

TU/e REGULATIONS FOR COMPUTER AND NETWORK USE 2012

The Executive Board of Eindhoven University of Technology (TU/e), taking into account article 7.57h of the Higher Education and Scientific Research Act (WHW) and the Regulations for University Buildings, Sites and Other Facilities,

RESOLVES to withdraw:

- The Regulations for Computer Use CVB 2000/1006 dated 3 April 2000;

and TO INTRODUCE:

- The TU/e Regulations for Computer and Network Use 2012, stating the following:

Article 1 Glossary of terms

The terms used in these Regulations have the following meanings:

CGC:	the 'Commissie Gedragscode Computergebruik' (Committee on Code of Conduct for Computer Use).
Chairman of the CGC:	the Director of STU, also in that capacity Chairman of the CGC.
Director of Education:	the officer appointed by the Executive Board and to whom the responsibility for compliance with these Regulations by the students of the educational program concerned is assigned.
Employee:	a User with a fixed or temporary contract of employment with TU/e.
Equipment:	the computer and network facilities provided by or on behalf of TU/e, including hardware such as computers, printers, notebooks, software, operating systems and other computer and/or network facilities.
Facilities:	the means provided by or on behalf of TU/e for electronic data exchange, including but not limited to (access to) the internet, worldwide web, web browser, e-mail, e-mail address, newsgroups, library information systems, tel net, studyweb and all other electronic equipment whether or not requiring the use of an access code, as well as connection facilities for notebooks and/or other electronic devices.
ICT Service:	the TU/e Information and Communication Technology Service.
Misuse:	use of the Equipment and Facilities in contravention of these Regulations regardless of whether such misuse is of a serious or less serious nature, as referred to in Appendix 1 of these Regulations.
Report:	a notification submitted in writing (including by electronic means) about misuse or use in contravention of these Regulations of the Equipment and Facilities by an User or any other person or persons.
Responsible Authority:	the Executive Board of TU/e is the Responsible Authority. The Executive Board may assign the role and tasks of the Responsible Authority to the Departmental Board, the Unit Manager or other person or body by the granting of a mandate.

Secretary of the CGC:	the head of the Notebook Service Center, also in that capacity Secretary of the CGC.
STU:	the TU/e Student Service Centre.
Student:	a User who is registered at TU/e as a student.
The Regulations:	these TU/e Regulations for Computer and Network Use 2012.
Third party:	a User other than a student or employee.
Unit Manager:	the Managing Director or head of the management unit to whom responsibility is assigned by the Executive Board for the management of the unit concerned.
User:	a natural person who is using the Equipment and Facilities with the approval of the Responsible Authority, as shown by the issuing by the Responsible Authority of a user name, e-mail address and/or other access code.

Article 2 Applicability of these Regulations and authorization of use

- 2.1 These Regulations are applicable to all use of the Equipment and Facilities provided by TU/e, regardless of how and where they are used or of the location at which Users log-in.
- 2.2 These Regulations are applicable to all persons who work at TU/e and/or who use the Equipment and Facilities, regardless of whether or not those persons are located at TU/e or elsewhere at the time of such use.
- 2.3 Only those Users who have been provided with a user name by the Responsible Authority are authorized to use the Equipment and Facilities.
- 2.4 The User is required to identify himself or herself when using the Equipment and Facilities by means of the user name and/or e-mail address issued to him or her by the , Responsible Authority, if applicable together with the password. Users must keep their user name and password strictly secret and must not reveal these to any other persons.
- 2.5 If requested to do so by the Responsible Authority, any User must without delay show his or her TU/e identification by means of a student card, visitor's pass or employee card.
- 2.6 The User must take all due care when using the Equipment and Facilities provided by the Responsible Authority, as well as his or her user name, password and e-mail address.
- 2.7 User names, passwords and/or e-mail addresses are strictly personal. Users who have received these from the Responsible Authority or who are using these are responsible for any and all such use even if by other persons.

