

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

## **Introduction**

The 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 Conduct will send this annual disclosure statement to students two times a year (i.e. Fall and Spring semesters) 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](http://www.copyright.gov), especially their FAQs at [www.copyright.gov/help/faq](http://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:

- UCF Use of Copyrighted Material Policy (see 2-103 Use of Copyrighted Material at <http://policies.ucf.edu/>)
- UCF Use of Information Technology and Resources Policy (see 4-002 Use of Information Technologies and Resources at <http://policies.ucf.edu/>),
- UCF ResNet Acceptable Use Policy (see <http://resnet.ucf.edu/useragreement>).

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 Information Security Office, who follow the procedures outlined in 7) below. The 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

UCF has implemented network optimization technology on the network and uses it to detect and restrict inappropriate peer-to-peer file sharing.

#### **5) Alternatives to Illegal Downloading**

UCF specifically points students to a comprehensive list of legal downloading alternatives. 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/chapter5/index.html>) and the UCF Golden Rule Student Handbook (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://resnet.ucf.edu/useragreement>

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:

<https://infosec.ucf.edu/awareness/student-information-security-resources/>

## **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. If the student acknowledges the warning message and pledges to discontinue P2P networking on UCF resources, no further action needs to be taken.

Second Offense (Repeated notices after the initial warning message):

1. Internet or wireless access to the network for the student is revoked.
  - a. *Note:* Students on Resident Network (ResNet) will still be able to access UCF resources.
2. Notification of network access revocation sent to the student and OSC along with supporting documents. Information Security Office files an incident report with OSC.
3. OSC places an administrative hold on the student's account.
4. Students will be contacted by the Office of Student Conduct (located in Ferrell Commons room 227) regarding the alleged violation of the Rules of Conduct. An appointment will be scheduled for the student to discuss the alleged violation, receive a written warning, and be provided instructions on how to get their internet access restored.
5. Once a student completes these instructions, OSC will remove the hold on the student's account and contact the Information Security Office recommending reinstatement of network access.

Third Offense:

1. Internet or wireless access to the network for the student is revoked.
2. Notification message sent to the student and Office of Student Conduct (OSC) along with supporting documents. The Information Security Office files an incident report with OSC.
3. OSC will proceed with disciplinary charges (including a student account hold) and the student will go through the student conduct review process.
4. Internet or wireless access to the network remains disabled until OSC or designee notifies the Information Security Office recommending the reinstatement of Internet access for the student.

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

UCF will continually review the effectiveness of these plans to combat the unauthorized distribution of copyrighted materials by users of the institution's network by monitoring the number of DMCA notices received per unit of time. Adjustments will be made as needed on an ongoing basis to both technology-based deterrents (see section 4 above) as well as the procedures (see section 7 above) to minimize the number of notices in the future.