











inappropriate. The notice will also recommend that any server software used for illegal file sharing also be removed from the computer. Any questions regarding this request will be directed back to IT and if assistance/resolution. Address inquiries that cannot be validated will be so noted in the spreadsheet and directed to second-level technical staff for follow-up as necessary.

3) **Initial Reply by Student:**

- a. If the student replies within the 5-day period that s/he has taken the file down, the complaint is closed. Students will be reminded that any further complaints will be turned over to the Office of Student Accountability and Restorative Practices (OSARP).
- b. If the student replies that it is 'Not Me', the information surrounding the complaint will be noted, but no further action will be taken with the student other than to acknowledge that the response was received and considered a 'free pass' but that any future complaint may be referred to OSARP for follow-up.
- c. If the student fails to reply within the 5-day period, IT will turn off the student's Internet access. IT will also notify the student that the access has been turned off because of their failure to reply. Status updates/copies of the email exchanges will be maintained by IT using the tracking spreadsheet and a departmental email account.

The actions taken by IT in Steps 1-3 remain largely the same for successive incidents involving the same individual. Exceptions/additional actions are noted below.

- 4) **2<sup>nd</sup> Incident:** If in performing the IP look-up IT finds that this is the second time the individual has been associated with such an incident, in addition to emailing the student, IT will refer the complaint along with associated backup information to OSARP. Upon receipt OSARP generates a letter to the student stating that a second complaint has been received and that it is being considered as a student conduct offense. The letter will also include the contact for follow-up. At this point, further communications are between the individual and OSARP. IT takes on the role of information provider to OSARP as they determine an appropriate resolution to the incident.

If OSARP determines that the complaints against the student are legitimate, they will determine and apply sanctions as appropriate. OSARP will supply the student with written notification of the sanction.

Sanction: The suggested sanction is required attendance at an Ethics class that includes this topic.

- 5) **3<sup>rd</sup> Incident and Successive Incidents:** If a student is involved in three or more incidents, IT and OSARP responses are the same except that more severe sanctions are applied. IT will assist OSARP as an advisor/information provider and by implementing technical controls necessary to implement sanctions once they are determined.

Sanction: An appropriate sanction is determined by OSARP commensurate with the behavior. The suggested minimum includes loss of internet connectivity in their residence for a period of at least 30 semester days<sup>2</sup>. Additional penalties, including fines, or loss of other computing privileges, may also be assessed.

The process above describes the process used to handle incidents on the JMU network. However, since JMU partners with Apogee (<http://apogee.us>) to provide network and streaming services to residence halls. Below is the process Apogee uses to handle incidents on the residential network.

---

<sup>2</sup> Semester days are any class days and weekends within the course of a regular Fall or Spring term.

## Incident Response for Residential Network

JMU provides residential network service through partnership with Apogee. Similar reports of copyright infringement, excessive bandwidth utilization and/or illegal file sharing by JMU students where the related network services are provided/ managed through Apogee, the following procedure will apply:

### **1) ISP of Record**

As the ISP of record for JMU's residential network, Apogee receives email notifications of alleged copyright infringement cases from various companies such as RIAA, MediaSentry, HBO, Paramount, Universal Studios, etc. It is our responsibility to pass these notices along to the end users.

### **2) Notification Matching**

- End users are matched against the IP address, date and timestamp provided in the notification. An email is then sent to the email address(es) provided on the end user's account; this email includes the actual notification as well.
- The first offense is a warning, the second is a warning and the 3<sup>rd</sup> is a 7-day suspension from the network.
- If end users have an additional violation after 3<sup>rd</sup> notice, the suspension time defaults to the highest offense, which is a 7 day suspension from the ResNet network.

### **Process:**

The process outlined below is Apogee's method for handling compliance in processing DMCA notifications. This compliance process will apply to end users using JMU's residential network and is incorporated in whole as part of JMU's HEOA Compliance plan.

