

# IT Security

Information Technology Systems and Services

## UND Digital Millennium Copyright Act (DMCA) Policy

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### I. Reason for the Policy

UND recognizes and respects the intellectual property rights of copyright holders, and believes students, faculty, and staff should maintain the highest standards of legal and ethical conduct.

This policy addresses the University's response to The Digital Millennium Copyright Act of 1998 which requires the University to take certain actions after receiving a complaint from a copyright owner about potential copyright infringement involving a computer on the UND network.

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### II. Applicability of the Policy

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, music, voice, video and software by University computer system users on University computer systems.

This policy applies to all members of the UND community, and to any individual using the UND network.

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### III. Policy Statement

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, and expects all faculty, staff, and students to comply with federal copyright law.

If the University receives a infringement notification meeting the requirements of the DMCA, the Information Technology Security Officer (ITSO) will identify the alleged infringing computer system and then notify the owner of that system. The system owner will be expected to remove the infringing material or contact the ITSO if the owner believes the identification was based on a mistake or misidentification, or that the owner believes they have permission or authority to use the material. The ITSO may give the authorization to disable access to the system if the material is not removed in a reasonable timeframe.

UND will reveal names of alleged offenders only when given a valid subpoena.

Additional and more detailed information can be found in the UND DMCA Procedures.

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#### IV. Policy Enforcement

- **First violation:** The alleged infringer will be notified by email and must remove the copyrighted material or contact the ITSO if the owner believes the identification was based on a mistake or misidentification. If the owner believes they have permission or authority to use the material, they must draft a response to the ITSO as detailed in the UND DMCA procedures. Access to the UND network by the computer referenced in the complaint may be disabled if the material is not removed or the owner does not contact the ITSO in a timely manner. Once the material is removed, the incident will be documented and no further action will be taken against the infringer.
- **Second violation:** Access to the UND network by the computer referenced in the complaint will be immediately disabled. The alleged infringer will be notified by email and sent a notification in a written letter and must remove the copyrighted material, or contact the ITSO if the owner believes the identification was based on a mistake or misidentification. If the owner believes they have permission or authority to use the material, they must draft a response to the ITSO as detailed in the UND DMCA procedures. If the material is not removed in a timely manner, or the owner does not contact the ITSO, the individual will be referred for potential disciplinary action ([Student Conduct Administrator](#) for students; supervisor, Dean or Department head for faculty or staff). If the material is removed in a timely manner, access to the UND network for the computer will be restored and the infringer will then be required to complete the *DMCA and Copyright Educational Program* administered by the ITSO.
- **Third violation** Access to the UND network by the computer referenced in the complaint will be immediately disabled. The alleged infringer will be notified by email and sent a notification in a written letter and must remove the copyrighted material, or contact the ITSO if the owner believes the identification was based on a mistake or misidentification. If the owner believes they have permission or authority to use the material, they must draft a response to the ITSO as detailed in the UND DMCA procedures. If it is determined the individual was indeed infringing, they will be immediately referred for potential disciplinary action ([Student Conduct Administrator](#) for students; supervisor, Dean or Department head for faculty or staff). Access to the UND network by the computer referenced in the complaint will be blocked pending the outcome of the disciplinary procedures.

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#### V. Appeal Process

An individual may respond to an email or letter from the ITSO and make a claim that the alleged infringement did not occur, was based on a mistaken identity, or that they believe they have permission or authority to use the material. The ITSO will work with general counsel, Network Services, and any other relevant departments or individuals to make a determination as to whether or not the individual is in violation of the DMCA. If the individual disagrees with the determination, they can make a written appeal to the Chief Information Officer (CIO) or an individual designated to act on behalf of the CIO.

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#### VI. Definitions

##### *Copyright*

A copyright is an exclusive right granted by the government for a limited time to regulate the use of an original expression of an idea. Copyrights are frequently used to protect literary works, movies, musical works, sound recordings, paintings, photographs, software, live performances, and video and sound broadcasts.

*Digital Millennium  
Copyright Act of 1998*

An Act intended to update United States copyright law for the digital age. Key among the topics included are provisions concerning the circumvention of copyright protection systems, fair use in a digital environment, and online service provider (OSP) liability (including details on safe harbors, damages, and "notice and takedown" practices).

*Infringement Notification*

A statement to an Internet Service Provider (ISP) (or University), made under penalty of perjury, that a copyright owner or authorized representative believes that rights to his/her copyright-protected materials were infringed through the ISP (or University). To be valid, a notification must meet the requirements of the DMCA.

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**VII. Related Documents / Policies**

- [UND DMCA Procedures](#)
- [North Dakota Higher Education Computer Network \(HECN\) DMCA Policy](#)
- [HECN DMCA Designated Agent](#)
- [UND Student Acceptable Use Policy](#)
- [NDUS Procedure 1901.2 Computer and Network Usage](#)
- [Code of Student Life](#)
- [Digital Millennium Copyright Act of 1998 Summary](#)
- [U.S. Code Title 17 – Copyrights](#)

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**VIII. Effective Dates**

Last Modified: April 15, 2008  
Effective: May 28, 2009

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**IX. Contacts**

Contact	Phone
UND IT Security Officer (ITSO)	777-3587
UND ITSS Helpdesk	777-2222
UND Chief Information Officer (CIO)	777-3231
NDUS IT Security Officer	701-231-7385
Dean of Students Office	777-2664