyright violation is ongoing and the user both disputes the violation **and** does not take or cooperate with action to halt the violation.

Action: Access to the network is temporarily blocked, the Helpdesk is notified. OIT will seek approval to release information outside of OIT through consultation with the MAU and System IT directors as well as General Council. Once approval is granted, OIT notifies the relevant supervisor or Office of the Dean of Students is notified. Access is restored as soon as the violation is resolved, unless notified otherwise by the relevant supervisor or Dean of Students.

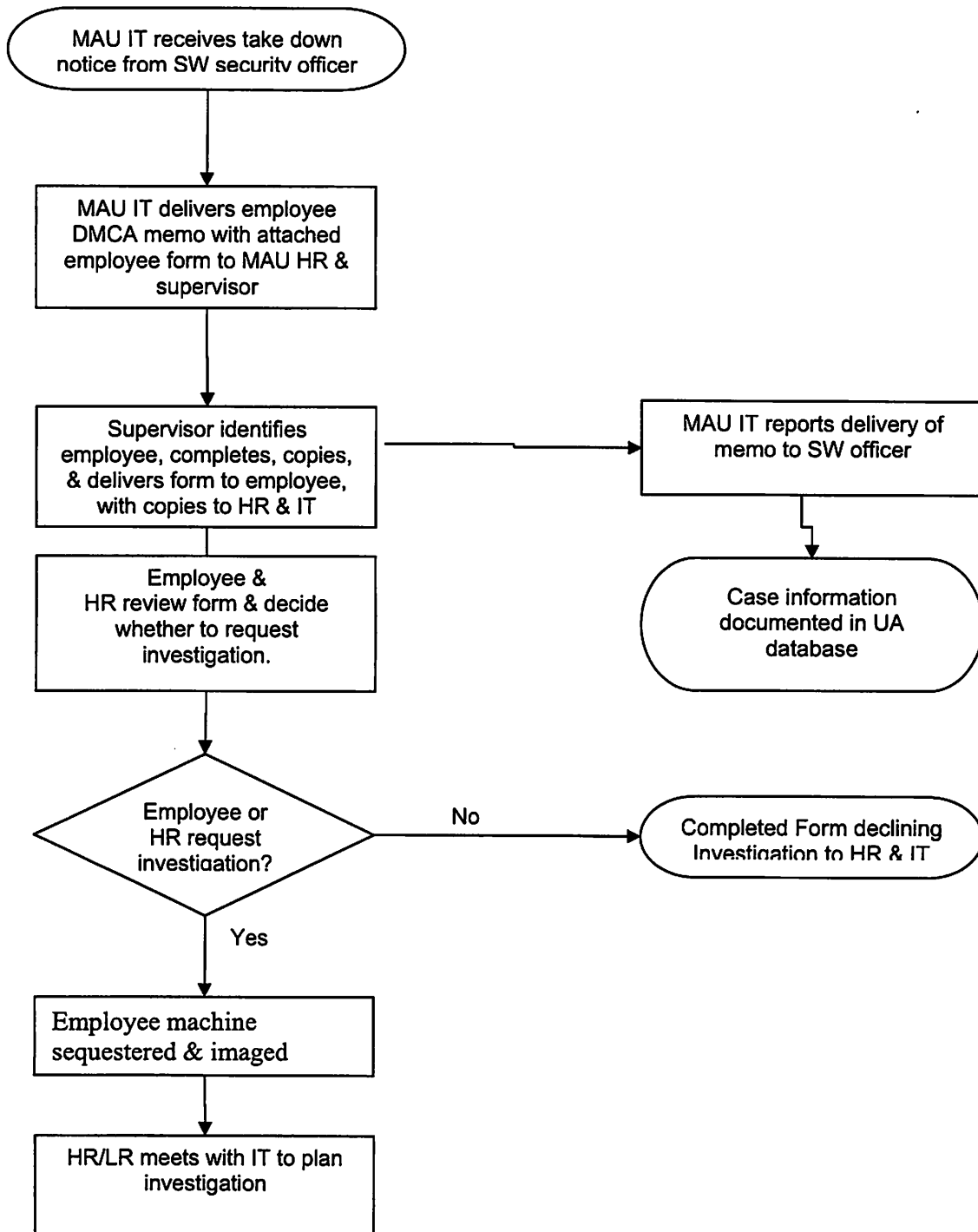
Conclusion 5:

The copyright violation is addressed but a history of multiple violations exists.

