

# Copyright Infringement Policies and Sanctions

(Including Computer Use and File Sharing)

## Contents

- Copyright policy ..... 2
- Civil and Criminal Penalties for Violation of Federal Copyright Laws ..... 2
- Plan to effectively combat copyright infringement..... 3
  - Informing the community ..... 3
  - Deterrents ..... 3
  - Procedures for handling reported infringement ..... 4
  - Periodic review of plan ..... 4
  - Legal alternatives to download..... 4
- Information Security Policy ..... 5
- Violations of Computer Usage Policy ..... 5
  - When Inappropriate Use of Computer Resources Occurs ..... 7

## Copyright policy

JMVU's students, employees and general community with authorized access to computer resources should not download, upload, transmit, make available or otherwise distribute copyrighted material without authorization using the university's computer systems, networks, Internet access or storage media. This is inclusive of utilizing unlicensed/unauthorized peer-to-peer file services that would promote copyright infringement. Users who violate this policy are subject to disciplinary action as appropriate under the circumstances. Such disciplinary action may include suspension, dismissal and other legal actions.

In addition to any complaint being handled by Jose Maria Vargas University, copyright owners may also take direct legal action against alleged infringers, and subpoena the College for information about people sharing files. The No Electronic Theft (NET) Act provides for serious criminal penalties, including a fine of up to \$250,000 and a potential jail sentence. Lack of knowledge about copyright infringement laws will not excuse one from legal consequences, or from action by the College. It is your responsibility to be aware of the legality of your actions.

### **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](http://www.copyright.gov).

## Plan to effectively combat copyright infringement

### Informing the community

Federal regulations stipulate that institutions that participate in Title IV Student Financial Aid Programs must annually make available to current and prospective students the institution's policies and sanctions related to copyright infringement. JMVU's policies may be found in the University Catalog, in designated sections of the website and are always available upon request.

Moreover, JMVU has adopted several practices to keep students informed:

1. Annual memo sent electronically through the JMVU email at the beginning of the academic year (Memo is also sent to students entering in the Spring). This memo states all the information that the institution is required to disclose to students, with appropriate links to corresponding policies and notifications. This memo includes a statement explicitly informing students that unauthorized distribution of copyrighted materials, including peer-to-peer file sharing, may subject the student to civil and criminal liabilities.
2. Announcements and warnings through bulletin boards.
3. Website – all information pertaining to the university is updated regularly in the university's website [jmvu.edu](http://jmvu.edu), including copyright policies and other resources that can help the community understand violations and penalties.
4. During orientation, all JMVU policies are explained and discussed with incoming students. All the students are informed that they must be in compliance with all institutional policies. In addition, workshops are offered on the importance of copyright laws and liabilities for infringements (These are offered upon availability of appropriate resources).

### Deterrents

#### *Technology deterrent*

The Jose Maria Vargas University uses OpenDNS to block all peer-to-peer applications identified as dangerous to the University's technology resources, or any application that is known to facilitate copyright material distribution. This technology is continually monitored and application signatures, certificates and other content are regularly and routinely updated to ensure currency.

If there are websites that students or employees need access to and are currently blocked by the system, the individual must fill out a permission form stipulating the website address, purpose and length of use. Upon evaluation by the IT Director, the individual will be notified if the request was accepted or denied. In the case that the request is granted, a

temporary bypass code will be issued for the length of time the IT Director deems appropriate.

### **Administrative deterrent**

JMVU has adopted policies that defend intellectual property and seek to safeguard and preserve the information networks used for purpose of business, work and research within the university:

- Information Security Policy establishes the university's commitment to the security of the networks and resources its community uses.
- Copyright policy explicitly prohibits unauthorized use or distribution of copyrighted material
- Computer Usage Policy explains the acceptable uses of computer resources within the university and its computer networks. It clearly states: "Users have a responsibility not to abuse the network and resources, and to respect the privacy, copyrights and intellectual property rights of others."
- Violations of Computer Usage Policy details violations of copyright, and other computer offenses or crimes prohibited in the university, and offers an explanation of the procedures and possible sanctions to violators.
- Plan to effectively combat copyright infringement – This plan is also included in the university's website so all the community is informed of the practices of JMVU in relation to copyright infringement.

