

## Copyright Policy

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## **I. POLICY STATEMENT**

A. The University of San Francisco (The University or USF) warns against the illegal distribution of copyrighted material using University Resources in its Technology Resources Appropriate Use Policy. A Summary of Copyright, Photocopy and Media (including Electronic Media) Reproduction Policies can be found in the Fogcutter Student Handbook.

B. Responsibility for avoiding illegal use of copyrighted material lies with the individual who possesses or distributes it. A copyright guide is available from the Gleeson Library/Geschke Center. The University does not routinely monitor or regulate content of network traffic for any purpose other than to identify threats to the integrity and availability of the network such as SPAM, viruses, worms, hacking, cyber-attacks and other potential threats. We do, however, maintain the capacity to trace traffic and specific file transfers to individual machines, times, and user IDs for these purposes.

## **II. REASON FOR POLICY**

A. The University makes every effort to fully comply with the requirements of the Higher Education Opportunity Act ([HEOA](#)) and the Digital Millennium Copyright Act ([DMCA](#)).

B. If we receive a valid subpoena, we are obligated to turn over any electronic information we have regarding specific instances of data transmitted via our networks. Therefore, you are informed that using USF networks does not protect you from detection or prosecution in committing illegal acts. Illegal use, copying and distribution is a FEDERAL offense.

## **III. SCOPE**

A. This policy covers the use and distribution of copyrighted material and applies to all USF community members.

## **IV. AUDIENCE**

A. This policy applies to all USF community members: faculty, students, staff, part-time staff, term staff (under contract employment), affiliates, visitors, etc.



## V. POLICY TEXT

A. 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 U.S. Copyright Office website at [www.copyright.gov](http://www.copyright.gov), specifically FAQ's at [www.copyright.gov/help/faq](http://www.copyright.gov/help/faq).

B. Accordingly, the University prohibits the use of peer-to-peer applications on its networks or the IT Resources, in general, to transmit or exchange any videos, music, software, images, or other Content, in which the intellectual property is held by any party or entity other than the User, unless the User has valid, written authorization to access or distribute such Content. Any use of the IT Resources in violation of this policy will be subject to disciplinary sanctions in keeping with the applicable provisions of the IT Policy and other University statutes, rules, and policies. Summary actions regarding copyright infringement claims are outlined in sections 4 and 5 below. Nonetheless, the University allows and encourages the use of peer-to-peer applications for legitimate academic purposes when such uses do not involve any violation of applicable laws, statutes, or policies, or infringement of third-party rights.

C. The University will continue to implement safeguards against the illegal exchange and distribution of copyrighted materials. To that end, the University employs various deterrents such as bandwidth management technology to ensure peer-to-peer programs do not degrade network speeds or any other portion of the IT Resources. Currently, the University applies other technologies as recommended or required by the [Higher Education Opportunity Act](#). The specific configuration and behavior of these technology safeguards are implemented at the direction of the University Information Security Officer. Nonetheless, should any program or activity degrade the performance of the IT Resources, present a threat or otherwise affect IT Resources or users in a manner inconsistent with [Technology Resources Appropriate Use Policy](#) or other University policies, appropriate action will be taken against the User or Users responsible for such degradation or other negative impact.



D. Claimed Student violations are documented by ITS, with Internet access privileges potentially suspended until the student contacts the ITS Help Desk and acknowledges the receipt of the complaint, and this suspension is not lifted until the student is cleared by the USF Office of Student Conduct, Rights and Responsibilities.

E. Staff, Faculty and 3rd Party claimed violations will be escalated to the USF Information Security Officer for investigation. The Information Security Officer may counsel the individual or refer the matter to the corresponding Dean, Vice-President or Human Resources for further action.

## **VI. PROCEDURES**

A. (None)

## **VII. RELATED INFORMATION**

A. Technology Resources Appropriate Use Policy,  
[http://myusf.usfca.edu/system/files/technology\\_resources\\_appropriate\\_use\\_policy.pdf](http://myusf.usfca.edu/system/files/technology_resources_appropriate_use_policy.pdf)

## **VIII. DEFINITIONS**

A. (None)

## **IX. FREQUENTLY ASKED QUESTIONS**

### **A. How do I know if I'm violating copyright infringement laws?**

1. If you have copyrighted material in your possession and you are allowing others to get this material from you, you are violating the law. A simple example of copyright infringement would be burning a CD with a bunch of MP3s and giving it to a friend or giving a copy of Microsoft Office to a friend.

