**iTunes: Using in Schools**

**What is iTunes?**

iTunes is a free digital media player application which is used to organise and play sound recordings and video on a computer. The iTunes player can also be used to copy audio and video files from a computer to portable media players such as the iPod, iPhone and iPad.

The iTunes Store is an online media store where users can access, purchase and download music, videos (including films, television shows and music videos), games, audio books and podcasts to their iTunes player. The iTunes Store can also be used to download a selection of iTunes applications for use on the iPhone, iPod and iPad.

If online, a user can connect to the iTunes store through the iTunes player.

This information sheet deals with using the iTunes player in class for [educational purposes](https://smartcopying.edu.au/glossary/educational-purpose/). It also discusses the issues around acquiring content from the iTunes store for educational use. It does not deal with iTunes U or the iTunes applications.

**Playing content**

The iTunes player enables teachers to play media (sound recordings and video) from their computer to students in the classroom. There are two ways the iTunes player can be used to play content:

1. playing sound recordings from a CD in the computer’s disc drive
2. playing digital files already available in the player’s library of content.

**Playing sound recordings from a CD in the computer’s disc drive**

A teacher can choose to play the contents of a CD from their computer’s disc drive using the iTunes player.

Once a CD is inserted into the computer, the user is usually given the following options:

a. Play audio CD using iTunes
b. Show songs using iTunes or
c. Import songs using iTunes.

Note:  These three options will not appear where the iTunes player is already open on your computer. This is because the CD will automatically be opened and read by the iTunes player. The user will however be asked whether they wish to format shift the CD (ie ‘import songs using iTunes’).

See Option 2 ‘Import songs using iTunes’ below for further information on format shifting CDs.

**a. Option 1 ‘Play audio CD using iTunes’**

This option allows you to simply play the sound recording(s) contained on the CD using the iTunes player. Teachers should select this option when they do not require a digital copy of the recording for [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/).

A teacher can play CDs from their computer using the iTunes player under s 28 of the Copyright Act where:

* it is in the course of education and not for profit and
* the people in the audience or class are giving or receiving the instruction, or directly connected with the place where the instruction is given.

For further information on s 28, see information sheet ‘Performance and Communication of Material in Class’.

**b. Option 2  ‘Show songs using iTunes’**

This option lists the contents of the CD in the iTunes player allowing you to select the sound recording you wish to play.

This is a helpful option to select where the CD contains several sound recordings and you wish to only play one recording or select a few.

**c. Option 3 ‘Import songs using iTunes’**

This option involves format shifting the CD into digital format. Teachers may format shift CDs into digital format in limited circumstances under s 200AB where:

1. **The digital copy is for educational instruction**

Educational instruction means teaching (including remote teaching), preparation for teaching, preparing materials for students to use for homework or research tasks, or other uses that are in connection with teaching.

Creating a digital music library ‘just in case’ the music may be needed for future exercises is not permitted. There must be a specific instructional purpose in mind at the time the digital copy is made.

1. **You only format shift what is needed for educational instruction**

In most cases, teachers will only require extracts of sound recordings for [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/) but circumstances may exist where format shifting an entire CD is required for [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/).

At all times, teachers should only copy what they need for [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/).

1. **It is not possible to purchase the sound recording in digital format**

We recommend that you purchase the sound recording where it is available for purchase in a digital format.

See discussion below on buying content from iTunes.

1. **The use does not prejudice the copyright owner**

Your use will prejudice the copyright owner if you:

* format shift more than you need for [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/) or
* expose the digital copy to piracy (eg uploading the digital copy to the internet). Uploading the digital copy to a password protected repository (eg school intranet/learning management system) with access limited to students and teachers of the school is OK, provided the digital copy is removed from the content repository as soon as practical after it is has been used for [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/).

For further information, see information sheet ‘[Flexible Dealing Exception](https://smartcopying.edu.au/flexible-dealing/)’.

**Playing digital media files already available in the player’s library of content**

Teachers can play digital media files from their iTunes library during class under s 28 of the Copyright Act where:

* it is in the course of education and not for profit and
* the people in the audience or class are giving or receiving the instruction, or directly connected with the place where the instruction is given.

For further information on s 28, see information sheet ‘[Performance and Communication of Copyright Material in Class](https://smartcopying.edu.au/performance-and-communication-of-copyright-material-in-class/)’.

**Acquiring content**

**Buying content**

When buying content from the iTunes store, you must agree to the store’s Terms of Use. These terms state that products purchased from the iTunes store can only be used for

‘personal, non commercial use’.  This expression may not include ‘educational use’. As a result, it is unclear whether the iTunes contract itself prohibits the educational use of content purchased from the iTunes Store.

The Australian Copyright Act contains special exceptions which allow teachers to use sound recordings and video for [educational purposes](https://smartcopying.edu.au/glossary/educational-purpose/) in special circumstances without having to seek the permission of the copyright owner. These exceptions include:

1. s 28  – performing and communicating material in class
eg: playing sound recordings and video in class and
2. s 200AB – [copying](https://smartcopying.edu.au/glossary/copy/) and [communicating](https://smartcopying.edu.au/glossary/communicate/) [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) and video for [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/)
eg: uploading [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) and/or video to a password protected content repository (eg school intranet, content management system, wiki or blog) or [copying](https://smartcopying.edu.au/glossary/copy/) extracts of [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) and/or video for use in multimedia educational resources (eg PowerPoints, podcasts, vodcasts).

It is unclear whether the iTunes terms of use would prevent a school from relying on s 28 and s 200AB. There is a risk that a school might be said to be in breach of contract if it plays or copies music downloaded from iTunes.  However, a school would not infringe copyright if the exceptions (s 28 and s 200AB) set out in the Copyright Act applied.

