

## IP TOOLS & RESOURCES FOR BUSINESSES

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## Intellectual Property Office of Singapore

51 Bras Basah Road #04-01 Plaza By The Park Singapore 189554  
Tel: (65) 6339 8616 Fax: (65) 6339 0250 <http://www.ipos.gov.sg>

# COPYRIGHT infosheet

## Copyright for Educators



### What is Copyright

Copyright is a private property right that protects original works such as novels, computer programmes, music and photos. Generally, copyright owners enjoy various exclusive rights over their copyright works (such as the rights to reproduce, perform and communicate their works). These different exclusive rights form the bundle of rights that we call copyright. They enable a copyright owner to control the commercial exploitation of his work.

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## What does Copyright Protect

Our Copyright Act protects:

Literary works such as	<ul style="list-style-type: none"> <li>• Written works/ Books</li> <li>• Articles in journals or newspapers</li> <li>• Lyrics in songs</li> <li>• Source codes of computer programmes</li> </ul>
Dramatic works such as	<ul style="list-style-type: none"> <li>• Scripts for films &amp; drama (as applied)</li> <li>• Choreographic scripts for shows or dance routines</li> </ul>
Musical works	<ul style="list-style-type: none"> <li>• Music, i.e. melody</li> </ul>
Artistic works such as	<ul style="list-style-type: none"> <li>• Paintings</li> <li>• Drawings</li> <li>• Photographs</li> <li>• Sculptures</li> <li>• Engravings</li> <li>• Buildings or models of buildings</li> <li>• Works of artistic craftsmanship, e.g. designer furniture that is not mass produced</li> </ul>
Published editions of	<ul style="list-style-type: none"> <li>• Literary, dramatic, musical or artistic works, i.e. typographic arrangements of a published work</li> </ul>
Sound recordings	<ul style="list-style-type: none"> <li>• An aggregate of sounds recorded on tapes, CDs etc</li> </ul>
Films	<ul style="list-style-type: none"> <li>• Cinematographic works including video, digital videodisks and television productions</li> </ul>
Television and radio boardcasts	<ul style="list-style-type: none"> <li>• Broadcasts by way of television or radio</li> </ul>
Cable Programmes	<ul style="list-style-type: none"> <li>• Programmes (visual and sound) included in a cable programme service sent by means of a telecommunication system</li> </ul>
Performances	<ul style="list-style-type: none"> <li>• By performers such as musicians, singers and comedians</li> </ul>

## How to Get Protection

For a work to be protected by copyright, it has to be original and expressed in a tangible form.

Originality simply means that there is a degree of independent effort in the creation of the work. It is not a question of whether the work has creative merit.

Expression in a tangible form includes expression in a recording or in writing. Basically, the work should be able to be reproduced from this tangible form.

An original work by a Singapore citizen or resident automatically enjoys copyright protection as soon as it is expressed in a tangible form. There is no need to file for registration to get copyright protection.

## Rights of the Copyright Owner

Here are the bundles of exclusive rights copyright owners may enjoy:

Literary, dramatic, musical, artistic works	<p>Authors enjoy the exclusive rights to</p> <ul style="list-style-type: none"> <li>• reproduce the work;</li> <li>• publish the work;</li> <li>• perform the work in public;</li> <li>• communicate the work to the public; and</li> <li>• make an adaptation of the work.</li> </ul>
Published editions of literary, dramatic, musical or artistic works	<p>The publisher has the exclusive right to make a reproduction of the edition.</p>
Sound recordings	<p>The producer of a sound recording enjoys the exclusive rights to:</p> <ul style="list-style-type: none"> <li>• make a copy of the sound recording;</li> <li>• rent out the sound recording</li> <li>• publish the sound recording if it is unpublished; and</li> <li>• make available to the public a sound recording by means or as part of a digital audio transmission.</li> </ul>
Films	<p>The producer of a film enjoys the exclusive rights to:</p> <ul style="list-style-type: none"> <li>• make a copy of the film;</li> <li>• cause the film to be seen in public; and</li> <li>• communicate the film to the public.</li> </ul>
Television and radio boardcasts	<p>The broadcaster enjoys the exclusive rights to:</p> <ul style="list-style-type: none"> <li>• make a recording of the broadcast;</li> <li>• rebroadcast;</li> <li>• communicate the broadcast to the public; and</li> <li>• cause the broadcast to be seen or heard by a paying audience.</li> </ul>

