**Music Copyright Guide for TAFEs**

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**Introduction**

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 can be different to the copyright owner of the lyrics. Note that if TAFEs 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 Licence](https://smartcopying.edu.au/glossary/statutory-text-and-artistic-works-licence/).

A [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) can 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 TAFEs use a [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/), they 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](https://smartcopying.edu.au/glossary/sound-recordings/). 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), you only need permission from the owner of copyright in the [musical work](https://smartcopying.edu.au/glossary/musical-works/).

TAFEs often want to use [musical works](https://smartcopying.edu.au/glossary/musical-works/) and [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) in different ways inside or outside the classroom. For example:

* playing instruments in class as part of a music appreciation course
* playing [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) in class as part of a music and sound production course
* playing [musical works](https://smartcopying.edu.au/glossary/musical-works/) live or playing [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) at one off events (eg award ceremonies, graduations, concerts, fashion shows)
* communicating sound recordings (eg uploading a recording of a TAFE concert to the TAFE learning management system)
* playing background [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) in public areas, work spaces and TAFE facilities such as fitness centres, cafés or restaurants.

**Copyright Exceptions**

All TAFEs are able to rely on the copyright exceptions in the Copyright Act to use [musical works](https://smartcopying.edu.au/glossary/musical-works/) and/or [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) for educational instruction.

**Section 28**

Teachers and students in all TAFEs can perform musical works live or play [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) in class under s 28 of the Copyright Act, provided it is:

* in the course of education
* the people in the audience or class are giving or receiving instruction.

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

Examples of what TAFE teachers and students can do include:

* singing a [musical work](https://smartcopying.edu.au/glossary/musical-works/) and playing that [musical work](https://smartcopying.edu.au/glossary/musical-works/) 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](https://smartcopying.edu.au/glossary/musical-works/) 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](https://smartcopying.edu.au/glossary/musical-works/) and or [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) using a DVD player or [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/).

**Flexible Dealing**

If TAFEs want to copy and communicate [musical works](https://smartcopying.edu.au/glossary/musical-works/) or [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) for educational instruction they may 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 for students to perform in a music class when they cannot buy the arrangement they need
* format shift sound recordings from vinyl, cassette or CD into digital format such as mp3.

See [Flexible Dealing Exception](https://smartcopying.edu.au/flexible-dealing/), see also [Students and Copyright](https://smartcopying.edu.au/students-and-copyright/).

**Disability Exceptions**

If you are copying or communicate 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.

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

**Exam Copying**

Teachers are allowed to copy and communicate musical works and sound recordings for use in online and hardcopy exams. This exception does not extend to practice papers. You can only rely on this exception to copy and communicate copyright material for actual exams and assessments.

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

**Fair Dealing**

TAFE teachers will only be able to rely on the [fair dealing exception](https://smartcopying.edu.au/glossary/fair-dealing/) in limited circumstances (ie it must be for their own research and study and not the research and study of their students).

However, TAFE students using [musical works](https://smartcopying.edu.au/glossary/musical-works/) and or [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) as part of their study, will generally be able to rely on the [fair dealing exception](https://smartcopying.edu.au/glossary/fair-dealing/) for research and study. For example, TAFE students may be able to rely on the [fair dealing exception](https://smartcopying.edu.au/glossary/fair-dealing/) to use [musical works](https://smartcopying.edu.au/glossary/musical-works/) and [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) in an assignment as part of a ‘Sound and Music’ course.

See [Copyright Exceptions](https://smartcopying.edu.au/guidelines/copyright-basics/copyright-exceptions/).

**TAFE Music Licence**

All TAFEs (excluding Victoria) can now rely on the TAFE Music Licence with [APRA, AMCOS](https://smartcopying.edu.au/glossary/apra-amcos-australasian-performing-right-association-and-australasian-mechanical-copyright-owners-society/), [ARIA](https://smartcopying.edu.au/glossary/aria-australasian-recording-industry-association/) and [PPCA](https://smartcopying.edu.au/glossary/ppca-phonographic-performance-company-of-australia-limited/), which are the collecting societies that represent music composers and record labels.

