**Music**

**Updated 10 February 2021**

Teachers regularly use music for educational or other purposes. They may want to copy sheet music for students or perform music live. Or, they may want to record a live performance of music performed by students or play a sound recording in class or at a [school event](https://smartcopying.edu.au/glossary/school-events/).

**What do we mean by music?**

When we talk about music, we are referring to both [musical works](https://smartcopying.edu.au/glossary/musical-works/) (ie sheet music comprising the score and/or the lyrics of a song) and [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) (ie recorded versions of [musical works](https://smartcopying.edu.au/glossary/musical-works/)).

A [musical work](https://smartcopying.edu.au/glossary/musical-works/) can be the score, or both the score and lyrics. The copyright owner of the score may be different to the copyright owner of the lyrics. Note that if you are just copying lyrics, they will be considered as [text](https://smartcopying.edu.au/glossary/text/)for the purposes of the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/the-statutory-text-and-artistic-works-licence/).

A [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) might be a recording of the score only, or of both the score and lyrics. Examples of [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) are Apple or Spotify tracks, MP3 files, vinyl, CDs, audio cassettes, reel to reel tapes and any other method for recording and storing sounds.

When you use a [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/), you need permission to use both the [musical work](https://smartcopying.edu.au/glossary/musical-works/) and the sound recording of that [musical work](https://smartcopying.edu.au/glossary/musical-works/). Generally, the composer or music publisher owns copyright in the [musical work](https://smartcopying.edu.au/glossary/musical-works/), and the record label owns copyright in the sound recording. If you are only reproducing or performing the [musical work](https://smartcopying.edu.au/glossary/musical-works/) (eg by playing the music with an instrument or singing the song yourself), you only need permission from the owner of copyright in the [musical work](https://smartcopying.edu.au/glossary/musical-works/).

**How can I use music?**

Some of the ways schools or TAFEs may use music include:

* + performing [musical works](https://smartcopying.edu.au/glossary/musical-works/) (eg students singing songs or playing instruments in the classroom or at assemblies)
	+ communicating [musical works](https://smartcopying.edu.au/glossary/musical-works/) (eg displaying the score and/or lyrics of a song)
	+ copying [musical works](https://smartcopying.edu.au/glossary/musical-works/) (eg photocopying sheet music for the school choir)
	+ playing [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) (eg playing a sound recording in the classroom or at a school event)
	+ communicating [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) (eg uploading a recording of a school concert at which a sound recording was played to the school’s password protected digital learning environment (DTE), or uploading a recording of a TAFE concert to the TAFE learning management system)
	+ making recordings (including audio and video recordings) of school performances of musical works and sound recordings
	+ making a copy of [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) (eg making a compilation of tracks on a laptop, CD or USB to play at a school dance performance).

Schools and TAFE can do some activities using musical works and sound recordings under free exceptions in the Copyright Act, and for some other activities schools can rely on voluntary licences that most schools have entered into with the collecting societies that represent music composers and record labels.

Schools have entered into an interim agreement with [APRA AMCOS](https://smartcopying.edu.au/glossary/apra-amcos-australasian-performing-right-association-and-australasian-mechanical-copyright-owners-society/) and [ARIA](https://smartcopying.edu.au/glossary/aria-australasian-recording-industry-association/) that extends the terms of the APRA Licence, School Event Licence and AMCOS Licences to 31 December 2021 and in some instances varies the terms and conditions of those licences.  These licences allow schools to copy and share musical works and sound recordings in certain circumstances. When referring to the licences below, we are referring to them as amended by the interim agreement. TAFE institutes will need to check what music licences are in place for their institute.

**Performing musical works live or playing recorded music**

**In class**

Teachers and students at schools or TAFEs can perform [musical works](https://smartcopying.edu.au/glossary/musical-works/) live or play sound recordings in class under a special copyright exception (section 28 of the Copyright Act) provided it is:

* + in the course of education and is not for profit
	+ the people in the audience or class are giving or receiving instruction or are directly connected with the place where instruction is given (however, if parents or guardians are in the audience schools and TAFEs cannot rely on this exception).

