

Copying print music, text & images

The schemes administered by CAL: copying for "educational purposes"

The CAL schemes generally only allow copying of a "reasonable portion" of works that are separately published. More than this may be copied if the work is not available within a "reasonable time" at "an ordinary commercial price".

Copying band & orchestral parts

You will usually have to hire parts for musicals. Similarly, it is often the case that you have to hire scores for orchestral parts for concerts. If you need extra parts, contact the relevant hire library.

Schools: the AMCOS agreement for photocopying print music

AMCOS has reached an agreement with the primary and secondary schools sectors which primarily covers the photocopying of print music:

- the photocopying must be for the institution's educational activities (this can include concerts, but in effect excludes copying for musicals, operas and other stage shows – "grand rights" works);
- copies or transcriptions may only be made from published copies owned by the school or teacher (the licence excludes photocopying hired music, for example);
- the licence allows photocopying, copying out a melody and lyrics by hand and transposing a score, but does not cover scanning, emailing or otherwise making or using any electronic copies (in some cases, the CAL-administered schemes may cover this);
- you may always copy a whole work, but there are limits on how many copies you may make, depending on the type of music you want to copy and the number of commercially-printed copies you own;
- both the published copy and photocopies/transcriptions must be marked with specific information;
- the licence covers music published by AMCOS's members only, including international publishers represented in Australia by AMCOS (see www.apra.com.au for a list of print publishers), but excludes certain types of material.

Arranging music & changing lyrics

The AMCOS licence doesn't extend to making arrangements of music, while the APRA licence states that the licence doesn't permit lyrics to be changed or substituted.

The publisher is usually the first point of contact to get permission. Note, however, that if the arrangement or change is for satiric or parodic purposes, you may be able to rely on the "fair dealing" provision for parody or satire.

Copying AV material

Material from radio & TV

The scheme in the Act administered by Screenrights entitles educational institutions to copy from radio and TV for "educational purposes". However, if you are then playing or screening what you have copied in a play, musical or concert, you will need to ensure you address the public performance aspects.

Sound recordings

Schools and universities may rely on licences offered by AMCOS and ARIA to record music and copy recordings for activities such as concerts. You can, for example, make backing tapes under this licence, or cue up all the recordings you want to use on the one CD.

(Note, however, that there are various limits to these licences, particularly where a "grand rights" work is involved; where the recording is to be used in a "dramatic context" performance; and where a charge is made for entry.)

Commercially-produced copies of videos & DVDs

Generally, you will need permission to copy extracts from commercially-produced videos. (Note that copying from DVDs may involve not just a copyright issue, but also breaching the Copyright Act's prohibitions on circumventing a technological protection measure that controls access to copyright material.

Playing & performing in public

Music, lyrics & musicals

The APRA licence for the public performance of music and lyrics that is available on an annual basis:

- generally covers concerts; but
- does not cover performances where, for example, a concert will feature a professional musician or group (such as a soloist for a concerto).

APRA does not, however, licence **musicals**. The script or score will often have information about who to contact for performing rights, but check if there is a local agent. For example, Dominie Pty Ltd (www.dominie.com.au), Origin Theatrical (www.origintheatrical.com.au) and Hal Leonard Australia Pty Ltd (www.halleonard.com.au) license large numbers of musicals for amateur performance.

Where music and lyrics are performed in a “**dramatic context**” (for example, as incidental music in a play), the annual licence from APRA only covers the following:

- where the performance is given by a primary school;
- where the performance is given by a secondary school, provided that no admission is charged and the performance is not advertised outside the school community.

In all other cases, contact APRA first to see if it can specifically license the relevant performance/s; if it can't license your use of the music, it can generally refer you to the relevant publisher.

Plays

Generally, publishers appoint agents to license plays on their behalf. Both Dominie and Hal Leonard, for example, (details above) license a range of plays on behalf of publishers.