Article 3 Liability

- 3.1 TU/e accepts no liability for any loss or damage resulting from or arising out of the use of the Equipment and Facilities or in connection with the quality and/or availability of the Equipment and Facilities or in connection with any information transmitted and/or obtained using the Equipment and Facilities except in case of a deliberate act or gross negligence on the part of TU/e.
- 3.2 The User shall be liable for any loss or damage resulting from or arising out of any misuse of, failure to take due care when using or use in contravention of these Regulations of his or her user name, password and/or e-mail address of any other access data provided by the Responsible Authority, including such use by any other person or persons.
- 3.3 The User shall be liable for any damage caused by them to the Equipment and Facilities, including damage resulting out of use in contravention of Articles 2 and/or 4, unless the damage is not attributable to the User concerned. The User shall compensate TU/e for any such damage.
- 3.4 Apart from any loss or damage as referred to in Articles 3.2 and 3.3, the User shall also be liable for any loss or damage caused to TU/e and/or others as a result of or arising out of the use of the Equipment and Facilities by the User in contravention of Articles 2 and/or 4 or in any other way resulting from or arising out of failure to use the degree of care that may be expected of the User.
- 3.5 The User shall indemnify TU/e from any liability and/or claim against TU/e made by others in relation to any infringement of the rights of those others where such infringement may be attributed to the User, including infringement of intellectual property rights and/or tortious actions towards others. Any liability of and/or claims against TU/e by others will be passed on to or recovered from the User.

Article 4 Form of use

- 4.1 The Equipment and Facilities which may be used by students are intended primarily and mainly for the purposes of education and research in connection with the programs or courses for which the students are registered. The Equipment and Facilities which may be used by employees are intended primarily and mainly for the purpose of carrying out the functions of the employees. The Equipment and Facilities which may be used by third parties are intended primarily and mainly for the purposes for which those third parties are present at TU/e. Students, employees and third parties may further and to a limited extent use the Equipment and Facilities for personal use provided that such use does not obstruct or interfere with their own normal work or that of others and that such use does not cause offence to others. Such personal use must further not cause any disproportionate load on of the Equipment and Facilities of TU/e and must not contravene any licenses held by TU/e or any (intellectual property) rights of TU/e and/or others.
- 4.2 Users of the Equipment and Facilities are not allowed to:
 - a. perform any actions that may cause material or immaterial damage to TU/e or others;
 - b. infringe any rights of TU/e or others;
 - c. cause any nuisance or disturbance of public order;
 - d. perform any action that contravenes any applicable laws, including actions arising out of intellectual property rights such as Copyright, the Benelux Trademarks Act, the Netherlands Neighbouring Rights Act, the Netherlands Database Rights Act and any other rights arising out of Netherlands criminal law, the Netherlands Personal Data Protection Act or any other rights arising out of the Netherlands Civil Code, especially Article 6:162 et seq.;
 - e. perform any action that contravenes the unwritten codes of conduct and the rules of behavior as accepted and practiced in society;

- f. use another person's user name, password and/or e-mail address or other personal access data. In case of such use by others, the responsibility will lie with the rightful holder of the user name, password and/or e-mail address or other access data;
- g. use another or a false user name, password and/or e-mail address, or in any other way attempting to conceal the identity of the User;
- h. gain unauthorized access to another person's data, files and/or computer system by means of hacking or breaking of security codes (including waddiving, sending cookies etc.);
- i. break or crack security codes;
- j. send or post messages whose contents may be offensive, immoral, discriminatory, seditious, libelous, insulting, injurious or in any other way inappropriate, or make such messages accessible by means of hyperlinks or publish such messages in any other way;
- k. send or post large numbers of messages or large messages which the User knows or may reasonably be expected to know may cause disturbances, nuisance and/or delays within the system or for the recipient(s), or make such messages accessible by means of hyperlinks or publish such messages in any other way;
- l. send or post messages which the User knows or may reasonably be expected to know are unwanted by or are not beneficial to the recipient(s) and are not part of the education or the function of the persons concerned, or make such messages accessible by means of hyperlinks or publish such messages in any other way without being requested to do so;
- m. deliberately send or post messages which the User knows or may reasonably be expected to know have contents which are incorrect, or make such messages accessible by means of hyperlinks or publish such messages in any other way;
- n. send chain letters, advertising messages and similar content or make such messages accessible by means of hyperlinks or publish such messages in any other way;
- o. make the Equipment and Facilities available to others;
- p. place an unnecessarily load on the Equipment and Facilities including not only keeping (any part of) the Equipment and Facilities in use without the physical presence of the User, but also using the Equipment and Facilities for any other purpose than that described in Article 4.1;
- q. leave (any part of) the Equipment and Facilities behind or in an open or operating condition such that others can use or misuse the Equipment and/or Facilities;
- r. use (any part of) the Equipment and Facilities for any purposes which are illegal or unauthorized;
- s. make any changes to the (system) settings of the TU/e Equipment and Facilities;
- t. infect the Equipment and Facilities with a virus;
- u. use the hardware and software provided by TU/e for advertising and commercial messages. If this rule is contravened and as a result a penalty or fine is imposed on TU/e then TU/e will take action to recover this penalty or fine from the person(s) responsible;
- v. make the hardware and software provided by TU/e available for use by third parties.