Cable Programmes	<p>The producer of the cable programme enjoys the exclusive rights to:</p> <ul style="list-style-type: none"> <li>• make a recording of the cable programme;</li> <li>• rebroadcast;</li> <li>• communicate the cable programme to the public; and</li> <li>• cause the cable programme to be seen or heard by a paying audience.</li> </ul>
Performances	<p>The performer has the right to authorise the following uses:</p> <ul style="list-style-type: none"> <li>• allow the performance to be seen and heard, or seen or heard, live in public;</li> <li>• make a direct or indirect sound recording of his live performance</li> <li>• make available a recording of the performance to the public in such a way that the recording may be accessed by any person from a place and at a time chosen by him;</li> <li>• distribute or sell or import for distribution or sale such recordings;</li> <li>• publish a recording of a performance (if not previously published); and</li> <li>• communicate the live performance to the public (including broadcast, internet dissemination and inclusion of the performance in a cable programme).</li> </ul>

## Extent/Territory of Protection

Our Copyright Act gives copyright protection within the territory of Singapore.

In addition, a copyright work created by a Singapore citizen or resident is protected in many countries overseas. Under various international agreements, the work of a Singapore citizen or resident would be protected in signatory countries (e.g. USA, UK). Conversely, many overseas copyright works from these signatory countries are protected by copyright law in Singapore.

## Fair Dealing

There are some "fair dealing" exceptions to copyright infringement under our copyright law. A certain amount of copying, for example, is permissible as long as it is a situation of "fair dealing" as determined by the Court.

Factors the Court may consider in determining "fair dealing" include:

- (a) the purpose and character of the dealing (e.g. commercial or non-profit educational purposes)
- (b) the nature of the work
- (c) the amount and substantiality of the part copied in relation to the whole work
- (d) the effect of the dealing upon the potential market for, or value of, the work
- (e) the possibility of obtaining the work within a reasonable time at an ordinary commercial price.

In other cases, fair dealings for the purposes of criticism, review or reporting current events would not constitute copyright infringement. In most of such cases, a sufficient acknowledgment of the work is required.

>> "Communicate" means to transmit by electronic means a work or other subject matter, whether or not it is sent in response to a request and includes:

- (a) Broadcasting;
- (b) Inclusion in a cable programme; and
- (c) The making available of the work or other subject matter in such a way that the work or subject matter may be accessed by any person from a place and at a time chosen by him (e.g. access over the Internet).

## Exceptions in Educational Settings

Our Copyright Act also contains exceptions to copyright infringement in certain educational settings.

Here are some basic definitions relating to the conditions of these educational exceptions:

Term	Meaning
"educational institution"	<p>An educational institution is <b>not-for-profit</b> and can be one of the following:</p> <ul style="list-style-type: none"> <li>(a) an institution at which full-time primary, secondary and pre-university education is provided</li> <li>(b) a junior college, a university, a college of advanced education or a technical and further education institution</li> <li>(c) an institution that conducts courses of primary, secondary, pre-university or tertiary education by correspondence or on an external study basis</li> <li>(d) a school of nursing</li> <li>(e) an undertaking within a hospital that conducts courses of study or training in the provision of medical services or services incidental to medical services</li> <li>(f) a teacher education centre</li> <li>(g) an institution that has, as its principal function, the provision of general education (e.g. kindergartens); professional training or continuing education in a particular occupation or profession</li> <li>(h) an institution at which education is provided as declared by copyright regulations to be an educational institution</li> <li>(i) an undertaking within a body administering an educational institution of a kind referred to in paragraphs (a) to (h), that principally provides teacher training for persons engaged as instructors in educational institutions (e.g. any MOE unit involved in teacher training)</li> </ul>

