

The University of Central Florida HEOA Compliance Program for Peer-to-Peer File Sharing and Copyrighted Material

Introduction

This Compliance Program (“Program”) has been established by the University of Central Florida (UCF) in accordance with the requirements of the Higher Education Opportunity Act (HEOA) pertaining to Peer-to-Peer File Sharing and Copyrighted Material. The HEOA added provisions to the Higher Education Act, requiring institutions to take steps to combat the unauthorized distribution of copyrighted materials through illegal downloading or peer-to-peer distribution of intellectual property. The Program addresses the various legal requirements as set forth in the HEOA.

Program Elements/Legal Requirements

1) Annual Disclosure to Students

As required by 34 CFR 668.41(c), UCF has prepared the required annual disclosure notice to students. This notice includes the institutional information set forth under 3) below and explicitly tells students that the unauthorized distribution of copyrighted material is illegal and exposes them to civil and criminal penalties. It provides students with a statement detailing the nature of the penalties for infringement. The annual notice also includes UCF’s policies and penalties related to the unauthorized distribution of copyrighted material. UCF’s Office of Student Rights and Responsibilities will send this annual disclosure statement to students three times a year (i.e. once every semester) via direct email to the students.

2) Summary of Penalties for Violation of Federal Copyright Laws

The following summary of penalties for the violation of federal copyright laws is included in the list of institutional information provided upon request to prospective and enrolled students as set forth under 3) below. This summary is available in the online version of the UCF Golden Rule, along with the remainder of the institutional information required by 34 CFR 668.43(a)(10). Upon request by prospective and/or enrolled students, UCF will provide students with the URL to enable students to locate this information. This summary is also part of the annual disclosure notice to students as set forth under 1) above.

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 FAQs at www.copyright.gov/help/faq.

3) Institutional Information

As required by 34 CFR 668.43(a)(10), UCF has already prepared information regarding institutional policies and sanctions related to the unauthorized distribution of copyrighted material, which UCF includes in the list of institutional information provided upon request to prospective and enrolled students. This information is available in the online version of the UCF Golden Rule. Upon request by prospective and/or enrolled students, UCF will provide students with the URL to enable students to locate this information.

This information explicitly informs students that unauthorized distribution of copyrighted material, including peer-to-peer file sharing, may subject a student to civil and criminal liabilities, includes the summary of the penalties for violation of federal copyright laws that is set forth under 2) above, and describes UCF's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in illegal downloading or unauthorized distribution of copyrighted materials through UCF's network.

UCF has a variety of institutional policies in place that address copyright law, infringement and the use of information technology resources. These policies include the UCF Use of Copyrighted Material Policy (see <http://policies.ucf.edu/documents/2-103.1%20Copyrighted%20Material%20FINAL%205-21-2010.pdf>), the UCF Use of

Information Technology and Resources Policy (see <http://policies.ucf.edu/documents/4-002UseofInformationTechnologiesandResourcesFINAL.pdf>), and the UCF ResNet Acceptable Use Policy (see <http://www.resnet.ucf.edu/Policies/policy.htm>). Links to these policies as well as links to the documents set forth under 6) below will be provided to students as part of the institutional information.

4) Use of Technology-Based Deterrents

UCF's program includes a plan to "effectively combat" copyright abuse on the campus network using "one or more technology-based deterrents." UCF's program includes the use of the following technology-based deterrents:

- A vigorous program of accepting and responding to Digital Millennium Copyright Act (DMCA notices)

UCF's Chief Information Officer (CIO) is the registered DMCA agent and all DMCA notices are sent to him. UCF's CIO, in turn, has a set procedure for promptly notifying the UCF Security Incident Response Team, who follow the procedure that can be viewed by accessing the following URL:

<http://www.itr.ucf.edu/policies/p2p.pdf>

This procedure has proven effective in rapidly resolving each case. The effectiveness of UCF's DMCA notice processing procedure is borne out by the very low rate of repeat offenders.

- Commercial products designed to reduce or block illegal file sharing

Over the past few years, UCF has tested and thoroughly evaluated multiple vendor products that claim to offer means to restrict peer-to-peer file sharing activity. Most of these products proved ineffective. However, a recent offering by Cisco – the Service Control Engine (SCE) – has demonstrated the capability to effectively detect and restrict inappropriate file sharing through use of peer-to-peer applications. SCE is a network appliance. UCF Housing has approved funding for this device, UCF Computer Services & Technologies ordered it in April, and plans to have it installed and in operation on or by August 23, 2010.