4.3 Any use of the Equipment and Facilities that contravenes Article 4.1 and/or any use as described in Article 4.2 shall be considered to be misuse.

Article 5 Management measures

- 5.1 The ICT Service is authorized in the interests of (any part of) the Equipment and Facilities, or in the interests of traffic over the Equipment and Facilities, to take measures which may cause inconvenience to or be disadvantageous to the User and/or the use of the Equipment and Facilities without such measures giving rise to any liability on the part of TU/e.
- 5.2 The Director of the ICT Service is authorized at his or her discretion to make announcements and/or to provide explanations in relation to measures as referred to in Article 5.1.

Article 6 Provision of information on the basis of legislation and regulations

- 6.1 The Responsible Authority is authorized if and when required to do so as a result of legislation (including general management measures or regulations of lower government or other public bodies or organizations) and/or immediately effective legal rulings which require the Responsible Authority to make information and/or data files of Users which are stored in the Equipment and Facilities or are accessible by means of the Equipment and Facilities available for inspection by or to copy or download or to allow copying or downloading for use by a duly authorized officer. The User shall immediately comply with any such request and shall pass the copied information and/or files to the duly authorized officer.
- 6.2 If one or more persons rely on legislation and regulations as referred to in Article 6.1 in requesting the Responsible Authority to allow inspection and/or access etc. to the data of the User stored in the Equipment and Facilities, as referred to in Article 6.1, the Responsible Authority shall not comply with any such request unless and until the duly authorized officer(s) have formally identified themselves and any formalities as required by law or regulations have been complied with.
- 6.3 The Responsible Authority shall comply with the provisions of the Netherlands Personal Data Protection Act.
- 6.4 The actions of TU/e on the basis of this Article shall under no circumstances lead to any liability of TU/e towards the User.

Article 7 Investigation of suspected misuse

- 7.1 The Responsible Authority may carry out or cause to be carried out an investigation if it has reason to suspect misuse of the Equipment and Facilities or of the user name, password or other access data and/or data which is accessible by means of or stored in or by the Equipment and Facilities. The User is obliged to provide access to and to permit copying of data which is not stored in or by the Equipment and Facilities but which is accessible by means of the Equipment and Facilities.
- 7.2 The User is obliged to cooperate fully with any investigation carried out by or on behalf of the Responsible Authority and if necessary to provide access to the Equipment and Facilities and to the data stored in or by them, and also to provide access to the data which is accessible by means of the Equipment and Facilities.
- 7.3 After completion of its investigation the Responsible Authority shall notify the User in writing of any irregularities which it has found together with a brief description of the reasons for the investigation. If no irregularities are found, the Responsible Authority is required only to notify the User of this fact. The Responsible Authority shall not be obliged to notify the User of whether it intends to report its findings to the police or to take any other measures. Articles 11 and 12 are also applicable. If the User is a TU/e employee, Article 13 is applicable.
- 7.4 If access is provided to personal data in compliance with Article 7 under the Netherlands Personal Data Protection Act, the Responsible Authority shall provide such access only in accordance with that legislation.

Article 8 Reports and procedure to be followed

- 8.1 Reports about Users may be made only by letter or e-mail. All such reports must be supported by reasons and be clearly described.
- 8.2 Reports about students shall be made to the CGC (Committee on Code of Conduct for Computer Use), for which purpose the CGC has set up an e-mail address as stated on

the website of STU (TU/e Student Service Centre). These reports will be assessed by the Chairman of the CGC.

