



Gonzaga University Information Technology Policy and Procedure

SUBJECT: DMCA Notice Response Policy and Procedure

Policy Number	Date Issued	Date Reviewed

PURPOSE: The purpose of this policy is to define the University’s responsibility when it is notified of alleged peer-to-peer (P2P) copyright infringement on its campus, and to define standardized procedures to respond to DMCA takedown notices delivered to the University via appropriate channels.

SCOPE: This policy applies to all University students and employees who are identified as the recipient of a properly submitted DMCA Takedown Notice (Notice).

POLICY: Distribution of copyrighted material without consent is both illegal and a violation of the University’s Acceptable Use Policy (IT 001) and the student Ethos Statement. Third parties may notify the University that copyrighted material is allegedly being distributed from computers and devices connected to the University’s network resources. Because the University is acting as an internet service provider (ISP) to many members of the campus community, its responsibility and liability are limited to the requirements of the Digital Millennium Copyright Act (DMCA) for ISP’s. The University does NOT assume responsibility for removing allegedly copyrighted materials from personally-owned computers and other devices.

Under the DMCA, the University is required to take certain steps in the event that it is appropriately notified that copyright infringement is allegedly taking place via its campus network. The University’s primary motivations are to comply with all of its legal requirements, and to educate its community members about appropriate behaviors regarding complying with copyright regulations and behaving as responsible citizens regarding the copyrights of others. The University will take all appropriate steps to comply with the DMCA and uphold the terms and spirit of its policies, Ethos Statement, and mission.

The University may invoke a series of escalating sanctions to address repeat notices regarding the same device. These sanctions may include loss of network privileges, referral to student judicial procedures, and monetary fines.

The University will NOT respond to or investigate any Notices that are not delivered directly to the University's authorized DMCA agent.

The University takes great care to protect the privacy of the members of its campus community. Gonzaga University will release private information, including the names of alleged infringers WHEN AND ONLY WHEN it is provided with a properly authorized subpoena from a court of local jurisdiction.

PROCEDURE:

- I. The University receives a Notice addressed to its authorized DMCA Agent (Agent).
- II. The Agent or his/her designee assesses the Notice to ensure that it conforms to the DMCA statutory requirements and contains the information necessary to act on it.
- III. The Agent or his/her designee performs an investigation to determine if the information in the notice can be traced to an individual using the campus network. (Certain circumstances may prevent the information in the notice from being traced to an individual.)
- IV. If the information cannot be traced to an individual, then the DMCA Agent records the action and closes the case.
- V. If the information can be traced to an individual on campus, the investigator determines if the individual is an employee and whether the device is owned by the University.
 - a. If the device is determined to be owned by the University, the Agent will direct the University Information Technology department to promptly remove all copyrighted material and remove any applications that are enabling P2P file sharing on the device.
 - b. If the device is determined to be personally owned, the University will promptly notify the identified individual about the alleged copyright violation via email to the individual's official Gonzaga email address.
 - c. The Agent will document the investigation, its results, and subsequent notification/communication for future reference.
- VI. The notified individual will have 48 hours to respond to and address (as appropriate) the alleged infringement identified in the notification provided by the Agent. If the individual responds within 48 hours no additional action will be taken, unless a repeat Notice is received following this time period.
- VII. If the individual does not respond to the Notice or the University receives a repeat Notice following the defined time period, the University will take the following steps:
 - a. First Notice – No further action will be taken.

- b. Second Notice – The DMCA agent will send the identified individual a copy of the second notice. Included in the copy will be notification the individual’s network access will be disconnected if the DMCA agent receives a third notice. A copy of this message will be sent to the University student judicial affairs officer
- c. Third Notice – The DMCA agent will notify the network manager to disconnect the identified computer from the network and prevent further access using the identified MAC address and username until remedial action has been taken. The DMCA agent will send copies of the notice to the individual, the IT Support Center, the Director of Client Support Services, and the student judicial affairs officer as appropriate. Remedial action must be verified by an independent third party, and the individual must meet with a student judicial affairs officer, prior to restoration of network access privileges.
- d. If the individual involved is a University employee and ITS determines that peer-to-peer software was reinstalled after removal by ITS, the DMCA agent will refer the case to Human Resources for appropriate followup.

ENFORCEMENT:

Any University personnel found to have violated this policy may be subject to disciplinary action, at the discretion of the University as described in the university's **Personnel Policies and Procedures Manual**.

Any student found to have violated this policy may be subject to disciplinary action, at the discretion of the University as described in the university's **Student Handbook**.

Date:	President or Designee