**Performance and Communication of Copyright Material in TAFE Classes**

Updated 9 October 2023

TAFEs are allowed to [perform](https://smartcopying.edu.au/glossary/performance/) and [communicate](https://smartcopying.edu.au/glossary/communicate/) copyright material in class under a free exception in section 28 of the Copyright Act.

We sometimes call this the ‘show and tell’ exception and it covers all types of copyright material.

**How can I use materials in reliance on s 28?**

Teachers and students can read or [perform](https://smartcopying.edu.au/glossary/performance/) 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/), or play [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) in class under s 28, provided:

* it is in the course of education and 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.

Teachers and students can also [communicate](https://smartcopying.edu.au/glossary/communicate/):

* [literary](https://smartcopying.edu.au/glossary/literary-works/), [dramatic](https://smartcopying.edu.au/glossary/dramatic-works/) or [musical works](https://smartcopying.edu.au/glossary/musical-works/)
* [films](https://smartcopying.edu.au/glossary/film/) and [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/)
* television and radio [broadcasts](https://smartcopying.edu.au/glossary/broadcast/) (including [works](https://smartcopying.edu.au/glossary/works/) embodied in those [broadcasts](https://smartcopying.edu.au/glossary/broadcast/)) and
* [artistic works](https://smartcopying.edu.au/glossary/artistic-works/),

to classes, to enable classroom [performances](https://smartcopying.edu.au/glossary/performance/) including the playing of [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) and [films](https://smartcopying.edu.au/glossary/film/) using new technologies.

A ‘[performance](https://smartcopying.edu.au/glossary/performance/)’ is any visual or aural presentation in class (such as reading a poem to a class or showing a [film](https://smartcopying.edu.au/glossary/film/)).

A ‘[communication](https://smartcopying.edu.au/glossary/communicate/)’ means making materials available online or electronically transmitting copyright materials (like uploading to a password protected [digital teaching environment](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/) (DTE) for student access. It also includes emailing and [streaming](https://smartcopying.edu.au/glossary/streaming/) material.

**What activities can I do in my class under s 28?**

Some examples include:

* reading aloud a story, poem, news article, journal, handbook or other [literary work](https://smartcopying.edu.au/glossary/literary-works/)
* playing:
* television programs from free to air and pay television
* radio programs from free to air radio and digital radio stations
* television programs from [streaming](https://smartcopying.edu.au/glossary/streaming/) services (eg Netflix Stan or Disney Plus)
* a [film](https://smartcopying.edu.au/glossary/film/) in any format (eg a DVD or a [film](https://smartcopying.edu.au/glossary/film/) from AppleTV, Google Play, etc)
* purchased material in any format (eg a [film](https://smartcopying.edu.au/glossary/film/), [audiobook](https://smartcopying.edu.au/glossary/audiobook/), television program or series)
* online television programs from catch up television (eg ABC iView, SBS on Demand, 7plus)
* [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) in any format (eg CD, DVD, cassettes, digital music from Apple Music, Google Play)
* staging a [performance](https://smartcopying.edu.au/glossary/performance/) of a play
* singing a song
* playing a musical score using a musical instrument
* displaying content from a live website on an interactive whiteboard.

**When can I upload materials to my DTE to show my class?**

Teachers may want to upload materials to the DTE in order to play or show them in class. This process will also involve making an ‘interim [copy](https://smartcopying.edu.au/glossary/copy/)’.

You may be able to rely on one of the educational use provisions in the Copyright Act to make that interim [copy](https://smartcopying.edu.au/glossary/copy/), as long as:

* it is only made to facilitate the classroom [performance](https://smartcopying.edu.au/glossary/performance/) and/or communication of that content
* you remove access by archiving or deleting the materials at the end of the lesson.

For example, to play a [film](https://smartcopying.edu.au/glossary/film/) to your class you may need to make a copy in order to upload the [film](https://smartcopying.edu.au/glossary/film/) to your TAFE’s DTE (in reliance on the flexible dealing exception). Playing the film from your DTE to your class is permitted under s 28.

As soon as the lesson is over, you must remove access by archiving the [film](https://smartcopying.edu.au/glossary/film/) or deleting the [film](https://smartcopying.edu.au/glossary/film/) from wherever you’ve uploaded it to.

**What can’t I do under s 28?**

You will not be able to make some uses of copyright material, such as [communicating](https://smartcopying.edu.au/glossary/communicate/) or [performing](https://smartcopying.edu.au/glossary/performance/) a work, such as a poem, or playing a [film](https://smartcopying.edu.au/glossary/film/) or [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/):

* + to the parents of students
  + for a fundraising activity
  + at a TAFE event where there is no teaching involved (eg TAFE fashion shows, music performances and open days).

While section 28 will not apply to teachers and students performing music for non-teaching activities, TAFEs may be able to [perform](https://smartcopying.edu.au/glossary/performance/) music outside the classroom under the [TAFE Music Licence.](https://smartcopying.edu.au/guidelines/education-licences/tafe-music-licence/)