**Using Generative AI Platforms in Schools**

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**1. Introduction**

The use of digital technologies in schools is growing and transforming the education experience. One of the ways schools, departments and administering bodies are using transformative technologies is through generative artificial intelligence (AI) platforms.

Some examples of these technologies include ChatGPT, DALL-E, Midjourney and the Canva AI tools.

This information sheet provides guidance to teachers, schools, departments of education and administering bodies when using AI. Many jurisdictions have banned the use of AI by students, so please [contact your local copyright representative](https://smartcopying.edu.au/contact-us/) to check the policies in place in your jurisdiction in relation to students’ use of AI.

The application of Australia’s copyright law to the use of AI platforms raises several questions that are yet to be considered by the courts. Copyright laws also vary from country to country. The way AI and copyright interact in Australia will be different to other countries.

This information sheet provides:

* an explanation of AI platforms
* examples of the way schools are using generative AI platforms
* some guidance on the copyright issues that arise.

The National Copyright Unit (NCU) will update this information sheet if this position changes going forward.

**2. How does AI work?**

AI involves using computers to do things that traditionally require human intelligence. AI programs process data, recognise patterns, make decisions and then learn from this interaction to improve their understanding over time. In education, AI has the potential to reduce teacher workloads. For example, AI can:

* produce draft lesson plans and course materials by learning from millions of existing [works](https://smartcopying.edu.au/glossary/works/)
* assist with one-on-one tutoring and personalised learning experiences.

**3. What are generative AI platforms?**

Generative AI is a type of AI that does exactly what it sounds like: it generates new content. That may be an image, [text](https://smartcopying.edu.au/glossary/text/) or other animated content. Generative AI platforms use large amounts of online data and something called ‘machine learning’ to generate new content.

These platforms are becoming increasingly popular in education.

**4. How are teachers and students using generative AI platforms in their classrooms?**

Schools can use AI platforms in a variety of ways. For example, a teacher might:

* direct an AI platform to produce a ‘new work’ (eg an image) using [text](https://smartcopying.edu.au/glossary/text/) prompts
* use AI software to re-write or modify a piece of existing [text](https://smartcopying.edu.au/glossary/text/) to make it more suitable to a student’s learning levels.

Students may also use AI platforms for their own learning.

***Examples of ways in which teachers create new***[***works***](https://smartcopying.edu.au/glossary/works/)

Teachers may use AI to create:

* examples and a step-by-step process for solving a biology problem suitable for a particular year level
* multiple-choice quizzes as part of a maths unit, with questions increasing in difficulty
* supplementary English materials (such as a study guide or glossary)
* meal plans with step-by-step recipes as part of a health and wellbeing unit
* an image in the style of Andy Warhol as part of an art class.

***Examples of ways in which teachers modify existing***[***works***](https://smartcopying.edu.au/glossary/works/)

Teachers may use AI to restore and refresh older learning materials and create virtual tutoring environments to suit student learning levels. For example, teachers may:

* update a chemistry course
* support a student struggling to complete algebra homework tasks at home by providing personalised tutoring assistance outside the classroom
* re-write a piece of [text](https://smartcopying.edu.au/glossary/text/) in ‘easy English’ to assist a student with reading difficulties
* create accessible versions of [text](https://smartcopying.edu.au/glossary/text/) for students with a disability

***Examples of how students use AI***

Students also utilise these platforms in different ways. For example, students may use AI to:

* analyse their speech writing skills when preparing a class talk on a social issue
* research prompts for a school debating competition on the topic of climate change
* create study notes for homework exercises when studying a novel as part of an English unit
* create a mock business proposal as part of an accounting unit.

Set out below is some specific guidance on the generation of new [works](https://smartcopying.edu.au/glossary/works/) and the modification of existing [works](https://smartcopying.edu.au/glossary/works/) using AI.

**Generating new works**

**5. Will new**[**works**](https://smartcopying.edu.au/glossary/works/)**created using generative AI be protected by copyright?**

In Australia, copyright protects original literary, dramatic, musical and [artistic works](https://smartcopying.edu.au/glossary/artistic-works/) (eg poems, plays, sheet music and photos). It also protects other subject-matter such as [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) and films. Copyright protection automatically arises when original [works](https://smartcopying.edu.au/glossary/works/) are created by human authorship using “independent intellectual effort”.

Whether copyright will be found to subsist in the output of generative AI platforms will depend on a number of factors including the type of AI platform used, what human prompts are given to the platform and the form of the final output.

**6. Who owns copyright in new**[**works**](https://smartcopying.edu.au/glossary/works/)**created using generative AI platforms?**

If copyright subsists in the output generated using AI, the next question is: who owns that copyright? There are a number of factors to consider, including the relevant platform’s terms of use.