Action: OIT will seek approval to release information outside of OIT through consultation with the MAU and System IT directors as well as General Council. Once approval is granted, the relevant supervisor or Director of Residence Life or Vice-Chancellor of Student & Enrollment Services is notified. No further action is taken unless notified otherwise by the relevant supervisor or Director of Residence Life or Vice-Chancellor of Student & Enrollment Services.



DMCA "Take Down" Process for Employee Operated equipment





OFFICE OF
Information Technology

Steve Smith | Chief Information Technology Officer
910 Yukon Drive, Suite 103 | Fairbanks, AK 99775-5320 | Phone: 907-450-8383 | Fax: 907-450-8375



TO: Sally Supervisor, Dept of Astrology
123 Cosmos Building

DATE:

FROM: Chirk Chu, Security Consultant
Office of Information Technology
108 Butrovich Building
ccchu@alaska.edu
907-451-8144

RE: Possible Copyright Violation

ACTION REQUIRED: Delivery of Notice to Employee

The University of Alaska has received notice of a possible copyright infringement under the Digital Millennium Copyright Act (DMCA). The DMCA notice alleges that someone using a computer identified as registered to an employee under your supervision may have engaged in illegal copyright infringement (e.g., downloading/distributing unauthorized copyrighted files) using the University of Alaska computing network, on the date and time indicated below.

Alleged Violation: *It is alleged that on June 1, 2010, a computer with IP address 123.4.56.123 used Bit Torrent to illegally download the copyrighted material: Dexter Season 4 Complete.*

If infringing activity has occurred it is a violation of law and may subject the user to personal legal liability as well as disciplinary action. If you are not familiar with it, please review Board of Regents' Policy 02.07.060 and University Regulation 02.07.051 & .062 on copyright.

<http://www.alaska.edu/active/level2/copyright.xml>

<http://www.alaska.edu/bor/policy-regulations/>

As the supervisor of this employee, you have certain obligations to provide notice to the employee, and collect and return his/her acknowledgement of receipt. Please note that this is not a finding of wrongdoing, is a personnel matter and should be treated with discretion. After reviewing the attached information, please do the following:

1. write in the name of the ASSIGNED user of the indicated computer on the attached form,
2. indicate the date and time the notice was /will be hand delivered to the user,
3. make three copies of the completed notice,
 - a. keep one copy
 - b. provide the notice to the user
 - c. provide copies to:

Chirk Chu
Office of Information Technology
108 Butrovich

Brad Lobland
UAF HR Manager
108 Administrative Services Center

Please consult with HR or me if you have questions:

cc: HR
OIT



OFFICE OF
Information Technology

Steve Smith | Chief Information Technology Officer
910 Yukon Drive, Suite 103 | Fairbanks, AK 99775-5320 | Phone: 907-450-8383 | Fax: 907-450-8375



TO: Joe Copy **Delivery Date & Time:** _____

A copyright owner, Media Sentry, has issued a Digital Millennium Copyright Act (DMCA) notice identifying a computer with a specific network address that may have been involved in illegal copyright infringement involving the file sharing software and file(s) described below. The university has records indicating this IP address is associated with a computing device that was assigned to you by the university during the violation period.

Alleged Violation: *It is alleged that on June 1, 2010, a computer with IP address 123.4.56.123 used BitTorrent to illegally download the copyrighted material,: Dexter Season 4 Complete.*

Your Next Steps:

A. Do Not Access This Computer

DO NOT ACCESS THIS COMPUTER FOR ANY REASON UNTIL YOU HAVE READ THE FOLLOWING NOTICE, HAVE PROVIDED A COPY OF THIS COMPLETED FORM TO YOUR SUPERVISOR AND THE HUMAN RESOURCES (HR) DEPARTMENT, AND HAVE RECEIVED WRITTEN CLEARANCE FROM HR TO DO SO.

B. Review Board of Regent's Policy and University Regulation

If you are not familiar with them, please review Regents' Policy 02.07.060 and University Regulation 02.07.051 & .062 on copyright.

<http://www.alaska.edu/active/level2/copyright.xml>
<http://www.alaska.edu/bor/policy-regulations/>

C. Make a decision regarding a request for an investigation – Options:

1. Request an investigation - If you wish to contest that you have engaged in infringing activity, you must request an investigation immediately. An investigation will attempt to determine whether illegal file sharing activity has in fact occurred and if so, who was responsible for the illegal activity.

