



# Digital Millennium and Copyright Policy

## POLICY INFORMATION

Policy#:

CMP-027

Original Issue Date: 5/26/2017

Current Revision Date: 9/17/2018

Initial Adoption Date: 5/26/2017

## RESPONSIBLE OFFICE

Title	Department
Director-Compliance	Chief of Staff

## SCOPE

Constituency	Locations
(Select all that apply)	(Select all that apply)
<input checked="" type="checkbox"/> Staff	<input checked="" type="checkbox"/> Hyde Park
<input checked="" type="checkbox"/> Faculty	<input checked="" type="checkbox"/> Greystone
<input checked="" type="checkbox"/> Students	<input checked="" type="checkbox"/> San Antonio
<input checked="" type="checkbox"/> Contractors	<input checked="" type="checkbox"/> Singapore
<input type="checkbox"/> Visitors	

(Select a Policy Type)

Organization Policy

Legal Policy

Education Policy

Marketing Policy

Finance Policy

Technology Policy

Compliance Policy

HR Policy

Enrollment Policy

Advancement Policy

Operations Policy

**TABLE OF CONTENTS:**

**Contents**

POLICY INFORMATION ..... 1

RESPONSIBLE OFFICE ..... 1

SCOPE ..... 1

A. PURPOSE ..... 3

B. POLICY STATEMENT ..... 3

C. AUTHORITY ..... 4

D. DEFINITIONS ..... 4

E. PROCEDURES..... 4

F. RESPONSIBLE CABINET MEMBER ..... 7

G. RELATED INFORMATION..... 7

POLICY HISTORY ..... 7

## **A. PURPOSE**

This policy is intended to set forth The Culinary Institute of America's (CIA) guiding principles and practical procedures for ensuring that its use of copyrighted materials on the Internet is legal and appropriate. These provisions include those required to limit liability of the CIA under the federal Digital Millennium Copyright Act of 1998 (DMCA) for potential copyright infringements.

## **B. POLICY STATEMENT**

The Culinary Institute of America (CIA) respects the rights of copyright holders, their agents and representatives, and strives to protect those rights through compliance with copyright law prohibiting the reproduction, distribution, public display or public performance of copyrighted materials over the Internet without permission of the copyright holder, except in accordance with fair use or other applicable exceptions. The CIA also respects the legal and appropriate use by individuals of copyrighted materials on the Internet, including but not limited to ownership, license or permission, and fair use under the United States Copyright Act.

The CIA asserts its interest in the safe harbor from copyright infringement liability afforded by compliance with the Digital Millennium and Copyright Act (DMCA). The CIA has established procedures required to ensure compliance with the DMCA, as set forth in the Digital Millennium and Copyright Act Policy.

Employees and Students are responsible for understanding and complying with the rights of copyright owners in their use of copyrighted materials. Information can be found at the United States Copyright Office.

Unauthorized peer-to-peer file sharing on the CIA networks is prohibited and blocked by bandwidth-shaping technology. Violations of copyright law or this policy, including the use of technology to circumvent the blocking of peer-to-peer file sharing, may subject employees and students to disciplinary action, including but not limited to termination of network privileges, as well as civil and criminal liabilities. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or fixed damages from \$750 to \$30,000 per work infringed. For willful infringement, a court may award up to \$150,000 per work infringed. A court may also assess costs and attorneys' fees. Willful copyright infringement may result in imprisonment of up to five years, and fines of up to \$250,000 per offense.

## C. AUTHORITY

U.S. Copyright Office Summary of the Digital Millennium Copyright Act of 1998

<https://www.copyright.gov/legislation/dmca.pdf>

17 U.S. Code 512, Limitations on liability relating to material online

<https://www.gpo.gov/fdsys/pkg/USCODE-2011-title17/pdf/USCODE-2011-title17-chap5-sec512.pdf>

## D. DEFINITIONS

**Copyright:** The exclusive legal right to print, publish, perform, film, or record literary, artistic, or musical material, and to authorize others to do the same.

