

Pacific Oaks College

DMCA Notification and Response Plan for Unlawful Distribution Of Copyrighted Material

Introduction to the “DMCA” Plan

Educational institutions are not exempt from the laws covering copyrights. Most software, images, music, and files available for use on computers at Pacific Oaks College (“PO”) and TCS Education System (“TCSES”) are protected by federal copyright laws. PO has a no tolerance policy toward unlawful distribution of these copyrighted works.

Together, PO and TCSES maintain this policy in order to comply with the requirements of the Higher Education Opportunity Act (HEOA) of 2008 and the Digital Millennium Copyright Act (DMCA). PO and TCSES have created this “DMCA Notification and Response Plan” to combat unlawful usage. In particular, PO’s plan requires students, employees and visitors using PO and TCSES networks or computers to comply with pertinent U.S. and international copyright laws. Failure to comply with the policies in the DMCA plan may result in disciplinary action as well as civil and criminal penalties.

What is Copyright Infringement?

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 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.

How Do PO and TCSES Combat Unauthorized Distribution of Copyrighted Material?

PO and TCSES work together to combat unauthorized distribution of copyrighted material through a variety of educational, technical, and disciplinary means. These include:

1. Posting the DMCA Plan online.

2. PO will send periodic email notices to PO Students and Employees with a link to this policy which will remain posted on the PO Website.
3. Network management and technology based deterrents that may constrain the use of the network for purposes not directly related to appropriate PO activities.
4. PO works with TCSES's IT Department to provide legal alternatives to illegal downloading.
5. Standardized, consistent handling of copyright violation notices with warnings to violators and disciplinary action applied at the affiliate level.

How is Suspected Unlawful Distribution of Copyrighted Material Reported?

If you become aware of a copyright violation you may notify PO and TCSES by submitting an electronic notification to the "TCSES DMCA Agent"¹ at DMCA-Agent@TCSEdSystem.org. Include the following information in your written notice:

- Description of the work infringed with sufficient details to allow TCSES and PO to locate the material;
- Your full name, email address, home address and telephone number;
- Include the following statement of accuracy and good faith in your email: " I am reporting this suspected violation in good faith due to a reasonable belief that the use of the above identified copyright-protected material is unlawful or otherwise in violation of PO copyright policies. To the best of my knowledge, the information that I have provided in this notice is accurate"
- Type your full name in order to serve as your electronic signature at the end of your email.

What Legal Alternatives to Illegal Downloading are Available?

EDUCAUSE maintains a list of legal sources of online content at www.educause.edu/legalcontent. In addition, students, faculty, and staff at TCSES affiliates who have a valid username and password and are logged in to the PO and/or TCSES network may access online content related to our academic programs from the PO and/or TCSES library Web site.

How do PO and TCSES Respond Upon Receiving Notice of Potential Violation?

1. When the TCSES DMCA Agent receives formal notification that a user of PO's network appears to be participating in unlawful distribution of copyrighted material, the TCSES DMCA Agent records the complaint.

¹ Note that the "TCSES DMCA Agent" is a member of TCSES but will accept and track the notices for all TCSES affiliates.

2. The TCSES DMCA Agent will then work with the IT Department within TCSES to identify the computer address associated with the network address at the time noted in the complaint and identify the owner of the device, if possible. The TCSES DMCA Agent will notify the appropriate PO representative for tracking and disciplinary purposes. If the network user is a student, the DMCA Agent will notify the PO Dean of Academic Affairs. If the network user is a staff member, the DMCA Agent will notify a member of Human Resources. If the network user is a faculty member, the DMCA Agent will notify the Dean of Academic Affairs.
3. The TCSES DMCA Agent will then notify the owner of the potential violation and instruct the user to remove the unlawful material from the network.
4. If the violator has received prior complaints or if the violator fails to remove the unlawful material within 3 business days, the TCSES DMCA Agent will work with IT to remove the unlawful material from the computer and will also restrict internet access.
5. 2 or more violations: In addition to loss of internet privileges, students with multiple violations (2 or more) will be disciplined in accordance with discipline procedures in the PO Student Handbook which may include dismissal or suspension. Likewise, in addition to loss of internet access, employees with multiple violations (2 or more) will be disciplined according to the procedures listed in the PO Faculty and or Staff/Employee handbook.
6. PO and TCSES seek to respond to copyright complaints within 7 days of receipt of said complaint.

How do PO and TCSES use Technology as a Deterrent to Unauthorized Distribution of Copyrighted Material?

At the present time, TCSES uses a combination of network isolation, firewall access control lists and network logging as a technological deterrent to unauthorized distribution of copyrighted material.

Students at PO may not connect their personal computers to the wired network directly. They have access to a wireless network that provides access to the Internet only through TCSES managed firewalls. This network is isolated from the main production network used by faculty and staff. Computers that are available to students in computer labs do not allow students to install software and are frequently re-imaged to a standard configuration.

The TCSES firewalls have access control lists which block peer-to-peer protocols that are typically used for unauthorized file sharing. Log files of all Internet traffic are collected on the Internet portals and are stored centrally to make logs available for automatic scanning for file sharing signatures.

In addition to the technology that is in place today, TCSES is evaluating monitoring systems which are capable of content analysis as an additional deterrent to unauthorized distribution of copyrighted material. It is our intent to implement such a system within the next year.

How do PO and TCSES Assess the Effectiveness of this Policy?

TCSES will review and update PO's DMCA Plan as needed on an annual basis. The review is performed at the TCSES level, rather than at an affiliate level. The annual review will include the following activities to assess effectiveness and identify potential enhancements:

- Analysis of potential copyright infringement notices received from members of the TCSES community.
- Analysis of DMCA notices received from RIAA, MPAA, and other industry organizations that monitor data networks for copyright infringements.

Effectiveness will be inferred from frequency of violation reports and number of repeat offenders. Over time, TCSES will also look at year-to-year trends and distribution patterns within a year.