

Digital and Electronic Copyright Infringement Policy

This document is intended to explain the policies and procedures that Jackson State University (JSU) follows in responding to notifications of alleged copyright infringements on the University network. This policy applies to all users of University facilities and services, including employees (faculty and staff), students, guests, contractors, and other prospective users.

1. Overview of Digital and Electronic Copyright Infringement Policy

Compliance with federal copyright law is expected of all students, faculty, staff, guest, and other perspective users at Jackson State University ("JSU"). "Copyright" is legal protection for creative intellectual works, and is defined as a property right in an original work of authorship which is fixed in a tangible medium of expression. Text (including email and web information), graphics, art, photographs, music, and software are examples of types of work protected by copyright. The creator of the work, or sometimes the person who hired the creator, is the initial copyright owner. Many people understand that printed works such as books and magazine articles are covered by copyright laws but they are not aware that the protection extends to software, digital works, and unpublished works. Copyright also covers all forms of a work, including its digital transmission and subsequent use. You may "use" all or part of a copyrighted work only if (a) you have the copyright owner's permission, or (b) you qualify for a legal exception (the most common exception is called "fair use"). "Use" of a work is defined for copyright purposes as copying, distributing, making derivative works, publicly displaying, or publicly performing the work. Faculty, staff, and students must secure copyright permission, a license, or a legal basis for use of copyrighted works before using the material.

1.1 Purpose

The purpose of this policy is to implement University practices that abide and conform to the Federal Law governing the copyright of digital resources as defined in the Digital Millennium Copyright Act of 1998, 105 PL 105- 304, as well as to provide notices pursuant to 34 C.F.R. Section 668.43, including a statement informing students that the unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to student discipline as well as civil and criminal liabilities.

1.2 Scope

This policy applies to activities involving the download, upload, or distribution of copyright protected digital material in any fashion but not limited to electronic data, information, voice, video, and software by University computer system users on University computer systems.

1.3 Detailed Policy

The University complies with the provisions of the Digital Millennium Copyright Act ("DMCA"). Some of the specific areas addressed by DMCA are:

- Limitation on Infringement Liability for "Service Providers";
- Limitations on exclusive rights; Distance Education;
- Copyright Exemptions for Libraries and Archives; and
- Limitations on exclusive rights; Computer Programs.

It is illegal under Federal law (Title 17 of the US Code, and more recently the Digital Millennium Copyright Act, 105 PL 304), to download, upload, or distribute in any fashion, copyrighted material in any form without permission or a license to do so from the copyright holder. The University neither condones nor supports the use of copyrighted material in ways not intended for such materials. Campus network users who violate copyright law by using file-sharing programs to exchange music, videos, software, or other digital content without the consent of the copyright owner risk losing his/her network access and/or termination of employment if applicable.

2. Claims

The DMCA specifies that all infringement claims must be in writing (either electronic mail or paper letter) and must include the following:

1. A physical or electronic signature of the copyright holder or a person authorized to act on the owner's behalf;
2. A description of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;

3. A description of the material that is claimed to be infringing or to be the subject of infringing activity, and information reasonably sufficient to permit the service provider to locate the material;
4. Information reasonably sufficient to permit the service provider to contact the complainant, such as an address, telephone number, and, if available an electronic email address;
5. A statement that the complainant has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
6. A statement that the information in the notification is accurate, and under penalty of the perjury, that the complainant is authorized to act on behalf of an exclusive right that is allegedly infringed.

2.1 Notice of Claimed Copyright Infringement

When the college receives a violation notice stating that copyright infringement has been detected on Jackson State University's network, the Department of Computing & Communications ("DCC") notifies the network user (student, faculty, staff, guest, and other perspective users) that they must remove or disable access to the infringing material on their or JSU computer(s). The University may disclose information about the accused to third parties in its sole discretion. The designated agent for JSU will follow the requirements of federal law concerning notices to the complainant and the accused and retention of a record of the complaint and resolution. The University reserves all right, at its sole discretion and without notice if it deems appropriate or necessary, to terminate the privileges of any system user who is accused of infringing the copyright of a third party, to disable access to material subject to a claim of infringing a copyrighted work as defined under the Digital Millennium Copyright Act, 17 U.S.C. § 512 (the "DMCA"), and to terminate the privileges of any system user suspected of violating the law or this policy. While JSU may take immediate interim action, a permanent adverse action against a suspected violator may occur only after the accused has been afforded a meaningful opportunity to be heard (see 2.3 below). As soon as reasonably practicable after immediate interim action is taken, the affected individual will be notified of his or her due process rights as set forth below in section 2.3.

2.2 Repeat Infringes

Jackson State University will terminate all network access for anyone who repeatedly infringes on the rights of copyright holders, although access may also be terminated where the University reasonably believes significant infringement has occurred.

2.2.1 For Students: Upon a second notification of infringement, his/her network access will be suspended and the matter will be referred to the Associate Dean of Student Development and Judicial Services and, at their discretion, may result in charges both with JSU Judicial Services and in the civil or criminal court system. (*Please see Appendix A: Academic Policies-Academic Dishonesty: Unauthorized / Illegal Web Use, pg. 20 of the Jackson State University Student Handbook 2008-2009, and as amended*).

2.2.2 For Faculty/Staff: Upon a second notification, the appropriate senior officer of the college or department will determine the action to be taken.