	<p>(J) an institution, or an undertaking within a body administering an educational institution of a kind referred to in paragraphs (a) to (i), that principally provides materials to educational institutions of a kind referred to in paragraphs (a) to (i) for the purpose of assisting those institutions in their teaching purposes (e.g. any MOE unit involved in provision of teaching resources).</p> <p>The above is a general indication of what "educational institution" covers and is not exhaustive.</p> <p>Essentially, <b>schools under the Ministry of Education (MOE)</b> and <b>independent or private not-for-profit schools</b> qualify as "educational institutions".</p>
"body administering an educational institution"	<p>If the educational institution is a body corporate, this term refers to the educational institution itself.</p> <p>If the educational institution is not a body corporate, this term refers to the body or person (e.g. the Government, in the case of MOE schools) having ultimate responsibility for the institution's administration.</p>
"educational purpose"	<p>Something is done for an educational purpose when it is done in connection with a particular course of instruction provided by an educational institution or for inclusion in a collection of the educational institution's library.</p> <p>This definition is not exhaustive and there may be other scenarios where the courts can find that something was done for an educational purpose.</p>

Here are some special exceptions that apply in the educational field:

	(i) Multiple Copying and Communication not exceeding 5%	(ii) Multiple Copying and Communication not exceeding 10% or a Chapter	(iii) Multiple Copying and Communication from Periodical Publications
<b>Types of Work</b>	Literary and dramatic works	Literary, dramatic, musical or artistic works (excluding articles within a periodical publication)	Articles within a periodical publication
<b>Amount</b>	<ul style="list-style-type: none"> <li>For a work of 500 or fewer pages (whether in hard or soft copy), copying and communication up to 5 pages are allowed.</li> <li>For a work of more than 500 pages (whether in hard or soft copy), copying and communication up to 5% of the total number of pages are allowed.</li> <li>For a work in soft copy and not divided into pages, copying and communication up to 5% of the total number of bytes, words or contents are allowed.</li> </ul>	<ul style="list-style-type: none"> <li>For a work (whether in hard or soft copy) of at least 10 pages, copying and communication up to either 10% of the total number of pages or 1 chapter of the work are allowed. (If the work has fewer than 10 pages, the courts will decide whether the portion copied or communicated is a reasonable amount on the facts.)</li> <li>For a work in soft copy and not divided into pages, copying and communication up to either 10% of the total number of bytes, words or contents or 1 chapter of the work are allowed.</li> </ul>	<ul style="list-style-type: none"> <li>1 article in a periodical publication</li> <li>2 or more articles relating to the same subject matter in the same periodical publication</li> </ul>
<b>Purpose and Related Conditions</b>	Copying and communication can be carried out by any person (e.g. teacher, administrative or IT staff, photocopy shop assistant) but must be done on the premises of the educational institution (see definition at page 5) and for the purposes of a course of education provided by the institution.	Copying and communication must be carried out by or on behalf of the body administering an educational institution (see definition at page 6) for the educational purposes (see definition at page 6) of that or another educational institution.	
<b>Time Limit for Multiple Copying and Communication</b>	No other part of the same work may be copied or communicated by or on behalf of the same person within 14 days of the first copying or communication.	N.A.	N.A.
<b>Notation of Copies</b>	No notation of copies is required.	Every copy made must state the following information: <ul style="list-style-type: none"> <li>the fact that the copy is made on behalf of the educational institution</li> <li>the date the copy is made</li> </ul>	
<b>Record Keeping</b>	No record keeping is required.		A record must be made as soon as practicable after the copying or communication and maintained for 4 years.