TAFEs can perform [musical works](https://smartcopying.edu.au/glossary/musical-works/) live (eg a live performance by a TAFE band) and use [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) in different ways outside the classroom environment, under the TAFE Music Licence. For example, TAFEs can:

* perform/play a [musical work](https://smartcopying.edu.au/glossary/musical-works/) live at TAFE events (eg a TAFE band playing live at a TAFE Open Day)
* play a [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) at TAFE events (eg use recorded music in a TAFE fashion show)
* play a [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) as background music in TAFE businesses (eg TAFE training restaurants, fitness centres or cafes)
* play a [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) as background music in TAFE workplaces (eg staff rooms, TAFE offices)
* make a [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) to play at TAFE events (eg copy popular songs from a music streaming service to play at a TAFE graduation ceremony)
* incorporate a [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) into another work (eg adding music to a PowerPoint presentation)
* live stream TAFE events at which a [musical work](https://smartcopying.edu.au/glossary/musical-works/) is performed or [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) played from a social media platform (eg Facebook Live and YouTube). TAFEs can rely on the licences that APRA AMCOS and record labels have with social media platforms to communicate (ie make available) the stream on the platform. However, it is still possible that the performance may be muted or blocked. This is addressed in more detail below.

Note – TAFEs can also use [Creative Commons](https://smartcopying.edu.au/what-is-creative-commons/) music for the purposes described above. See ‘Creative Commons Music’ below.

**Recording your TAFE event**

TAFEs can record their events that include the performance of a [musical work](https://smartcopying.edu.au/glossary/musical-works/) live or a [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/). TAFEs can also authorise a third party (eg a professional videographer hired to film a TAFE fashion show or graduation ceremony) to make a recording of a TAFE event on its behalf, and use the recording in the ways listed below.

**What can I do with the recording of our TAFE event?**

TAFEs can do the following with the recording of their TAFE event(s):

* upload the recording to the TAFE website and/or [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/)
* upload the recording to educational apps being used for TAFE communications (eg Skillslocker)
* email a digital copy of the recording to the TAFE community (students and parents or guardians)
* provide a physical copy to the TAFE community (for example, on a USB device)
* upload the recording to the TAFE’s official social media page (although where a [musical work](https://smartcopying.edu.au/glossary/musical-works/) or [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) is played at the TAFE event the post may still be taken down – see ‘Blocking or muting of events on social media’ below).

**Using recorded music in videos or presentations**

TAFEs can incorporate a [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/), or a recording of a performance of a musical work (ie a recording of a TAFE band performing a piece of music) into another unrelated work. For example, they can add a backing track to a PowerPoint presentation or to a video of a graduation ceremony or fashion show. The TAFE can do the following with this new recording:

* upload the recording to the TAFE website, password protected intranet or password protected [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/)
* email or provide a physical copy of the recording to students, staff or members of the TAFE community
* upload the recording to an educational app being used for TAFE communications (for example ‘SkillsLocker’).

TAFEs can also upload videos and presentations that include musical works to the TAFE’s official social media page. However, if the video or presentation contains a commercially available sound recording, it must not be uploaded to social media (e.g. if a TAFE downloads a track from Spotify and adds it to a video it’s made of a TAFE open day, it cannot upload the video to its Facebook page).

**Live streaming your TAFE event**

TAFEs can live stream events, where a [musical work](https://smartcopying.edu.au/glossary/musical-works/) is performed live and/or a [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) is played, in real time from the TAFE’s website, DTE or official social media page.

If you are live streaming a performance where a [musical work](https://smartcopying.edu.au/glossary/musical-works/) or [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) is being played on social media, it is still possible that the performance may be taken down.

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

TAFEs can rely on the TAFE music licences to upload recordings of their TAFE event (including events where a [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) is played) to the TAFE’s official social media platforms such as Facebook and YouTube. In order to communicate (ie make available) those recordings from those social media pages, TAFEs can rely on licences that [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/) have with social media platforms.

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 TAFE institute live streams a performance where a [musical work](https://smartcopying.edu.au/glossary/musical-works/) or [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) is played, this software may alert Facebook or other social media platforms to mute the recording or send a takedown notice to the TAFE institute. If you are concerned about a live stream or recording being muted or your TAFE being issued with a takedown notice, contact the [National Copyright Unit](https://smartcopying.edu.au/contact-us/). Alternatively, you may want to consider uploading the recording to your TAFE website or password protected intranet.