**Employee:** As defined under CIA Policy on Policies.

**Fair Use:** The concept that a small portion of a copyrighted work may be used without the copyright holder's permission, in scholarly works, reviews, or other educational contexts where the use is considered reasonable and limited.

**Infringement:** An encroachment on a copyright holder's rights or privileges; a violation of copyright laws or rules.

**Student:** As defined under CIA Policy on Policies.

## E. PROCEDURES

### I. Designated Agent

The CIA's Designated Agent for complaints of alleged copyright infringement under the DMCA is:

Sarah Putney  
Director-Compliance and Information Privacy  
Culinary Institute of America  
1946 Campus Drive  
Hyde Park NY 12538

Email: s\_putney@culinary.edu  
Tel: (845) 451-1429  
Fax: (834) 905-1098

A listing of the Designated Agent is posted on the United States Copyright Office web site in the Directory of Agents. Notices sent elsewhere than to the Designated Agent using contact information set forth above will be considered invalid.

## **II. Notice Procedures for Copyright Owners**

A notice of alleged copyright infringement concerning information residing on the CIA's systems or networks must be made in writing and sent to the CIA's Designated Agent.

The notice must include:

1. Identification of the copyrighted work claimed to have been infringed.
2. A description of the allegedly infringing work that is to be removed or access to which is to be disabled, and enough information to permit the CIA to find it.
3. Sufficient information, such as name, address, email address and telephone number, to enable the CIA to contact the complaining party.
4. A statement that the complaining party has a good faith belief that the use of the material is not authorized by the copyright owner, the owner's agent, or the law.
5. A statement that the information in the notice is accurate and, under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that has been infringed.
6. A physical or electronic signature of the owner, or authorized agent, of an exclusive right that is allegedly infringed.

Reports of potential copyright infringements by the CIA will be investigated and resolved. Any instance of an Employee or Student who is found to intentionally or repeatedly engage in copyright violations will be considered grounds for appropriate disciplinary action, up to and including termination of employment or status as a Student.

## **III. Alleged Infringing Site Take Down Procedures**

When properly notified of the potential copyright infringement, the CIA may, but does not have to, attempt to determine if the use of the materials in question complies with copyright law. The CIA will make reasonable efforts to contact the site or page owner of the materials in question to arrange for the materials in question to be taken down. Alternatively, the CIA will promptly disable access to the materials in question, unless it has been determined that the use is lawful.

The owner of the site or page of the allegedly infringing material, whether it is the CIA or an individual other than the CIA (the user), may exercise their counter notice procedure rights set forth below.

#### **IV. Counter Notice Procedures**

After voluntary take down or access to the material in question is disabled, the CIA may, but does not have to, proceed to counter notification on its behalf or behalf of its Employees and Students. Counter notification must be made in writing to the Designated Agent.

A counter notice may claim only either that the complaining party is mistaken (including on the basis of fair use) and the material in question is lawfully posted; or that the material in question has been misidentified.

The counter notice to the Designated Agent must contain:

1. A physical or electronic signature of the user (the CIA or its Employee or Student).
2. A description of the material and its location before it was removed or disabled.
3. A statement under penalty of perjury that the user has a good faith belief that the material was removed or disabled by mistake or because it was misidentified.
4. The user's name, address, email address and telephone number.
5. A statement that the user consents to the jurisdiction of the Federal District Court for the given address or, if the user's address is outside the U.S., any Federal District Court in which The CIA as online service provider may be found.
6. A statement that the user will accept service of process from the complaining party (copyright owner or authorized agent).

## **F. RESPONSIBLE CABINET MEMBER**

Chief of Staff

## **G. RELATED INFORMATION**

Any applicable policies, appendices and links that relate to the policy and help to implement the policy.

## **POLICY HISTORY**

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**Policy Editorial Committee & Responsible Cabinet Member Approval to Proceed: 10/10/2018**

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**Policy Advisory Committee (PAG) Approval to Proceed: 10/10/2018**

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**Board Approval to Proceed (if required)**

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**Cabinet Approval to Proceed: 12/3/2018**

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**Policy Revision Dates: 7/23/2018, 10/10/2018**

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**Scheduled Review Date:**