The class may be a ‘virtual’ class, where class content is delivered (eg using virtual classroom software or Zoom) to students who are learning remotely.

Teachers can upload [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) to a school intranet or [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/) in order to play them in class, but they should remove them from the [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/), or remove access to the [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) by students, as soon as the class is over.

Examples of what teachers and students can do in reliance on this exception include:

* + singing musical works and performing the musical work using instruments in class
	+ performing a musical work in a virtual class using a [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/)
	+ using a [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/)to show the score of a musical work to external students so that those students can play along to the score in a virtual class
	+ playing a [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/)in class in any format (eg digital music from Spotify or Apple music, Google Play Store, CD) using a [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/), interactive whiteboard or virtual classroom software
	+ playing a film (DVD or online film) in class which contains a musical work and or sound recording using a DVD player or [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/).

For further information schools should see [Performance and Communication of Copyright Material in Class](https://smartcopying.edu.au/performance-and-communication-of-copyright-material-in-class/). TAFE institutes should see [Performance and Communication of Copyright Material in TAFE Classes](https://smartcopying.edu.au/performance-and-communication-of-copyright-material-in-tafe-classes/) and [Educational Use of Music in TAFE](https://smartcopying.edu.au/educational-use-of-music-in-tafe/).

**For non-teaching purposes**

Schools often want to perform [musical works](https://smartcopying.edu.au/glossary/musical-works/) live or play sound recordings outside the classroom context, and in order to allow them to do this, the schools sector has entered into agreements with [APRA AMCOS](https://smartcopying.edu.au/glossary/apra-amcos-australasian-performing-right-association-and-australasian-mechanical-copyright-owners-society/) and [ARIA](https://smartcopying.edu.au/glossary/aria-australasian-recording-industry-association/) (known as the [APRA Licence](https://smartcopying.edu.au/guidelines/education-licences/schools-apra-licence/) and the [School Event Licence](https://smartcopying.edu.au/guidelines/education-licences/school-event-licence/)). These agreements, together with an exception under section 106(1)(b) of the Copyright Act and an agreement with [PPCA](https://smartcopying.edu.au/glossary/ppca-phonographic-performance-company-of-australia-limited/) (see below), allow schools to perform [musical works](https://smartcopying.edu.au/glossary/musical-works/) live and play sound recordings for a range of purposes that a school undertakes as part of its usual activities (eg educational services, religious services, engaging with members of the school community, promoting students work and school events such as school concerts, dances or formals, sports days and fairs). The agreement does not allow schools to perform [musical works](https://smartcopying.edu.au/glossary/musical-works/) and play sound recordings for commercial activities, including activities advertising or promoting the school (eg via an enrolment campaign) or a third party business, organisation, product or service.

All government and most Catholic and independent schools, are covered by the [APRA Licence](https://smartcopying.edu.au/guidelines/education-licences/schools-apra-licence/) and the [School Event Licence](https://smartcopying.edu.au/guidelines/education-licences/school-event-licence/) agreements. You can check whether you are covered by the music agreements by contacting your school authority.

TAFE institutes in NSW, Queensland, ACT and Tasmania have negotiated a blanket agreement with [APRA AMCOS](https://smartcopying.edu.au/glossary/apra-amcos-australasian-performing-right-association-and-australasian-mechanical-copyright-owners-society/) and [ARIA](https://smartcopying.edu.au/glossary/aria-australasian-recording-industry-association/), which allows TAFEs in those jurisdictions to play musical works and sound recordings (eg at TAFE events or as background music in the TAFE).

TAFE institutes in WA, SA and NT will need to check what licensing arrangements are in place for their institute or jurisdiction. For further information on music for non-teaching purposes in TAFEs for these jurisdictions see Appendix A – OneMusic licences in the [Music Copyright Guide for TAFEs](https://smartcopying.edu.au/music-copyright-guide-for-tafes/).

**Copying sheet music**

The [AMCOS Licence](https://smartcopying.edu.au/guidelines/education-licences/schools-amcos-licence/) allows schools to make multiple copies of sheet music for educational purposes, including delivering school music lessons and ensemble programs. The [AMCOS Licence](https://smartcopying.edu.au/guidelines/education-licences/schools-amcos-licence/) tops up the rights that schools have to copy sheet music under the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/the-statutory-text-and-artistic-works-licence/).