2.2.3 For Guest/Other Prospective Users: Please see section "What the Law Says."

2.3 Due Process and Appeals

A person who has allegedly violated this policy shall not suffer any permanent adverse action until after being given an opportunity to present information to the appropriate decision maker or committee. This opportunity to be heard shall be considered an appeal of any temporary action taken as well as a prerequisite for any permanent or indefinite adverse action. The alleged violator shall have fourteen (14) days from his or her being notified of the specific accusation or activity in order to exercise this due process provision. Requests for a due process procedure shall be in writing and forwarded to the following, with a copy to the **Department of Computing & Communications**, according to the status of the person accused: for students, the Associate Dean of Student Development and Judicial Services; for staff, the Director of the Division of Human Resources; for faculty, the Provost; and for contractors/vendors, the Executive Vice President. The preceding decision maker may delegate these responsibilities to another person or committee, so long as a meaningful opportunity to be heard is provided the accused.

3. What the Law Says

The distribution of copyrighted materials over the Internet for which the distributor (any server - including your computer) does not have permission can be a violation of federal criminal law, including the DMCA. The DMCA provides non-profit educational institutions with some protections if individual members of the community violate the law. However, JSU will expeditiously take down or otherwise block access to infringing material whenever it is brought to our attention, whether or not the individual who is believed to be infringing has received notice. Most of the music, games, or videos downloaded through file-sharing programs like Morpheus or KaZaa

lack permission of the copyright owner. Those very programs that you use to download material also automatically open file-sharing services from your computer. So, without you knowing it explicitly, by downloading the program and the files your computer is programmed to share files back out into the international Internet community. You are therefore likely to be in violation of the DMCA, even if all you did was download a single song. Universities and individuals can be subject to the imposition of substantial damages for copyright infringement incidents relating to the use of University network services. Individual infringers may be subject to criminal prosecution or a civil action, or both. The individual infringer may be liable for either actual damages or statutory damages of up to \$30,000 (which may be increased to up to \$150,000 if the court finds the infringement was willful). Criminal penalties may include up to ten years imprisonment depending on the nature of the violation. JSU's students and personnel may also be subject to disciplinary action, possibly including fines, suspensions without pay, or even termination or expulsion, depending on the severity of the violation.

3.1 Who's Affected?

DMCA infractions can result in serious consequences regarding activities of faculty, graduate students, or staff who are performing teaching or research functions if the university has received more than two notices of infringement against an individual within a three-year period.

4. Who to Contact?

If you have a concern about the use of copyrighted material on the University network or domain, please contact the agent designated to respond to reports alleging copyright infringement.

4.1 Designated Agent

The designated agent for the University to receive notification of claimed infringement under Title II of the DMCA is the:

Department of Computing & Communications (DCC)
Voice : 601.979.6400 ~ Fax: 601.979.0425 ~ Email:occc@jsums.edu

5. Terms

5.1 Illegal Downloads - Any form of unauthorized duplication and/or distribution of any copyrighted material including downloading, file sharing, or CD/DVD-burning, as well as any other illegal transfers or publications of data, programs, or copyrighted material from one computer or server to another.

5.2 Peer to Peer File Sharing - The term **P2P** refers to "peer-to-peer" networking. A peer-to-peer network allows computer hardware and software to function without the need for special server devices. P2P is an alternative to client-server network design.

6. Additional Information

6.1 Peer-to-Peer (P2P) File Sharing Programs

The advent of peer-to-peer (P2P) technology combined with new utilities to facilitate file sharing activity is causing hardship to university networks. Peer-to-Peer File Sharing examples include WinMX, eDonkey2000, Bitcomet, Bitlord, Gnutella, Kazaa, Morpheus, Bear Share, Limewire, Bittorrent, Kazaa Lite, and Napster. Directly related to this file sharing, Jackson State University has seen an increase in residence center network traffic which could cause significant and complete interruptions of Internet access to all of our resident students.

"Peer-to-peer" programs are automatically configured upon installation to share all of the materials downloaded with the software (e.g. music, movies, software) with other members of the "community" over the Internet. Peer-to-peer sharing of these large files taxes the University's network resources, reduces network speed and ultimately may crash the Internet router. In addition, it is illegal for people to download, share, and use materials (music, movies, software) on their computers for which they do not have a license or permission of the legal copyright owner (e.g. materials the user has not legally purchased).

Many file-sharing applications come bundled with "adware" or "spyware" which are automatically installed on your computer along with the file-sharing application. This software can monitor your activity, sending information to third-party vendors and advertisers on such things as what web pages you browse or what searches you perform. Apart from privacy concerns, these add-ons use your computer's system resources to operate and will affect performance. Installed spyware and/or adware cause extreme slowness or even render your computer unusable.

JSU strictly prohibits P2P file sharing in order to alleviate potential liability and reserve network bandwidth. As an alternative to P2P file sharing on a JSU network or system, individuals are encouraged to participate in such activities

only on other networks or systems and only with reputable entities, persons, or servers who are authorized by the copyright owner to publicize or distribute the work. While there are many acceptable uses of JSU's technology services, including iTunes, AOL Music, Yahoo! Music, Napster, Blockbuster Online, Playstation Store, Zune Video, CBS video, and etc. P2P file sharing and illegal downloading are strictly prohibited.

7. Electronic Acknowledgment. All users of university technology must electronically acknowledge that they are aware of and agree to this policy. Record your acknowledgment by clicking on the *I Acknowledge* button.

By signing this, you have indicated you have read and understand all the terms and conditions set forth above.

Print Name: _____ Signature: _____

Today's Date: _____ Jnumber: _____

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