Here are some special exceptions that apply in the educational field (continued):

	(i) Multiple Copying and Communication not exceeding 5%	(ii) Multiple Copying and Communication not exceeding 10% or a Chapter	(iii) Multiple Copying and Communication from Periodical Publications
<b>Particulars of Record Keeping</b>	N.A.	The particulars to be recorded are set out at pages 12 and 14. Essentially, the particulars describe the work copied or communicated and the extent of copying or communication e.g. number of copies made, number of people to whom communication was made.  With regard to copying and communication made through a network operated or controlled by an educational institution (e.g. on the intranet), if the number of copies made or the number of people to whom communication was made cannot reasonably be ascertained, the number shall be taken to be equal to the number of students enrolled in that course of education.  If the copy or communication (other than as part of lecture notes) is for students undertaking a correspondence course or an external study course, the record must state so accordingly because there are cost implications (see following point).	
<b>Inspection of Records</b>	N.A.	When copyright owners or their agents make a written request to inspect the records, the educational institution must allow them to do so, providing access, reasonable facilities and assistance to them.	
<b>Payment</b>	No payment is required.	Copyright owners are entitled to make a written request for payment within 4 years from the time the records are made if there is no agreement between the educational institution and the copyright owner as to the amount to be paid, the matter may be referred to the Copyright Tribunal. The Copyright Tribunal will then determine the equitable remuneration payable to the copyright owner for the use by the educational institution.  If the permitted copying or communication (other than as part of lecture notes) is for students undertaking a correspondence course or an external study course, no remuneration is payable to the copyright owner.	
<b>Dissemination</b>	Educational institutions may distribute the permitted copies to their students. Educational institutions may also provide permitted copies on a network operated or controlled by them (e.g. on their own intranet) that their students can access.	Educational institutions may distribute the permitted copies to their students.  Educational institutions may also provide permitted copies on a network operated or controlled by them or another educational institution (e.g. on an intranet) that students from that or the other educational institution can access and download.	

#### (iv) Multiple Copying and Communication Exceeding 10%

- Non-commercially available works
  - If a work is not available within a reasonable time at an ordinary commercial price (e.g. out-of-print books), educational institutions may copy or communicate more than 10% of the work.
  - The person who makes the copies or communication, or causes the copies or communication to be made for or on behalf of the educational institution (e.g. teacher) must be satisfied that the work cannot be obtained within a reasonable time at an ordinary commercial price.
  - In this regard, secondhand copies are not taken into account e.g. if a title is out-of-print but used, original copies are available within a reasonable time at an ordinary commercial price in the secondhand market, the existence of such copies do not prevent the educational institution from copying or communicating more than 10% of the work under this exception.
  - Apart from the amount copied or communicated, the other conditions under (ii) 'Multiple Copying and Communication not exceeding 10% or a chapter' apply.
- Works that are not separately published
  - Educational institutions may copy or communicate more than 10% of a work if it is not separately published.
  - For example, from within an anthology of poems or short stories, an educational institution can copy or communicate more than 10% of a particular poem or short story if it is not already separately published i.e. it can only be found in the anthology and not elsewhere.
  - Apart from the amount copied or communicated, the other conditions under (ii) 'Multiple Copying and Communication not exceeding 10% or a chapter' apply.
- Artistic works accompanying permitted copying and communication
  - For all permitted copying and communication under (i), (ii) and (iii) above, the user can, in addition, copy and communicate an accompanying artistic work in its entirety (e.g. an explanatory flow chart, a photo) for the purpose of explanation or illustration.

## Practical Note for MOE Schools

MOE schools will find it useful to approach the legal department of MOE with copyright-related enquiries.

MOE itself may have entered into private licence agreements with copyright owners. The terms of any such agreements may allow MOE schools a wider scope of use than that available under the exceptions in our copyright law. Thus, it is highly advisable for MOE schools to check with the legal department of MOE when faced with specific copyright-related scenarios.