### **Procedures for handling reported infringement**

Sanctions are discussed in the University Catalog under Violations of Computer Usage Policy. However, in the case that the aforementioned technological and administrative deterrents are not effective in any particular case, and the university is contacted with an infringement notification by a copyright holder, the notice will be addressed by the appropriate department (Student Development or Human Resources), and referred to the corresponding authorities.

### **Periodic review of plan**

This plan is to be reviewed annually during the summer term. Criteria for evaluation will include increase/decrease in number of infringements reported, and increase/decrease of threats to computer systems. Plan last reviewed on October 5, 2011.

### **Legal alternatives to download**

For the benefit of our community, JMVU provides a link maintained by EDUCASE which contains a listing of Legal Downloading Resources: <http://www.educase.edu/leaglcontent>.

(Computer Usage Policy – extended to include specifics about violations and sanctions)

## Information Security Policy

Jose Maria Vargas University will:

- Use systems and technologies that are trustworthy.
- Seek to protect shared information technology resources, protecting individual resources and providing for intellectual freedom.
- Prevent unauthorized access or modification to information and information resources, such as intellectual property.
- Will not read user-controlled data without direction from appropriate university officials.
- Will not modify individually-managed computer systems without permission from the user or direction from appropriate University officials.

## Violations of Computer Usage Policy

JMVU's Computer Usage Policies may be found in the University Catalog (pages 18-20). The unauthorized use of resources is prohibited and, in many cases, may be violations of the law. Unauthorized uses include, but are not limited to, the following:

### **Harassment or threats to specific individuals, or a class of individuals:**

- Transmitting unsolicited information that contains obscene, indecent, lewd or lascivious material or other material which explicitly or implicitly refers to sexual conduct.
- Using e-mail or newsgroups to threaten or stalk someone.
- Transmitting unsolicited information that contains profane language or panders to bigotry, sexism, or other forms of prohibited discrimination.

### **Interference or impairment to the activities of others:**

- Creating, modifying, executing or retransmitting any computer program or instructions intended to: (1) obscure the true identity of the sender of electronic mail or electronic messages, such as the forgery of electronic mail or the alteration of system or user data used to identify the sender of electronic e-mail; (2) bypass, subvert, or otherwise render ineffective the security or access control measures on any network or computer system without the permission of the owner; or (3) examine or collect data from the network (e.g., a "network sniffer" program).
- Authorizing another person or organization to use your computer accounts or university network resources. You are responsible for all use of your accounts. You must take all reasonable precautions, including password maintenance and file protection measures, to prevent use of your account by unauthorized persons. You must not share your password with anyone else or provide access to JMVU network resources to unauthorized persons.

- Communicating or using any password, personal identification number, credit card number or other personal or financial information without the permission of its owner.

**Unauthorized access and use of the resources of others:**

- Use of University resources to gain unauthorized access to resources of this or other institutions, organizations, or individuals.
- Use of false or misleading information for the purpose of obtaining access to unauthorized resources.
- Accessing, altering, copying, moving, or removing information, proprietary software or other files (including programs, libraries, data and electronic mail) from any network system or files of other users without prior authorization (e.g., use of a "network sniffer" program).
- Making unauthorized copies of copyrighted materials. You should assume all software, graphic images, music, and the like are copyrighted. Copying or downloading copyrighted materials without the authorization of the copyright owner is against the law, and may result in civil and criminal penalties, including fines and imprisonment.