Under the [AMCOS Licence](https://smartcopying.edu.au/guidelines/education-licences/schools-amcos-licence/), schools can:

* + photocopy hardcopy sheet music
	+ make digital copies of print sheet music (ie scan to digital format)
	+ print copies of digital sheet music
	+ email PDF versions of digital sheet music
	+ upload copies of sheet music to a password protected or restricted access DTE.

Schools can make unlimited copies of print or digital sheet music for their students, from an original that the school or a teacher at the school owns.

A school can only copy up to three songs from a choral work that is longer than 20 minutes or a [Grand Right Work](https://smartcopying.edu.au/glossary/grand-right-works/) (eg a musical or a work in which the music and lyrics were written expressly for use in a particular context), but it can make unlimited copies of the sheet music for each of those three songs. So, it could make copies of the sheet music for three songs from ‘Matilda The Musical’ for its students to sing.  However, if a school wants to rehearse or perform an entire musical, it needs to obtain permission from the copyright owner of the musical.

The AMCOS Licence also extends to departments and administrative bodies making copies on behalf of a school and to facilitate activities between schools (but note that this does not extend to departments and administrative bodies publishing resources that contain sheet music.)

**Marking hardcopy and digital copies of sheet music**

Schools should make a reasonable effort to mark any hardcopy and digital copies of sheet music they make. For example:

Original Music:

* + AMCOS Original
	+ name of school
	+ date copied.

Licensed Copies:

* + AMCOS licensed copy
	+ name of the school
	+ date copied
	+ If original is not owned by the school, the name of the owner.

All government and most Catholic and independent schools are covered by the [AMCOS Licence](https://smartcopying.edu.au/guidelines/education-licences/schools-amcos-licence/) in relation to the copying of sheet music. You can check whether you are covered by the [AMCOS Licence](https://smartcopying.edu.au/guidelines/education-licences/schools-amcos-licence/) by contacting your school authority.

The TAFE sector has not entered into a sector wide agreement with [APRA AMCOS](https://smartcopying.edu.au/glossary/apra-amcos-australasian-performing-right-association-and-australasian-mechanical-copyright-owners-society/) in relation to the copying of sheet music, and TAFE institutes will need to check what licensing arrangements are in place for their institute or jurisdiction.

**Live streaming school and TAFE events**

Schools can live stream their school event, where musical works (eg a live performance of a song by a school band or orchestra) and/or a sound recording is played, in real time from the school website, a social media platform (eg Facebook Live, YouTube) or a video conferencing platform (eg Zoom).

If you are live streaming a performance where a musical work or sound recording is being played on social media, it is possible that the performance may be taken down. For what to do if this happens, see ‘recording of school event(s) taken down from social media’ below.

TAFEs in NSW, Queensland, ACT and Tasmania can live stream a TAFE event from the TAFE’s social medial platform (eg Facebook, YouTube) (although where musical works and sound recordings are played at the TAFE event the post may muted or blocked. See ‘Blocking or muting of event on social media’ below’).

TAFE institutes in WA, SA and NT will need to check what licensing arrangements are in place for their institute or jurisdiction.

**Making audio or video recordings**

Under the [School Event Licence](https://smartcopying.edu.au/guidelines/education-licences/school-event-licence/) schools are able to make recordings (this includes both visual and audio recordings):

* + of [school events](https://smartcopying.edu.au/glossary/school-events/)at which [musical works](https://smartcopying.edu.au/glossary/musical-works/)are performed or a sound recording is played
	+ to play at a [school event](https://smartcopying.edu.au/glossary/school-events/)(eg copying music to CD or MP3 to play at a school graduation)
	+ to include in a video or electronic presentation (eg classroom PowerPoint slides, or in presentations at assemblies or functions)
	+ to play in class, whether face-to-face or virtual (eg in order to play musical works and sound recordings relevant to material being studied).

