

# MARSHALL UNIVERSITY INFORMATION TECHNOLOGY COUNCIL

## PROCEDURE No. ITP-20

### COPYRIGHT INFRINGEMENT COMPLAINT PROCEDURE

#### 1. General Information:

- 1.1. **Scope:** This policy applies to all university employees (faculty, staff, student, contract employee, or contract partner) and students who have access to the university information technology infrastructure.
- 1.2. **Authority:** Marshall University Information Technology Council
- 1.3. **Passage Date:** April 13, 2007
- 1.4. **Effective Date:** November 20, 2009
- 1.5. **Controlling over:** Marshall University
- 1.6. **History and Summary of Problem:** The digital environment in which we live has created many opportunities for faculty, staff and students to flourish in new ways. At the same time, it is also easier for the average person to obtain proprietary works illegally via the internet. In an effort to both protect our copyrighted content and ensure that we do not inadvertently (or overtly) violate the copyright of others, the Sub-Committee on Copyright revised [copyright guidelines](#) to assist in compliance.

At Marshall University, faculty, students and staff are required to follow Copyright and Intellectual Property policies and adhere to the guidelines for producing, using and sharing creative or educational works.

In February 2007 Marshall University received unwanted publicity as a result of being in the top 25 universities receiving copyright infringement complaints from the Recording Industry Association of America. While this publicity alone does not warrant a new policy it makes the issue ripe for policy and procedure application/modification.

University Computing Services conservatively estimates each violation/complaint received from the RIAA costs 1 to 2 hours of staff time to research, and hundreds of complaints have been received thus far this academic year, from the RIAA alone.

By establishing procedures to recover these costs and to alert all users that the University considers this a costly violation of the Acceptable Use, Copyright, and Intellectual Property Policies we will accomplish several desired outcomes:

- We reinforce the need to observe copyright law.
- We preserve bandwidth and network resources for the benefit of the entire community.
- We end subsidizing a costly activity and recover the costs from appropriate source(s)
- We should see a measurable decrease in complaints.

## **2. Procedure:**

### **2.1. Initial Triage**

Any complaints received at [abuse@marshall.edu](mailto:abuse@marshall.edu) will be forwarded through the Incident Response process and assigned a triage level of 1, 2, or 3. Copyright infringement violations will normally be expected to be assigned a level 3 severity. The following procedure will be followed for level 3 copyright infringement complaints.

The individual responsible for monitoring messages received at [abuse@marshall.edu](mailto:abuse@marshall.edu), (and others) shall enter the incident into the Technical Assistance Tracking System including the entire content of the complaint if possible.

The ticket will then be referred to the Incident Response Triage group and assigned a severity level. Severity level 3 complaints will be referred back to the Information Technology Service Desk for further processing.

### **2.2. Identification**

The first step is to identify the individual responsible for the device named in the complaint. This may be clear from an email reference or a name and the referral for adjudication can be made immediately. However, most complaints will only be a reference to one of our external IP addresses. In this case the Ticket needs to be forwarded to the Information Technology Infrastructure Group in order to identify the device. When identified, the username of the individual associated with the computer assigned the IP address during the complaint window of time will be entered in the ticket and transferred back to the Information Technology Service Desk.

Upon receipt of the ticket the Information Technology Service Desk will use Banner to connect the username to a name and student id and attach contact information to the ticket.

### **2.3. Immediate and Intermediate Actions**

In the case of an abuse occurring on the Marshall University Network (MUNet), access to the MUNet by the device (workstation, laptop, smart phone, etc...) may be suspended pending adjudication.

In the case of an abuse occurring over a virtual private network connection (VPN), access to MUNET will be limited by the username of the offending user. This includes but is not limited to access to the VPN service, the MU wireless network and wired connections in residence halls.

