

Valparaiso University

Digital Millennium Copyright Act of 1998 (DMCA) Compliance Policy

Valparaiso University is a network service provider as defined by the Digital Millennium Copyright Act of 1998. The DMCA addresses a variety of copyright issues that have arisen as a result of the development of digital communication, especially how claims of copyright violation are handled by organizations that run networks on which individuals have accounts or individual computers. The act clarifies that copyright applies to electronic media in much the same way that it has long applied to print and other conventional media but makes some changes that are necessitated by the technology.

This policy does not provide a discussion of complex copyright issues. All members of the Valparaiso University community are reminded that copyright protects intellectual and other creative property and that Valparaiso University takes copyright violation very seriously. Computer software is usually copyrighted and often has license restrictions that require payment of a fee for its use. Illegally copying such software in violation of its license is software piracy and may result in prosecution. Similarly, media materials (Compact Discs, Digital Video Discs, Videotape, MP3 files, etc.) may be copyrighted. Other digital material, such as text and images that may be accessible on the network, may also be copyrighted and it may be a violation of the copyright to save and use a copy or to make a copy available to anyone else. It is the responsibility of each individual who wishes to copy and use any material to obtain permission from the copyright owner where necessary. Serious penalties may be imposed for violating copyrighted material.

Under federal law, a person found to have infringed upon a copyrighted work may be liable for actual damages or "statutory" damages affixed at not less than \$750 and not more than \$30,000 per work infringed, up to \$150,000 per work infringed for "willful" infringement in addition to potential costs and attorneys' fees, and imprisonment of up to five years and fines of up to \$250,000 per offense should the court rule for criminal penalties. The copyright owner also has the right to permanently enjoin an infringer from further infringing activities, and the infringing copies and equipment used in the infringement can be impounded and destroyed.

The DMCA specifies the general procedures that must be followed by registered network service providers such as Valparaiso University if a claim of copyright infringement is made. The following procedures have been developed to implement the requirements of the DMCA at Valparaiso University:

I. DMCA Requirements

- Valparaiso University has appointed the Executive Director of Information Technology Services as the agent to receive and process DMCA notices. The Executive Director contact information for notification of possible violations is:

Rick AmRhein
Chief Information Officer
Information Technology Services
1700 Chapel Drive
Valparaiso, Indiana 46383
Voice: 219-464-5777
Fax: 219-548-7702

E-mail: Rick.AmRhein@valpo.edu

Valparaiso University has provided this information to the Copyright Office and paid the corresponding fee.

- Valparaiso University has established an “Acceptable Use Policy” on the appropriate use of Valparaiso University network services. This policy discusses the DMCA and its application to the University.
- Valparaiso University maintains the appropriate security necessary. Information on security can be found at the IT Cybersecurity Page.
- Valparaiso University has developed the procedures listed below to comply with DMCA requirements for the removal and restoration of contested material.

II. Valparaiso University Procedures for Responding to DMCA Notices

In an effort to comply with the DMCA, Valparaiso University utilizes the following procedures upon notification of an allegation of copyright infringement:

- The notification is sent to the Chief Information Officer (“CIO”).
- It is then sent to the Director of Infrastructure Services (“Director”).
- The Director attempts to identify the individual and his/her computer used to perpetrate the alleged infringement by examining DHCP logs, Network Access Control Logs, and/or other records.
- Once obtained, the Director notifies the Executive Director of computer used to perpetrate the alleged infringement.
- The Executive Director attempts to block access to the allegedly infringing material by denying network access by the computer used to perpetrate the infringement.
- The Executive Director forwards a copy of the allegation and the information identifying the responsible individual to that individual via e-mail, with copies to the Director, the Dean of Students, and the IT Administrative Assistant.
- The Administrative Assistant prepares a hard copy of this material and forwards it, along with a Counter Notification form, to the individual identified.
- The Executive Director responds to the party making the allegation stating that we have pursued the matter in accordance with applicable laws and regulations.
- The Executive Director creates a designated email folder and saves all correspondence regarding this matter in that folder.
- The Executive Director records the user folder name, user name, date, complainant, and case number in an e-mail message in the designated email folder, ensures that this information is not forwarded to anyone, and returns the modified message to this folder.

- Network access will be restored once the Executive Director is satisfied that the matter is resolved, taking into account the totality of the circumstances and any evidence provided by the alleged infringer that demonstrates the matter is resolved.
- Once network access is restored, the relevant e-mail is saved in the individual's folder as noted above, and the record is modified to show the resolution.
- If a Counter Notification is filed, the VP & General Counsel will be notified and will work with the Executive Director in further handling the alleged violation.
- The Executive Director will then notify the complainant that he will replace the removed material or restore access to the material within 10-14 days of receipt of the counter notification, unless the complainant has filed suit against the alleged infringer.