

## Description of Institution's Procedures for Handling Copyright Infringement

---

### Introduction

This plan and these procedures (the "Plan") are promulgated in compliance with Title 17 of the United States Code, 18 USC § 2319, the No Electronic Theft Act, the Digital Millennium Copyright Act, and all other applicable copyright laws and regulations (collectively the "Laws") pertaining to educational institutions.

Florida National University (the "University") complies with all applicable Laws, and nothing contained herein is intended to be a violation of those rights and responsibilities. The terms of this Plan shall yield to the Laws as and where required. The duties and obligations imposed by this Plan shall be in addition to and not a limitation of any duties or obligations otherwise imposed by the Laws.

For purposes of this Plan, "Information Technology Resources" shall refer to (but shall not be limited to) any and all University facilities, devices, peripherals, applications, services, networks, accounts, and resources used for or in connection with the University's processing, transfer, storage, access, and/or dissemination of information.

Students, faculty, and staff shall respect all copyrighted works and shall not copy, disseminate, or transmit any copyrighted materials (including, without limitation, through peer-to-peer file sharing) without the prior express written permission of the copyright holder or as otherwise permitted by applicable Laws. Removing or altering any copyright or other intellectual property notices shall be strictly prohibited.

Individuals using the Information Technology Resources (or any portion thereof), the library, and/or any other academic resources at the University are responsible for complying with all applicable copyright laws and the University's policies and procedures regarding the use of copyrighted materials.

The University requires its students, faculty, and staff to educate themselves on the principles of copyright, to respect the rights of copyright owned by others, and to comply with all applicable laws pertaining thereto.

*Note: All content produced by University employees on or with the Information Technology Resources are the property of the University.*

### Notification, Investigation, and Removal Procedures

In the case of copyright infringement by a student, faculty or staff member, the University reserves the rights to deny, limit, or revoke access to the Information Technology Resources or to impose other sanctions at its discretion. (See the end of this Plan for procedures on copyright infringement concerning language, literature, or media other than Information Technology Resources.) Once a determination of copyright infringement has been made under the *Procedure for Investigation and Disposition of Copyright Infringement Allegations*, the matter will be referred to the appropriate authority as defined below.

The Office of Student Services, using the student conduct policies in the University Catalog and applicable program-specific handbooks as guidelines, will deal with student violations of this Plan and the University's Policy of Unauthorized Distribution of Copyrighted Materials. Faculty violations of this Plan will be dealt with by the appropriate Division Head and other relevant University officials. Staff violations of this Plan will be dealt with by the appropriate supervisor and other relevant University officials.

The procedures outlined below will apply when the University receives written notification of an alleged copyright infringement.

### Notification of Infringement by Copyright Holder

Copyright holders who believe a student, faculty or staff member has infringed their copyrighted material must notify the University's Vice President of Academic Affairs (the "Designated Agent") of the allegedly infringing action or material in writing. For purposes of these procedures, an email message from the copyright holder shall be considered a written notice, provided that the copyright holder alleging such infringement is identified, and is willing to provide additional signed documentation of his/her claim.

The notification must:

Identify the copyrighted material being infringed in sufficient detail to permit the University to locate the allegedly infringing material on the University's Information Technology Resources;

State the basis for the claim of possible infringement; and

State the basis for the copyright holder's copyright in the work (e.g., author, owner, assignee).

### **Notification of Student, Faculty or Staff Member of Allegation of Copyright Infringement**

The Designated Agent will notify the student, faculty or staff member who appears to have posted the allegedly infringing material that an investigation procedure will be conducted according to this Plan.

### **Procedure for Investigation and Disposition of Copyright Infringement Allegations**

In the event that the allegedly infringing material is being used by a faculty or staff member for a class or function at the University, the Designated Agent will attempt to secure an arrangement with the copyright holder for use of the allegedly infringing material until the end of the current academic term. For allegedly infringing uses by students related to University classes or functions, the Designated Agent may, at the University's option, attempt to secure such an arrangement with the copyright holder on a fee-free basis. Failing a satisfactory arrangement, the Designated Agent will notify the student, faculty or staff member and conduct an investigation of the alleged infringement, and will take action as set forth below regarding any allegedly infringing material.

