



Using music for educational instruction

A guide for WA TAFE Colleges

The *Copyright Act 1968* (Copyright Act) protects musical works as well as artistic, literary and dramatic works; films; broadcasts and sound recordings.

There may be a number of different layers of copyright in one musical work (eg the music and the lyrics), as well as separate copyright for the sound recording and the broadcast of the recording.

The following copyright agencies represent a range of individuals and groups associated with the production of music:

- the Australasian Performing Right Association (APRA), representing composers, authors and music publishers;
- the Australasian Mechanical Copyright Owners Society (AMCOS), representing music publishers;
- the Phonographic Performance Company of Australia (PPCA), representing record companies and recording artists; and
- the Australasian Recording Industry Association (ARIA), representing record company members.

Music licences

WA TAFE colleges can now rely on a music licence agreement with APRA/AMCOS, PPCA and ARIA.

Under this licence, WA TAFE colleges can perform musical works live and use sound recordings outside of the classroom. Here are some examples of what WA TAFE colleges can do:

- perform or play a musical work live at TAFE events, such as TAFE musicians playing at a TAFE Open Day;
- play a sound recording at TAFE events, for example using a recording in a TAFE fashion show;
- play a sound recording as background music in TAFE businesses or workplaces, such as TAFE training restaurants, or TAFE offices;
- make sound recordings to play at TAFE events, such as copying songs from a music streaming service to play at a TAFE graduation ceremony;
- incorporate a sound recording into another work, such as adding music to a PowerPoint presentation;
- live stream TAFE events on a social media platform during which a musical work is performed or a sound recording played; and
- record a TAFE event that includes a live music work or sound recording and share the recording of the TAFE event with the TAFE community.

Although there are no limits on how much music TAFEs can copy under the TAFE Music Licence, you should only copy what you need. For more information, see 'Music Copyright Guide for TAFEs' at smartcopying.edu.au.



Activities which do not require a licence

Under section 28 of the Copyright Act, TAFE college staff and students may perform a musical work (eg sing or play an instrument, or play a musical recording or a film incorporating music) when the following two conditions are met.

- The work is performed or communicated in class, in the presence of an audience taking part in the class or otherwise directly connected with the TAFE college.
- The work is performed or communicated by a member of the teaching staff giving a course of instruction or by a student receiving this instruction.

However, this provision will not apply where a class is operated on a for-profit basis, when a performance is unrelated to educational instruction, for example lunchtime entertainment, or when there are other people in attendance (eg parents or members of the community).

More information about s 28 is available from 'Performance and Communication of Copyright Material in TAFE Classes' at smartcopying.edu.au.

In special circumstances, TAFE colleges may be able to rely on section 200AB to format shift or reproduce sound recordings for educational instruction. For more information, see the [Department PDF](#) 'Format shifting and section 200AB' and visit 'Flexible Dealing Exception' at smartcopying.edu.au.

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Screenrights and the broadcast licence

Screenrights is the collecting society that administers the Statutory Broadcast Licence scheme. Under section 113P of the Copyright Act, the broadcast licence allows WA TAFE colleges to record radio and television broadcasts for non-profit educational purposes. At present this is paid by the Department of Training and Workforce Development. The money obtained from licence fees is distributed by Screenrights to the copyright owners.

For more information, see 'Statutory Broadcast Licence' at smartcopying.edu.au.

The broadcast licence allows TAFE colleges to:

- copy television and radio programs, including podcasts and webcasts that originated as television or radio broadcasts and are available on the broadcaster's website for educational purposes – there are no limits on amounts that can be copied, but TAFEs should only copy what they need;
- communicate this material to students/staff via email, intranet or secure website;
- make compilations of music and programs; and
- copy a broadcast outside the premises (such as a staff member's home), provided it is done for educational purposes on behalf of the TAFE college.

Note: This licence does not allow TAFE colleges to copy purchased CDs, DVDs, digital music or videos.



Reproductions for examinations

Under section 200(1A) of the Copyright Act, TAFE colleges are permitted to reproduce musical works (eg a song played by a student/staff member on an instrument or a section of sheet music) and sound recordings as part of an examination question or in an answer to an examination question.

For more information, see 'Copying for Exams: What am I Allowed to do' at smartcopying.edu.au.



Fair dealing provisions

Students may take advantage of the fair dealing provisions of the Copyright Act to copy and communicate extracts of copyright material (eg print music, sound recordings or a DVD) for their own research or study, or for criticism or review.

Under the fair dealing provisions students can:

- copy and play extracts of sound recordings to the class as part of an assignment in music or other subjects;
- review and criticise a music CD for a class assignment, student radio program or website; and
- copy and communicate a limited amount of sheet music (eg up to 10 per cent of the pages as a guide).

Note that the impact of the copying on the market for the recording may be taken into account when judging whether it is a 'reasonable portion' or not, so care must be taken.

For more information on student copying see 'Students and Copyright' at smartcopying.edu.au.



Obtaining direct licences for specific purposes

TAFE colleges that wish to use music for purposes not covered under the current licence, may obtain a direct licence from APRA/AMCOS, PPCA or ARIA. The organisation known as APRA collects and distributes royalties for public performances and the communication of musical works. AMCOS collects and distributes royalties for the reproduction of musical works. These two agencies are a joint collection society known as APRA AMCOS. PPCA provides licences to Australian businesses to play recorded music in public. ARIA provides licences on behalf of recording company members to people or organisations wishing to make sound recordings for specific limited purposes.

Information about specific licences and licence application forms are available from the following websites.

- APRA/AMCOS
apraamcos.com.au
- PPCA
ppca.com.au
- ARIA
aria.com.au



Openly licensed music

Another less expensive and less restrictive way to obtain music is to use openly licensed music.

Music openly licensed under Creative Commons is free to use as long as you comply with the licence conditions. For more information on Creative Commons content, see 'Creative Commons Information Pack for Teachers and Students' at smartcopying.edu.au.

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