- 1<sup>st</sup> Offense
  - Forward DMCA notice to the end user and request that, if he/she is sharing copyrighted information, to cease and remove the specified files
  - Warning only
  - Account remains active
- 2<sup>nd</sup> Offense
  - Forward DMCA notice on to the end user and request that, if he/she is sharing copyrighted information, to cease and remove the specified files
  - Second warning
  - Account remains active
- 3<sup>rd</sup> Offense
  - Forward DMCA notice on to the end user and request that, if he/she is sharing copyrighted information, to cease and remove the specified files
  - Account shut off for seven (7) days
  - Office of Student Accountability and Restorative Practices will be copied and will contact the student regarding potential charges related to student conduct/appropriate use violation.

On the following pages are samples of the notification emails you can expect to receive from Apogee.

## 1st Offense

Dear (name of student):

Apogee has recently received a complaint from a copyright holder (included below), alleging that you are distributing protected works. We are required by the Digital Millennium Copyright Act to take these complaints very seriously. If, in fact, you are engaging in the downloading, uploading, or other unauthorized distribution of copyrighted materials you may also be at risk for being sued by the copyright holder or a representative of the copyright holder, pursuant to the DMCA. In addition, downloading or sharing of copyrighted materials without authorization is a violation of University Policy J5-100 Computer Misuse and can result in a referral to the Office of Student Accountability and Restorative Practices and possible university sanctions.

Since this is your first notice of an offense, Apogee is required to notify you of this alleged violation and request that you remove the materials from your computer, and cease and desist trading or sharing of their material. You may notify Apogee by replying to this email stating what actions have been taken or if you dispute this allegation. Apogee will then anonymously forward your response to the copyright holder.

If you do not submit a response and/or another alleged violation occurs involving the same account, you may be subject to more serious penalties, including the long-term termination of your ResNet/Internet account with no refund.

Please use your online services responsibly. Remember, copyright infringement is illegal and can have very significant legal ramifications. A copy of this email may also be sent to Office of Student Accountability and Restorative Practices.

Thank you for your attention to the urgent matter. For questions, please call 855-410-7377.

Respectfully,

Apogee Customer Service

*Received 1st DMCA Notice - [1st notice count] Forwarded email to customer. No consequences - this notice is just a warning.  
Copyright holder referenced date/time as DateTime:*

CC: abuse@jmu.edu

Suspended: No, Warning only



## 2nd Offense

Dear (name of student):

Apogee has recently received a complaint from a copyright holder (included below), alleging that you are distributing protected works. We are required by the Digital Millennium Copyright Act to take these complaints very seriously. If, in fact, you are engaging in the downloading, uploading, or other unauthorized distribution of copyrighted materials you may also be at risk for being sued by the copyright holder or a representative of the copyright holder, pursuant to the DMCA. In addition, downloading of copyrighted materials without authorization is a violation of University Policy J5-100 Computer Misuse and can result in a referral to the Office of Student Accountability and Restorative Practices and possible university sanctions.

This is your second notice of an offense, Apogee is required to notify you of this alleged violation and request that you remove the materials from your computer, and cease and desist trading or sharing of their material. You may notify Apogee by replying to this email stating what actions have been taken or if you dispute this allegation. Apogee will then anonymously forward your response to the copyright holder.

If you do not submit a response and/or another alleged violation occurs involving the same account, you may be subject to more serious penalties, including the long-term termination of your ResNet/Internet account with no refund.

Please use your online services responsibly. Remember, copyright infringement is illegal and can have very significant legal ramifications. A copy of this email may also be sent to Office of Student Accountability and Restorative Practices.

Thank you for your attention to the urgent matter. For questions, please call 855-410-7377.

