

College Operating Procedures (COP)



Procedure Title: File Sharing Procedure
Procedure Number: 02-0407
Originating Department: Technology Services

Specific Authority:

Board Policy 6Hx6:2:00
Florida Statute 1001.65
Florida Administrative Code Chapter 815 – Computer Crimes Act
Higher Education Opportunity Act (HEOA) of 2008

Procedure Actions: Adopted: 09/16/2010; 02/04/11

Purpose Statement: Florida SouthWestern State College (College) is committed to upholding U.S. copyright law. All members of the Florida SouthWestern State College community are required to follow the Florida SouthWestern State College's [Technology Acceptable Use Procedure](#) (AUP) which prohibits illegal copyright activity.

Guidelines:

This File Sharing Procedure, (FSP) applies to all users of information technology within the the College. This applies to the College owned computers as well as personally owned computers if they are accessing the Florida SouthWestern State College network. Please be sure that you have rights for any material you are making available or sharing on the College network.

Procedures:

1.0 Procedure Overview

The unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject you to disciplinary action as well as civil and criminal liabilities.

1.1 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, especially their FAQ's at www.copyright.gov/help/faq.

1.2 Detecting and Responding to Illegal File Sharing

The College Technology Services will use various tools to periodically monitor Peer to Peer file sharing activity on the College network. Known illegal Peer to Peer file sharing web sites will be blocked.

College network administrators may, under a limited set of circumstances related to the security and performance of the network, monitor traffic to protect the quality of the network service. To ensure that bandwidth is available for academic, research and administrative uses in alignment with the College's mission, network administrators pay attention to anomalous spikes in network traffic in order to manage the resource and follow up as appropriate regarding potential hazards to network performance and availability. Under provisions of the DMCA and as a matter of College policy, the College does not routinely search for illegal activity that may occur over its network.

Any suspected illegal file sharing or copyright infringement reported to the College will be promptly investigated according to College Operating procedure [02-0404](#).

2.0 Sanctions

Suspected violations of the AUP and FSP are to be reported in writing to the Chief Information Officer (CIO). The CIO will be responsible for the investigation of the alleged violation, in cooperation with the College Attorney. Based on the findings the CIO will have the right to temporally suspend the computer privileges of the individuals involved in the violation until the completion of the Florida SouthWestern State College judicial process. As a part of the investigation it may become necessary for college authorities to examine electronic files, accounting information, printouts, or any other materials. For potential liability reasons, the Florida SouthWestern State College reserves the right to monitor all communications on the college system.

The CIO will forward the findings of the investigation to the College attorney for further disciplinary action as follows: for student violations, the Dean of Student Services; for faculty violations, the VP of Academic Affairs; or for staff violations, the direct supervisor. The appropriate Florida SouthWestern State College official will follow the disciplinary hearing procedures as outlined in the [Disciplinary Procedures - College Operating Procedure](#).

Sanctions for the violations of the AUP and FSP may include but are not limited to loss of computer privileges, reprimand, suspension or expulsion for students and discharge from employment to possible prosecution by state and federal authorities for employees.

3.0 Available Alternatives to illegal file sharing

Please visit <http://www.educause.edu/legalcontent> to see the Educause list of available file sharing alternatives.

3.1 Community Education and Annual Disclosure to Students

Florida SouthWestern State college community/student education efforts provide information about the following areas.

- Appropriate vs. inappropriate use of copyrighted material
- Institutional policies and sanctions related to copyright infringement
- Student disciplinary procedures
- Civil/criminal liabilities
- Penalties for violation of federal copyright law

Web-based copyright and security awareness information is available at:
<http://www.fsw.edu/technology/security/>

4.0 Periodic Review of Plan and Assessment Criteria

Beginning September 2010, the College will conduct an initial review of its Plan for Combating Illegal File sharing. Subsequent reviews will be conducted every two years. No single criterion is used to determine whether or not the plan is effective; a range of factors are considered in the context of the changing, external environment.