

{draft date April 9, 2019}

## **Rule 4-003B Digital Copyright Infringements, Protection and Remedies**

**Effective date: July 1, 2019**

### **I. Purpose and Scope**

- A. The purpose of this rule is to outline the requirements for compliance with applicable copyright laws and regulations, specifically the Digital Millennium Copyright Act.
- B. The scope applies to Web Site Owners and consumers using University internet, networks and/or storage to serve or experience content (such as text, images, video, animations) from Institutional Web Sites, Non-institutional Web Sites, non-University web sites or streaming services.
- C. This rule focuses on copyright requirements set forth in the Digital Millennium Copyright Act. However, Institutional Web Sites and Non-institutional Web Sites are subject to all University of Utah copyright standards covered in the University's Copyright Policies: [Policy 7-013](#) (Copying of Copyrighted Works), [Policy 7-014](#) (Performance or Display of Copyrighted Works) and [Policy 7-003](#) (Ownership).
- D. This rule supports section C, Copyright Protection, of the World Wide Web Policy 4-003.

### **II. Definitions**

The definitions provided in Policy 4-003: World Wide Web Resources Policy apply for purposes of this Rule, as well as the following:

- A. "Digital Millennium Copyright Act (DMCA)", 17 U.S.C. § 512 is part a United States copyright law that implements two 1996 treaties of the World Intellectual Property Organization (WIPO). The DMCA protects digital rights management

(DRM) by criminalizing copyright infringement. The law relies on providers of online services to take specific action on infringement notices, including “take down” of sites or prohibiting infringers from using University internet services. Title 17, Section 512 of the DMCA limits the liability of the University from infringers using University resources.

- B. “Internet Service Provider (ISP)” is an organization that provides services for accessing, using or participating in the internet. The University of Utah acts as an ISP by providing individuals and units access to the internet and other related services. Common services provided include access, transit (transmitting data beyond the University network), domain name registration, web site hosting, storage and mail boxes.
- C. “Designated Agent” is the term specified in the DMCA to receive notification of a claimed infringement. As an ISP, the University has identified a Designated Agent.

### **III. Rule**

- A. University Compliance with the DMCA
  - 1. Title II of the Digital Millennium Copyright Act (“DMCA”), 17 U.S.C. § 512, limits the liability of Internet Service Providers (“ISP”) for certain infringements. The University of Utah is an ISP for its own community of students, faculty and staff, and for some other nonprofit state agencies and organizations. As an ISP, the University cooperates with investigations for copyright infringement, including take-down procedures to comply with the law. Infringers are liable for any fines and/or punishment for non-compliance. The DMCA outlines specific rules and procedures for complying with the law in return for limiting the liability of the University of Utah.
- B. Online Copyright Infringement and Remedies

1. Designated Agent. The University has designated an agent to receive notices from copyright owners alleging infringements. Contact information for this agent is available on the University Disclaimer page. The University's Designated Agent will receive and act on infringement notices. University IT also has a related operations group which fulfills requests from the Designated Agent.
2. Repeat Infringers. The University will terminate the service of any user who repeatedly infringes the rights of copyright owners.
3. If the University's Designated Agent receives an infringement notice that substantially conforms to the requirements of the DMCA, the University's Designated Agent will make efforts to notify the Web Site Owner or consumer of the copyrighted information about the allegation of infringement and secure voluntary take-down of the work or disable access to the work.
4. Upon receipt of such notice or take-down, the Web Site Owner or consumer of the copyrighted work may file a counter-notification to the University that complies with the requirements of the DMCA. Consistent with the provisions of the DMCA, the University will not be liable to the owner or consumer of the page for any harm the owner or consumer of the page might suffer because of the University's action in disabling access to a page so long as the Designated Agent:
  - a. takes reasonable steps to notify the Web Site Owner or consumer about the allegations in a confirming notice that the University has received;
  - b. promptly sends a copy of any substantially confirming counter-notice to the complainer indicating that it will restore access in 10 business days; and
  - c. restores access to the allegedly infringing work within 10 to 14 business days after the day it receives counter-notice, unless it first receives a notice from the complaining party that the complaining party has filed an

action seeking a court order to restrain the Web Site Owner from further copyright infringement.

5. Consumers using University networks to experience digital media (such as music, videos, etc.) are responsible to comply with copyright law and will be solely responsible for any fines or punishment for infractions. The University will cooperate with copyright owners in providing contact information for copyright owners to pursue compliance.

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*[Note: Parts IV-VII of this Regulation (and all other University Regulations) are Regulations Resource Information – the contents of which are not approved by the Academic Senate or Board of Trustees, and are to be updated from time to time as determined appropriate by the cognizant Policy Officer and the Institutional Policy Committee, as per Policy 1-001 and Rule 1-001.]*

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#### **IV. Rules, Procedures, Guidelines, Forms and other Related Resources**

A. Rules [Reserved]

B. Procedures

1. DMCA Take Down Procedure

C. Guidelines [Reserved]

D. Forms [Reserved]

E. Related Resources [Reserved]

1. Designated DMCA Copyright Agent listed on the University's [Disclaimer](#) page.

#### **V. References**

A. Policy [7-002](#), Patents and Inventions

B. Policy [7-003 Ownership of Copyrightable Works and Related Works](#)

- C. Policy [7-013](#) Copyright Policy: Copying of Copyrighted Works
- D. Policy [7-014](#) Copyright Policy: Performance or Display of Copyrighted Work
- E. Digital Millennium Copyright Act ([H.R. 2881](#))
- F. DMCA U.S. Copyright Office [summary](#)
- G. DMCA Title II of the Digital Millennium Copyright Act, [17 U.S.C. § 512](#)

## VI. Contacts

The designated contact officials for this Rule are

- A. Policy Owner (primary contact person for questions and advice): Deputy Chief Information Officer, 801-581-3100
- B. Policy Officer: Chief Information Officer, 801-581-3100

These officials are designated by the University President or delegee, with assistance of the Institutional Policy Committee, to have the following roles and authority, as provide in University Rule 1-001:

*“A ‘Policy Officer’ will be assigned by the President for each University Policy, and will typically be someone at the executive level of the University (i.e., the President and the president’s Cabinet Officers). The assigned Policy Officer is authorized to allow exceptions to the Policy in appropriate cases...”*

*“The Policy Officer will identify an ‘Owner’ for each Policy. The Policy Owner is an expert on the Policy topic who may respond to questions about, and provide interpretation of the policy; and will typically be someone reporting to an executive level position (as defined above), but may be any other person to who the President or a Vice President has delegated such authority for a specified area of University operations. The Owner has primary responsibility for maintaining the relevant portions of the Regulations Library... [and] bears the responsibility for determining –requirements of particular Policies....”*  
*University Rule 1-001-III-B & E*

## VII. History

Current version: Revision 1, effective date July 1, 2019

Approved by Academic Senate April 1, 2019

Approved by Board of Trustees April 9, 2019

Editorially changed March 4, 2022 to replace gender-specific pronouns.