Respectfully,

Apogee Customer Service

CC: [abuse@jmu.edu](mailto:abuse@jmu.edu)

*Received 2nd DMCA Notice - [2nd notice count] Forwarded email to customer. This notice is just a warning; next offense will have Internet suspension for 7 days. Copyright holder referenced date/time as DateTime:*

*Suspended: No, Second Warning*

### 3<sup>rd</sup> Offense

Dear (name of student):

Apogee has recently received a complaint from a copyright holder (included below), alleging that you are distributing protected works. We are required by the Digital Millennium Copyright Act to take these complaints very seriously. If, in fact, you are engaging in the downloading, uploading, or other unauthorized distribution of copyrighted materials you may also be at risk for being sued by the copyright holder or a representative of the copyright holder, pursuant to the DMCA. In addition, downloading of copyrighted materials without authorization is a violation of University Policy J5-100 Computer Misuse and can result in a referral to the Office of Student Accountability and Restorative Practices and possible university sanctions.

As this is your third [or higher] notice of an offense, your ResNet/Internet services will be shut off for seven (7) days and a copy of this letter has been sent to the Office of Student Accountability and Restorative Practices which may be contacting you regarding potential charge(s) of a university policy violation. Please monitor your JMU email account for a charge notification. If another alleged violation occurs involving the same account, you may be subject to more serious penalties, including the long-term termination of your ResNet/Internet account with no refund.

If you do not submit a response and/or another alleged violation occurs involving the same account, you may be subject to more serious penalties, including the long-term termination of your ResNet/Internet account with no refund.

Please use your online services responsibly. Remember, copyright infringement is illegal and can have very significant legal ramifications.

Thank you for your attention to the urgent matter. For questions, please call 855-410-7377.

Respectfully,

Apogee Customer Service

CC: [abuse@jmu.edu](mailto:abuse@jmu.edu)

*Received 3rd DMCA Notice - [3rd notice count] Forwarded email to customer. INTERNET WILL BE SUSPENDED FOR 7 DAYS. The student will be charged and contacted by the Office of Student Accountability and Restorative Practices. Customer will need to wait until suspension is over to access Internet. Account may be reactivated 7 days AFTER the date of suspension (see logs above for date that account was place on hold). Copyright holder referenced date/time as DateTime:*

*Suspended: Yes- 7 Days*

## Appendix 3:

### Process for Handling Copyright Infringement, Excessive Bandwidth Utilization and Illegal File Sharing Incidents Involving Faculty

#### Introduction:

JMU is experiencing a significant increase in the use of its network bandwidth and other resources for the collection, storage and sharing of illegally obtained copyrighted works (music, videos, etc.) JMU's IT department has taken steps to curb this activity, but the situation continues to prompt complaints to the university from media industry organizations (e.g. RIAA, MPAA, etc.). These complaints request that the university intervene to stop the illegal file sharing activity of its students/employees. As public opinion and financial impacts continue to draw more industry attention to this behavior, the complaints are becoming more aggressive. Some universities have received subpoenas to turn over names/contact information for the students/employees associated with the offending file sharing sites. This circumstance places universities in a precarious legal/policy dilemma. A thorough and consistent approach to managing its response to these incidents, is considered a necessary part of demonstrating due diligence.

#### General Approach:

- If the university is served with a subpoena to turn over names and other information related to such issues, existing procedure will be used to evaluate and respond.
- IT has collected information from other universities in Virginia and elsewhere regarding best practices related to these issues. The process outlined below is based on this information and is considered comparable to actions being taken at other institutions.
- IT created a relationship with Student Affairs that allows for handling of student technology abuse behavior similarly to other abuses that don't involve technology. The process below was developed through a similar relationship with Human Resources and Academic Affairs for incidents involving faculty. IT will act as a point of contact, technical resource and/or complainant.
- The generalized process will apply to the majority of situations, but is not intended to address those where the abuse is being conducted for profit (i.e. black market resale of music, videos, etc.) or is otherwise particularly heinous. JMU reserves the right to alter its processes in keeping with the specific circumstances of the situation.

