

<u>ADMINISTRATIVE POLICY</u>    ADAMS STATE COLLEGE	POLICY NUMBER: 500-008	PAGE NUMBER Page 1 of 6
	CHAPTER:            Computing Services	
	SUBJECT: Unauthorized Downloading and File Sharing of Copyrighted Digital Materials	
RELATED POLICIES: ASC Trustee Policy Manual : Section 7.1: Duties and Responsibilities of the College President...(in part) The President is also expected to ensure that the policies, procedures and actions of the Board are communicated to appropriate constituencies of the College in a timely manner.  OFFICE OF PRIMARY RESPONSIBILITY: Computing Services	EFFECTIVE DATE: 10 February 2010	
	SUPERSESION:	
	  Dr. David Svaldi President	

### I. POLICY

- A. The distribution of copyrighted digital materials without permission over the Internet may be a violation of federal law, specifically, the Digital Millennium Copyright Act of 1998 ("DMCA"). The federal government and various organizations are very serious about enforcing the provisions of the DMCA. Violations of the DMCA can carry very stiff fines and potential jail sentences.
- B. Adams State College ("ASC") has a responsibility to address possible digital copyright violations in an expeditious, fair and consistent manner. This procedure outlines the actions the College will take when notified or made aware of a possible digital copyright violation.

### II. PURPOSE

The purpose of this policy is to ensure that ASC acts in good faith and makes a reasonable effort to combat copyright abuse related to peer-to-peer file sharing on its campus network. This policy also addresses the general requirements called out in the 2008 Higher Education Opportunity Act ("HEOA") that deal with unauthorized file sharing.

### III. DEFINITIONS

- A. Bandwidth Shaping: Also known as traffic shaping or packet shaping, bandwidth shaping is the control of computer network traffic in order to optimize or guarantee performance, lower latency, and/or increase usable bandwidth by delaying packets that meet certain criteria. Bandwidth shaping provides a means to control the volume of traffic being sent into a network within a specified period (bandwidth throttling), or the maximum rate at which the traffic is sent (rate limiting).
- B. Copyright Infringement: Copyright infringement occurs when a copyrighted work is reproduced, distributed, performed, publicly displayed, or made into a derivative work without the permission of the copyright owner.
- C. Digital Millennium Copyright Act: The DMCA was signed into law on October 28, 1998, implementing two 1996 World Intellectual Property Organization treaties and also addressing a number of other significant copyright-related issues.
- D. File Sharing: The practice of distributing or providing access to digitally stored information, including, but not limited to, computer programs, multi-media (audio, video), documents, or electronic books.

CHAPTER:	SUBJECT	POLICY #	Page 2 of 6
Computing Services	Unauthorized Downloading and File Sharing of Copyrighted Digital	500-008	EFFECTIVE 01/01/10

- E. Illegal downloading: Downloading copyrighted material without permission from the copyright owner.
- F. Infringement Notification: Written or electronic mail communication from a copyright holder identifying a copyrighted work and specific online material alleged to be infringing such copyrighted work. The claim must include a statement that the information contained in the claim is accurate and that the copyright holder has a good faith belief that use of the material is unauthorized.
- G. IP Address: Internet Protocol address; a numerical address assigned to every computer on the Internet.
- H. Media Access Control (“MAC”) address: A unique identifying number assigned by the manufacturer to every network hardware device. No two MAC addresses are alike.
- I. Peer-to-Peer (“P2P”): In P2P networks, the "peers" are computer systems which are connected to each other via the Internet. Files can be shared directly between systems on the network without the need of a central server. In other words, each computer on a P2P network becomes a file server as well as a client. The only requirements for a computer to join a peer-to-peer network are an Internet connection and P2P software.
- J. Record Industry Association of America (“RIAA”): The RIAA is an organization that represents the music recording industry's intellectual property rights. The organization has taken an especially aggressive stance against Internet users who want to be able to freely copy published music.

