



WSC Computer and Network Usage Copyright Infringement Policy and Procedure

SBHE Policies - Section: 1901.2 Computing Facilities

EFFECTIVE: January 31, 2003

All employees, students and other users of North Dakota University System computing and networking resources shall comply with applicable laws, policies and procedures. The chancellor shall adopt procedures establishing rules governing access to and use of computing and networking resources.

NDUS Procedures - Section: 1901.2 Computer and Network Usage

EFFECTIVE: November 2, 2005

WSC Computer and Network Usage Copyright Infringement Procedure

Williston State College has developed the Computer and Network Usage Copyright Infringement Procedure in accordance with SHBE Policy 1901.2 and NDUS Procedure 1901.2 for the College's computer network to effectively combat the unauthorized distribution of copyrighted materials by users of the College's network, without unduly interfering with educational and research use of the network.

What is copyright?

Copyright is legal protection of intellectual property, in whatever medium, that is provided for by the laws of the United States to the owners of copyright. Types of works that are covered by copyright laws include, but are not limited to, literary, dramatic, musical, artistic, film, and multi-media works. Many people understand that printed works, such as books and magazine articles, are covered by copyright laws. However, they are not aware that the protection extends into software, digital works, and unpublished works and it covers all forms of a work, including its digital transmission and use.

What is the current law concerning digital copyright?

The Digital Millennium Copyright Act ("DMCA"), signed into law in 1998, recognizes that digital transmission of works adds complexity to the copyright laws. The DMCA provides non-profit educational institutions with some protections if individual members of the community violate the law. However, for the College to maintain this protection the College must expeditiously take down or otherwise block access to infringing material, whenever it is brought to the College's attention and whether or not the individual who is infringing has received notice.

It is important to note that the DMCA contains serious implications with respect to infringing activities of faculty, graduate students, undergraduate students, or staff who are performing teaching or research functions if the College has received more than two notices of infringement against an individual within a three-year period.

The unauthorized distribution of copyrighted material, including peer-to-peer file sharing, may subject an individual to civil and criminal liabilities. 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 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 <http://www.copyright.gov/>, especially their FAQ’s at www.copyright.gov/help/faq.

Why is it an important issue right now?

Copyright is an issue of particular seriousness because technology makes it easy to copy and transmit protected works over the College’s network. While the College encourages the free flow of ideas and provides resources such as the network to support this activity, the College does so in a manner consistent with all applicable state and federal laws. The College does not condone the illegal or inappropriate use of material that is subject to copyright protection and covered by state and federal laws.

What kinds of activities violate federal law?

Following are some examples of copyright infringement that may be found in a College setting:

- Downloading and sharing MP3 files of music, videos, and games without permission of the copyright owner;
- Using corporate logos without permission;
- Placing an electronic copy of a standardized test on a department's web site without permission of the copyright owner;
- Enhancing a departmental web site with music that is downloaded and artwork that is scanned from a book without attribution or permission of the copyright owners;
- Scanning a photograph that has been published and using it without permission or attribution as the background of a web site;
- Placing a number of full-text articles on a course web page that is not password protected, thereby making the web page accessible to anyone who can access the Internet;
- Downloading licensed software from non-authorized sites without the permission of the copyright or license holder; and
- Making a movie file or a large segment of a movie available on a web site without permission of the copyright owner.

Specifically, is sharing and downloading MP3 files and videos illegal?

Some copyright holders give official permission to download MP3 files and a limited number of videos that are not copyright protected. Some MP3 files are copyright free and some MP3 files can be legally obtained through subscription services. However, most MP3 and video files that are shared do not fall into any of these categories.

U.S. copyright laws allows the creation of MP3s only for the songs to which a person already owns the rights; that usually means the CD or tape was purchased. U.S. copyright laws also allow you to make a copy of a purchased file only for your personal use. Personal use does not mean that a copy can be given or sold to other people.

How do you get caught violating copyright law?

