

Copyright Policy

1. Purpose

The purpose of this policy for Top Education Group Limited trading as Australian National Institute of Management and Commerce (TOP) to provide responsibilities and procedures with respect to third party copyright material for both staff and students.

The objectives are:

- To establish principles and procedures for dealing with copyrightable material;
- To protect TOP from risk associated with the use of copyrightable material; and
- To enable TOP to foster free and creative expression and exchange of ideas and comments.

2. Scope

This policy applies to all TOP staff, students, contractors and other stakeholders associated with TOP.

Definitions

For the purposes of this Policy:

Copyright is defined as a legal concept that gives the creator of an original work exclusive rights to exploit the work for a limited time and prevent others from copying the work.

Copyright Act means the *Copyright Act 1968* (Cth).

Copyright works and 'third-party copyright material' means works or other subject matter where the copyright is not owned by TOP.

Moral Rights means the three moral rights granted to the creators of copyright in Part IX of the *Copyright Act 1968* (Cth).

3. Procedure

TOP has a responsibility to provide information and guidelines to employees, students, controlled entities and individuals associated with TOP concerning copyright. These can be broken down into the following:

- address their copyright rights and responsibilities;
- develop, implement and support systems and processes that facilitate copyright compliance;
- ensure there are financial, structural and administrative procedures in place to meet its obligations under copyright legislation, and review and revise these as required;
- monitor external developments in relation to copyright, especially copyright legislation, to revise and update policies, practices and documentation to adequately reflect changes, and to raise awareness of any developments as appropriate;
- ensure TOP's corporate publications and information services, policies and facilities meet the requirements of the Copyright Act and are reviewed and revised periodically; and

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- respond appropriately to any alleged breaches of the Copyright Act brought to the attention of authorised officers of TOP or of which officers become aware.

Individuals have a responsibility to:

- be aware or to become aware of their rights and obligations in relation to copyright, including moral rights obligations;
- adhere to the requirements of the Copyright Act, apply TOP policies, practices and procedures when using copyright works;
- consult with the General Counsel or Academic Team when preparing unit materials supplied, or made accessible to enrolled students, to ensure compliance with the relevant copyright law requirements, licence conditions, and TOP processes;
- consult with the General Counsel prior to entering into agreements with outside organisations on behalf of TOP, particularly when third party copyright material has been used; and
- report any alleged breaches of copyright to the General Counsel.

Usage

- TOP has statutory licenses and exceptions as an educational institution that enable it to use third party materials for educational purposes.
- Where a proposed use or activity is not within the scope of any license or exception, third party materials must not be used except with the written permission from the copyright owner or licensee of the third party material.
- Any permission must include written agreement authorising the use of the material for the intended purpose.
- All staff, contractors and students must observe copyright legislation and any restrictions or obligations under any licenses or permissions in the use of third party material.
- TOP does not permit the unlawful downloading, copying, compression, storage, transfer, distribution or sharing of any copyright material.
- TOP does not permit the use of, or direction to, any content or material from a third party website for which TOP does not have written permissions for use. In the case of website material, TOP policy is that a separate link to the website must always be created.
- Under no circumstances can the content from a third party website be embedded into the TOP's teaching and learning materials unless the third party has provided their written consent or permission to do so.
- TOP does not condone any activity which infringes the Moral Rights of any third party. Unless the copyright owner has given their written consent to a waiver of their Moral Rights, then these rights must be respected including through an appropriate attribution of authorship (among other things).
- TOP asserts ownership of all original material created by employees in the course of their employment and by contractors in the performance of their engagement, unless there is specific written agreement to the contrary.
- Employees, contractors and students are expected to adhere to this framework and must not utilise any other systems unless specifically authorised to do so.
- Reviews of learning management systems and other materials used for educational purposes may take place at any time with or without prior notice to employees, contractors and students, to determine the level of copyright compliance across the School. 'Sampling'

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surveys by external legislative agencies with responsibility for managing and reviewing copyright compliance may also occur at the nominated times.

- All employees, contractors and students must offer their co-operation in the completion of any of these monitoring activities.
- Employees, contractors and students must not use TOP's facilities or equipment in a manner that infringes the copyright of any person.

Non-compliance

The General Counsel will address copyright risks in the first instance with the assistance of management of TOP. TOP's disciplinary procedures may be applied where employees or students fail to comply with this Policy or the Copyright Act. Students are entirely responsible for any copyright infringement resulting directly or indirectly from their own actions. Breaches of this policy by students may constitute student misconduct and may lead to disciplinary action in accordance with TOP policies. See for example, Academic Integrity Policy. Some breaches of the Copyright Act are criminal offences, attracting heavy fines and terms of imprisonment

APPENDIX 1

QUICK GUIDE

COPYRIGHT AND TOP STUDENTS (INCLUDING RESEARCH)

Copyright – What can you copy?