If the investigation determines that you are not responsible for infringing activity, the University will document this in the event legal issues arise down the road. If you are determined to be responsible for copyright infringement, you may be subject to disciplinary action up to and including termination of employment.

During the investigation, affected computers will be sequestered by the Office of Information Technology and hard drives may be imaged and reviewed. Until further written notice, DO NOT ACCESS THIS COMPUTER, OR ANY OTHER COMPUTER WHICH YOU HAVE BEEN USING, FOR ANY REASON UNTIL GIVEN PERMISSION TO DO SO

Please identify any other computer to which you have access:

2. *Accept Personal Responsibility* - If you do not request an investigation, the University may, but has no obligation to, investigate. You should be aware that unless an investigation establishes that you are not responsible for infringing activity, you are personally responsible for taking steps to prevent future infringing activity as well as for any consequences of infringing activity, including the following:

1. Responding to any legal claims, including payment of damages and reasonable attorney fees, that may arise out of any copyright infringing activity on machines that you are authorized to use, and that may be alleged to have occurred
2. Disabling file sharing software as well as access to infringing material. Permanently disabling file sharing software is complex, and you are advised to obtain assistance from a qualified vendor acceptable to the Office of Information Technology at your expense;
3. A DMCA notice is not a civil suit. However, a civil suit may be filed by the copyright owner against you with respect to any infringing activity. You should seek private legal advice regarding any obligation you may have to preserve evidence regarding file sharing activity.

D. Acknowledge receipt of this notice and indicate your decision regarding investigation

Please read, indicate your decision, sign, date and return to your supervisor.

☐ I have read and understand this document and I request an investigation.

OR

☐ I have read and understand this document, I decline an investigation and understand my responsibilities and will take the steps outlined above.

Signature

Date

SAMPLE DMCA Notice to Student Services regarding Alleged Student Violation

The University of Alaska received a copyright infringement complaint against the following UAF wired network user.

Please advise if you wish to disable this user's network access.

Registered user: John Doe
Registered email ID: john.doe@alaska.edu
MAC address: 00:00:99:aa:00:00
System name: Doe-PC
Date of infringement: 13 Aug 2010 12:00:01 GMT
Infringing work: The Colbert Report - 2010.08.03.Laura.Ingraham
Copyright holder: Viacom
Software used: BitTorrent

Further evidentiary information:

Initial Infringement Timestamp: 12 Aug 2010 16:08:24 GMT
Recent Infringement Timestamp: 12 Aug 2010 16:08:24 GMT
Infringers IP Address: 199.165.99.123
Protocol: BitTorrent
Infringed Work: Comedy Central- The Colbert Report
Infringing File Name: The.Colbert.Report.2010.08.03.Laura.Ingraham.HDTV
Infringing File Size: 183747694
Bay ID: d26e87f57d0df8f60cca0d8ada2b443a3fde7bffa183747694
Port ID: 50854

Complaint is attached.

--
Chirk Chu
Security Consultant
Office of Information Technology
University of Alaska
907-451-8144

SAMPLE DMCA Notice to Student from Student Services regarding Alleged violation

August 13, 2010

John Doe
Moore Hall 123
University of Alaska Fairbanks

The purpose of this letter is to inform you that the University of Alaska Fairbanks has received a complaint that you were infringing on the rights of Warner Brothers by engaging in the unauthorized electronic transmission of the copyrighted electronic material, Where The Wild Things Are (Movie), using the Peer-To-Peer software BitTorrent.

Your access to the campus computing network will be deactivated until this allegation is resolved. You have two options you may pursue to resolve this complaint:

1. **Option one:** If you believe the complaint is accurate, then you should take the following actions within 72 hours of receipt of this letter:

- Remove the infringing material from your computer.
- Contact the Office of Information Technology (OIT) by emailing sdsec@email.alaska.edu acknowledge receipt of this letter, acknowledge that you have removed the infringing material and acknowledge that you have read and understand the warning provided later in this letter.
- If you need assistance in removing the infringing material, then you should contact the OIT Help Desk at 450-8300.

2. **Option two:** If you wish to challenge the complaint you should contact the Office of Information Technology (OIT) by emailing sdsec@email.alaska.edu within 72 hours of receipt of this letter (Use the subject line: Copyright Infringement Claim (Your last name)). In your email you must explain the basis for your denial of the allegation and provide a telephone number at which you can be reached. In some cases I will require a meeting with students when the alleged infraction is particularly serious or repetitive in nature.