The recordings made by the school should display the following notice:

‘This recording has been made under a licence from AMCOS and ARIA for educational purposes only’.

Schools must also display the following details of each musical work captured in the recording:

* + the title
	+ the composer/arranger
	+ the artist and recording company (if the schools is using a backing track).

Schools can also authorise members of the school community to make recordings of music performed at [school events](https://smartcopying.edu.au/glossary/school-events/) for private and domestic listening or viewing by members of the school community (eg parents and friends can make a video of a presentation night at which the school band played).

TAFEs in NSW, Queensland, ACT and Tasmania can:

* + make a sound recording to play at a TAFE event
	+ record TAFE events that include a musical work performed live or a sound recording
	+ incorporate sound recordings into other works (eg adding music to a video or PowerPoint).

TAFE institutes in WA, SA and NT will need to check what licensing arrangements are in place for their institute or jurisdiction.

**Using audio or video recordings of school or TAFE events**

Schools can do the following with recordings of their schools event(s):

* + upload the recording to the school website
	+ upload the recordings to a password protected school server, intranet or [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/)and make this available to parents and students. For example, if parents are unable to attend an assembly or graduation day, the school could send them a link to the recording on the school’s password protected intranet and allow them to download a copy for their private use
	+ upload the recording to an app that is being used by the school for internal school communications to members of the school community, such as Schoolbag, Seesaw, Compass and SZapp. This is limited to apps being used by the school for internal school communications, and would not include apps like Snapchat or TikTok
	+ email/message a copy or make a physical copy of the recording (eg copy it on to a USB) and distribute it (for a no cost or on a cost-recovery basis) to members of the school community (eg students and parents/carers/guardians)
	+ provide a digital or physical copy of the recording to third parties, including other schools and administering bodies, for the purpose of events the school is or would like to participate in (eg competitions and festivals)
	+ stream a live communication of the school event from the school’s website.

TAFEs in NSW, Queensland, ACT and Tasmania can upload sound recordings of TAFE events to the TAFE website, apps, and learning management system or email them to students/ provide physical or digital copies of those recordings to students/families.

TAFE institutes in WA, SA and NT will need to check what licensing arrangements are in place for their institute or jurisdiction.

**Uploading a recording to social media**

Schools and TAFE institutes in NSW, Queensland, ACT and Tasmania can rely on licences that APRA AMCOS and record labels have with social media platforms to upload recordings of their school events to the school’s official social media page on social media platforms such as Facebook and YouTube. Note that where a musical work or sound recording is being performed or played at the [school or TAFE event](https://smartcopying.edu.au/glossary/school-events/), the post may still be taken down. See ‘Blocking or muting of events on social media’ below.

**Using recorded music in videos or presentations**

Schools can incorporate a sound recording or a recording of a performance of a musical work (ie a recording of a school orchestra performing a piece of classical music) into another, unrelated work, such as a video or a PowerPoint presentation. The school can do the following with this new recording:

* + upload the recording to the school website, password protected intranet or password protected [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/)
	+ email and/or message the recording to students and parents (the school community)
	+ upload the recording to an educational app that is being used by the school to communicate with the school community (ie Schoolbag, Seesaw, Compass and SZapp, but excluding apps like Snapchat and TikTok).

Note: the school **cannot**upload this work to social media.

TAFEs in NSW, Queensland, ACT and Tasmania can incorporate sound recordings into other works (eg adding music to a video or Powerpoint) and upload them to the TAFE website, apps or the TAFE the learning management system. They can also email them or provide physical copies to students. The TAFE cannot upload this work to social media.

TAFE institutes in WA, SA and NT will need to check what licensing arrangements are in place for their institute or jurisdiction.

**Blocking or muting of events on social media**

Music recording companies (ie record labels) and some music publishers use software to identify potentially infringing content on social media platforms, such as Facebook. When a school or TAFE institute live streams a performance where a musical work or sound recording is being played, or uploads a musical work or sound recording, this software may alert Facebook or other social media platforms to mute the recording or send a takedown notice to the school or TAFE institute. If you are concerned about a live stream or recording being muted or your school or TAFE being issued with a take-down notice, contact the National Copyright Unit. Alternatively, you may want to consider uploading the recording to your school or TAFE website or password protected digital teaching environment or intranet.

