**Students and Copyright**

**What is copyright?**

A simple definition of copyright is that it is a bunch of rights in certain creative material ([literary works](https://smartcopying.edu.au/glossary/literary-works/), [artistic works](https://smartcopying.edu.au/glossary/artistic-works/), [musical works](https://smartcopying.edu.au/glossary/musical-works/), computer programs, [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/), films and [broadcasts](https://smartcopying.edu.au/glossary/broadcast/)) which can be used to stop others from [copying](https://smartcopying.edu.au/glossary/copy/) the creative material without permission.

At its most basic, copyright is simply the exclusive right to [copy](https://smartcopying.edu.au/glossary/copy/).

The rights are granted exclusively to the copyright owner to [reproduce](https://smartcopying.edu.au/glossary/reproduction/) ([copy](https://smartcopying.edu.au/glossary/copy/), scan, print) and [communicate](https://smartcopying.edu.au/using-youtube-tafe/) (email, put on Internet) the material, and for some material, the right to [perform](https://smartcopying.edu.au/glossary/performance/) or show the material to the public. Copyright owners can prevent others from [reproducing](https://smartcopying.edu.au/glossary/reproduction/) or [communicating](https://smartcopying.edu.au/using-youtube-tafe/) their material without their permission. Only the copyright owner can license or sell these rights to someone else.

**Why is copyright important?**

Copyright is important because it gives creators control over their creative material. This means they can decide who uses their material, how it can be used and if they will charge a fee to other people who want to use it. This gives creators the ability to earn a living from their creative material and/or to control how their materials is used or disseminated.

**What does copyright protect?**

Copyright does not protect ideas, concepts, styles or techniques. For example, copyright will not protect an idea for a film or book, but it will protect a script for the film or even a storyboard for the film. Basically, copyright only protects creativity that is in a tangible medium.

The types of material copyright protects include:

**Artistic works** – paintings, photographs, maps, graphics, cartoons, charts, diagrams and illustrations

**Literary works –** novels, textbooks, poems, song lyrics, newspaper articles, computer software, computer games

**Musical works –** melodies, song music, advertising jingles, film scores

**Dramatic works –** plays, screenplays and choreography

**Films and moving images** – feature films, short films, documentaries, television programs, interactive games, television advertisements, music videos and vodcasts

**Sound recordings –** MP3 files, CDs, DVDs, vinyl and tape recordings, podcasts

**Broadcasts –** pay and free to air television and radio

It is important to note that online text, images, broadcasts, videos and music on websites, wikis, blogs and social networking sites are all protected by copyright. See **Public Domain** below.

**When does copyright apply?**

In Australia, copyright protection is automatic. This means that material does not need to be registered or have a copyright notice on it to be protected by copyright. Material will be protected as soon as it is put into material form, such as being written down or recorded in some way (filmed or recorded on an audio tape).

**Copyright and plagiarism**

The relationship between copyright and plagiarism can be tricky to understand. Plagiarism is a type of misconduct that, in some cases, may also give rise to copyright infringement.

Plagiarism occurs where a student uses someone else’s ideas or words and pretends they are their own. If the student has used a lot of someone else’s words without that person’s permission, copyright infringement may also occur.

**Who owns the copyright?**

The person who creates material will normally own copyright in it. In general:

* the creator of an artwork will own the copyright in the artwork
* the author of a poem will own copyright in the poem
* the production company of a film will own copyright in the film
* the composer of a song will own copyright in the music of a song
* the record company will own the copyright in a sound recording of music
* the broadcaster will own the copyright in the radio or television broadcast.

**How long does copyright last?**

The period of protection will differ depending on the type of creative material.

1. [Artistic](https://smartcopying.edu.au/glossary/artistic-works/), [literary](https://smartcopying.edu.au/glossary/literary-works/), [musical](https://smartcopying.edu.au/glossary/musical-works/) and [dramatic works](https://smartcopying.edu.au/glossary/dramatic-works/) are protected from the time the work is created until 70 years after the creator has died.
2. [Films](https://smartcopying.edu.au/glossary/film/), [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) and [broadcasts](https://smartcopying.edu.au/glossary/broadcast/) are protected for 70 years from the end of the year in which the [film](https://smartcopying.edu.au/glossary/film/), [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) or [broadcast](https://smartcopying.edu.au/glossary/broadcast/) was released.

**What is the public domain?**

Once the period of copyright protection expires, the material is in the ‘public domain’. This means that anyone can [copy](https://smartcopying.edu.au/glossary/copy/) the material without having first to obtain permission from the copyright owner.  
Some people mistakenly believe that once material is published or available for free from the internet, it is in the ‘public domain’. This is not true. Publicly available internet material, such as online newspaper articles or images on Google or Flickr, are all protected by copyright. Public domain material is material where the period of copyright protection has expired.

