

## Procedure: 3.2.3p.

# HEOA P2P Unauthorized File Sharing Prevention Compliance

**Revised:** July 13, 2010

**Last Reviewed:** September 10, 2018, October 30, 2017

**Adopted:** July 13, 2010

*(Formerly located on the Introduction of the Policy Manual)*



### **I. PURPOSE:**

To define a baseline for actions to combat the unauthorized distribution of copyrighted materials that is consistent with Federal requirements.

### **II. RELATED AUTHORITY:**

O.C.G.A. § 20-4-11 – Powers of the Board

O.C.G.A. § 20-4-14 – TCSG Powers and Duties

### **III. APPLICABILITY:**

All work units and technical colleges associated with the Technical College System of Georgia.

### **IV. DEFINITIONS:**

**P2P Unauthorized File Sharing:** Unapproved distribution of copyrighted materials utilizing Peer to Peer or other technologies by users of TCSG networks and internet connected systems.

### **V. ATTACHMENTS:**

N/A

### **VI. PROCEDURE:**

1. To meet federal HEOA (Higher Education Opportunity Act) requirements a disclosure describing copyright law and TCSG policies and penalties must be provided to students annually. This statement must include the following:
  - a. A statement that explicitly informs its students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;
  - b. A summary of the penalties for violation of Federal copyright laws
  - c. A description of the institution'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 using the institution's information technology system.

- d. A link to legal alternatives for downloading or acquiring copyrighted materials.
2. To meet federal HEOA requirements each TCSG college will utilize one or more of the following technologies to identify and/or block P2P file sharing activities
  - a. Bandwidth or traffic shaping
  - b. Traffic monitoring to identify abnormally high bandwidth users
  - c. Internet content filtering to block or reduce illegal file sharing
  - d. Other commercial products designed to reduce or block illegal file sharing
3. TCSG will respond to all Digital Millennium Copyright Act (DMCA) notices, notify the College ISA (Information Security Administrator) and work with the college to determine the sources of suspect traffic.
4. TCSG will periodically review the effectiveness of HEOA/P2P/SPCG compliance and make suggestions for improvement where needed

## VII. **RECORD RETENTION:**

### **Unauthorized Distribution of Copyrighted Materials is Against Federal Law**

The unauthorized copying and distributing of copyrighted materials, including, but not limited to peer-to-peer (P2P) file sharing, is a violation of United States copyright law and may result in civil and criminal liability and prosecution

### **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 FAQ's at [www.copyright.gov/help/faq](http://www.copyright.gov/help/faq).

### **Unauthorized Distribution of Copyrighted Materials is Prohibited by TCSG Policy**

TCSG Procedure 3.3.4p. prohibits the unauthorized distribution of copyrighted materials via TCSG systems or networks. Maximum penalties under Georgia Law are a \$50,000 fine and 15 years of imprisonment, plus civil liability in addition to the potential federal penalties listed above.

## **Legal Alternatives for Downloading or Otherwise Acquiring Copyrighted Materials**

For a list legal alternative sites for downloading copyrighted materials please visit:  
<http://www.educause.edu/legalcontent>