Reading/reciting extracts of poetry, stories & plays

Section 45 of the Copyright Act permits the reading or recitation in public of an “extract of reasonable length” from a published literary or dramatic work. There is no definition of what amount of a work constitutes an “extract of reasonable length”, but the exception will clearly not cover the reading or reciting of an entire work. To rely on the section, you need to give “sufficient acknowledgement” – the title of the piece and the name of the creator.

If you want to read or recite entire works or extracts of more than a reasonable length in, for example, a concert, contact the relevant publisher (for poetry and prose) or the relevant agent (for plays).

Sound recordings

As a result of a specific exception in the Act, separate permission for public playing of **sound recordings** is **not** generally required by educational institutions (section 106).

Recording & videoing

Copyright material that will be included in a recording/video

Under the AMCOS/ARIA licence, schools may:

- include music and recordings when recording or filming a “school event”;
- include music and recordings when recording or filming “dramatic context” performances, provided the public performance is licensed through the relevant APRA agreement (note, however, that the licence specifically excludes the making of a video of a “grand rights work” and that, when audio recording, you will need to consider whether you need a clearance from the owner of copyright in the dramatic work);
- audio record music and recordings in a performance of a musical (you will also need to consider whether you need a clearance from other relevant copyright owners – ask permission from the person granting the public performance licence, as they may be able to give permission or refer you on).

Under the AMCOS/ARIA licence for schools, parents may also make video/audio recordings for private and domestic purposes. (Note that, where it controls access to the premises, an educational institution can nonetheless prohibit the making of such recordings on policy grounds; it is **not** compulsory to allow people to video their children.)

The agreements reached with universities are broadly similar, but refer to in-house information for details.

Performers' rights

Consents required

You will usually need to get consent from each performer before you film or record a concert, play or musical. Consent may be implied, or may be verbal, but consider getting consents in writing.

Co-ownership of copyright in some cases when audio recording

Performers (including students and teachers) may share copyright in **sound** recordings of their performances. Unless you work in a school within the government system, you can avoid this result if your organisation:

- commissions someone to make the recording; or
- acquires from each performer a written assignment of his or her copyright in the sound recording.

If a government school wishes to avoid sharing copyright in a sound recording with each and every performer, it can consider either of these approaches, or it can ensure that a teacher or other member of staff is either specifically employed or directed to make the recording.

Note, however, that we understand that the AMCOS/ARIA licences allow the institution itself to record and film events and (at least for schools) allow

parents to film, but do not extend to other entities such as audio or film companies that might be engaged to record or film events.

Unless you get an assignment of copyright in the recording from each performer, the simplest way to deal with this issue, however, might be to avoid making any sound recording at all, and film or video the proceedings instead.

Moral rights

Copyright material

Make sure you attribute the creators of any copyright material that is performed or used in a concert, play or musical. This can be done either by announcement or by reference in programmes. If you've altered material, make it clear that the material is being presented in an altered form, and attribute whoever has made the alterations.

In some cases, you may need to consider whether or not the way you are using material may be damaging to the relevant creator's reputation or honour. This is most likely to be an issue where a work is cut, or where material is inappropriately added, or where a work is presented out of context.

Performers

Make sure you attribute any performers who contribute to the sounds of a performance (including conductors).

This can be done by reference to the name of the group giving the performance, rather than to each and every performer, but must occur both when the performance takes place (for example, either by an announcement or in the programme) and on any sound recording you make.

There is no comparable **legal** obligation either to performers who are **not** contributing to the sounds of a performance (such as dancers or people miming) or to performers whose performance is being filmed.

Creating programmes

Remember that you may need to clear rights in any third-party copyright material you use in programmes; it is not clear that any of the provisions in the Act on which educational institutions can rely would extend to use of copyright material in this context.

Further information & assistance

- **copyright information:** www.copyright.org.au/information
- **publications:** www.copyright.org.au/publications
- **training:** www.copyright.org.au/training

- **assistance with a specific copyright issue:** www.copyright.org.au/assistance

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