You will need to find out whether your school has decided to rely on the Copyright Act exceptions or avoid using content purchased from iTunes.

**Relying on s 200AB**

Where a teacher decides to rely on s 200AB, they must ensure their use meets all s 200AB requirements:

**a. It is for educational instruction**

Educational instruction means teaching (including remote teaching), preparation for teaching, preparing materials for students to use for homework or research tasks, or other uses that are in connection with teaching.

**b. It is non-commercial**

Your use will be commercial where you, your students or your school are making a profit or gaining a commercial advantage from the use of the material. Cost recovery is OK.

**c. It is a special case**

Your use will be a special case where it is narrow in both a qualitative or quantitative sense. This means that you are only using what you need for [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/).

**d. It does not conflict with the normal exploitation of the copyright material**

Your use will probably conflict with the normal exploitation of the material where it is possible to purchase a similar resource.

**e. It does not prejudice the copyright owner**

Your use will prejudice the copyright owner if you:

* use more than you need.
* expose the content to piracy, such as uploading the educational resource to the internet. Uploading the resource to a password protected intranet, blog, wiki or content management system is OK provided students are not able to make further copies.
* do not remove the educational resource from the password protected intranet, wiki, blog or content management system as soon as practicable after it is no longer required for [education instruction](https://smartcopying.edu.au/playing-films-for-a-rainy-day/).

**Using Free iTunes Content**

The iTunes store contains a variety of free content. This includes music, TV shows, films, podcasts and applications. This content can be streamed direct from the iTunes store or downloaded onto your iTunes player without payment and used for [educational purposes](https://smartcopying.edu.au/glossary/educational-purpose/).

A user is not required to accept the iTunes Terms of Use when downloading free content. As a result, it is unlikely that the iTunes Terms of Use will be claimed to affect how the content can be used. Teachers should try to use free iTunes content instead of purchased iTunes content wherever possible to minimise the risk that they are breaching the conditions of use.

**iTunes Scenarios**

[Note: These examples are based on the assumption that the iTunes Terms of Use do not prevent educational use and therefore teachers can rely on the exceptions in the Copyright Act.]

**Scenario 1
Copying playlists onto school iPods**

Jim is the head music teacher at Belford Primary School. Jim has recently purchased 50 iPods for use by the students at his school. He has been approached by Sandra, who teaches the Year 3 class, who asked whether she can use the iPods with her students.

Sandra would like to copy her audio playlist (a collection of recordings selected by Sandra to play together in a chosen order) from her home computer onto the school iPods for her students to listen to as part of their music lesson in class. There are 28 students in Sandra’s class.

*Can Sandra copy her playlist onto 28 school iPods for her students?*

Yes, Sandra can rely on s 200AB to copy her playlist onto 28 iPods provided the songlists are deleted from the iPods as soon as practicable after the end of the lesson.

Where the school wants to keep Sandra’s playlist on the iPods on a more permanent basis (eg for ongoing use by students throughout the year), it will need to purchase a copy of each of the songs in Sandra’s playlist for each individual iPod.

**Scenario 2
Uploading a podcast to the school’s intranet**

Alex is a high school science teacher. He has found a fantastic podcast of an interview on evolution available for purchase from the iTunes store.  He has purchased the podcast and would like to upload the podcast to the school’s intranet so that his year 9 students can listen to it during class as part of their classwork.

*Can Alex upload the podcast to the school intranet?*

Alex can upload the podcast to the school intranet provided:

1. access to the podcast is restricted to the year 9 science class who need it to complete their classwork
2. no further copies of the podcast can be made while it is available to the year 9 science students on the school intranet
3. the podcast is removed as soon as practicable from the school intranet after it has been used for the classroom exercise.

**Scenario 3
Copying audio books on iPods for loan in the school library**

Trish is the librarian at Heathcoat High School. She would like to start making audio books available for loan to students on iPods. Trish has found 4 audio books from iTunes that she would like to purchase and loan to students on the library’s 20 iPods.

*Can Trish copy the audio books straight from her iTunes account onto each iPod or must she purchase a copy of each audio book for each iPod?*

Trish must purchase an audio book for each individual iPod.  This is because s 200AB will only apply to where the copy is made for [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/) and removed from the iPod as soon as practicable after it has been used for [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/).  In this case, the audio books will be made available to students on a permanent basis throughout the year. Trish will need to purchase 20 copies of each audio book to download onto each iPod. The individual iPods can then be loaned out to different students in the school as required.

**Scenario 4
Copying video to include in an educational resource**

Sally teaches history at Macquarie High School. She purchased a documentary from iTunes on Ancient Greece and would like to copy an extract from the documentary to include in a vodcast she is creating for her year 10 history students.  Once the vodcast is complete, Sally would like to play the vodcast to her class from the interactive whiteboard.

*Can Sally copy the extract from the documentary to include in the vodcast for her students?*

Yes, Sally can copy the extract under s 200AB provided:

1. she only copies what is required for use in the vodcast
2. she doesn’t expose the vodcast to piracy (Sally cannot make the vodcast available on the internet or elsewhere online where it can be further copied).

*Can Sally play the vodcast to her class using the interactive whiteboard?*

Yes, Sally can play the vodcast to her class under s 28 of the Copyright Act.

**Smartcopying Tips:**

1. Only use legitimate content (ie non-pirated content that you or your school have bought, borrowed or been gifted).
2. It is good practice for all content [copied](https://smartcopying.edu.au/glossary/copy/) and [communicated](https://smartcopying.edu.au/glossary/communicate/) (made available on a password protected content repository) under s 200AB to be labeled with the following:

‘Copied and/or communicated under s 200AB’.