

1.0 Introduction

As a university system and creators of intellectual property, the California State University has a significant interest in ensuring that all copyrighted material is protected and that the rights of copyright holders and creators of intellectual property are respected and maintained.

Technological advances and the advent of peer-to-peer file sharing applications have created an environment where illegal downloading of copyrighted materials, particularly, but not exclusively, music and entertainment videos has flourished.

The Internet is now the preferred medium for dissemination of information resources. Abusive use of otherwise legitimate technologies has fostered a lack of respect for the intellectual property of others. The university must act to ensure that the appropriate safeguards and policies are in place to discourage such abusive use.

2.0 Scope

This policy applies to all members of the university community, including CSU Stanislaus auxiliary organizations and external businesses or organizations that use campus information assets.

3.0 Policy Management

This policy will be updated as necessary to reflect changes in CSU Stanislaus academic, administrative, or technical environments, or applicable federal / state laws and regulations. The CSU Stanislaus Information Security Officer (ISO) in the Office of Information Technology (OIT) will be responsible for overseeing an annual review of this policy and communicating any changes or additions to appropriate CSU Stanislaus personnel.

Policies, standards, and implementation procedures referenced in this policy will be developed by the ISO and OIT through consultation with campus officials and key community members.

4.0 Governing Laws

On September 17, 2004 Governor Schwarzenegger issued State of California Executive Order S-16-04 prohibiting the use of state resources to illegally download copyrighted material.

The Digital Millennium Copyright Act (DMCA), signed into law on October 28, 1998, includes provisions concerning the circumvention of copyright protection systems, fair use in a digital environment, and online service provider liability

Illegal file-sharing and other copyright violations are a Violation of Title 5 of the California Code of Regulations.

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).

The 2008 Higher Education Opportunity Act (HEOA) includes several sections dealing with unauthorized file sharing on campus networks, imposing three general requirements on all U.S. colleges and universities:

- An annual disclosure to students describing copyright law and campus policies related to violating copyright law

- A plan to "effectively combat the unauthorized distribution of copyrighted materials" by users of its network, including "the use of one or more technology-based deterrents"
- A plan to "offer alternatives to illegal downloading"

5.0 Policy

Resources of the California State University, including computer hardware and software and intra / inter-campus network connections, must not be used for the purpose of illegal downloading, copying or use of copyrighted materials, including, but not limited to music, videos, motion pictures, and Internet accessible content.

It is the policy of the CSU to use any and all information technologies in a manner consistent with federal and state laws governing copyright protection. These include, but are not limited to, the Digital Millennium Copyright Act of 1998, the Teach Act of 2002 and all subsequent amendments.

Use of any university resource such as computers (hardware or software), network connections, servers, routers, facsimile machines, copy machines and other electronic equipment by any university constituent (faculty, student, staff or general public) to circumvent legitimate copyright protections or illegally access, copy or disseminate copyrighted material will be reviewed and appropriate action taken pursuant to CSU policies.

The Chancellor's Office of the CSU system issued Executive Order 999 formally stating the university's policy on illegal electronic file sharing and protection of electronic copyrighted material in March of 2007. It can be found at <http://www.calstate.edu/EO/EO-999.html>.

6.0 Procedures

The designated agent to receive DMCA notices of alleged copyright infringement is the campus Chief Information Officer in the Office of Information Technology (OIT).

The process followed by OIT when it receives a DMCA infringement notice is as follows:

- Analyze the provided network address information to determine if the identity of the person involved can be established.
- Temporarily disable the network port of the user and immediately contact the individual to explain the situation.
- In the case of students, OIT notifies Student Affairs, which in turn contacts the student. If the alleged infringing recording exists as described in the DMCA notice, the user is requested to remove it.
- In the case of a staff or faculty member, this process is carried out directly by OIT and reported to the appropriate authority.
- Upon verification that the recording has been removed, the network port is reactivated.
- Written notification of the resolution of the complaint is provided to the appropriate campus office based on the status of the individual: Student Affairs, Department Manager or Provost.
- Individuals found to have violated university / CSU policies or Title 5 of the California Code of Regulations may be subject to disciplinary proceedings in accordance with the student Code of Conduct and CSU policy, or the applicable collective bargaining agreements.