### **2.4. Referral for adjudication**

Once the workstation and responsible individual is identified as faculty, staff or student the following referrals for adjudication of the complaint will be made:

#### **Students → Student Affairs**

The complaint will be referred to Student Affairs by referring the ticket to the appropriate tracking system agent located in student affairs with the following text:

Marshall University has been contacted by a copyright holder or their designate (here after known as the copyright holder) alleging that someone using the external IP address listed in the attached infringement complaint has been illegally downloading, using and/or sharing copyrighted material. This is also a violation of the MU Acceptable Use Policy. Acting in our role of provider of the internet service to the campus, we, Marshall University Computing Services, are required by law (specifically the Digital Millennium Copyright Act (DMCA)) to remove access to this material from the internet until this issue is resolved.

We have traced the use of this external IP address at the time indicated in the attached complaint to a device (workstation, laptop, smart phone, etc...) registered on the Marshall University Network (MUNet) using your network credentials (identified by a MAC address and at this time assumed to be your device). In many cases this can also be corroborated by identifying the location of the port, to which the device was attached at the time of the alleged infraction. Your identity is known only internally to Marshall University and will not be shared outside the institution unless we are under subpoena by the copyright holder and even then you will be notified that we are supplying that information to an external entity. **This is not a subpoena. This is an infringement notice.** As a result, we have blocked access to the MUNET from your **device**, and have referred this issue to Student Affairs. Your MUNET username and password will still allow you access to the internet and other MUNET resources through UCF site computers.

**Adjudication and resolution of this issue as it pertains to the access reconnection and the Marshall University Student Code of Rights and Responsibilities lies with the Dean of Student Affairs. Please contact the Dean of Student affairs, at 304-696-6422 as soon as possible to have this issue resolved.**

After this issue is satisfactorily resolved within Student Affairs, you will need to pay the reconnection fee (\$50 for the 1<sup>st</sup> offense, \$100 for the 2<sup>nd</sup> offense) to Computing Services before the connection will be restored, unless the Dean of Student Affairs directs Computing Services to waive that fee. The normal time to restore the MUNET connection is 24 hours but that process may take up to 2 business days during busy times.

Please be advised that this internal resolution process (e.g., removal of the offending content/software from your device) does not absolve you from further actions by the copyright holder. The copyright holder may take further action against you. This is a legal matter between you and the copyright holder and nothing in this notice should be taken as legal advice. If we receive additional inquiries from the copyright holder (they will not be contacting you directly because they still do not know your identity) you will be informed via this same mechanism.

A copy of the complaint and the referral text used above will also be emailed to the student at their Marshall University email address.

### **Faculty → Academic Affairs**

The complaint will be referred to Academic Affairs or preferably by referring the ticket to the appropriate tracking system agent located in academic affairs.

Marshall University has been contacted by a copyright holder or their designate (here after known as the copyright holder) alleging that someone using the external IP address listed in the attached infringement complaint has been illegally downloading, using and/or sharing copyrighted material. This is also a violation of the MU Acceptable Use Policy. Acting in our role of provider of the internet service to the campus, we, Marshall University Computing Services, are required by law (specifically the Digital Millennium Copyright Act (DMCA)) to remove access to this material from the internet until this issue is resolved.

We have traced the use of this external IP address at the time indicated in the attached complaint to a device (workstation, laptop, smart phone, etc...) registered on the Marshall University Network (MUNET) using your network credentials (identified by a MAC address and at this time assumed to be your device). In many cases this can also be corroborated by identifying the location of the port, to which the device was attached at the time of the alleged infraction. Your identity is known only internally to Marshall University and will not be shared outside the institution unless we are under subpoena by the copyright holder and even then you will be notified that we are supplying that information to an external entity. **This is not a subpoena. This is an infringement notice.** As a result, we have blocked access to the MUNET from your **device**, and have referred this issue to The Office of Academic Affairs. Your MUNET username and password will still allow you access to the internet and other MUNET resources through UCF site computers.