If, after the investigation, the Designated Agent determines that the allegedly infringing material appears not to infringe on the copyright of the copyright holder, the Designated Agent will notify the copyright holder and the student, faculty or staff member of this determination. If the copyright holder disagrees with the determination of the Designated Agent, the copyright holder may request in writing that the University ask its attorneys to render an opinion as to whether the allegedly infringing material constitutes copyright infringement. If the material is determined not to constitute copyright infringement, the material will remain on the Information Technology Resources.

If, after conducting an investigation, the Designated Agent determines that the allegedly infringing material appears to infringe the copyright of the holder, the Designated Agent, working with the appropriate authority, will follow the procedures for removal of infringing material set forth below.

### **Removal of Infringing Material**

If, after the Designated Agent's investigation, the determination is made that the allegedly infringing material appears to infringe the copyright of the holder, the Designated Agent will notify the copyright holder and the student, faculty or staff member whose account was used to post the allegedly infringing material. The Designated Agent will direct the appropriate University IT staff member to remove, or block access to, the allegedly infringing material, and will notify additional University authorities as appropriate.

Upon receipt of notification from the Designated Agent that the allegedly infringing material appears to infringe the copyright of the copyright holder and is being blocked or removed from the University's Information Technology Resources, the student, faculty or staff member may request that the Designated Agent restore the removed or blocked material based on the student, faculty or staff member's belief that the allegedly infringing material is not infringing. Such a request must be in writing and include a detailed statement of the basis for the student, faculty or staff member's belief that the allegedly infringing material is not infringing, as well as a request to the Designated Agent that the removed or blocked material be restored. If the Designated Agent receives such a request from the student, faculty or staff member, the Designated Agent, in consultation with the appropriate University authority,

may provide a copy of the request to the copyright holder and to the University's attorneys, if the attorneys have not already provided counsel on the matter.

If, within ten days after a copy of the student, faculty or staff member's request is sent to the copyright holder by the Designated Agent, the Designated Agent has not received a written request from the copyright holder to continue the blocking or removal of the allegedly infringing material, the Designated Agent will notify the University's IT department to restore the material so long as the University's attorneys, if they have been consulted, agree that the material does not constitute an infringement of copyright. The University's IT department may restore the allegedly infringing material within four (4) days of the receipt of such notification and the material may be downloaded again by the student, faculty or staff member.

If the Designated Agent receives, within ten (10) days, a request from the copyright holder to continue the blocking or removal of the allegedly infringing material, the Designated Agent may provide copies of all correspondence to the University's attorneys. Notification of this request from the copyright holder will also be sent to the student, faculty or staff member who had appealed the original decision regarding the alleged copyright infringement, and to the appropriate University authority. The University's attorneys may be asked to provide counsel as to whether the allegedly infringing material constitutes copyright infringement.

If the allegedly infringing material is reviewed by the University's attorneys and determined not to constitute copyright infringement, the material may be restored by the University's IT department within four (4) days of such determination and the material may be downloaded again by the student, faculty or staff member.

### **Procedures Involving Alleged Copyright Infringement Concerning Language, Literature, or Media other than Information Technology Resources**

Questions of alleged copyright infringement concerning language, literature, and media other than in connection with the University's Information Technology Resources will also be investigated by the established Designated Agent. The Designated Agent will follow procedures and adhere to policies that are similar to those outlined above (for Information Technology Resources) to ascertain if the fair use provisions of the Laws have been infringed upon. Blocking or removal of material determined to constitute copyright infringement will be handled in a manner determined to be appropriate for each such area, as will restoration of material that is determined, through the appeal process, not to constitute copyright infringement.

### **Designation of Agent to Receive Notification of Claimed Infringement**

This is to notify copyright holders that the following person has been designated by Florida National University to serve as Designated Agent, and to receive requests concerning claimed copyright infringement, pursuant to the Digital Millennium Copyright Act: Dr. Kelly Krenkel, Director of Accreditation and Compliance (kkrenkel@fnu.edu)

Any copyright holder wishing to send a notice to Florida National University regarding possible copyright infringement should file that notice in writing with the Designated Agent at the following address, or at the email address listed above:

Florida National University  
4425 West Jose Regueiro (20<sup>th</sup>) Ave  
Hialeah, Florida 33012

### **Periodic Review**

This Plan will be reviewed annually.