



## Office of Information Technology

# DMCA Violations

### Overview

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The Digital Millennium Copyright Act (DMCA) was passed by congress with the intention of protecting copyrighted materials in the digital age. The DMCA targets illegal activities including the unauthorized sharing of copyrighted movies, music, software and literary works. Furthermore, the DMCA officially makes the circumvention of copy protection measures a copyright infringement.

The DMCA also has the effect of protecting service providers from liability due to infringing actions of its users under safe harbor provisions. Under the DMCA, the service provider must remove access to any infringing materials on their network, when notified by the copyright owner. The service provider must also terminate network access for repeat offenders.

### Purpose

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This policy is intended to define the University's policy on handling DMCA violations including repeat offenders.

### Scope

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This policy is applicable to the handling of any DMCA notice.

### Policies

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#### Removing Access to Copyrighted Material

In order to remove infringing copyrighted material from our network, the offenders' network connection for all registered network devices must be disabled from access to the network until the actions taken under "Penalties for Violation" are completed, and the offender verifies that the offending material is no longer accessible over the network.

#### Penalties for Violation

**First Offense** - The alleged infringer receives a warning. This consists of a consultation warning the user of the consequences of illegally sharing copyrighted materials as well as the penalties for future violations.



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**Second Offense** - The alleged infringer loses internet connectivity for three business days following consultation. This consultation reiterates the consequences of illegally sharing copyrighted materials, and the user is also warned that the next offense will result in loss of network connectivity for an entire semester.

**Third Offense** - The alleged infringer loses internet connectivity for an entire semester, or 5 months, whichever is longer. If the violator is a student, the violator is also referred for any applicable disciplinary action

**Fourth and Subsequent Offenses** - Upon the fourth DMCA violation, the user will permanently lose network access for the remainder of their stay at Centenary University. If the violator is a student, the matter is also referred to the Dean of Students.

Several DMCA notices may be received for one user at approximately the same time. These notifications only count as one single offense, and not multiple offenses. DMCA notices that are received for activities after consultation count as a new violation.

**These penalties are consistent with the requirements of section 512 of the DMCA.**

### Notifying copyright owner of action taken

Many copyright holders request notification that a DMCA takedown notice has been acted upon. For these requests, reply with the basic response that we have denied access to any infringing material in question pursuant to the DMCA. Any information identifying the user will not be revealed, unless it is ordered through an official court-order or subpoena.

### DMCA Counter Notices

An alleged infringer has the right to issue a counter-notice to the university if he or she feels that they have not infringed any copyrights. Upon receipt of this counter-notice, the university must notify the copyright owner that a counter-notice was received, but must not reveal information identifying the user to the copyright owner.

Once notified, the copyright owner has two weeks from the date they were notified of the counter notice to file a claim against the alleged infringer in a district court. If this time period lapses, the university must restore access to the copyrighted material. A successful counter-notice procedure does not count as a DMCA offense against the alleged user.

#### **A DMCA counter-notice must contain the following information to be valid:**

- User's Name
- User's Address
- User's Phone number
- User's Signature



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- Identification of the copyrighted material and its location prior to removal by the university
- A statement under penalty of perjury that the copyrighted material was removed by mistake or misidentification
- A statement that the user consents to local federal court jurisdiction

### Approval

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APPROVED 10/2019 by Executive Staff