### **B. How do I know if I'm allowing others to take copyrighted material from me?**

1. In ITS, our focus is to make you aware of how technology is involved in the violation of copyright laws. The most common way to share copyrighted material via technology is through "file sharing". There are many applications that can do file sharing. Examples are Windows File Sharing, KaZaa, Morpheus, Napster, WinMX, Blubster, Limewire, among others. Each of these applications has a configuration setting to allow others to download material from your hard drive. These applications may activate file sharing by default. So, you may very well be sharing copyrighted material without even knowing it. You must look for these configuration settings and turn them off to be sure that you are not inadvertently distributing copyrighted material.



**C. What if I want to share non-copyrighted material?**

1. If you want to share non-copyrighted material via any of the solutions noted above, you would need to delete all copyrighted material from your hard drive so that that material could not be shared at the same time as the legitimate material.

**D. Where can I find more information on this subject?**

1. Here is a list of informative sites regarding copyright laws:

- [The Gleeson Library/Geschke Copyright Guide](#)
- [U.S. Copyright Office](#)
- [The Digital Millennium Copyright Act of 1998](#)
- [Recording Industry Association of America](#)
- [Motion Picture Association of America](#)

**X. REVISION HISTORY**

- A. 12-09-2013 – Initial publication
- B. 03-01-2015 – Minor edits

**XI. COMPLIANCE**

A. Failure to follow this policy can result in disciplinary action in accordance with [Human Resources](#) Employment Handbook and [Office of General Counsel](#) employee and labor relations. Disciplinary action for not following this policy may include termination, as provided in the applicable handbook or employment guide.

B. ITS complies with federal and state copyright laws and regulations.

C. Higher Education Opportunity Act-specific provisions summary:

1. HEOA (Peer-to-peer Requirements)
2. [H.R 4137, the Higher Education Opportunity Act](#) (HEOA), is a reauthorization of the Higher Education Act. It includes provisions that are designed to reduce the illegal uploading and downloading of copyrighted works through peer-to-peer (P2P) file sharing. These provisions include requirements that:

a. Institutions make an annual disclosure that informs students that the illegal distribution of copyrighted materials may subject them to criminal and civil penalties and describes the steps that institutions will take to detect and punish illegal distribution of copyrighted materials.

b. Institutions certify to the Secretary of Education that they have developed plans to effectively combat the unauthorized distribution of copyrighted material.

- c. Institutions, to the extent practicable, offer alternatives to illegal file sharing.
- D. DMCA Violations
  1. You could violate federal copyright law if:
    - a. Somebody emails copyrighted material to you and, in turn, you forward it to one or more friends.
    - b. You make an MP3 copy of a song from a CD that you bought (purchasers are expressly permitted to do so) but subsequently make the MP3 file(s) available on the Internet using a file-sharing network.
    - c. You join a file-sharing network and download unauthorized copies of copyrighted material you want from the computers of other network members.
    - d. To gain access to copyrighted material on the computers of other network members, you pay a fee to join a file-sharing network that is not authorized to distribute or make copies of the copyrighted material. You then download unauthorized material.
    - e. You transfer copyrighted material using an instant messaging service.
    - f. You have a computer with a CD burner that you use to burn copies of music you have downloaded onto writeable CDs which you then distribute to your friends.

## **XII. POLICY EXCEPTION PROCESS**

- A. A proposed exception request to ITS Policy requires a formal e-mail explanation related and in support of job function.
- B. A proposed exception request to ITS Policy, mentioned in 'XII.A', must be approved via email by respective department or division supervisor, Dean, or VP, before submitted to ITS for review.
- C. Forward approved email as stated in 'XII.B' to [itshelp@usfca.edu](mailto:itshelp@usfca.edu) for processing.
- D. Evaluation of ITS Policy Exception will escalate internally, and as applicable may include further review by: UITS subcommittee(s), the Information Security Officer, and others as appropriate at the request of VP for IT.

## **XIII. APPENDICIES**

- A. (None)