

Copyright Policy

Policy Owner	Director Quality and Student Services
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Related Documents:	Copyright Do's and Don'ts Booklet – Student Copyright Do's and Don'ts Booklet – Staff

1. Overview

Curtin College participates in two statutory license schemes to facilitate the copying of copyright material for students for teaching purposes: the Part VA license covering broadcasts (television, radio, cable and satellite) and the Part VB license covering print and graphic material (reproduction and communication).

In Australia, the rights of copyright owners (e.g. authors and publishers) are described in the Copyright Act 1968 which gives certain protections for how their material may be used. The Statutory Educational licence allows educational institutions to reproduce and communicate from any work for their *educational purposes* within the limits set out the Copyright Act 1968.

2. Organisational Scope

This policy applies to all Curtin College staff and students that use material which is subject to copyright and screen right licenses.

3. Policy Principles

Copyright is one type of intellectual property. It is a bundle of rights around ownership and usage of material such as text, artistic works, music, computer programs, sound recordings and films and acts as a type of personal property right for a person's creative work. The rights are granted exclusively to the copyright owners to reproduce the material, and for some material, the right to perform or show the work to the public. Copyright owners can prevent others from reproducing or communicating their work without their permission or may sell these rights to someone else.

It is designed to protect the copyright owner against unauthorised use of their creative work by others. There is no copyright on ideas, what is covered is the expression of an idea in its tangible form.

Penalties apply for copyright infringement and this policy must be adhered to by all members of staff and students at the College.

4. Definitions

- 4.1. The **Act**: Copyright Act 1968
- 4.2. The **College**: Refers to Curtin College and its partner providers.
- 4.3. **Communication**: means electronically transmitting a work or other subject matter online – this could include putting the work onto a website, broadcasting or faxing

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it, emailing digital files containing the work, making it available via an online teaching system or i-lecture etc.

- 4.4. **Copying:** means reproducing material by any means (into digital or analogue form) – this could include making a photocopy or recording, scanning onto a computer disk, printing out a digital file etc.
- 4.5. **Copyright Agency Limited (CAL):** represents authors, publishers and journalists. It negotiates the statutory licences for the copying of printed materials by educational institutions and other organisations.
- 4.6. **Copyright Material:** means material in which copyright is held by a third party.
- 4.7. **Educational purpose:** means for use in connection with a particular course of study, including the necessary administration and assessment of that course of study.
- 4.8. **Learning management system (LMS):** online system for delivery of subject content to students.
- 4.9. **Part VA** - Refers to that part of the Copyright Act 1968 which provides the College with an Audio-Visual statutory licence.
- 4.10. **Part VB** - Refers to that part of the Copyright Act 1968 which provides the College with a Print and Graphic statutory licence.
- 4.11. **Screenrights:** Is a reference to the Audio-Visual Copyright Society which represents owners of copyright in films, scripts, music and sound recordings and negotiates the statutory licences for the copying of TV and radio broadcasts by educational institutions.
- 4.12. Format shifting: copying content from one format to another

5. Policy Content

5.1. Copyright (Part VB Statutory Licence)

Copyright law tries to balance the general public's right to access information with the rights of the copyright owner.

5.2. What material is covered by copyright?

- Literary works - includes most novels, poetry, web pages, articles in periodicals and newspapers, letters and emails, song lyrics, timetables, assignments, theses, databases and computer programs.
- Dramatic works – plays, films and television scripts
- Artistic works - paintings, photographs, sculptures, engravings, sketches, blueprints, drawings, plans, maps and buildings or models of buildings.
- Periodical publications – newspapers, magazines, journals.
- Musical works including scores and lyrics
- Subject matter other than works - includes sound recordings, films (including videos and DVDs), radio and television broadcasts and published editions of works, and performances (dance, circus act, puppet theatre, poetry reading, musical concert etc).
- Copyright also exists for typographical layout and font of a book, as well as a published edition (e.g. 'Penguin' books layouts).