- 8.3 If reports are made elsewhere within TU/e these will be passed on to the e-mail address of the CGC.
- 8.4 a) Reports about employees will be made to the responsible Unit Manager.
b) The procedure as referred to in Article 13 is applicable to employees.
- 8.5 The procedure as referred to in Articles 9, 11 and 12 is applicable to students.
- 8.6 Reports about third parties shall be made to the Responsible Authority for the third parties concerned.

Article 9 Procedure following reports about students

- 9.1 Following a report as referred to in Article 8.2 the Chairman of the CGC will ensure that the student about whom the report is made is immediately identified.
- 9.2 Reports can be subdivided into:
 - those that are (clearly) unfounded.
 - those relating to misuse of a less serious nature, as referred to in Appendix 1.
 - those relating to misuse of a serious nature, as referred to in Appendix 1.
- 9.3 The Chairman of the CGC may ask the ICT Service to investigate the nature and scale of the possible misuse for which a report about a student has been received. The ICT Service will then report as soon as possible to the Chairman of the CGC on the findings of the investigation.
- 9.4 The Chairman of the CGC will decide:
 - whether the report is (clearly) unfounded or relates to some form of misuse.
 - whether the report is to be submitted to the full CGC in accordance with Article 11.
- 9.5 The Chairman of the CGC notifies the Responsible Authority for the student if the report relates to misuse.
- 9.6 If the Chairman of the CGC regards the report as (clearly) unfounded, he or she will deal with the report himself or herself.
- 9.7 If the Chairman of the CGC regards the report as valid and relating to misuse of a less serious nature, he or she will deal with it as follows:
 - If the report is a first report relating to a particular student, the Chairman will send a written warning to that student.
 - If within one year of the first report relating to misuse of a less serious nature, another report about the same student and relating to misuse of a less serious nature is received, the student will receive notice of exclusion from the use of all the TU/e Equipment and Facilities. However it is possible for the student to avoid such exclusion.
- 9.8 If within a period of one year following a first suspension or temporary exclusion a further report is received relating to misuse by the same student, the student will be summoned by the Chairman of the CGC to attend a hearing to be questioned about the report. If this relates to misuse of a serious nature, the Chairman will pass the report on to the full CGC.
- 9.9 If the Chairman of the CGC regards the reported misuse of a serious nature as valid, he or she will pass the report on to the full CGC. The student will be notified of this in writing.
- 9.10 If the report gives reason to do so, including in cases of misuse of a serious nature or frequent or repeated misuse of the Equipment and Facilities, the Chairman of the CGC is authorized to take provisional measures with immediate effect against the student

provided that the Chairman of the CGC simultaneously notifies the student in writing or by e-mail together with the reasons for the decision. The measures taken may include a warning and temporary exclusion from use of the Equipment and Facilities. The provisional measures taken by the Chairman of the CGC will remain effective until the Responsible Authority acting on the recommendation of the CGC and in accordance with Articles 11 and 12 confirms, reverses or changes the decision to impose the measure. The Chairman of the CGC will not take any provisional measures until after consultation with the Responsible Authority for the student.

- 9.11 The student may appeal to the Responsible Authority within six weeks after receipt of the decision as referred to in Article 9.10. Articles 11, 12 and 14 are also applicable. No appeal is possible against a measure which has no further legal consequences.
- 9.12 The decisions by the Responsible Authority as referred to in Article 9 can under no circumstances lead to any liability towards the student, the person who has submitted the report or any other person, except in case of deliberate act or gross negligence on the part of the Responsible Authority.

Article 10 Special persons

Electronic messages and information from the University Council and OPTU/e members, members of the Departmental Council and Services Council, organizational doctors and other persons who have been given formal positions of confidence by the Responsible Authority are excluded from any investigation except in cases where Article 6 is applicable. The present article relates solely to electronic messages and information created, received, sent and/or stored by the above persons in carrying out their functions and where a direct relationship exists with the performance of this function.