**Damage or impairment of University resources:**

- Use of any resource irresponsibly or in a manner that adversely affects the work of others. This includes intentionally, recklessly or negligently (1) damaging any system (e.g., by the introduction of any so-called "virus", "worm", or "trojan-horse" program), (2) damaging or violating the privacy of information not belonging to you, or (3) misusing or allowing misuse of system resources.
- Use of University resources for non-University related activities that unduly increase network load (e.g., chain mail, network games and spamming).

**Unauthorized commercial activities:**

- Using University resources for one's own commercial gain, or for other commercial purposes not officially approved by the University, including web ads.
- Using University resources to operate or support a non-University related business.
- Use of University resources in a manner inconsistent with the University's contractual obligations to suppliers of those resources or with any published University policy.

**Violation of city, state or federal laws:**

- Pirating software, music and images.
- Effecting or receiving unauthorized electronic transfer of funds.
- Disseminating child pornography or other obscene material.
- Computer fraud: trafficking in stolen passwords, damage to systems or data, and theft of information, among other offenses.
- Violating any laws or participating in the commission or furtherance of any crime or other unlawful or improper purpose.

## When Inappropriate Use of Computer Resources Occurs

The use of University resources is a privilege. The resources have always been, and will remain, the property of the University.

It is your responsibility to promptly report any violation of this policy or other University code, policy or guideline. In addition, you must report any information relating to a flaw in or bypass of resource security to [it@jmvu.edu](mailto:it@jmvu.edu).

Reports of unauthorized use or misuse of the resources will be investigated pursuant to standard University procedures. All illegal activities will be reported to local, state or federal authorities, as appropriate, for investigation and prosecution.

While the University desires to maintain user privacy and to avoid the unnecessary interruption of user activities, the University reserves the right to investigate unauthorized or improper use of University resources, which may include the inspection of data stored or transmitted on the network. In the event that use is determined to be contrary to University policy or applicable law, appropriate measures will be taken. These measures may include, but are not limited to, permanent or temporary suspension of user privileges, deletion of files, disconnection from the network, referral to student or employee disciplinary processes, and cooperating with the appropriate law enforcement officials and government agencies.

The University is not responsible for information, including photographic images and musical recordings, published on or accessible through personal web pages, including personal home pages. The University does not monitor the contents of these personal web pages. The individual or group creating or maintaining personal web pages is solely responsible for the content of the web page and may be held civilly and criminally liable for the materials posted on the web site.

### **Disciplinary Actions**

Violations of the JMVU Appropriate Use of Computer Resources policy will generally be handled by the Student Development Department in the case of violations by students and by the Human Resources Manager in the case of violations by employees, along with the Information Technology Director, and then referred to the corresponding authorities as appropriate. Sanctions might include suspension of user privileges (permanently or temporarily), deletion of files, disconnection from the JMVU network, or other measures as decided by the proper student or employee disciplinary processes. Illegal activities will be reported to proper local, state or federal authorities.

### **Information on Applicable Laws and Statutes**

All users of the University computer and information resources are expected to be familiar with and to abide by University codes and policies, as well as local, state and federal laws

relating to electronic media, copyrights, privacy, and security. For more information on state and federal laws pertaining to copyrights and computer crimes, you may visit Secure Florida at [http://secureflorida.org/legalissues/computer\\_laws](http://secureflorida.org/legalissues/computer_laws) (for a list of computer laws) or the Florida Computer Crime Center at [www.fdle.state.fl.us/FC3](http://www.fdle.state.fl.us/FC3). You may also refer to the summary of *Civil and Criminal Penalties for Violation of Federal Copyright Laws* offered below.

### **Questions Relating to This Policy**

The examples of unauthorized use set forth above are not meant to be exhaustive. Questions about this policy or of the applicability of this policy to a particular situation should be referred to [it@jmvu.edu](mailto:it@jmvu.edu). Whenever you are in doubt regarding an issue of questionable use, it is in your best interest to resolve the issue before pursuing any questionable use of University resources.