

# University of Alaska Southeast

## 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***

IT Services' role is to protect against liability arising out of use of IT services, and to prevent disruption or damage to the university's information resources. IT Services 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 Dean of Students or the relevant supervisor of the User may limit access or services as a punitive measure. Within IT Services, the Information Systems group has responsibility for investigating and responding to security and copyright complaints.

### ***Process***

#### **1. Discovery**

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

*Clarification of Intent:*

The process of discovery is intentionally reactive. IT Services does not monitor content of network traffic or routinely scan computers. IT services 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 Dean of Students (*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 held by Housing staff for signed pick-up. 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 IT Services right to inspect the machine at any time; and
6. the requirement that a written response be received by IT Services 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, IT Services 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 IT Services process requires no findings or conclusions regarding the association of the person and the violation. Throughout the investigation, IT Services 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, IT Services will:

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

#### *Clarification of intent:*

IT Services 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 IT Services 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 IT Services 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. IT Services will seek approval to release information outside of IT Services through consultation with the MAU and System IT directors as well as General Council. Once approval is granted, IT Services 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:** IT Services will seek approval to release information outside of IT Services through consultation with the MAU and System IT directors as well as General Council. Once approval is granted, the relevant supervisor or Office of the Dean of Students is notified. No further action is taken unless notified otherwise by the relevant supervisor or Dean of Students.