**I want to use music at my TAFE in a way not described above, what should I do?**

If you want to use [musical works](https://smartcopying.edu.au/glossary/musical-works/) and or [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) in a way that is not covered under your TAFE Music Licence or the educational exceptions, [contact the National Copyright Unit](https://smartcopying.edu.au/contact-us/) to discuss.

**Alternative music licences to those offered by OneMusic**

Some copyright owners offer an alternative and cheaper licence than those offered by [OneMusic](https://onemusic.com.au/). These licences are offered as a cheaper alternative since they do not deal with either or both of the music collecting societies that are part of [OneMusic (APRA AND PPCA).](https://onemusic.com.au/)

Set out below are examples of alternative licences to those offered by [OneMusic](https://onemusic.com.au/) that can be utilised by TAFE institutes, fitness centres, cafes and restaurants:

* [Audio Network](https://www.audionetwork.com/) – online store for direct licenced musical works/sound recordings
* [Visual Sounds](http://www.visualsounds.com.au/) – musical work/sound recording on hold, restaurants/cafes, fitness centres and background music
* [Music on Hold](https://musiconhold.com.au/) – musical work/sound recording on hold
* [AKM Music](http://www.akmmusic.co.uk/) – musical work/sound recording on hold
* [Pond5](https://www.pond5.com/royalty-free-music/?gclid=CKHvhvTS38ECFVNwvAodqFgAbg) – musical work/sound recording on hold
* [Bensound](https://www.bensound.com/royalty-free-music/) – musical work/sound recording on hold
* [Power Music](http://www.fitnessnetwork.com.au/power-music/) – fitness centre musical work/sound recording.

**Creative Commons Music**

TAFEs in **all jurisdictions** can use CC [musicals works](https://smartcopying.edu.au/glossary/musical-works/) and [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) free of charge provided you comply with the terms of the CC licence. The minimum requirement of the CC licences is [attribution](https://smartcopying.edu.au/how-to-attribute-creative-commons-licensed-materials/) – that is, acknowledging the copyright owner and creator when you use a copy of their works.

Using music from Creative Commons is an options TAFE students could consider when they are using music in their TAFE assignments. For example, using music in their multimedia or sound engineering classes.

There are several websites that license [musical works](https://smartcopying.edu.au/glossary/musical-works/) and [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) under a CC licence, including:

* [SoundCloud](https://soundcloud.com/search/sounds/?filter.license=to_share) – online sharing platform with option to filter search results for CC content
* [Vimeo](https://vimeo.com/creativecommons) – online community with option to search for CC content
* [CC Mixter](http://ccmixter.org/) – CC sound remix tool and archive
* [Magnatune](http://www.magnatune.com/) – CC Record label
* [Jamendo](http://www.jamendo.com/) – CC music distribution site
* [Freesound](http://freesound.org/browse) – collaborative data base of CC licensed sounds.

Always remember to attribute the musician, track and licence in whatever medium you are using the [musical works](https://smartcopying.edu.au/glossary/musical-works/) and [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/).

Note – if you are incorporating a [musical work](https://smartcopying.edu.au/glossary/musical-works/) and [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) into another work (eg you are synching music to video footage of your TAFE open day or other TAFE event) you will not be able to use a [musical work](https://smartcopying.edu.au/glossary/musical-works/) and/or [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) that is licenced under a CC ‘No Derivatives Works’ Licence ([CC BY ND](https://creativecommons.org/licenses/by-nd/4.0/)), which means that the musician does not want you to change, transform or make a derivative work using their [musical work](https://smartcopying.edu.au/glossary/musical-works/) or [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/). Under CC licences, synching the [musical work](https://smartcopying.edu.au/glossary/musical-works/) and [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/) to images amounts to transforming the [musical work](https://smartcopying.edu.au/glossary/musical-works/) and [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/), so you won’t be able to use any [musical works](https://smartcopying.edu.au/glossary/musical-works/) or [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) available under this particular CC licence.

See ‘[Legal Music for Videos’](https://creativecommons.org/about/program-areas/arts-culture/arts-culture-resources/legalmusicforvideos/) on the CCs website for more information.