#### Incident Response Process:

Situations involving copyright infringement, excessive bandwidth utilization and illegal file sharing Incidents Involving Faculty

- 1) **Initial incident notifications** (received from media industry complainants or generated by IT based on its analysis of traffic flows) are funneled to a single point (Infrastructure, Systems staff).
- 2) **Initial Response by IT** -- Based on the incident notification, IT will make an entry into a tracking spreadsheet and attempt to match the offending IP address to an owner based on information in the IP tables maintained by IT. Those inquiries which generate an immediate, legitimate match, will result in an email to the IP owner requesting that within 5 calendar days<sup>3</sup> they: a) remove any illegal files and respond

---

<sup>3</sup> Breaks and holidays recognized as part of the official university calendar will be taken into account in calculating the "five calendar day" time period for reply. The clock for the five-day period begins with the date and time stamped on the original e-mail notification and can include weekends.

to the notice indicating that they have done so; or, b) to explain why they believe such a response is inappropriate. The notice will also recommend that any server software used for illegal file sharing be removed from the computer. A copy of the request is also sent to the appropriate director/ department head for informational purposes. Any questions regarding this request will be directed to IT and if assistance is required for the clean-up, a Computing Support staff member will be dispatched through the IT Help Desk to assist. Address inquiries that cannot be validated will be so noted in the spreadsheet and directed to second-level technical staff for follow-up.

3) **Initial Reply by faculty member:**

- a. If the faculty replies within the 5-day period that s/he has taken the file down, the complaint is closed. The faculty member will be reminded that any further complaints will be referred for further review by his/her director/department head and Human Resources.
- b. If the faculty replies that it is 'Not Me', the information surrounding the complaint will be noted, but no further action will be taken with the faculty member other than to acknowledge that the response was received and considered a 'free pass' but that any future complaint may be referred for review to his/her director/department head and Human Resources for follow-up.
- c. If the faculty fails to reply within the 5-day period, IT will turn off the Internet access to the faculty's machine. IT will also notify the faculty member and his/her director/department head that the access has been turned off because of the failure to reply. Status updates/copies of the email exchanges will be maintained by IT using the tracking spreadsheet and a departmental email account.

The actions taken by IT in Steps 1-3 remain largely the same for successive incidents involving the same individual. Exceptions/additional actions are noted below.

- 4) **2<sup>nd</sup> incident:** If in performing the IP look-up IT finds that this is the second time the individual has been associated with such an incident, IT refers the complaint along with associated backup information to the appropriate director/department head and Human Resources. At this point, further communications are between the individual, his director/department head and Human Resources (HR). Upon receipt of such a referral the director/department head will review the complaints in detail.

If the complaints against the individual warrant action, the director/department head will work with Human Resources to determine and apply appropriate sanctions.

- 5) **Any Successive Incident:** Following the same process, any additional incidents associated with an individual will be further evaluated and resolved on a case-by-case basis. Human Resources will work with the director/department head to determine and levy appropriate sanctions beyond those already used. IT will assist their efforts by advising/providing information and by establishing technical controls necessary to implement sanctions once they are determined.

## Appendix 4:

### Process for Handling Copyright Infringement, Excessive Bandwidth Utilization and Illegal File Sharing Incidents Involving Classified Employees

#### Introduction:

JMU is experiencing a significant increase in the use of its network bandwidth and other resources for the collection, storage and sharing of illegally obtained copyrighted works (music, videos, etc.) JMU's IT department has taken steps to curb this activity, but the situation continues to prompt complaints to the university from media industry organizations (e.g. RIAA, MPAA, etc.). These complaints request that the university intervene to stop such illegal file sharing activity of its students/employees. As public opinion and financial impacts continue to draw more industry attention to this behavior, the complaints are becoming more aggressive. Some universities have received subpoenas to turn over names/contact information for the students/employees associated with the offending file sharing sites. This circumstance places universities in a precarious legal/policy dilemma. A thorough and consistent approach to managing its response to these incidents, is considered a necessary part of demonstrating due diligence.

