

# FAYETTEVILLE STATE UNIVERSITY

## UNAUTHORIZED DISTRIBUTION OF COPYRIGHTED WORK (COPYRIGHT INFRINGEMENT)

<b>Authority:</b>	Issued by the Chancellor. Changes or exceptions to administrative policies issued by the Chancellor may only be made by the Chancellor.
<b>Category:</b>	University-Wide
<b>Applies to:</b>	●Administrators      ●Faculty      ●Staff      ●Students
<b>History:</b>	Approved – September 17, 2010 First Issued – September 20, 2010
<b>Related Policies:</b>	● <i>Higher Education Opportunity Act of 2008</i> [20 U.S.C.S. § 1092; Pub. L. 110-315] ● <i>U.S. Department of Education Regulation</i> [34 CFR 668.14(30), 668.41(c) and (d), 668.43(a)(10)] ● <i>The Copy Right Act</i> [17 U.S.C.S. § 101-1332]
<b>Contact for Info:</b>	Division of Information Technology and Telecommunications Services (910) 672- 2085 Office of Legal Affairs (910) 672-1145

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### I. PURPOSE

Unauthorized distribution of copyrighted work, including downloading and peer-to-peer file sharing of such material, is a form of copyright infringement. Fayetteville State University (University) strictly prohibits copyright infringement. Any student, staff or faculty who engages in copyright infringement may be subject to civil and criminal liability and discipline by the University. The purpose of this policy (Policy) is to provide administrators, faculty, staff, and students information regarding the unauthorized distribution of copyrighted works.

### II. DEFINITIONS

#### A. Copyright Infringement

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 Codes). These rights include the right to reproduce or distribute a copyrighted work.

## **B. Copyrighted Work**

To be eligible for copyright protection, a work must be original and fixed in any tangible medium, including but not limited to paper, electronic or digital mediums, and be one of the following eight (8) categories of works:

- literary works, including books, research papers or computer software
- musical works, including any accompanying words
- dramatic works, including any accompanying music
- pantomimes and choreographic works
- pictorial, graphic and sculptural works
- motion pictures and other audiovisual works
- sound recordings
- architectural works

## **III. COMMON FORMS OF COPYRIGHT INFRINGEMENT**

Some common forms of copyright infringement are listed below. The list is not all inclusive, but is intended to provide a few examples of copyright infringement.

- In the file-sharing context, downloading or uploading substantial parts of copyrighted work without authority constitutes an infringement. (The University computing network managers block access to most peer-to-peer file sharing applications and associated traffic.)
- An individual infringes on the University's copyright when the individual uses University copyrighted work in violation of the University's *Copyright Use and Ownership* policy.
- Duplication of a musical CD or other recorded media containing copyright material without permission of the copyright holder is considered copyright infringement.
- The unauthorized use of text content from a written work is a form of copyright infringement.

## **IV. SUMMARY OF PENALTIES AND DISCIPLINE FOR COPYRIGHT INFRINGEMENT**

### **A. Civil Penalties**

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 may, in its discretion, also assess costs and attorneys' fees.

**B. Criminal Penalties**

Willful copyright infringement may also result in criminal penalties including imprisonment of up to five (5) years and fines of up to \$250,000 per offense.

Information pertaining to infringements and criminal penalties may be found on the website of the U.S. Copyright Office at [www.copyright.gov](http://www.copyright.gov) and [www.copyright.gov/help/faq](http://www.copyright.gov/help/faq).

**C. University Discipline**

**1. Students**

Discipline resulting from a violation of this *Policy* may include, but is not limited to, suspension or expulsion from the University. Information pertaining to disciplinary penalties and violations is available in University's *Code of Student Conduct*.

**2. SPA Employee**

An SPA staff member who engages in copyright infringement may be disciplined under the University's discipline policies for "unacceptable personal conduct." Discipline may include, but not be limited to, termination or suspension from the University.

**3. EPA Faculty and Non-Faculty Employees**

Faculty and EPA non-faculty who engage in copyright infringement shall be deemed to have engaged in misconduct under their respective employment policies. Appropriate discipline, including but not limited to termination from employment, may be imposed upon the infringing employee.