**Table 1**

**RECORD OF COPIES MADE BY OR ON BEHALF OF THE BODY ADMINISTERING (insert name of educational institution) OF THE WHOLE OR A PART OF AN ARTICLE CONTAINED IN A PERIODICAL PUBLICATION**

Item	Matter	Particulars
1	If the International Standard Serial Number in respect of the periodical publication is recorded in the periodical publication – that number.	
2	If the International Standard Serial Number in respect of the publication is not so recorded – the name of the periodical publication.	
3	The title or description of the article.	
4	The name of the author of the article (if that name is known).	
5	The volume, or volume and number, as the case requires, of the periodical publication containing the article.	
6	The page numbers of the pages in that volume, or in that number of that volume, that have been copied, or, in a case where a page so copied does not bear a page number, such description of the page as will enable it to be identified.	
7	The number of copies made.	
8	The date on which those copies have been made.	
9	The date on which this record is made.	
		(Name and Signature)

**Table 2**

**RECORD OF COPIES MADE BY OR ON BEHALF OF THE BODY ADMINISTERING (insert name of educational institution) OF THE WHOLE OR A PART OF A WORK (NOT BEING AN ARTICLE CONTAINED IN A PERIODICAL PUBLICATION)**

Item	Matter	Particulars
1	If the International Standard Book Number in respect of the work is recorded in the edition of the work copied – that number	
2	If the International Standard Book Number in respect of the work is not so recorded –	
	(a) the title or description of the work;	
	(b) the name of the publisher of the edition of the work; and	
	(c) the name of the author of the work (if that name is known).	
3	The page numbers of the pages in the edition of the work that have been copied, or, in a case where a page so copied does not bear a page number, such description of the page as will enable it to be identified.	
4	The number of copies made.	
5	The date on which those copies have been made.	
6	The date on which this record is made.	
7	If the work is contained in a published edition that is stored on any medium by electronic means and is not divided into pages, the total number of bytes in the edition that have been copied.	
		(Name and Signature)

**Table 3**

**RECORD OF COMMUNICATION OF THE WHOLE OR A PART OF AN ARTICLE CONTAINED IN A PERIODICAL PUBLICATION BY OR ON BEHALF OF THE BODY ADMINISTERING (insert name of educational institution)**

Item	Matter	Particulars
1	If the International Standard Serial Number in respect of the periodical publication is recorded in the periodical publication – that number.	
2	If the International Standard Serial Number in respect of the publication is not so recorded – the name of the periodical publication.	
3	The title or description of the article.	
4	The name of the author of the article (if that name is known).	
5	The volume, or volume and number, as the case requires, of the periodical publication containing the article.	
6	The page numbers of the pages in that volume, or in that number of that volume, that have been communicated, or, in a case where a page so communicated does not bear a page number, such description of the page as will enable it to be identified.	
7	The date on which the communication was made.	
8	The number of persons to whom the communication was made.	
9	The date on which this record is made.	
		(Name and Signature)

**Table 4**

**RECORD OF COMMUNICATION OF THE WHOLE OR A PART OF A WORK (NOT BEING AN ARTICLE CONTAINED IN A PERIODICAL PUBLICATION) BY OR ON BEHALF OF THE BODY ADMINISTERING (insert name of educational institution)**

Item	Matter	Particulars
1	If the International Standard Book Number in respect of the work is recorded in the edition of the work copied – that number	
2	If the International Standard Book Number in respect of the work is not so recorded –	
	(a) the title or description of the work;	
	(b) the name of the publisher of the edition of the work; and	
	(c) the name of the author of the work (if that name is known).	
3	The page numbers of the pages in the edition of the work that have been communicated, or, in a case where a page so communicated does not bear a page number, such description of the page as will enable it to be identified.	
4	If the work is contained in a published edition that is stored on any medium by electronic means, the total number of bytes in the edition that have been communicated.	
5	The date on which the communication was made.	
6	The number of persons to whom the communication was made.	
7	The date on which this record is made.	
		(Name and Signature)

## Use of Copyright Materials in Educational Settings

### 1. Can I take text from publications and modify them for use in worksheets and comprehension passages?

Yes, you can if the degree of modification is such that the expression of the original article is not substantially copied.