7.0 Summary of Civil and Criminal Penalties

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 the file-sharing context, 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 FAQ's at www.copyright.gov/help/faq.

8.0 Legal Alternatives to Illegal Downloading

In addition to purchasing music and video content through traditional sources, members of the university community can pursue a wide range of alternative methods to enjoy copyrighted content via the Internet. The university provides ample Internet capacity to support use of the technology for playback of video and audio recordings on network-attached devices located on the campus.

When accessing recordings via the Internet, it is important to recall that free content is not necessarily illegal, just as content that is not free is not necessarily legal. Internet sites providing legal alternatives for downloading include:

- ABC.com TV Shows
- Amazon MP3 Downloads
- Amazon Video on Demand
- Amie Street
- AOL Music
- ARTISTdirect Network
- AudioCandy
- Audio Lunchbox
- BearShare (version 6 or higher)
- Best Buy
- BET
- Blip.fm
- Blockbuster Online
- Bravo Videos
- Buy.com
- Cartoon Network Video
- Catsmusic
- CBS Video
- CD Baby
- CinemaNow
- Clicker (formerly Modern Feed)
- Comedy Central Video
- Criterion Online
- The CW Video

- Dimple Records
- Discovery Channel Videos
- Disney Videos
- Download Fundraiser
- The Electric Fetus
- eMusic.com
- ESPN360
- EZTakes
- Fancast
- FOX on Demand
- FX Networks Video
- FYE
- Gallery of Sound
- GameFly
- GameTap
- Hulu Movies & TV
- iLike
- IMDb Video
- imeem
- iMesh
- Independent Records & Videos
- iTunes Movies, Music, & TV
- Jaman
- Jamendo
- Joost Movies & TV
- Lala
- Last.fm
- Latinoise
- LifeWay Music
- Liquid Digital Media
- Listen.com
- Magnatune
- MediaNet
- Mindawn
- MOG All Access
- MovieFlix
- MP3.com
- MTV Video
- Music Millennium
- MusicRebellion
- myLifetime Video
- MySpace Music
- Napster
- NBC Video
- Netflix Movies & TV
- Neurotic Media
- Nick Jr. Video
- Pandora
- PBS Kids Go! Video
- PlayStation Store
- Pro-Music
- Public Domain Torrents
- Qtrax
- Record & Tape Traders
- Reeltime Television Network (RTVN)
- Rhapsody
- Slacker
- South Park Episode Player
- Spinner
- Spotify
- Steam
- Superpass

- TBS Videos
- TheWB
- TidalTV
- TNT DramaVision
- Top Hits Entertainment
- TV.com
- TVLand Video
- USA Network Videos
- VH1 Videos
- Walmart Movies & TV
- Walmart MP3 Music Downloads
- Windows Media Guide
- Xbox Live Marketplace
- Yahoo! Music
- Zune

For the most current information, refer to the OIT web site.

9.0 Technology-based Deterrents

The HEOA regulations provide an institution with a range of options for implementing technology-based deterrents to illegal downloading. Multiple mechanisms are employed by CSU Stanislaus:

- Traffic monitoring to identify the largest bandwidth users
- Use of network segmentation techniques and firewall devices
- Registration of devices used on the network to facilitate compliance with university policies
- A vigorous program of accepting and responding to Digital Millennium Copyright Act (DMCA) notices

10.0 Policy Review and Assessment

This policy and associated procedures will be reviewed annually by the OIT Advisory Council, Campus Compliance Officer, and other campus community members. Although numerical measures of network performance and DMCA notice processing will be collected and analyzed, it is expected that assessment criteria will primarily be process-based and relative to the experiences of the other 22 campuses in the CSU system.

11.0 Dissemination of Information

As required by the HEOA, this policy and relevant additional supporting information will be distributed annually to all students, and additionally to staff and faculty, by electronic mail. It will also be published in the Student Handbook and publications intended for students living in the campus residence halls.

A condition of the Student Housing License Agreement is compliance with the rules and regulations outlined in the Village Network User Agreement which incorporates this policy.

The OIT web site provides links to this and other supporting information in its "Policies" section.