- Australian copyright law allows you as a student or researcher to copy and use limited amounts of other people's material (third party material protected by copyright) in your study or research without the permission of the copyright owner and free of charge.
- The Fair Dealing provisions of Australian copyright law allow you to copy a 'reasonable portion' as indicated below.
- The copying must be for your study or research purposes, not for providing copies to others or for making the copied work accessible to others, e.g. online or electronically, or for publishing your work.
- You may include the copied material in your work which you submit to your lecturer or examiner.

COPYRIGHT MATERIAL	COPYRIGHT AMOUNT
From a literary, dramatic or musical work in a hard copy edition of 10 pages or more.	10% of number of pages or one chapter or one work where the work is divided into chapters.
From a literary or dramatic work in electronic form	10% of the number of words, or one chapter where the work is divided into chapters.
From a newspaper, magazine, journal or other periodical publication	One article, or more than one article in the same publication where the articles are related to the same research or course of study. However, copying most of the publication is unlikely to be a 'fair dealing' if the publication is available for purchase.
From other works such as artwork, craftwork, designs, images, films, CDs, DVDs, and	Limited amounts based on the five factors specified in the Fair Dealing provisions (see

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broadcasts of radio and television programs.	over) which allow you to determine what amount is a 'reasonable portion'.
From the internet	Check the terms of use on the website (on some sites this may be called 'Conditions of Use' or 'Copyright Conditions'). Where the terms of use do not specify an amount: a limited amount based on the five factors specified in the Fair Dealing provisions (see over) which allow you to determine what amount is a 'reasonable portion'.

If you want to copy more

You can copy more than the amounts set out above if:

- you have permission to do so from the copyright owner;
- the work is out of copyright; or
- you believe you are entitled under the five factors specified in the Fair Dealing provisions.

Further advice and information see the Australian Copyright Council information sheets on Fair Dealing and Research.

Copyright – the Fair Dealing provisions Australian copyright law allows limited amounts of copyright material to be copied as a 'fair dealing', without the permission of the copyright owner and free of charge, provided the copying fits one of the following purposes:

- For research or study;
- For criticism or review;
- For reporting the news;
- For parody or satire; or
- For providing legal advice.

The 'research or study' provision will most likely accommodate your needs as a student or researcher. It covers research or study undertaken as part of your enrolled course, professional employment or personal investigation into a particular subject. This provision covers the gathering and compilation of information as part of your research or study but not the publishing of that information.

Five Factors Specified in Fair Dealing Provisions

In some instances you may need to assess the 'fairness' of your copying, including what could amount to a 'reasonable portion'. Australian copyright law provides five factors to consider.

Fair Dealing Factors (Australian Copyright Act)	Considering Fairness and a reasonable portion
The purpose and character of the dealing	Is your copying genuinely for your research or study purposes? Copying for your university studies is more likely to be fair than copying material to include in your work which you wish to sell.

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The nature of the copyright material being copied	Are you copying material that has been created with a high degree of skill? It may be fairer to copy more basic material to meet your research or study needs.
The possibility of obtaining the copyright material within a reasonable time at an ordinary commercial price	How easily available is the material you wish to copy and can it be purchased at an ordinary commercial price? To meet your research or study needs it may be fairer to buy the material (if it is reasonably available for purchase) than to copy it.
The effect of the dealing on the potential market for, or value of, the copyright material	Will your copying of the material affect the commercial value of the copyright material? To meet your research or study needs it may be fairer to buy the material (if it is reasonably available for purchase) than to copy it, or to copy a small or less significant part of the material than to copy a large or important part.
Where part of the copyright material is copied: the amount and substantiality of the copied material in relation to the entire source material	Are you copying more than you genuinely need? To meet your research or study needs it may be fairer to copy a small or less significant part of the material than to copy a large or important part.

You should remember

- Your purpose for copying should be genuine and fair within the 'research or study' provision
- To include in your work a reference to the copied material and an acknowledgement of the author or creator
- Copying any amount of copyright material for your commercial benefit, without the permission of the copyright owner, may not be considered as fair.

Further information on the Fair Dealing provisions

For a concise assessment, see the ARC Centre of Excellence for Creative Industries and Innovation guide (section 3.3) Blog, Podcast, Vodcast and Wiki Copyright Guide for Australia or the Australian Copyright Council information sheets on Fair Dealing and Research or Study For the relevant parts in the Australian Copyright Act 1968 see sections 40, 41, 42, 43, 103A, 103B and 103C

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