

DMCA - USNH DIGITAL MILLENNIUM COPYRIGHT ACT STANDARD

Responsible Executive/University System Officer: Chief Information Security Officer

Responsible Office: ET&S Cybersecurity GRC

Approved Distribution: Public

Status: IN FORCE

1. DMCA Compliance at USNH

The following provides detailed information on how the University System of New Hampshire complies with the provisions (34 CFR 668.14(b)(30)) in the Higher Education Opportunity Act of 2008 (HEOA) related to combating the unauthorized distribution of copyrighted materials through illegal downloading governed by the Digital Millennium Copyright Act (DMCA) enacted in 1998.

Per the USNH Acceptable Use Policy (<https://www.usnh.edu/policy/usy/viii-cybersecurity-policies-and-standards/acceptable-use>), downloading, copying, using, or sharing copyrighted digital information files, including but not limited to music and movies, is an illegal activity that could result in civil and criminal penalties and/or University System of New Hampshire Student Judicial System charges.

2. Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws

Copyright infringement is 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 file-sharing, downloading or uploading substantial parts of a copyrighted work without authority constitutes an 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 attorneys' 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.

For more information, please see the Web site of the U.S. Copyright Office at www.copyright.gov, especially their FAQs at www.copyright.gov/help/faq.

3. USNH Student Judicial System Process



Disciplinary actions for violation of the Acceptable Use Policy, including any violations related to the unauthorized distribution of copyrighted material, are governed by the Conduct Resolution Procedures outlined in Article IV of the Student Rights, Rules, and Responsibilities Handbook.

(<https://www.unh.edu/dean-of-students/processes-policies-protocols/student-rights-rules-responsibilities>)

4. University System of New Hampshire Procedures for Handling of DMCA Complaints and Violations

The designated University Agent to receive written claims of copyright infringement under the Digital Millennium Copyright Act is:

Bill Poirier
Chief Information Officer
Enterprise Technology & Services
University System of New Hampshire
Rm 307, Thompson Hall
105 Main Street
Durham, NH 03824-3547

E-mail: dmca@unh.edu

5. PROCESS AND ENFORCEMENT

1. Reporting Claims of Infringement

A written notification of claimed infringement must be sent to the University Agent from the alleged copyright owner (Complaining Party) that includes substantially the following:

- A physical or electronic signature of a person authorized to act on behalf of the Complaining Party. As an electronic signature, we accept fax and a digitized image of the signature attached to e-mail.
- Identification of the copyrighted work claimed to have been infringed.
- Identification of the material that is claimed to be infringing or the subject of infringing activity and that is to be removed or disabled, including information reasonably sufficient to permit the University to locate the material. For example, include the URL.
- Submissions are accepted at the dmca@unh.edu address in an ACNS format. Make special note of the required fields and the Source->Protocol field. Submissions will not be accepted without that information or at other email addresses.
- Information reasonably sufficient to permit the University to contact the Complaining Party, such as address, telephone number, and e-mail address.

- A statement that the Complaining Party has a good faith belief that the use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- A statement that the information in the notification is accurate; and under penalty of perjury, the Complaining Party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

2. Handling of Received Complaints

Upon receipt of a complete DMCA Take-Down Notice or other complaint, the University will notify the UNH user that a complaint has been received and request that the copyrighted information be taken down. The UNH user must then comply with the request and, if they choose, provide a counter-notification to the University Agent as defined below.

Repeated notifications relating to the same USNH user may result in an escalation of consequences as outlined in the USNH Copyright protection guidance. (<https://www.unh.edu/digital/standard/copyright-permissions>)

3. Counter Notification of Replacement

The User (subscriber) may provide a counter-notification to the University Agent, responding to the notification from the Complaining Party. A counter-notification must be a written communication provided to the Agent that includes substantially the following:

- A physical or electronic signature of the User (subscriber).
- Identification of the material that has been removed or to which access has been disabled, and the location at which the material appeared before it was removed or access to it was disabled.
- A statement under penalty of perjury that the User has a good faith belief that the material was removed or disabled as a result of mistake or incorrect identification of the material to be removed or disabled.
- The User's name, address, and telephone number, and a statement that the User consents to the jurisdiction of the Federal District Court for the judicial district in which the address is located, or if the User's address is outside the United States, for any judicial district in which the University may be found and that the User will accept service of process from the person who provided notification or an agent of such person.

Once the complaining party receives the User's claim, the DMCA permits the University to restore materials or access within two weeks -- unless the Complaining Party serves notice that it intends to seek a court order to restrain infringement. University policy may mandate for other reasons that materials or access not be restored, and some other investigation may proceed.

The DMCA does not alter fair use provisions of U.S. copyright law.

4. Legal Alternatives for Downloading Content

The following provides information on legal sources of online content:

<https://www.educause.edu/focus-areas-and-initiatives/policy-and-security/educause-policy/legal-sources-online>

5. Resources on Intellectual Property

- UNH and USNH-Specific Resources
 - [UNH Office of Intellectual Property Management](#)
- DMCA-Specific Resources
 - [Copyright Law of the United States \(Title 17\)](#)
 - [Digital Millennium Copyright Act](#) (PDF)
 - [Joint Study of Section 1201\(g\) of The DMCA](#)
 - [U.S. Copyright Office Agent Directory](#)
 - [EFF](#): How To Not Get Sued for File Sharing
- General Internet Resources
 - [Berkman Center for Internet & Society](#) at Harvard Law School
 - [Bitlaw](#) on technology law
 - [Copyright Clearance Center](#)
 - [Digital Millennium Copyright Act](#) issues at EDUCAUSE
 - [GigaLaw](#): Legal information for Internet professionals
 - [Intellectual Property Law](#)
 - [U.S. Copyright Office](#)

6. CONTACT INFORMATION

For USNH community members: Questions about this standard, requests for additional information or training, or reports of violations can be directed to Cybersecurity Governance, Risk, & Compliance (GRC) via this [Support Form](#).

A community member may submit other requests here: [Submit an IT Question](#).

7. DOCUMENT HISTORY

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Reviewed by: Dr. David Yasenchock, Director Cybersecurity GRC, January 21, 2022

Approved by: Thomas Nudd, Chief Information Security Officer, January 29, 2022