

COPYRIGHT INFRINGEMENT PROCEDURES

Purpose:

To establish TMCC procedures on copyright protection that complies with applicable law and NSHE policy in order to prevent the proliferation of copyright infringement.

Scope:

These procedures apply to all TMCC staff, faculty, administrators, officers and students (collectively, "Users").

Procedures:

Members of the college community are advised to become as knowledgeable as possible regarding copyright law and these procedures. Individuals who willfully disregard these procedures and guidelines do so at their own risk and may be subject to personal liability. The college regards violation of these procedures as a serious matter. Any such violation is without the college's consent and is subject to loss or restriction of computing privileges and disciplinary action up to and including termination, in the case of college employees, and expulsion, in the case of students.

Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws

- 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.
- b. 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.
- c. 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.
- d. For more information, please see the Web site of the U.S. Copyright Office at www.copyright.gov, especially their FAQ's at www.copyright.gov/help/faq.

Violations and Prohibitions:

It is against TMCC policy for users to use TMCC equipment or services to access, use, copy or otherwise reproduce, or make available to others any copyright-protected materials or software except as permitted under copyright law or specific license. Specifically, users are prohibited from:

- a. Copying or reproducing any licensed software on TMCC computing equipment, except as expressly permitted by the software license. Also, users may not use unauthorized copies of software on TMCC-owned computers.

- b. Copying, downloading or uploading audio recordings, music, movies, videos and other kinds of copyright-protected files electronically without the owner's permission.
- c. Posting copyrighted material on a TMCC-owned Web site (official or personal).
- d. Additionally, faculty, staff, administrators and students must:
 - i. Fully read, understand and abide by all terms of software license agreements.
 - ii. Remove any copyrighted material downloaded from the Web after the evaluation period has expired. Evaluation software is not normally installed on computers in academic classrooms or labs.
 - iii. Not accept unlicensed software from any third party.
 - iv. Not install, nor direct others to install, illegal copies of computer software or unlicensed software onto any TMCC-owned or operated computer system.
 - v. Comply with other TMCC policies addressing copyright issues.

Guidelines for Specific Materials:

COMPUTER SOFTWARE:

- a. The software provided through TMCC for use by users may be used only on computing equipment as specified in the various software licenses.
- b. Users shall not make copies of TMCC owned or licensed software except where and only to the extent explicitly permitted according to the terms of the applicable license and shall not use TMCC hardware to make illegal copies of any copyrighted software for the purpose of selling, giving, or lending this software to others (including but not limited to software from the public and departmental computer labs) or for any other unauthorized purpose.
- c. Software that is purchased at a discount for classroom or other limited use shall be used only in the manner authorized by the seller (and removed or uninstalled as directed).
- d. Users are responsible for knowing the license terms of any software acquired pursuant to a site license. The terms of site licenses vary, and software distributed under a site license must be used and copied in accordance with that license.
- e. Computer software known as "shareware" is under copyright protection. Individual users of this software are required to comply with all terms of any shareware license, including, where applicable, to register and pay for any software they retain and use.

INTERNET, WEB, DIGITAL:

- a. Users shall not download copyright protected files from the Internet without permission from the copyright holder. These files could include MP3, wav, midi, or other audio files; QuickTime, avi or other movie files; gif, jpeg or other picture files; as well as any other media files.
- b. A legal alternative for download of media files is available at <http://www.educause.edu/legalcontent>.
- c. Using Peer to Peer (P-2-P) programs, such as KaZaA to distribute music, videos, etc. without copyright permission is against the Digital Millennium Copyright Act (www.copyright.gov/legislation/hr2281.pdf). Unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the student, faculty or staff member to civil and criminal liabilities.
- d. The TMCC high-speed network is a shared resource and primarily for academic and administrative use. The college reserves the right to revoke or restrict network access of individuals generating high network traffic which is not academically or business related (including but not limited to uploading and downloading copyright protected files).

Enforcement:

- a. The college reserves the right to monitor network use for operational needs and to ensure compliance with applicable laws and college policies. The college has a legal duty to comply with applicable laws protecting the intellectual property rights of third parties and to respond to formal legal complaints that it receives.
- b. Information Technology Operations (ITO) staff are responsible for monitoring software compliance and may conduct periodic inventory of software installed on computers connected to the TMCC network. Any unauthorized

or unlicensed software may be removed without the user's permission in order to protect the college from copyright violations.

- c. If a particular computer begins to consume excessive network resources, ITO reserves the right to investigate and determine the cause for this excessive usage. ITO can suspend, discontinue, limit or deny service without notice to anyone it determines is abusing the system. The ITO executive director, the human resources director and/or the associate dean of students will be notified of infractions depending on whether the infraction involves a TMCC employee or student. TMCC faculty and staff have the ability to explain any excessive usage to the ITO executive director if a suspension of service has occurred.
- d. The college reserves the right to authorize removal of any illegal copyright material or disconnecting a user's account if the user represents a serious threat to system integrity or poses a liability to the college. The college may refer suspected violations of applicable law to appropriate law enforcement agencies.
- e. Suspected violations of these procedures or related statute should be reported to the ITO Help Desk in an email message or letter addressed to: the ITO executive director. In reporting a violation, complainants should cite the specific section of these procedures that has been violated.
- f. If any provision of these procedures is ruled invalid under law, it shall be deemed modified or omitted solely to the extent necessary to come into compliance with said law, and the remainder of the policy shall continue in full force and effect.