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5.3. What material is not covered by copyright?

- Names, titles and slogans. Note however that logos and trademarks will be covered by copyright.
- Ideas or concepts – copyright protect only the expression of an idea or concept.
- Basic facts, such as names, addresses etc.

5.4. Owners' Rights

Copyright protection is automatic under Australian law from the moment work is produced in material form (writing down, recording or filming), whether this form is published or unpublished. Owners have a number of rights relating to their works:

- The right to control reproduction of the work
- Moral rights in their work
- Performers' rights in their work (this does not apply to writers and artists).
- However, a copyright owner may choose to license a work under a particular type of licence that essentially waives one or more of the automatically granted rights, eg Creative Commons licences.

5.5. Reproduction Rights for Educational Use Only

In accordance with Part VB of the Act, the College has an agreement with CAL to make multiple copies of certain amounts of published works for:

- use in connection with courses of study conducted by the College,
- administrative purposes, and
- use in connection with Continuing Education (fee-paying) courses conducted by the College

The license covers both the making of photocopies and the digitising of materials for these purposes.

5.5.1. Hardcopy Licence

Hardcopy copies may be made for students, subject to the following restrictions:

- Book - up to 10% or one chapter of the book, whichever is greater.
- Periodical/Journal Publications - up to one complete article from any one issue of the journal or periodical. (If there are two or more articles on the same topic in the journal, these may be copied, but the same topic restriction should be interpreted narrowly).
- Anthologies: the whole or part of literary or dramatic work in a published anthology of works if that work comprises no more than 15 pages of that anthology.
- Artistic Works: The whole or part of an artistic work may be copied if:
 - a) the work accompanies a literary or dramatic work for the purpose of explaining or illustrating the literary or dramatic work copied (and copied within these limits); or
 - b) it is not separately published.

If work has been separately published, no more than a reasonable portion of that work can be copied unless a new copy of that work cannot be obtained within a reasonable time at an ordinary commercial rate.

The limits referred to above should be applied per course. That is, regardless of how many members of the teaching staff are teaching a course in a given semester, no more than 10 percent of a work should be copied or electronically transmitted to students by those members of the teaching staff (when their copying is aggregated).

5.5.2. Electronic resources and Reproduction

Electronic copies may be made subject to the following restrictions:

- Artistic Works: all of an artistic work
- Music Works:
 - 10% of a musical work.
 - all, if not published or published on its own;
 - the whole of a work if that work cannot be obtained within a reasonable time at an ordinary commercial price
- Literary and dramatic works:
 - up to 10% of the number of words;
 - all, if not published or published on its own;
 - the whole of a work if that work cannot be obtained within a reasonable time at an ordinary commercial price
- Periodical Publications - one complete article or more if the same subject matter.

5.5.3. Using on-line video

1. Youtube:

- a. streaming generally only in the course of education and not for profit (unless video is Curtin College licensed)
- b. no downloading, copying or distribution permitted (NB Playing one within a recorded webinar constitutes copying)
- c. however linking to or embedding is allowed

2. Teachertube:

- a. streaming (see Youtube)
- b. downloading for use in class or online permitted when link to Teachertube website provided and author credited
- c. linking to and embedding also allowed.

5.5.4. Uploading electronic copies of texts to digital repositories:

Under the CAL license, the *simultaneous storage rule* (ie the rule that more than one chapter (or more than 10%) of a text cannot be made available via an LMS (eg Moodle) at a time) means that:

- Lecturer 1 and Lecturer 2 cannot upload 2 separate chapters to Moodle at the same time.
- Any individual lecturer cannot upload more than one chapter from the same text to Moodle at the same time.
- However, several lecturers can have the same chapter of one text uploaded into several courses within Moodle at the same time.