#### IV. PROCEDURES

- A. In the event that ASC receives an Infringement Notification, Computing Services will use ASC’s network management and monitoring systems to validate that the incident took place as described and to identify the computer MAC address associated with the IP address identified in the infringement notification.
- B. In the case of a student, network access for the computer identified to the offending IP address will be temporarily suspended and the student will be directed to a webpage which states that he/she needs to contact Computing Services. Reference Attachment A, 1<sup>st</sup> offense, for other actions and documentation requirements.
- C. In the case of faculty or staff, once the offending computer is identified, the faculty or staff member identified to the computer will be contacted and asked if he/she has copyrighted material on their computer and, if so, whether or not it was obtained via a purchase. If the material was not properly obtained, Computing Services will remove the identified material. If the material was properly obtained, Computing Services will remove the file sharing program used to improperly share the identified material. Reference Attachment A, 1<sup>st</sup> offense, for other actions and documentation requirements.
- D. In the case of guests, network access for the computer identified to the offending IP address will be temporarily suspended and the guest will be directed to a webpage which states that they need to contact Computing Services. Reference Attachment A, 1<sup>st</sup> offense, for other actions and documentation requirements.
- E. Multiple DCMA or RIAA offenses will be handled in accordance with the escalating responses provided in Attachment A of this procedure.
- F. The ASC Computer Misuse Notification Form (Attachment B) will be used to document both receipt of an infringement notification and actions taken by ASC to resolve the infringement.

CHAPTER:	SUBJECT	POLICY #	Page 3 of 6
Computing Services	Unauthorized Downloading and File Sharing of Copyrighted Digital	500-008	EFFECTIVE 01/01/10

- G. In all cases, after the incident of misuse has been corrected, Computing Services will notify the organization that issued the infringement notification to ASC that the reported infringement has been resolved.
- H. In addition to the actions called out in this policy, ASC will take the following additional steps to comply with the 2008 HEOA.
1. Technology-based deterrents will be used by Computing Services to curtail illegal downloading and file sharing. These deterrents will include, but are not limited to the following:
    - a. Use of a bandwidth shaping device to (1) limit the number of Internet connections for any campus network device and (2) during periods of heavy bandwidth use, limit the available bandwidth for any campus network device.
    - b. Active network monitoring to identify and curtail the largest bandwidth users (in accordance with this policy).
  2. At the start of each semester, students, faculty and staff will be reminded of the following:
    - a. Their responsibility in regard to illegal downloading and sharing of copyrighted music, movies and software
    - b. ASC's policy regarding DMCA or RIAA infringement
    - c. The potential civil and criminal liabilities associated with unauthorized distribution of copyrighted materials
  3. At the start of each semester, ASC Computing Services will also provide students, faculty and staff information regarding alternatives to illegal downloading and file sharing
- I. This plan will be reviewed annually for its effectiveness in addressing the issue of illegal file sharing. Relevant assessment criteria will include a year-to-year comparison of the number of formal complaints received by the college pertaining to illegal file sharing.

#### V. RESPONSIBILITY

Computing Services is the primary organization responsible for ensuring this policy is properly disseminated and implemented.

#### VI. AUTHORITY

This policy has been prepared under the authority of the President, Adams State College, as delegated by the ASC Board of Trustees.

#### VII. HISTORY

Original: 01 January 2010

#### VIII. ATTACHMENTS

Attachment A: Escalating Response for Digital Copyright Infringement  
Attachment B: ASC Computer Misuse Notification Form

CHAPTER:	SUBJECT	POLICY #	Page 4 of 6
Computing Services	Unauthorized Downloading and File Sharing of Copyrighted Digital	500-008	EFFECTIVE 01/01/10