**Adjudication and resolution of this issue as it pertains to the access reconnection and the Marshall University Faculty Rights and Responsibilities lies with the Senior Vice President of Academic Affairs and Provost and University Counsel. Please contact the Senior Vice President of Academic Affairs and Provost, at 304-696-6690 as soon as possible to have this issue resolved.**

After this issue is satisfactorily resolved within Academic Affairs, you will need to pay the reconnection fee (\$50 for the 1<sup>st</sup> offense, \$100 for the 2<sup>nd</sup> offense) to Computing Services before the connection will be restored, unless the Office of Academic Affairs directs Computing Services to waive that fee. The normal time to restore the MUNET connection is 24 hours but that process may take up to 2 business days during busy times.

Please be advised that this internal resolution process (e.g., removal of the offending content/software from your device) does not absolve you from further actions by the copyright holder. The copyright holder may take further action against you. This is a legal matter between you and the copyright holder

and nothing in this notice should be taken as legal advice. If we receive additional inquiries from the copyright holder (they will not be contacting you directly because they still do not know your identity) you will be informed via this same mechanism.

A copy of the complaint and the referral text used above will also be emailed to the faculty member at their Marshall University email address.

#### **Staff → Human Resources**

The complaint will be referred to Director, Human Resource Services or by referring the ticket to the appropriate tracking system agent located in Human Resource Services.

Marshall University has been contacted by a copyright holder or their designate (here after known as the copyright holder) alleging that someone using the external IP address listed in the attached infringement complaint has been illegally downloading, using and/or sharing copyrighted material. This is also a violation of the Marshall University Acceptable Use Policy. Acting in our role of provider of the internet service to the campus, we, MU Computing Services, are required by law (specifically the Digital Millennium Copyright Act (DMCA)) to remove access to this material from the internet until this issue is resolved.

We have traced the use of this external IP address at the time indicated in the attached complaint to a device registered on the Marshall University Network (MUNET) using your network credentials (identified by a MAC address and at this time assumed to be your computer). In many cases this can also be corroborated by identifying the location of the port, to which the device was attached at the time of the alleged infraction. Your identity is known only internally to Marshall University and will not be shared outside the institution unless we are under subpoena by the copyright holder and even then you will be notified that we are supplying that information to an external entity. **This is not a subpoena. This is an infringement notice.** As a result, we have blocked access to the MUNET from your **device**, and have referred this issue to the Department of Human Resource Services. Your MUNET username and password will still allow you access to the internet and other MUNET resources through UCF site computers.

**Adjudication and resolution of this issue as it pertains to the access reconnection and the Marshall University Staff Employee Rights and Responsibilities lies with Director of Human Resources and University Counsel. Please the Director of Human Resources, at 304-696-6455 as soon as possible to have this issue resolved.**

After this issue is satisfactorily resolved within Human Resources, you will need to pay the reconnection fee (\$50 for the 1<sup>st</sup> offense, \$100 for the 2<sup>nd</sup> offense) to Computing Services before the connection will be restored, unless the office of Human Resources directs Computing Services to waive that fee. The normal

time to restore the MUNET connection is 24 hours but that process may take up to 2 business days during busy times.

Please be advised that this internal resolution process (e.g., removal of the offending content/software from your device) does not absolve you from further actions by the copyright holder. The copyright holder may take further action against you. This is a legal matter between you and the copyright holder and nothing in this notice should be taken as legal advice. If we receive additional inquiries from the copyright holder (they will not be contacting you directly because they still do not know your identity) you will be informed via this same mechanism.

A copy of the complaint and the referral text used above will also be emailed to the employee at their Marshall University email address.

## 2.5. Incident Closure

The incident may be closed when the following three tasks are completed and verified.

- The Information Technology Service Desk has received notification from the appropriate department stating that:
  - The adjudication is complete and
  - It is recommended that fees be levied or not.
- Appropriate fees have been levied and collected based upon the recommendation of the appropriate department:
  - First offense reconnection fee - \$50
  - Second offense reconnection fee - \$100
  - A fee for investigations exceeding 1 hour in cumulative effort - \$45/hour or fraction thereof.
- The block on MUNET access is restored.