All generative AI platforms will have terms and conditions. These terms and conditions may contain an [assignment](https://smartcopying.edu.au/glossary/assignment/) of the copyright in any output generated by the platform from the platform to the user or a [licence](https://smartcopying.edu.au/glossary/licence/) to use the output.

Schools should check the terms and conditions to ensure that any copyright subsisting in the output is assigned to the user of the platform. This will help to ensure that, if there are instances where the platform owns copyright, it is assigned to the user. When in doubt, please [contact the NCU](https://smartcopying.edu.au/contact-us/).

**7. What do I need to do when I create a new work using generative AI?**

When schools and teachers use AI platforms to generate new [works](https://smartcopying.edu.au/glossary/works/), we recommend they keep the following points in mind:

(i) It is helpful for schools and teachers to be aware of the terms and conditions of the generative AI tool, and whether they [assign](https://smartcopying.edu.au/glossary/assign/) copyright in the output to the user or only grant a [licence](https://smartcopying.edu.au/glossary/licence/). We have had a look at the terms and conditions of some of the AI platforms we understand schools are using and set out a summary below:

|  |  |
| --- | --- |
| **Generative AI tool** | **Copyright in the output** |
| OpenAI (Dall-E and ChatGPT) | Copyright assigned to the user |
| Midjourney (paid subscription) | Copyright assigned to the user (to the extent possible under current law) |
| Midjourney (free subscription) | Midjourney grants the user (which will typically be the teacher) a [licence](https://smartcopying.edu.au/glossary/licence/) to the outputs under a [Creative Commons Attribution Non-Commercial Licence](https://creativecommons.org/licenses/by-nc/4.0/). You will need to ensure that you comply with the terms of the Creative Commons [licence](https://smartcopying.edu.au/glossary/licence/), including the requirement to attribute the copyright owner, when using only the free subscription. |
| Canva AI tools ([Text](https://smartcopying.edu.au/glossary/text/) to Image, Magic Write) | Copyright assigned to user (to the extent permitted by law) |

(ii)    Ensure the person who uses the platform to generate the work is employed by the school, and has created the work as part of their employment (eg a teacher or department staff). If the person is an independent contractor, ensure they [assign](https://smartcopying.edu.au/glossary/assign/) in writing any copyright that they own in the output to the school.

(iii)   Label content created using the AI platform as set out in paragraph 8 below.

(iv)   Where practicable, only use content generated by AI platforms internally within the school and do not make them publicly accessible, for example, in the school newsletter, on the school website or on social media.

**8. How do I label the ‘new’**[**works**](https://smartcopying.edu.au/glossary/works/)**generated by a generative AI platform?**

Unless the terms and conditions of the particular AI tool explicitly state otherwise, schools should label new [works](https://smartcopying.edu.au/glossary/works/) created using AI platforms in the following way:

*“This work was generated using [insert name of AI tool]. Any copyright subsisting in this work is owned by [INSERT Dept of Education/Administering Body].”*

As noted above, where there is no [assignment](https://smartcopying.edu.au/glossary/assignment/) of copyright from the AI platform, but instead a [licence](https://smartcopying.edu.au/glossary/licence/) granted (including under Creative Commons), you must ensure that you comply with the terms of that [licence](https://smartcopying.edu.au/glossary/licence/), including any requirements regarding attribution.

**Modifying existing works**

**9. What do I need to do when I modify an existing work using generative AI?**

Schools may use AI platforms to modify existing materials to make those materials more accessible to students.

If schools and teachers use AI platforms to modify existing third-party materials (ie materials that were not created by the school), they should:

(i)  only do so if an [exception](https://smartcopying.edu.au/guidelines/copyright-basics/copyright-exceptions/) in the Copyright Act or the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/) applies or with permission from the copyright owner

(ii) label content created using the AI platform in the manner set out in paragraph 10 below and

(iii) comply with the guidance in relation to the licences/exceptions relied on.

**10. How do I label existing materials I have modified using AI software?**

Where a school creates a modified version of existing third party material using an AI platform, they should label the modified material as follows:

*“This version was generated using [insert name of AI tool] and has been copied/made available to you under the educational provisions of the Copyright Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Copyright Act. Do not remove this notice.”*

Schools will need to make sure they otherwise comply with the terms and conditions of the particular generative AI tool in relation to attribution.

**Going forward**

Schools should follow the guidance in this information sheet when using AI. If they have any further queries in relation to their use of generative AI to create new [works](https://smartcopying.edu.au/glossary/works/) or [reproduce](https://smartcopying.edu.au/glossary/reproduction/) and adapt existing materials, [contact the NCU](https://smartcopying.edu.au/contact-us/) to discuss further.