



Copyright



Using music for educational instruction

A guide for WA TAFE colleges



Copyright



Using music for educational instruction

The *Copyright Act 1968* 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, representing composers, authors and music publishers;
- the Australasian Mechanical Copyright Owners Society, representing music publishers;
- the Phonographic Performance Company of Australia, representing record companies and recording artists; and
- the Australasian Recording Industry Association, representing record company members.

Music licences

TAFE colleges do not have access to a sector-wide licence agreement with APRA/AMCOS, PPCA or ARIA, although the playing of music in class for educational purposes is covered by the Copyright Act.

TAFE colleges need to purchase production music or obtain individual licences from APRA/AMCOS, PPCA or ARIA or from copyright owners directly for the following use of music:

- performances of grand-right musical works by students/ staff, eg large choral works, operas and musicals;
- performances outside the immediate classroom by students, eg in rock, folk or jazz bands or as solo singers;
- synchronisation of musical recordings to film (eg films, videos and DVDs produced by staff or students), or video recordings of student performances featuring either live or recorded music;
- playing musical recordings as background music inside and outside the classroom, eg in corridors, student

restaurants or student beauty salons;

- playing 'hold music' on a TAFE college telephone system; and
- multiple copies of sheet music being made by students/ staff.

For more information see 'Music and Sound Recordings' and 'APRA/AMCOS & PPCA Non-Educational Use Music Licences 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 conditions are met.

- The work is performed or communicated in class or 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, or when a performance is unrelated to educational instruction, for example lunchtime entertainment.

More information about section 28 is available from 'Performance and communication of works...' 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's information sheet 'Format shifting and section 200AB' or 'Educational Use of Music in TAFE' at smartcopying.edu.au.

Screenrights and the broadcast licence

Screenrights is the collecting society that administers the broadcast licence scheme. Under section 113P of the Copyright Act, the broadcast licence allows TAFE colleges to record radio and television broadcasts for non-profit

educational purposes. At present this is an automatic licence, paid directly 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 'Education Licence A: 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;
- 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 commercially purchased CDs, DVDs, music or videos.

Reproductions for examinations

Under section 200 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) 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.

Reproducing and adapting musical works by hand

Under section 200 of the Copyright Act, TAFE college students/staff are permitted to make new arrangements and transcriptions of musical works by hand in the course of educational instruction; however, they may not use a machine such as a photocopier that can make multiple copies. This provision is designed to allow copying by hand onto a whiteboard, chalkboard or overhead transparency within a TAFE college. For more information, see 'Copyright exceptions' 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 subject;
- 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).

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 specific purposes 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 now 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

Open licensed music for non-educational purposes

Another, often less expensive and less restrictive way to use music for non-educational purposes in TAFE colleges, is to use openly licensed or non PPCA/APRA music.

Music openly licensed under Creative Commons is free and non-PPCA/APRA music licences are offered directly from copyright owners so tend to be much cheaper than those offered by the music collecting societies. Examples of uses where this may be appropriate include music on hold, background music, music in the workplace, one-off events, restaurants/cafes and fitness centres. For additional information, see 'Open and Non PPCA/APRA Music for Non-Educational Purpose of TAFES' at smartcopying.edu.au.

For more information on the use of music in TAFE see 'Educational Use of Music in TAFE' at smartcopying.edu.au.

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“ARIA provides licences on behalf of recording company members to people or organisations wishing to make sound recordings for specific limited purposes.”

For more information see the National Copyright Guidelines, available at smartcopying.edu.au or contact sectorcapability.ip@dtwd.wa.gov.au

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