**Attachment A**  
**Escalating Response for Digital Copyright Infringement**

Offense	Actions
1st	<p>A. ASC Students: The student will meet with either the Support Services Lead or the Residential Network (“ResNet”) Lead to discuss the incident; the student must sign an ASC Computer Misuse Notification form in order to re-enable their network account.</p> <p>B. Staff or Faculty: The staff or faculty member will meet with the Chief Information Officer (“CIO”) to discuss the incident; if the infringement was deliberate, the staff or faculty member will sign an ASC Computer Misuse Notification form and the individual’s department manager or department chair will be notified of the incident.</p> <p>C. Guest: The identified individual must talk with either the CIO or Support Services Lead to discuss the incident; the guest user must sign an ASC Computer Misuse Notification form in order to continue receiving guest Internet access privileges.</p>
2nd	<p>A. ASC Student: On-campus students will meet with the Housing Director, Support Services Lead or ResNet Lead to discuss the incident; off-campus students will meet with the Dean of Students and Support Services Lead or ResNet Lead to discuss the incident; the student must sign an ASC Computer Misuse Notification form in order to re-enable their network account; for on-campus students, a Computer Misuse Notification Form will be placed in the student’s housing file; for off-campus students, a Computer Misuse Notification Form will be placed in the student’s file maintained by the Office of the Dean of Students; Computing Services will also keep the form on file for one academic year.</p> <p>B. Staff or Faculty: The staff or faculty member will meet with the CIO and appropriate department manager or department chair to discuss the incident; the staff or faculty member will sign an ASC Computer Misuse Notification form which will remain on file within Computing Services for one academic year.</p> <p>C. Guest: The identified individual will not be allowed guest Internet access for the remainder of the semester; the violation will be documented on the ASC Computer Misuse Notification form; the form will remain on file within Computing Services for one academic year.</p>
3rd	<p>A. ASC Student: The student will meet with the Dean of Students or Director of Housing Support Services (whichever is appropriate) and the Support Services Lead or ResNet Lead to discuss the incident; the student must sign an ASC Computer Misuse Notification form in order to re-enable their network account; the student’s ASC computer will be rate-limited for 60 days or the remainder of the semester, whichever is longer. The student will be able to accomplish “normal” Internet functions such as email and general browsing; the student will not be able to perform bandwidth-intensive applications; the ASC Computer Misuse Notification form which will be placed both in the student’s housing file (if appropriate) and the student’s file maintained by the Office of the Dean of Students; the form will remain on file within Computing Services for one academic year.</p>

CHAPTER:	SUBJECT	POLICY #	Page 5 of 6
Computing Services	Unauthorized Downloading and File Sharing of Copyrighted Digital	500-008	EFFECTIVE 01/01/10

	<p>B. Staff or Faculty: The staff or faculty member will meet with the CIO and appropriate Department Manager or Department Chair to discuss the incident; the staff or faculty member's ASC computer will be rate-limited for 60 days or the remainder of the semester, whichever is longer. The staff or faculty member will be able to accomplish "normal" Internet functions such as email and general browsing; the faculty member will not be able to perform bandwidth-intensive applications without first contacting Computing Services; the staff or faculty member will sign an ASC Computer Misuse Notification form; the form will remain on file within Computing Services for one academic year.</p> <p>C. Guest: The identified individual will not be allowed guest Internet access for one year; the violation will be documented on the ASC Computer Misuse Notification form; the form will remain on file within Computing Services for one year.</p>
4th	<p>A. ASC Student: The student's ASC computer account will be suspended until access is re-authorized by the Office of the Dean of Students; the student will sign an ASC Computer Misuse Notification form which will be placed both in the student's housing file (if appropriate) and the student's file maintained by the Dean of Students; the form will remain on file within Computing Services indefinitely; other disciplinary action will be left up the Office of the Dean of Students.</p> <p>B. Staff or Faculty: The staff or faculty member's ASC computer account will be suspended until access is re-authorized by the Office of the Provost; the violation will be documented on the ASC Computer Misuse Notification form; the form will remain on file within Computing Services indefinitely; other disciplinary action will be left up the Office of the Provost.</p> <p>C. Guest: The identified individual will not be allowed guest Internet access until access is re-authorized by the CIO; the violation will be documented on the ASC Computer Misuse Notification form; the form will remain on file within Computing Services indefinitely.</p>

CHAPTER:	SUBJECT	POLICY #	Page 6 of 6
Computing Services	Unauthorized Downloading and File Sharing of Copyrighted Digital	500-008	EFFECTIVE 01/01/10

**Attachment B**  
**ASC Computer Misuse Notification Form**

Date of Incident: \_\_\_\_\_

Student No.: \_\_\_\_\_

Violation No.: \_\_\_\_\_

Category of Misuse: (Check the applicable category & attach corroborating documentation to this form)

- Excessive Use of Campus Bandwidth
- Receipt of DMCA or RIAA Infringement Notifications
- Other (describe below)

-----  
I acknowledge that I have been counseled by ASC Computing Services regarding the computer misuse described above. I am aware that I have an obligation to use ASC campus computing resources in accordance with ASC's Acceptable Use Policy and that continued violation of this policy could lead to temporary and/or permanent termination of my ASC computer account.

Additionally, in the case of a DMCA or RIAA infringement, my signature also indicates that I have deleted the material identified in the infringement notification, as well as, any associated backups. If the material in question was purchased legitimately, my signature indicates that the file sharing program used to share the identified material has been removed from my computer.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
CS Printed Name

\_\_\_\_\_  
CS Signature/Date