What is "substantial" copying? This is determined case-by-case based on the quality of the work copied rather than purely on the quantity. For example, if you retain the whole text and made only superficial modifications to the names of people and places, it is likely that you have substantially copied the original work.

However, even if the original work is substantially copied, our copyright law still allows the modified version to be used under certain conditions. These are described at page 7 and 8 under (iii) Multiple Copying and Communication from Periodical Publications. Generally, educational institutions can copy and modify one article per publication.

### 2. If permission is needed for the use of material from books and other publications, who do I approach?

For MOE schools, it is best to check with the ministry's legal department for any arrangement that may have been made with the publisher. If there is no prior arrangement, or if your school is not an MOE school, you should check with the publisher, e.g. Singapore Press Holdings for newspaper articles published in the Straits Times. If a freelance writer is involved, the publisher would also be able to direct you to him / her to seek permission.

### 3. Teacher A of School A created worksheet A. However, Teacher B of School B used it and modified it. Can Teacher B claim the worksheet as his own for uploading without any acknowledgement to Teacher A?

There are several issues to this scenario.

First, the issue of copyright ownership. The copyright to works created in the course of employment belongs to the employer. Hence, while Teacher A is the author of worksheet A, School A is actually the copyright owner (if it is, say, an independent school). However, if School A is an MOE school, then the copyright to works created by teachers from School A in the course of employment belongs to MOE. There is then no further issue over teachers from different MOE schools either modifying each others' worksheets or even photocopying them wholesale. There is no copyright infringement because an MOE employee is using a copyright work that belongs to MOE.

However, if School A and School B are not both MOE schools, the second issue is whether Teacher B's modification of worksheet A infringes School A's copyright. This depends on whether a substantial part of worksheet A has been taken. It is more a matter of quality, than purely quantity. Superficial modification is not enough to avoid infringement if, in fact, a substantial part of worksheet A has been copied qualitatively. However, if Teacher B modified worksheet A so much so that none of the original expression remains and, in effect, only the idea was copied, there is no infringement. Remember, copyright protects expressions of ideas, rather than the abstract ideas themselves.

If there has been substantial copying, even an acknowledgement will not be enough to avoid infringing copyright. However, under our copyright law, teachers can make copies of copyright-protected materials under certain conditions described at pages 7 and 8 under (i) Multiple Copying and Communication not exceeding 5%; and (ii) Multiple Copying and Communication not exceeding 10% or a Chapter. So, in certain situations, Teacher B may be able to use up to a reasonable portion of worksheet A even without modification.

### 4. Can questions from assessment books be modified and used for the setting of examination papers? Do we need to seek permission or is acknowledgement of the sources sufficient?

Yes, you can use any copyright material (assessment book questions, articles from newspapers and magazines etc.) for the purpose of examinations, even without modification and without acknowledgement.

### 5. Will teachers infringe copyright if they photocopy and use teaching and learning resource materials from training providers for their lessons?

It depends. For example, did the training provider indicate that the resource materials can be so used? It is good to check because your school may have specifically negotiated for a licence to use the training provider's materials before engaging it as trainer. If so, teachers can use the materials within the scope of permission without infringing copyright.

It also depends on how much of the materials will be photocopied. Under our copyright law, teachers can photocopy copyright-protected materials under certain conditions described at pages 7 and 8 under (i) Multiple Copying and Communication not exceeding 5%; and (ii) Multiple Copying and Communication not exceeding 10% or a Chapter.

**6. I came across a very good diagram which will help me teach my students a new concept. Can I**

- (a) Draw it out on the whiteboard during my lesson in class?**
- (b) Incorporate it in my slides which I will show during my lesson in class?**
- (c) Show it to the class on a visualiser during my lesson?**

(a) Yes, you can do so under an exception in our copyright law which allows for non-reprographic copying (i.e. no multiple copies nor use of appliances, e.g. computers, which allow multiple copies to be made) for the purposes of a course of education.

(b) Maybe.

The exception that applies in (a) above does not apply here because your slides are created on the computer, which allows multiple copies to be made.