5.5.5. Format shifting:

- making a manual or text book available online
- making a TV program available to students via an online LMS
- making a copy of a music CD to store on an iPod

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- making a DVD copy of a VHS tape of a film
- making an audio copy of a text resource

(Source: Smartcopying: The Official Guide to Copyright Issues for Australian Schools and TAFE, *Format Shifting*, <http://www.smartcopying.edu.au/scw/go/pid/531>)

- Format shifting text and images (eg saving to disk, printing, making available online, emailing) –eg *Copyright Agency licence allows entire images and up to 10% or 1 chapter of text* (NB you must first declare (via Government gazette) that Curtin College is an educational institution) <http://www.copyright.com.au/licences/education-sector-licences>
- Format shifting TV programs – a *Screenrights licence permits most* format shifting for TV and radio broadcasts (NB you must first declare (via Government gazette) that Curtin College is an educational institution (NB you must first declare (via Government gazette) that Curtin College is an educational institution) <http://www.screenrights.org/content-users/australian-services/educational-licence>

For everything else (eg music, audio, video), the College has only very limited format shifting rights

- Only if you are the copyright owner or you have permission from the copyright owner (eg by requesting it, or via a Curtin College licence)
- Or your preferred format is
 - not commercially available within a reasonable time (approx 2 weeks); and
 - your copy is being made for the purpose of educational instruction AND not made partly for the purpose of the College obtaining a commercial advantage or profit; and
 - will not unreasonably prejudice the copyright owner nor circumvent an Access Control Technological Protection Measure (eg CSS protected DVDs, password controls, timed download tools (eg. access for limited time))
- Copying must be attributed - some best practice suggestions and examples for attributing (referencing) Creative Commons resources:
 - <http://creativecommons.org.au/materials/attribution.pdf>
 - <http://wiki.creativecommons.org/Marking/Users>)
- Link to material where possible
- Use your own material or material created by Curtin College or Navitas
- Use material which you have permission to use
- Use free for education material
- If relying on Part VA or Part VB Licences:
 - Only use what you need
 - Comply with limits
 - Limit access to students that require it
 - Flush the repository of unused material
- If relying on the flexible fair dealing exception make sure you comply with all of its requirements. <http://www.copyright.com.au/>

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5.5.6. Labelling

Electronic copies and electronic communications must contain the following statement;

COMMONWEALTH OF AUSTRALIA

Copyright Regulations 1969

WARNING

This material has been reproduced and communicated to you by or on behalf of Curtin College pursuant to Part VB of the *Copyright Act 1968* (the Act).

The material in this communication may be subject to copyright under the Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Act.

Do not remove this notice.

5.5.7. Class Presentations

If you would like to use or point to examples in the course of your presentation you can do so under the 'fair dealing' provisions, just make sure you reference and cite appropriately.

5.6. Finding free and low cost resources:

- Creative Commons website – www.creativecommons.org.au
- Open Education/Free for Education Resources (note some will require that you do not profit) - <http://www.smartcopying.edu.au/scw/go/pid/936>
- Australian Flexible Learning Toolboxes – (Crown copyright = free to use but adaptations must be returned to the common pool)
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5.7. Internet

Copy material from Internet sites, provided this is allowed under any Conditions of Use or Agreement posted on the site. If no conditions specified, normal limits apply under the 'Fair Dealing' provisions.

5.8. Email

Email is covered by the same copyright rules as a letter. Forwarding emails may become a breach of copyright if the email is forwarded to the public. Please be aware of these when forwarding an email to a wide group. Refer to the College's Email and Internet Policy for further information in regard to email usage (available on www.curtincollege.edu.au).

5.9. Exceptions:

Usually you need the copyright owner's permission to control the reproduction of their work. However there are some exceptions which permit copying of limited amounts of material without permission of the copyright owner

- Insubstantial Portion – generally one or two pages from a 200 page book, or no more than 1% of a book if more than two pages. A single copy may be made.