**When can you use other people’s material?**

If you want to use someone else’s [m](https://smartcopying.edu.au/glossary/works/)aterial, you can generally only use it if:

1. Your use is permitted under an exception contained in the Australian Copyright Act (‘Copyright Act’). There are a list of exceptions called ‘[fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/)‘ in the Copyright Act that allow students to copy and use other people’s material for the purpose of ‘research and study’, ‘criticism and review’, ‘satire and parody’ and ‘reporting the news’. See section on [Fair Dealing](https://smartcopying.edu.au/glossary/fair-dealing/) below.
2. The copyright owner has said that it can be used for free or has licensed the material under a [Creative Commons (CC)](https://smartcopying.edu.au/glossary/creative-commons-cc/) licence. See the section on [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/).
3. You ask the copyright owner for permission and they give it. This is called permission or a licence.

**Fair dealing**

Students can [copy](https://smartcopying.edu.au/glossary/copy/) and [communicate](https://smartcopying.edu.au/glossary/communicate/) limited amounts of material under ‘[fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/)‘ without seeking the permission of the copyright owner. To rely on [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/), the use of the material must be fair and for the purpose of:

* research or study
* criticism or review
* parody or satire
* reporting the news.

Most of the [copying](https://smartcopying.edu.au/glossary/copy/) students will do will fall under fair dealing for research and study. In some cases, a student will be [copying](https://smartcopying.edu.au/glossary/copy/) material under both fair dealing for research and study and another fair dealing purpose such parody and satire or criticism and review.

Overall, deciding whether a student’s use is ‘fair’ will be determined largely by how much of the material has been [copied](https://smartcopying.edu.au/glossary/copy/). This can be tricky as the Copyright Act provides little guidance on what constitutes a ‘fair’ amount.

**TIP:** Students should link to material or use [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/) licensed material where possible. See [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/) and **Smartcopying Tips** below.

***How much is ‘fair’?***

The Copyright Act states that students are permitted to copy a reasonable portion of a [literary](https://smartcopying.edu.au/glossary/literary-works/), [dramatic](https://smartcopying.edu.au/glossary/dramatic-works/) or [musical work](https://smartcopying.edu.au/glossary/musical-works/) in both print and electronic form for the purpose of research or study. Reasonable portion is defined to be 10% of the number of pages or one chapter if the [work](https://smartcopying.edu.au/glossary/works/) divided into chapters.

In all other cases, the Copyright Act is silent on how much a student can [copy](https://smartcopying.edu.au/glossary/copy/) for their use to be ‘fair’. This means that no guidance is provided on how much of:

* a [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/), [film](https://smartcopying.edu.au/glossary/film/) or [broadcast](https://smartcopying.edu.au/glossary/broadcast/) can be used by a student under fair dealing for the purpose of research or study
* any material can be [copied](https://smartcopying.edu.au/glossary/copy/) under fair dealing for criticism or review, parody or satire or reporting of the news.

As a general rule, students should only [copy](https://smartcopying.edu.au/glossary/copy/) what is necessary for the fair dealing purpose to ensure that their use is ‘fair’. In most cases, this will only be an extract and not the whole work. For example, in preparing an essay, a student is likely to [copy](https://smartcopying.edu.au/glossary/copy/) several pages from a book or an article from a journal. This is permitted provided the extracts [copied](https://smartcopying.edu.au/glossary/copy/) are necessary for the student’s research or study. Further, if the student is making a [parody](https://smartcopying.edu.au/glossary/parody/) of a song or film, it is unlikely that the student will need to [copy](https://smartcopying.edu.au/glossary/copy/) the whole [s](https://smartcopying.edu.au/glossary/works/)ong or film for the fair dealing purpose. In such a case, [copying](https://smartcopying.edu.au/glossary/copy/) an extract of the song or film as necessary will be ‘fair’.

In limited circumstances, a student may be permitted to copy a whole work provided the whole work is necessary for the [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/) purpose. For example, a student may need to [copy](https://smartcopying.edu.au/glossary/copy/) an entire short poem when preparing a critique on the poem.

Overall, when relying on [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/), students must:

* Use extracts and not whole works. In rare cases, a whole work can be [copied](https://smartcopying.edu.au/glossary/copy/) provided it is necessary for the [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/) purpose.
* Always attribute the author and publisher where the source is known. See Attribution below.

**TIP:** Where possible, students should link to material and use [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/) licensed material. See **Smartcopying Tips** below for some smart ways of managing copyright.

**Creative Commons**

[Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/) is a set of licences which creators attach to their material. All [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/) licences allow the material to be used for free for [educational purposes](https://smartcopying.edu.au/glossary/educational-purpose/).

Using Creative Commons in your homework and class exercises is a good alternative to relying on the [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/) exceptions. This is particularly because the [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/) exceptions are complex, making it difficult for a student to:

* [copy](https://smartcopying.edu.au/glossary/copy/) an entire work or large portions of a work
* modify and remix a work.

Using CC material removes these barriers as:

* students can [copy](https://smartcopying.edu.au/glossary/copy/) an entire work without limitation
* students can modify and remix the material.