Article 11 The Committee on Code of Conduct for Computer Use (CGT)

- 11.1 The CGC is responsible for investigating received reports about students and making recommendations to the Responsible Authority about any measures to be taken against those students.
- 11.2 The CGC consists of:
- the Chairman of the CGC (Director of STU)
 - the Secretary of the CGT (head of the Notebook Service Center)
 - a Director of Education
 - a lawyer
 - a student
- The members of CGC are appointed by the Responsible Authority for a period of four years, with the exception of the student member who is appointed for a period of one year.
- 11.3 The CGC is authorized to do everything it considers necessary to enable it to carry out its investigation properly.
- 11.4 The CGC will determine its own working methods, taking into account the following:
- a) The CGC will only accept and deal with reports which are submitted to it in writing;
 - b) A report will be made of the hearings of the student;
 - c) The student may be supported by an advisor during the hearing;
 - d) The CGC may at its own discretion also hear others. A report will be made of any such hearing and this report will if possible also be sent to the student. The student may attend the hearings of others unless the CGC unanimously decides otherwise;
 - e) All persons who are summoned by the CGC to attend a hearing are obliged to attend the hearing and to provide the required information;
 - f) CGC meetings at which reports are considered are not open to others;

- g) The CGC will make a written recommendation to the Responsible Authority and a copy of this recommendation will be sent to the student. The recommendation may include measures to be taken by the Responsible Authority;
- h) The CGC may ask for expert opinion;
- i) The CGT will issue its findings to the Responsible Authority in the form of a written report within not more than six weeks after the hearing. The report will be accompanied by a recommendation about any measures to be taken.

Article 12 Measures against students

- 12.1 Taking into account the recommendation and the report of the CGT, the Responsible Authority may impose one or more of the following measures and/or sanctions against a student who has acted in contravention of Articles 2 and/or 4 as well as against a person whose user name, password and/or e-mail address have been used in contravention of Articles 2 and/or 4:
- a) A written warning to which specific conditions may be attached.
 - b) The immediate removal or blocking of information. This may also involve the removal or blocking of other information of the User. The student is liable for all damage resulting from the removal or blocking of information as referred to in this Article, including the results of the removal or blocking of other information than that of the student;
 - c) The provisional or unconditional exclusion from access to and/or use of the Equipment and Facilities and/or use of the user name, password and/or e-mail address and/or provisional or unconditional exclusion from access to the TU/e buildings;
 - d) Reporting of a criminal act;
 - e) If a third party reports an infringement of its rights the identity of the student may be disclosed to that third party provided that such disclosure does not bring with it any unauthorized use of personal data within the meaning of the Netherlands Personal Data Protection Act.
- 12.2 A decision to exclude a student from access may apply to all or part of the university buildings, site, Equipment and Facilities. The TU/e Rules and Regulations for the Management and Use of Buildings are also applicable.
- 12.3 A decision to take measures as referred to in para. 1 will be taken in writing by the Responsible Authority and will be sent to the student by registered post.
- 12.4 The Responsible Authority reserves the right at all times to depart from the recommendation of the CGC. The Responsible Authority may also impose other measures than those stated in the recommendation.
- 12.5 The Responsible Authority will take its decision within three weeks after receipt of the recommendation of the CGC.
- 12.6 The Responsible Authority may in urgent cases and departing from this Article impose measures with immediate effect as referred to in para. 1 clauses a to d. These measures will be notified to the student in writing by registered post.
- 12.7 Article 11 is equally applicable to Users other than employees or students.

Article 13 Procedure and measures relating to employees

The CAO (collective labor agreement) for the Dutch Universities (Articles 6.10 to 6.16) is applicable in full to TU/e employees, as is Chapter 12 of the TU/e Conditions of Employment (Regulations for Disciplinary Measures).

Article 14 Netherlands Administrative Law Act (AWB)

The procedures as referred to in these Regulations are subject to the appeal procedures as referred to in the Netherlands Administrative Law Act (AWB), provided that and insofar as:
a) the procedure as referred to in Articles 11 and 13 of these Regulations have been followed;
b) a decision has been taken within the meaning of the Netherlands Administrative Law Act (AWB).

Article 15 Applicable law

Any disputes arising out of these Regulations or out of any other regulations or agreements will be resolved in accordance with Dutch law. The competent Dutch court shall have sole jurisdiction in case of any such disputes.

Article 16 Appendices

These Regulations have one Appendix which may be amended by the full CGC (Committee on Code of Conduct for Computer Use). In case of amendment, the Appendix will be published on the TU/e website before it takes effect.

Article 17 Date of effectiveness

These Regulations are effective from 1 July 2012.