However, there is a limited situation where teachers can do so under another exception in our copyright law. The conditions are described at page 9 under (iv) Multiple Copying and Communication exceeding 10%. Basically, if a diagram accompanies a literary, dramatic or musical work which is legitimately copied and/or communicated (up to 10%), and the picture is provided to explain or illustrate the literary, dramatic or musical work, the picture can be copied in its entirety. You can also make copies of your slides for your students if this exception applies.

(c) Yes, showing a diagram on a visualiser does not involve copying and does not infringe copyright.

**7. Should a school band, orchestra or choir obtain permission to perform copyright works in front of an audience?**

A school band and orchestra can perform musical works without the specific permission of the copyright owner involved, as long as the school qualifies as an educational institution and the performance is put up in the course of the school's activities. There is also no restriction on the audience, which can include the general public.

Where a school choir performs songs with lyrics, as is often the case, it can still do so without the specific permission of the copyright owner. However, the audience is limited to people who are directly connected with the place of instruction, such as staff, students, parents and siblings of students of the educational institution. If the audience is not limited to this group of people, permission from the copyright owner of the lyrics should be obtained. If the choir performs songs without words, there is no restriction on the audience.

This is because the exception only applies to musical copyright. For clearance of literary copyright, the school can either approach the copyright owner directly, or COMPASS (Composers and Authors Society of Singapore), which represents many composers / lyricists. More details can be found on its website at <http://www.compass.org.sg>.

In either case, the school must be an educational institution and the performance must be put up in the course of the school's activities.

**8. Can schools stage plays and musicals based on copyright works?**

Yes.

If the school qualifies as an educational institution and the performance is put up in the course of the school's activities, it can do so without the copyright owner's specific permission. However, the audience is limited to people who are directly connected with the place of instruction, such as staff, students, parents and siblings of students of the educational institution.

If the performance is open to the general public (e.g. concert tickets are sold to the public, or students buy tickets and can bring in members of the public), then permission has to be sought from the copyright owner.

As a practical point, a number of schools have performed plays and musicals written by their own staff, students or alumni as it is easier and more convenient to get the copyright permission to perform the works and reach a wider audience (i.e. the public).

As for adapting an existing copyright work, (e.g. the school drama society adapts a novel – say, Harry Potter and the Deathly Hallows – into a play), this could infringe copyright because the right of adaptation (as well as the right of public performance) belongs to the copyright owner of the novel.

Further, if an original play – say, An Inspector Calls – is modified by the school, there may still be copyright infringement depending on whether there has been substantial copying. Substantial copying is based on qualitative assessment, rather than mere quantity. Of course, if the copyright has expired, e.g. Shakespeare's plays, schools can freely stage such works.

## Use of Copyright Materials in Software and Electronic Media

### 9. Teachers often play their personal or school-purchased original CDs, VCDs and DVDs for a variety of purposes. Are the scenarios (a) to (g) below allowed?

A convenient first step is to check the terms and conditions of use of the CD / VCD / DVD, if any. It is worth a read because the express permission to use the media in a certain way makes it more straightforward for you the user!

If the terms and conditions do not expressly allow you to use the CD / VCD / DVD in the intended manner, you can still consider whether specific exceptions in our copyright law apply. This is addressed below.

#### (a) Playing music CDs as background music while the audience awaits a major school event, e.g. Speech Day?

Playing instrumental music (no lyrics) as background music in this case is allowed if your school qualifies as an educational institution.

If lyrics are involved, you can still play the CD as long as the audience is limited to people who are directly connected with the place of instruction, such as staff, students, parents and siblings of students of the educational institution.

This is because the exception only applies to musical copyright. For clearance of literary copyright, please approach COMPASS (Composers and Authors Society of Singapore), which represents many composers / lyricists. More details can be found on its website at <http://www.compass.org.sg>.