#### General Approach:

- If the university is served with a subpoena to turn over names and other information related to such issues, existing procedure will be used to evaluate and respond.
- IT has collected information from other universities in Virginia and elsewhere regarding best practices related to these issues. The process outlined below is based on this information and is considered comparable to actions being taken at other institutions.
- IT created a relationship with Student Affairs that allows for handling of students' technology abuse behavior similarly to other abuses that don't involve technology. The process below was developed through a similar relationship with Human Resources for incidents involving employees. IT will act as a point of contact, technical resource and/or complainant.
- The generalized process being developed will apply to the majority of situations, but is not intended to address those where the abuse is being conducted for profit (i.e. black market resale of music, videos, etc.) or is otherwise particularly heinous. JMU reserves the right to alter its processes in keeping with the specific circumstances of the situation.

#### Incident Response Process:

Reports of copyright infringement, excessive bandwidth utilization and illegal file sharing by classified employees will be handled as follows:

- 1) **Initial incident notifications** (received from media industry complainants or generated by IT based on its analysis of traffic flows) are funneled to a single point (Technical Services, Systems staff).
- 2) **Initial Response by IT** -- Based on the incident notification, IT will make an entry into a tracking spreadsheet and attempt to match the offending IP address to an owner based on information in the IP tables maintained by IT. Those inquiries which generate an immediate, legitimate match, will result in an

email to the IP owner requesting that within 5 calendar days<sup>4</sup> they: a) remove any illegal files and respond to the notice indicating that they have done so; or, b) to explain why they believe such a response is inappropriate. The notice will also recommend that any server software used for illegal file sharing also be removed from the computer. A copy of the request is also sent to the employee's supervisor for informational purposes. Any questions regarding this request will be directed to IT and if assistance is required for the clean-up, a Computing Support staff member will be dispatched through the IT Help Desk to assist. Address inquiries that cannot be validated will be so noted in the spreadsheet and directed to second-level technical staff for follow-up.

3) **Initial Reply by Classified Employee:**

- a. If the employee replies within the 5-day period that s/he has taken the file down, the complaint is closed. Employees will be reminded that any further complaints will be referred to Human Resources.
- b. If the employee replies that it is 'Not Me', the information surrounding the complaint will be noted, but no further action will be taken with the employee other than to acknowledge that the response was received and considered a 'free pass' but that any future complaint may be referred to Human Resources for follow-up.
- c. If the employee fails to reply within the 5-day period, IT will turn off the Internet access to the employee's machine. IT will also notify the employee and his supervisor that the access has been turned off because of the failure to reply. Status updates/copies of the email exchanges will be maintained by IT using the tracking spreadsheet and a departmental email account.

The actions taken by IT in Steps 1-3 remain largely the same for successive incidents involving the same individual. Exceptions/additional actions are noted below.

- 4) **2<sup>nd</sup> Incident:** If in performing the IP look-up IT finds that this is the second time the individual has been associated with such an incident, IT refers the complaint along with associated backup information to Human Resources. Upon receipt Human Resources generates a letter to the employee and his supervisor stating that a second complaint has been received and that it has been referred for potential action by Human Resources. The letter will also include the contact for follow-up. At this point, further communications are between the individual, his supervisor and Human Resources (HR).

If the complaints against the employee warrant action, Human Resources will work with the supervisor to determine and apply appropriate sanctions.

- 1) **Any Successive Incident:** Following the same process, any additional incidents associated with an individual will be further evaluated and resolved on a case-by-case basis. Human Resources will work with the supervisor to determine and levy appropriate sanctions beyond those already used. IT will assist Human Resources as an advisor/information provider and by establishing technical controls necessary to implement sanctions once they are determined.

---

<sup>4</sup> Breaks and holidays recognized as part of the official university calendar will be taken into account in calculating the "five calendar day" time period for reply. The clock for the five-day period begins with the date and time stamped on the original e-mail notification and can include weekends.