Copyright holders represented by organizations such as the Recording Industry Association of America, the Business Software Association, and the Motion Picture Association of America are applying serious efforts to stop the infringing downloads of copyrighted music, movies, and software. The companies or their agents locate possible copyright infringements by using automated systems or "bots" that search the networks looking to see if any of the common music, movie, or software sharing programs are active on a port (e.g. KaZaA,

Gnutella). The bot then asks the sharing program if it has a music title by a particular artist. If the sharing program answers positively, the bot reports the particular IP address and title to an authority, who then sends out a violation notice to the owner of the IP address.

The College's network has a range of IP addresses, and all computers connected to the College's network have an IP address. When the College receives a violation notice, the College locates the IP address and whenever possible the user of that address. At that point, the College is required to act on the notification.

Institutional Sanctions: If the IP address leads to my computer, what happens next?

Violation notices come to the College's Director of Information Technology from organizations that represent the artists and copyright holders. When the College receives such a notice, IT staff review the network IP address and stop network services to the port that is connected to the computer where the infringing material resides. At this point, the computer cannot use any College resources or Internet resources. If and once the identity of the individual is known, the individual is notified that he or she must remove the infringing material from his or her computer and inform IT and the Vice President of Student Affairs of its removal before network access will be reinstated.

First-time Notifications: If this is the first notification that the College has received on an individual, IT will temporarily disable the network port of the offending PC. The offending individual must verify that the infringing material has been removed from the computer and sign a certification document. Once this is done, the network connection will be reinstated and the computer can return to the network. A report about the violation of copyright will be sent by IT to the Office of Student Affairs or Human Resources if you are staff or faculty.

Second Notification Process for Students: If students are found in violation a second time, their privileges to access the network from their personal computers, either through a wired port or through wireless, will be denied for two weeks. If it is subsequently determined that a student did not violate a copyright, the network connection will be allowed. When second infringements have occurred, the Office of Student Affairs will be notified. Appropriate action may also be taken within the College's disciplinary process, and a letter of disciplinary action may be entered into the student's record. If the student tries to connect his/her computer to the Internet from a College port that is assigned to someone else, through an open port in a classroom, or through the wireless service, further disciplinary action may take place. During this two week period, students will be allowed to access the Internet only from College computers.

Subsequent Notification Process for Students: If students are found in violation a third time, their privileges to access the network from their personal computers will be denied for a full semester. If it is determined that a student did not violate a copyright, the network connection will be allowed. These subsequent infringements also will be reported to the Office of Student Affairs, and will result in action taken within the College's disciplinary process. If the student tries to connect to the Internet from a College port that is assigned to someone else, through an open port in a classroom, or through the wireless service, further disciplinary action may take place. During the period when students cannot connect a personal computer to the network, students will be allowed to access the Internet only from College computers. Additional infringements will result in permanent loss of network privileges and/or referral of the student's name to the appropriate authorities for civil or criminal prosecution.

Second Notification Process for Faculty and Staff: Faculty and staff who are engaged in teaching and research functions are expected to understand and act in accordance with applicable copyright laws. The College is obligated to exercise greater responsibility to address instances of repeated infringing activity by these individuals. There are potentially serious implications for both the individual and the College if the College receives more than two notices of infringement against an individual within a three-year period. For this reason, in an instance of a second notification of an individual's infringing activities the College's Human Resource Office is also notified of the infringement, and a meeting with the relevant administrators will be held to determine the action(s) to be taken.

What are some legal alternatives for downloading or otherwise acquiring copyrighted material?

The Internet offers a variety of legal alternatives for downloading or otherwise acquiring copyrighted material, including Amazon, iTunes, and Pandora. The following website contains links to legitimate online services:

<http://www.educause.edu/legalcontent>.

The College will, in consultation with its Chief Information Officer or other designated officer, periodically review the legal alternatives for downloading or otherwise acquiring copyrighted material, make available the results of the review to students, and to the extent practicable offer legal alternatives for downloading or otherwise acquiring copyrighted material.

What are the College's procedures for reviewing the effectiveness of this Policy?

The College will periodically review the effectiveness of this procedure using relevant assessment criteria. Such criteria shall include an inquiry into whether the College is following best practices, as developed by similarly situated institutions that have devised effective methods to combat the unauthorized distribution of copyrighted material.