So confirmed on 14 June 2012

The Executive Board,

dr. M.M.N. Ummelen (Mrs.)
Secretary of the University

dr.ir. A.J.H.M. Peels
Chairman

Appendix 1: Examples of grading of different forms of misuse of the computer facilities

The list below gives examples of the application of the Regulations. The examples are intended as indications only; the Regulations also apply to other forms of misuse.

Misuse of a less serious nature (to be dealt with by the Chairman of the CGC [Committee on Code of Conduct for Computer Use] or the Unit Manager).

Nuisance or disturbance by:

- games
- sounds
- chatting
- screen savers and backgrounds
- excessive/unnecessary occupation/loading of hardware and peripherals
- excessive network load

Misuse of a serious nature (to be dealt with by the CGC [Committee on Code of Conduct for Computer Use] or the Unit Manager).

- racist messages or posts
- sexist messages or posts
- insulting/abusive behavior
- pornography
- illegal copying
- hacking
- data manipulation
- distribution of viruses and illegal software
- sending e-mail 'bombs'/junk mail
- deliberate damage to hardware and peripherals
- by means of 'bots', scripts etc. reading files made available by the library which may only be accessed/used under license

**NOT PART OF THE TU/e REGULATIONS FOR COMPUTER AND NETWORK USE
BUT RELATING TO THE REFERENCE IN ARTICLE 13 TO THE TU/e CONDITIONS
OF EMPLOYMENT CHAPTER 12**

Regulations for Disciplinary Measures

From art. 6.12: Disciplinary measures

The employer may impose disciplinary measures on employees who fail to comply with the regulations. The disciplinary measures imposed shall be proportional to the misuse (Article 6.12 CAO [collective labor agreement]). Failure to comply with the regulations comprises both the contravention of any obligation and any act of commission or omission which is contrary to what a good employee should do in the same circumstances.

From art. 6.13 Freedom of expression

Disciplinary measures shall only be imposed because of contravention of Article 125a para. 1 of the Netherlands Civil Service Act ('Ambtenarenwet') (limitation of rights of civil servants) after receiving recommendations from a committee established by the employer.

The TU/e procedure in relation to Article 6.12 CAO (collective labor agreement) for the Dutch Universities

The measure is imposed by the Responsible Authority.

Before a measure is imposed, the employee will be given the opportunity to explain his or her actions or to defend himself or herself, either verbally or in writing, within a period of 6 times 24 hours.

The latter will be at the discretion of the Responsible Authority. The employee may be supported by a lawyer or other advisor. An immediate written report will be made of a verbal defence and of any additional verbal explanation of a written defence, and after reading to the employee this will be signed by the Responsible Authority and the employee. If the employee declines to sign the report this will be noted in the report, if possible together with the reasons. A copy of the written report will be handed to the employee. The disciplinary measure imposed will be recorded in writing together with reasons. A copy of the decision will be sent to the employee together with a notification of the period within which an appeal may be lodged and to which body such an appeal may be made.

A disciplinary measure may be imposed subject to the condition that the measure will be suspended if the employee refrains from a similar form of misuse or other serious misuse for a specific period and complies with any special conditions as determined when the measure is imposed.

Except in the case of a written warning, the measure will not be imposed until the period during which an appeal can be lodged has lapsed, unless it is imposed with immediate effect. In the latter case full consideration will be given to the interests of the employee.

The TU/e procedure in relation to Article 6.13 CAO (collective labor agreement) for the Dutch Universities

If a situation as referred to in Article 6.13 of the CAO for the Dutch Universities arises, the Executive Board will install a committee. This may be the committee as referred to Article 8.9 of the CAO for the Dutch Universities. In its decision to impose a disciplinary measure the Executive Board will state whether this is in accordance with the recommendation received.

The disciplinary measures listed below do not form part of the Regulations for Disciplinary Measures because the measures to be taken are at the discretion of the Responsible Authority. To give an indication of the possible disciplinary measures, a number of measures are listed below in order of severity. The severity of the measure imposed must be proportional to the misuse.

- written warning;
- reduction of hours of leave up to a maximum of 1/3;
- withholding of salary up to a maximum of 50%;
- reduction of salary up to a maximum of 5% for a maximum of 2 years;
- not awarding periodical salary increase(s) for a maximum of 4 years;
- temporary or permanent assignment of a lower salary scale;
- job transfer;
- suspension for a specific period with full or partial withholding of salary;
- dismissal.