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- Temporary electronic copies – made as part of the technical process of producing an electronic communication are generally allowed. Includes caching, browsing and viewing copyright material online.

5.10. Screenrights (Part VA Statutory Licence)

Under the College's agreement with Screenrights, students and staff are permitted to copy and/or communicate off-air television, radio, cable and satellite broadcasts provided that the copy or communication is made solely for the 'educational purposes' of the College.

The agreement also permits the College to copy and/or communicate Australian broadcast material subsequently made available in the form of online podcasts by television or radio.

Providing the copying is used for *educational purposes*, there is no limit on how much can be copied or how many copies are made under this licence. Broadcast material eg. commercials can be edited provided that the integrity of the broadcast is maintained.

In order to comply with "moral rights" requirements, the source of the broadcast must be acknowledged, and credits given to key creative personnel (e.g., director, producer, screenwriter, composer) must not be removed.

The Part VA licence does not apply to copies of broadcasts made before 1990 or programs available on demand such as pay-per-view.

5.11. Labelling:

All copied materials communicated online (electronic or digital) must include the following notice:

<p>COMMONWEALTH OF AUSTRALIA Copyright Regulations 1969 WARNING</p> <p>This material has been copied and communicated to you by or on behalf of Curtin College pursuant to Part VA of the <i>Copyright Act 1968</i> (the Act).</p> <p>The material in this communication may be subject to copyright under the Act. Any further copying or communication of this material by you may be the subject of copyright protection under the Act.</p> <p>Do not remove this notice.</p>

All copies to be labelled as follows:

<p>Made for Curtin College educational purposes under Part VA, Copyright Act 1968.</p> <p>Date of Broadcast: _____</p> <p>Date copy was made: _____</p>

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6. Administrative procedures

- 6.1. This policy is accessible through the Curtin College website at:
<http://www.curtincollege.wa.edu.au>
- 6.2. This policy and any related procedures will be communicated to students and staff via the Portal and respective handbooks.
- 6.3. Academic Director or nominee will remind teaching staff of their copyright obligations at the compulsory trimester meeting and via the portal.
- 6.4. Director Quality & Student Services along with the Academic Director will carry out annual audits.

7. Appendices

APPENDIX 1: Notice to be placed on photocopiers in Curtin College.

8. Reference documents

- Copyright Basics: <http://www.copyright.org.au/find-an-answer/>
- Copyright Agency Limited (CAL): [see](#)
- Curtin University Copyright Policy and Procedures www.curtin.edu.au
- Screenrights: <http://www.screenrights.org/content-users/australian-services/educational-licence>
- Smartcopying <http://www.smartcopying.edu.au/>

Version	Last changes:
V1.2	Updated section 3 Policy Principles Updated Section 4 Definitions Updated Sections 5 Policy Content
V1.1	Screenrights section added

APPENDIX 1

Notice to be displayed near photocopiers

COMMONWEALTH OF AUSTRALIA
Copyright Regulations 1969

WARNING

Copyright owners are entitled to take legal action against persons who infringe their copyright. A reproduction of material that is protected by copyright may be a copyright infringement. Certain dealings with copyright will not constitute an infringement, including:

- A reproduction that is a fair dealing under the *Copyright Act 1968* (the *Act*), including a fair dealing for the purposes of research or study; or
- A reproduction that is authorised by the copyright owner.

It is a fair dealing to make a reproduction for the purposes of research or study, of one or more articles on the same subject in a periodical publication, or, in the case of any other work, of a reasonable portion of a work.

In the case of a published work in hardcopy form that is not less than ten pages and is not an artistic work, ten per cent of the number of pages, or one chapter, is a reasonable portion.

In the case of a published work in electronic form only, a reasonable portion is not more than, in the aggregate, ten per cent of the number of words in the work.

More extensive reproduction may constitute fair dealing. To determine whether it does, it is necessary to have regard to the criteria set out in subsection 40 (2) of the *Act*.

A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.