Peer-to-Peer (P2P) file-sharing software programs such as BitTorrent, Limewire and others can make files in your computer available to other internet users, even when you do not intend to share files. Agents of a copyright holder can legally search your P2P shared folder for copyright infringement just because your computer is on the internet and the P2P software is running in the background. Deleting the P2P software ensures further copyright infringement will stop.

The unauthorized distribution of copyrighted material is in violation of the Student Code of Conduct as listed in the University of Alaska Fairbanks Class Schedule, and in the Residence Life Handbook (<http://www.uaf.edu/reslife/documents/handbook.pdf>) and federal copyright law. Specifically you allegedly violated the following elements of the Student Code of Conduct:

1. Theft of property or services
2. Violation of published university policies, regulations, rules or procedures as well as federal law.

The unauthorized distribution of copyrighted material using the campus computing network has the potential to open up the University for Liability. Although the University does not monitor content that is transmitted to/from the Internet, the University is required by law to respond to complaints from agencies and determine the extent to which copyrighted material is being shared. Since you were reportedly using Peer-To-Peer sharing software to share copyrighted material, it is necessary for us to take action. The files you reportedly shared are owned by the artists, producers and designers who want to capture the revenues of their hard work. For people to download this material from the Internet takes money from their pockets. In essence, it is stealing. It is illegal and a violation of federal law to download, possess and distribute copyrighted material if you did not purchase it.

The basic idea of copyright is to give the person who does the hard work of creating something new and original the legal control over when, where, and how that work is reproduced and distributed. The federal "NET Act" (No Electronic Theft Act) of December 1997 provides for criminal prosecution of individuals who engage in copyright infringement, even where the individual derives no monetary profit or commercial benefit from the infringement. The act amended the definition of "commercial advantage or private financial gain" to include receiving or expecting to receive anything of value, including the receipt of copyrighted works. Individuals who engage in copyright infringement can be held civilly liable for actual damages or lost profits, or for statutory damages of up to \$150,000 per work infringed. The distribution of unauthorized copies of copyrighted motion pictures also constitutes copyright infringement under the Copyright Act, Title 17 United States Code Section 106.

Under the Digital Millennium Copyright Act, if we (as a University) do not take action on this violation, we may be held liable for the infringement. I would encourage you to familiarize yourself with copyright infringement laws and other university computing policies as they relate to peer-to-peer file sharing. Additional information can be found at the OIT websites:

<http://www.alaska.edu/oit/cito/OnlineResources.pdf>

<http://www.alaska.edu/active/level2/copyright.xml>

<http://www.musicunited.org>

University of Alaska Regulation (PART II – Administration, CHAPTER VII - Information Resources) states that any violations of standards by the user could result in "disciplinary action including expulsion according to the Student Code of Conduct procedures; temporary or permanent denial of access to Information Resources; and subject violators to criminal prosecution." We prefer to take an educational approach and want you to understand how your behavior is affecting you and others engaging in this behavior.

Given this recent complaint and our requirement to respond to the complaining agency, this letter is formal notification that:

You are warned that the unauthorized distribution of copyrighted material is unacceptable at an institution of higher education and must not continue. Further violations of university policy or federal law will result in other more severe disciplinary action including, but not limited to, loss of access to the campus computing system.

AGAIN, THE UNIVERSITY TRIES TO EDUCATE STUDENTS AS TO THE EFFECTS OF THEIR BEHAVIOR ON THE COMMUNITY, ON THE UNIVERSITY AND ON THEMSELVES IN THE FUTURE. A STATE POLICE AGENCY OR THE FBI WOULD NOT HAVE BEEN AS LENIENT AS WE HAVE. THE R SOURCES MENTIONED ABOVE ARE ALSO GOOD OPPORTUNITIES TO HELP LEARN ABOUT THE LAW. I HOPE THAT THESE EVENTS AND THEIR ON SEQUENCES WILL PROVE TO BE A LEARNING EXPERIENCE FOR YOU. PLEASE CONTACT ME AT 474-7247 IF YOU HAVE ANY QUESTIONS.

Sincerely,

Kevin Huddy
Associate Vice Chancellor for Student Services

Cc: Security Administration, Office of Information Technology
Don Foley, Associate Vice Chancellor for Student Life / Director of Judicial Services
Student File

Division of Student and Enrollment Services
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