5) Alternatives to Illegal Downloading

UCF specifically points students to a comprehensive list of legal downloading alternatives in the online version of the UCF Golden Rule. This list has been developed by EDUCAUSE and can be found at the following URL:

<http://www.educause.edu/legalcontent>

6) Mechanisms for Education and Information about Copyright

UCF sends out email notification messages once every semester, specifically pointing students to UCF Regulation UCF - 5.008 Rules of Conduct

http://regulations.ucf.edu/~regs/pdf/notices/5.008RulesofConduct_finalJune09_001.pdf) and the UCF Golden Rule Student Handbook – Office of Students Rights and

Responsibilities (see <http://www.goldenrule.sdes.ucf.edu>). Both the UCF Regulation and the UCF Golden Rule Student Handbook specifically address the misuse of computing and telecommunications resources, which includes any violation of the policies listed under 3) above. Additionally, when students register for the Resident Network (ResNet), they are prompted to the following policy and are also expected to acknowledge the ResNet User Agreement:

<http://www.resnet.ucf.edu/Policies/policy.htm>

The UCF Information Security Office has created an information security brochure, which covers copyright infringement and peer-to-peer file sharing. The brochure is presented to students through such venues as orientation. The brochure can be viewed at the following URL: http://www.infosec.ucf.edu/Student_InfoSec_Brochure.pdf

7) Procedures for Handling Copyright Infringement/Disciplinary Procedures

Student P2P violations/copyright infringement will be investigated and will be addressed in the following manner:

First Offense (Based on initial notice(s) received from the copyright holder(s)):

1. Warning message sent to the student along with supporting document(s).
 - a. Student may not receive a warning message for each infringement notice received by the university. However, each infringement notice is recorded.
2. Copy of the warning message sent to UCF's Office of Student Rights and Responsibilities (OSRR).
3. If acknowledgment of the warning message is not received from the student within 3 business days, or if student's registered email address is incorrect, internet access is disabled and OSRR is notified.
 - a. Students on Resident Network will be able to access UCF resources. Only internet access is revoked.
 - b. Students committing the violation on wireless will have their wireless access revoked.
4. Students will have to contact the Office of Student Rights and Responsibilities or designee (located in Ferrell Commons room 142, phone number 407-823-4638) to receive a written warning and instructions on how to get their internet access restored
 - a. Internet or wireless access to the network remains disabled until OSRR or designee notifies the Security Incident Response Team recommending the

reinstatement of access for the student after the student has received their written warning and completed their educational requirement from OSRR.

Second Offense (*Repeated notices after the student acknowledges the initial warning message or after the first shutdown*):

1. Internet or wireless access to the network for the student is revoked. Students on Resident Network will be able to access UCF resources.
2. Notification message sent to the student and OSRR along with supporting documents.
3. The OSRR or designee contacts the student to attend a mandatory computer education class presented by an OSRR staff member and a computer services staff member.
4. Internet or wireless access to the network remains disabled until OSRR or designee notifies the Security Incident Response Team recommending the reinstatement of Internet access for the student.

Third Offense:

1. Internet or wireless access to the network for the student is revoked.
2. Notification message sent to the student and OSRR along with supporting documents.
3. OSRR will proceed with disciplinary charges and the student will go through the student conduct review process.

8) Procedures for Periodic Review of the Program's Effectiveness

UCF's procedures for periodically reviewing the effectiveness of the plans to combat the unauthorized distribution of copyrighted materials by users of the institution's network using relevant assessment criteria are as follows:

UCF's CIO, UCF's Director of the Office of Student Rights and Responsibilities, and an attorney from the UCF General Counsel's Office will arrange to meet at a given time each year to review the effectiveness of the Program. A measure used in evaluating this will be the counting of DMCA requests received per unit of time, before and after the Service Control Engine (SCE) technology based deterrent goes into service at UCF. By providing the link to the list of legal downloading alternatives developed by EDUCAUSE (<http://www.educause.edu/legalcontent>), UCF ensures that the students are provided with an up-to-date list of legal downloading options that are made available to students through the online version of the Golden Rule.