**Copyright exceptions**

Teachers may also be able to rely on one of the copyright exceptions when copying [musical works](https://smartcopying.edu.au/glossary/musical-works/) or [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) for specific purposes.  There are a number of these exceptions which are listed below.

**Playing**[**sound recordings**](https://smartcopying.edu.au/glossary/sound-recordings/)**in public**

Schools are able to play [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) in public. For independent and Catholic schools, this is under section 106 of the Copyright Act. For government schools, it is under a licence from [PPCA](https://smartcopying.edu.au/glossary/ppca-phonographic-performance-company-of-australia-limited/) which permits the use of sound recordings in connection with the activities of the school. Please note, however, that the public performance of any musical works embodied in the sound recordings must be done in accordance with the APRA Licence.

[**Fair dealing**](https://smartcopying.edu.au/glossary/fair-dealing/)

Teachers and students may be able to [copy](https://smartcopying.edu.au/glossary/copy/) and [communicate](https://smartcopying.edu.au/glossary/communicate/) some musical works and sound recordings under the [fair dealing exception for research and stud](https://smartcopying.edu.au/guidelines/copyright-basics/copyright-exceptions/)y. Teachers will only be able to rely on the [fair dealing exception](https://smartcopying.edu.au/guidelines/copyright-basics/copyright-exceptions/) in limited circumstances (ie it must be for their own research and study and not the research and study of their students), but students using musical works and sound recordings as part of their study will generally be able to rely on the [fair dealing exception for research and study](https://smartcopying.edu.au/guidelines/copyright-basics/copyright-exceptions/).

For more information see [Copyright Exceptions.](https://smartcopying.edu.au/guidelines/copyright-basics/copyright-exceptions/)

[**Disability exceptions**](https://smartcopying.edu.au/guidelines/library-exam-and-disability-copying/disability-access-exceptions/)

If you [copy](https://smartcopying.edu.au/glossary/copy/) or [communicate](https://smartcopying.edu.au/glossary/communicate/) [musical works](https://smartcopying.edu.au/glossary/musical-works/) or sound recordings in order to make them accessible to a student with a disability, you may be able to do this under the [disability exceptions](https://smartcopying.edu.au/guidelines/library-exam-and-disability-copying/disability-access-exceptions/).

For more information on the disability exceptions see [Disability Access Exceptions](https://smartcopying.edu.au/guidelines/library-exam-and-disability-copying/disability-access-exceptions/).

[**Exam copying**](https://smartcopying.edu.au/guidelines/library-exam-and-disability-copying/copying-for-exams/)

Teachers are allowed to [copy](https://smartcopying.edu.au/glossary/copy/) and [communicate](https://smartcopying.edu.au/glossary/communicate/) [musical works](https://smartcopying.edu.au/glossary/musical-works/) and sound recordings for use in online and hard copy exams. This exception does not extend to practice papers.  You can only rely on this exception to [copy](https://smartcopying.edu.au/glossary/copy/) and [communicate](https://smartcopying.edu.au/glossary/communicate/) copyright material for actual exams and assessments.

For more information see [Copying for Exams](https://smartcopying.edu.au/copying-for-exams-what-am-i-allowed-to-do-2/).

[**Flexible dealing**](https://smartcopying.edu.au/flexible-dealing/)

If you can’t rely on the music licences, the licence with PPCA or any of the copyright exceptions to use [musical works](https://smartcopying.edu.au/glossary/musical-works/) or [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/), you may, in limited circumstances, be able to rely on the [flexible dealing exception.](https://smartcopying.edu.au/flexible-dealing/)

For example, a teacher may be able to:

* + prepare an arrangement of a [musical work](https://smartcopying.edu.au/glossary/musical-works/)for students to perform in a music class when they cannot buy the arrangement they need; or
	+ format shift sound recordings from vinyl, cassette or CD into digital format such as mp3.

For more information see [Flexible Dealing](https://smartcopying.edu.au/flexible-dealing/).