



Office of Information Technology

IT Standard DMCA Notice Response Standard and Procedure

Standard: IT20003
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Administrative Owner: Information Security & Privacy Director

PURPOSE

The purpose of this policy is to define the College’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 College via appropriate channels.

SCOPE

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

STANDARD

General: Distribution of copyrighted material without consent is both illegal and a violation of the College’s Acceptable Use Policy (P & P 66001), the College’s Policy on Use of Copyrighted Materials (P & P 68101), and the Student Code of Conduct (P & P 42001). Third parties may notify the College that copyrighted material is allegedly being downloaded to or distributed from computers and devices connected to the College’s network resources. Because the College 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 College does NOT assume responsibility for removing allegedly copyrighted materials from personally owned computers and other devices.

Under the DMCA, the College 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 College’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 College will take all appropriate steps to comply with the DMCA and uphold the terms and spirit of its policies and mission.

A. Sanctions

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

The College takes great care to protect the privacy of the members of its campus community. Montgomery College 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.

B. Process

- I. The College receives a Notice addressed to its authorized DMCA Agent (Agent). The

DMCA Agent forwards the Notice to the College's IT Policy Administrator ("ITPA").

- II. The ITPA assesses the Notice to ensure that it conforms to the DMCA statutory requirements and contains the information necessary to act on it.
- III. The ITPA 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 ITPA records the action, notifies the referring entity, and closes the case.
- V. If the information can be traced to an individual on campus, the ITPA determines if the individual is an employee or student and whether the device is owned by the College.
- VI. If the information can be traced to an individual on campus and the device is owned by the College, the ITPA shall immediately notify the Office of the General Counsel as to what actions should be taken.
- VII. If the device is determined to be personally owned, the ITPA will notify the Office of the General Counsel as to what actions should be taken. If directed by the General Counsel, the ITPA will promptly notify the identified individual about the alleged copyright violation via email to the individual's official Montgomery email address. The ITPA will document the investigation, its results, and subsequent notification/communication for future reference.
- VIII. If a first time notice regarding a staff or student, 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 that it has taken down any copyrighted information within the 48 hours no additional action will be taken. , unless a repeat Notice is received following this time period.
- IX. If the individual does not respond to the Notice or the College receives another Notice regarding the individual, the College will take the following steps:
 - A. If the individual is an employee, the matter will be referred to HR for appropriate action.
 - B. If a Student, the matter will be referred to the appropriate Dean of Student Development for appropriate action.

EXCEPTIONS

This standard is applicable as of its Effective Date. Exceptions to this standard will be considered on a case by case basis in accordance with the IT Exception Request Form.

COMPLIANCE AND RECOURSE FOR NON-COMPLIANCE

Montgomery College has established College Policies/Procedures and the OIT has established IT Standards and Processes and associated guiding documents to provide appropriate protection of technology resources, to assure protection of personally identifiable and sensitive information and to promote privacy. Any faculty, staff, contractor, or vendor found to have violated any part of College Policies, Procedures or IT Standards or Processes may be subject to disciplinary action and/or legal action.

RELATED DOCUMENTS

WEB SITE ADDRESS FOR THIS STANDARD

APPROVALS / REVISION HISTORY

DATE	VERSION / REVISION / NOTES	APPROVER
October 10, 2013	Original roll-out of this DMCA Notice Response Standard document.	Patrick Feehan, Information Security and Privacy Director/ITPA
November 17, 2015	Revised.	Patrick Feehan, Information Security and Privacy Director/ITPA
April 14, 2021	Reviewed.	Tim Neill, IT Security Analyst
April 2021	Decided upon and added review cycle dates.	Nell Feldman / Keith Wilson