


# PROCEDURE

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| <b>Subject</b>                              | <b>In-Network Copyright Policy</b><br>Page 1 of 3                                 | <b>Number:</b><br>1.05.02               |
| <b>Source</b>                               | Vice President Business and Administrative Services                               | <b>Reference (Rule #)</b><br>6HX14-1.05 |
| <b>President's Approval/Date:</b><br>7/1/10 |  |   |

## POLICY:

A policy must be established for the implementation, detection, prevention and assessment of violations of unauthorized distribution of copyrighted materials by users of State College of Florida's network. The procedure is needed to uphold the amendments to the standards governing Title IV Higher Education Act regulations, specifically the added provision in section 34 CFR 668.14 (b)(30).

**PURPOSE:** Per the requirements of the updated federal standard, this procedure is intended to:

- Amend the existing State College of Florida's Network Security Policy
- Provide definitions of federally copyrighted materials and the institution's position on and penalties for copyright infringement.
- Introduce at least one technology-based deterrent to protect against violations of copyright within the institution's network
- Introduce legal alternatives to illegal, in-network distribution of copyrighted materials.
- Amend existing orientation and training materials to fully broadcast the Copyright Policy
- Annually distribute materials to each individual in writing that describe SCF's Copyright Policy and the federal copyright law itself as well as its associated penalties.
- Provide avenues of risk assessment and reporting

Within the context of this procedure, "violation of copyright" means any pattern, practice or specific activity that distributes copyrighted materials across the institutions network without the written consent of the author.

**SCOPE:** This procedure applies to all materials holding a federal copyright and their distribution across the institution's network.

## 1. Guidelines and Definitions

- A. "Copyrighted materials" are "all materials, regardless of form, that are protected under federal copyright laws."
- B. "Illegal Distribution" is "an exchange of copyrighted materials, in whole or part, via peer-to-peer file-sharing, file-swapping, downloading or uploading."
- C. "Institution's Network" is defined as "any tangible portion of the technological infrastructure of the College, including computers, hardware, software, peripherals or cabling. Also, any intangible portion of the technological infrastructure of the College, including wireless access points, bandwidth, and remote connections."

- D. "Institution's position on violations of copyright" is defined as: "State College of Florida under no circumstances will promote, allow or ignore the illegal distribution of copyrighted materials through or across any portion of its technological infrastructure or system's architecture."
- E. "Institutionally sanctioned penalties are defined as: "Any person suspected of or found in violation of the College's Copyright Policy will have his or her account immediately suspended and be reported to the College's Office of Risk Assessment as well as the federal authorities."
- F. OR – the following guidelines and definition have been provided by the Department of Education:

"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 content, downloading or uploading substantial parts of a copyrighted work without authority constitutes 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 attorney's fees. For details, see Title 17, United States Code, Section 504, 505.

Willful copyright infringement can also result in criminal penalties, including imprisonment or up to five years and fines up to \$250,000 per offense."

## **2. Responsibilities and Delegation of Authority**

This Policy will introduce at least one technology-based deterrent to protect against violations of copyright within the institution's network; introduce legal alternatives to illegal, in-network distribution of copyrighted materials; amend existing orientation and training materials to fully broadcast the Copyright Policy; annually distribute materials to each individual in writing that describe SCF's Copyright Policy and the federal copyright law itself as well as its associated penalties; and provide avenues of risk assessment and reporting.

The Chief Information Officer (Information Technology Services) is responsible for the oversight of the In-Network Copyright Policy, its implementation, administration and annual review.

## **3. Technology-based Deterrents**

The College will adopt the following technology-based deterrents:

- Accepting and responding to Digital Millennium Copyright Act (DMCA) notices upon access of any portion of the College's network.
- Excessive bandwidth usage will be monitored and reported.

## **4. Legal Alternatives**

The College will provide the following legal alternatives to illegal distribution of copyrighted materials via:

- Third-party technological solutions that act as individual content management systems.

- Guiding students to authorized, shared learning spaces within the learning management system.
- Guiding students to authorized bibliographic and citation solutions provided by within the Library Portal.
- The College, in concert with Legal Services, will create an author-consent procedure to obtain copyright clearance for educational purposes.

#### **5. Amendment of Orientation and Training Materials**

The College will update the orientation materials in the respective areas (Academic Services, Student Services and Human Resources) to include the In-Network Copyright Policy in order to fully broadcast the new policy to students, staff and faculty.

The College's website will be updated to include the In-Network Copyright Policy to students, staff and faculty.

Information Technology Services will update the training materials to include coverage of the In-Network Copyright Policy to students, staff and faculty.

#### **6. Annual distribution of Copyright Policy to Students**

Each year, an e-mail will be sent to the entire student body, faculty and staff that will include a copy of the In-Network Copyright Policy, the federal copyright statutes and the associated penalties for violating those statutes.

#### **7. Internal Risk Assessment and Annual Reporting**

The College will conduct an internal risk assessment to evaluate the current level of risk to the illegal distribution of copyrighted materials across its technological infrastructure and systems architecture. The ensuing report will be used as a baseline for future risk assessments and policy adjustments.

Annually and following the initial risk assessment, the CIO will review the existing In-Network Copyright Policy for effectiveness and report findings to the Office of the President. However, a confirmed and actionable policy violation will generate an immediate policy review and interim report.