There are six standard CC licences. The table below lists these licences and the different conditions which attach to each.

|  |  |  |  |
| --- | --- | --- | --- |
| **Licence** | **Symbols** | **Type of use** | **You can** |
| Attribution (BY) | CC BY Licence Icon | Commercial and  non-commercial | * copy * adapt or modify * redistribute (publish, display, publicly perform or communicate the work) and * license to others. |
| Attribution-Noncommercial (BY-NC) | CC BY NC Licence Icon | Non-commercial only | * copy * adapt or modify * redistribute (publish, display, publicly perform or communicate the work) and * license to others. |
| Attribution-Share Alike (BY-SA) | CC BY SA Licence Icon | Commercial and  non-commercial | * copy * adapt or modify * redistribute (publish, display, publicly perform or communicate the work) and * license to others on the same terms as the original work. |
| Attribution-No Derivative Works (BY-ND) | BY ND CC licence | Commercial and  non-commercial | * copy * redistribute (publish, display, publicly perform or communicate the work) verbatim copies and * license to others. |
| Attribution-Noncommercial-Share Alike (BY-NC-SA) | BY NC SA Creative Commons Licence | Non-commercial only | * copy * adapt or modify * redistribute (publish, display, publicly perform or communicate the work) and * license to others on the same terms as the original work. |
| Attribution-Noncommercial- No Derivative Works (BY-NC-ND) | BY NC ND Creative Commons Licence | Non-commercial only | * copy * redistribute (publish, display, publicly perform or communicate the work) verbatim copies and * license to others. |

For more information, see the ‘[Creative Commons Information Pack](https://smartcopying.edu.au/creative-commons-information-pack-for-teachers-and-students/)’.

**Obtaining permission**

You will need to seek permission from the copyright owner if you wish to use the [work](https://smartcopying.edu.au/glossary/works/) in a way which is not permitted by [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/).

Only a copyright owner can give permission, known as a licence, for others to [copy](https://smartcopying.edu.au/glossary/copy/), [communicate](https://smartcopying.edu.au/glossary/communicate/) and/or [perform](https://smartcopying.edu.au/glossary/performance/) their work.

Sometimes the copyright owner will ask for payment in exchange for giving permission. Other times, the copyright owner will give permission to use their [work](https://smartcopying.edu.au/glossary/works/) for free subject to certain conditions, such as with [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/) licences.

**Attributing material**

All material [copied](https://smartcopying.edu.au/glossary/copy/) and/or [communicated](https://smartcopying.edu.au/glossary/communicate/) in your [work](https://smartcopying.edu.au/glossary/works/) should be labelled with the details of the copyright owner and author (if different to the copyright owner), the name of the [work](https://smartcopying.edu.au/glossary/works/), where the material was [copied](https://smartcopying.edu.au/glossary/copy/) from and when it was [copied](https://smartcopying.edu.au/glossary/copy/).

**Creative Commons material**

When attributing [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/) material, you should:

* credit the creator
* provide the title of the work
* provide the URL where the work is hosted
* indicate the type of licence it is available under and provide a link to the licence (so others can find out the licence terms) and
* keep intact any copyright notice associated with the work.

A simple way of remembering this is **TASL – T**itle,**A**uthor,**S**ource, **L**ink.

Eg **“**[**Creative Commons 10th Birthday Celebration San Francisco**](https://www.flickr.com/photos/sixteenmilesofstring/8256206923)**” by [tvol](https://secure.flickr.com/photos/sixteenmilesofstring/) is licensed under**[**CC-BY 2.0**](https://creativecommons.org/licenses/by/2.0/au/).

For further information on attributing Creative Commons material, see [‘How to Attribute Creative Commons Material’](https://smartcopying.edu.au/how-to-attribute-creative-commons-licensed-materials/).

**Smartcopying tips**

1. **Link to material**

Linking is not a copyright activity. This is because you are not actually ‘[copying](https://smartcopying.edu.au/glossary/copy/)’ or ‘[communicating](https://smartcopying.edu.au/glossary/communicate/)’ any material, you are just providing a path to its location on another website. Providing links to material on external websites will not infringe copyright and you do not need to seek permission from the website owner to include a link to their website.

1. **Use embedded links**

Embedding is another type of linking, except you don’t have to leave your website (eg blog or wiki) or intranet to access the content. It is commonly used for displaying online films, eg YouTube films, on websites.

Embedding involves copying the HTML code of the film, which is often displayed in a box near the film, and pasting it onto your website. The result of this is, rather than displaying the link, a small screen of the film will be shown on your website.

The primary advantage to embedding material is that you do not need to [copy](https://smartcopying.edu.au/glossary/copy/) the material in order to make it available on your website. Some websites, such as YouTube, provide the link for embedding films. This makes embedding an easy and practical alternative to [copying](https://smartcopying.edu.au/glossary/copy/).

1. **Create your own material**

If you are using material that is your own original [work](https://smartcopying.edu.au/glossary/works/) and does not contain any material created by another person, you do not need to rely on the [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/) exceptions as you are the copyright owner.

It is important that you label your original [work](https://smartcopying.edu.au/glossary/works/) with your name and the year it was created. This is so others know that the [work](https://smartcopying.edu.au/glossary/works/) is your original [work](https://smartcopying.edu.au/glossary/works/) and that you own copyright in that [work](https://smartcopying.edu.au/glossary/works/).