

Copyright Policy

The Digital Millennium Copyright Act amends federal copyright law to provide certain liability protections for online service providers, including Neosho County Community College (NCCC) when their computer systems or networks carry materials that violate (infringe) copyright law. To qualify for liability protection, NCCC is required to have a policy under which the computer accounts of users will be terminated if they repeatedly infringe the copyrighted works of others. Compliance with federal copyright law is expected of all NCCC students, staff and faculty. Copyright is legal protection for all creative works and is interpreted to cover most expressions of ideas. Text, graphic, art, photographs, music and software are all examples of works protected by copyright.

You may use all or part of a copyrighted work only if you have the copyright owner's permission or if you qualify for a legal exception (the most common exception is called "fair use"). Copying, distributing, downloading, and uploading information on the Internet usually infringes the copyright for that information. This include unauthorized copying of software, downloading or uploading of copyrighted music and video files. Even an innocent, unintentional infringement violates the law. Violations of copyright law that occur on or over NCCC's networks or other computer resources may create liability for NCCC as well as the computer user. Accordingly, repeat infringers will have their computer account and other access privileges terminated.

The following procedure is to be used for making a copyright infringement claim and counter claim: A copyright owner, or person acting for the owner, must provide NCCC's designated agent, the Chief Information Officer, with written notice that information residing on NCCC's computer systems or networks is an infringement of the copyright. This notice must meet the requirements of [17 U.S.C. 512\(c\)\(3\)](#). The notice requirement also applies to information in system cache and to information location tools (e.g., hypertext links) that infringe copyright.

[Note: if a person working for NCCC has independent knowledge of a copyright violation on a College computer system or network, NCCC may have a duty to remove the infringing material. This is true even if there is no "notice" from the copyright owner. Therefore that person should report the violation to the Chief Information Officer as soon as possible.]

If, after consultation with legal council, the Chief Information Officer finds there may be substance to the claim of infringement, s/he will promptly remove or disable access to the allegedly infringing material and will promptly inform the computer account holder/user of this action.

The computer account holder/user may send NCCC's designated agent, the Chief Information Officer, a written statement that the removal or disabling of access was based on a mistake or misidentification. This counter notice must meet the requirements of [17 U.S.C. 512\(g\)\(3\)](#). The Chief Information Officer will promptly transmit a copy of the counter notice to the person who complained of infringement, and will inform that person that the removed material or disabled access will be restored in 10 business days.

The Chief Information Officer will restore the material or access no less than 10 business days and no more than 14 business days from receipt of the counter notice, unless the person who complained of infringement first notifies the designated agent that the complainant has filed a court action to restrain the computer account holder/user from the infringing activity that was the subject of the original notice to NCCC.

The following procedure is to be used when notice is provided that official NCCC material on a web page or other Internet communication medium may infringe copyright:

1. NCCC has a legal duty to insure that official web sites, official email, and other official communications and expressions do not violate the intellectual property rights of third

parties. The most common intellectual property rights found on the Internet involve copyright and trademark/service marks.

2. "Official" web sites and communications include those that are funded or otherwise sponsored by NCCC for a college purpose, or which are created by an employee or agent of the College who is acting within the authorized scope of employment or agency on behalf of the College (e.g., posting course materials on the web for educational use of enrolled students).
3. NCCC has "notice" of possible infringement when a third party advises a college official that there is an infringement, or when it appears to a college official that material is likely to be infringing based on the circumstances (e.g., copies of nationally syndicated cartoons appear on a College web site without any statement of copyright permission).
4. When NCCC has notice of a possible intellectual property infringement in official college-provided content, it will in good faith:
5. Attempt to establish who truly owns the copyright (or other intellectual property) through consultation with the author of the College content and the party claiming ownership.
6. Attempt to determine if any legal defense (e.g., "fair use") exists to allow the material to be used by the College.
7. Attempt to negotiate a permission or settlement if it appears that the content is infringing or if it appears that settlement is preferable to litigating an unclear claim. If permission or settlement is not feasible and it appears that the material is infringing, the College will remove the material.
8. Determine if any disciplinary action is appropriate against the person who posted infringing content. In the case of repeated infringement or bad faith infringement, disciplinary sanctions may include termination of computer privileges. Violations of the above terms of agreement may result in suspension of computing privileges, disciplinary review, termination of employment, and/or legal action. The Chief Information Officer will refer serious violations to the appropriate department for disciplinary action.

NCCC has the twin objectives of minimizing liability while also providing full legal support for the activities of faculty and staff. In the context of copyright and other intellectual property, this means that an Officer of the College should be advised as soon as there is any notice of possible infringement. The Officer will work with the College content provider in to establish any defenses. However, if there is inadequate information to provide a defense, or it appears that no defense exists, the best route to minimize College damages may be prompt removal of the allegedly infringing material.

Removal of official College content, especially course materials, can be harmful to academic freedom, to teaching effectiveness, and to the College's educational mission. Therefore, faculty and staff are encouraged to secure copyright permission, or a license, or a legal basis for use of someone else's intellectual property without permission, before using the material.

Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws

Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement.

Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or "statutory" damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For "willful" infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys' fees. For details, see Title 17, United States Code, Sections 504, 505. Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense.

For more information, please see the Web site of the U.S. Copyright Office at www.copyright.gov, especially their FAQ's at www.copyright.gov/help/faq.