#### (b) Using music CDs in performance items in school concerts?

If the audience includes the public, you should either contact the copyright owner for permission, or make sure that the music CDs are purely instrumental and do not contain lyrics. If the music contains lyrics, the audience is limited to people who are directly connected with the place of instruction, such as staff, students, parents and siblings of students of the educational institution. In either case, the school needs to qualify as an educational institution.

#### (c) Playing karaoke VCDs / DVDs for singing at Teachers' Day dinners (e.g. in a hotel ballroom)?

In places such as hotel ballrooms, it is common for a copyright license to have been taken out by the venue owner. It is helpful to first check with the venue owner whether this is the case and if so, the scope of the license. Your intended use may fall within the permitted use of the VCDs / DVDs.

If not, it is prudent not to proceed unless you have obtained the copyright owner's permission.

#### (d) Playing music CDs through the PA system within the school during its annual fun fair or open house?

This scenario assumes that a school's fun fair and open house are targeted at people outside the school and hence, people not directly connected with the school are expected to be present.

In such a case, playing instrumental music (no lyrics) through the PA system is allowed if your school qualifies as an educational institution. If the music contains lyrics, the audience has to be restricted to people directly connected with the school but that would be contrary to the intents and purposes of the school's fun fair and open house. However, you can still play the CDs (with lyrics) as long as you have the permission of the copyright owner. The school can either approach the copyright owner directly, or COMPASS (Composers and Authors Society of Singapore), which represents many composers / lyricists. More details can be found on its website at <http://www.compass.org.sg>.

Alternatively, your school can simply connect the PA system to a local radio station instead of playing music independently. Doing so is allowed under our copyright law.

#### (e) Playing classical music CDs in the background during class so as to create a conducive environment for student discussion?

With specific regard to classical music, it is likely that you are able to do so.

First, it is worth checking whether the copyright to the musical work has expired. Much of the canon of classical music was written centuries ago whereas musical copyright only lasts for 70 years from the year of the author's death. So, for example, the original (not rearranged) music of Beethoven and Mozart can be played in class for the above purpose as copyright has clearly expired. Modern classical music exists, however, so it cannot be assumed that all classical music is no longer copyright-protected.

If copyright has not expired or you are not sure, in any case, a musical work (without lyrics, e.g. a piece for string quartet) can be played in this scenario as long as the school qualifies as an educational institution and it is done in the course of the school's activities. Even if there are lyrics (e.g. an opera), you should be able to play the music in class if the audience is limited, as in this case, to staff and students.

**(f) Screening the full length of a movie or part of a movie in class, so that students can provide comments and criticism as part of their language class?**

Yes. Such screenings for the purpose of criticism or review are allowed under our copyright law. However, you need to make a sufficient acknowledgement of the work used.

**(g) Incorporating a short clip from a movie or music CD into a PowerPoint presentation or video that I made for the classroom under the fair dealing rule? Do I need clearance or is giving credit sufficient?**

You can do so if it is done for the purpose of criticism or review and you make a sufficient acknowledgement of the movie or music CD used.

If not, you may still be able to proceed if it is a situation of "fair dealing" (see Fair Dealing on page 4). The Court will consider the factors listed, including the purpose. Recognised purposes include research and study but the Court will still take into account other purposes and the listed factors.

Our copyright law recognises another exception apart from the fair dealing rule. If your school qualifies as an educational institution and conducts film-making courses, and your video is made in the course of instruction or preparation for instruction, there is no copyright infringement.

**10. Can teachers use images from legally purchased software (e.g. Microsoft clipart) and**

- a) Incorporate them into teaching resources or materials?**
- b) Mass produce these teaching resources and materials for distribution to students and teaching staff?**
- c) Upload the teaching resources onto the teachers' resource sharing portal? The resource sharing portal is only accessible by password.**

You can do so if the terms and conditions of use allow. Look for these terms and conditions on the website (if software is bought online) or in the software agreement that comes with the software. Copyright in images includes the right to make copies, such as when you electronically copy and incorporate them in your teaching resources and materials (as in (a) above) and make further copies (as in (b) above), or when you communicate them (as in (c) above). Doing so without the copyright owner's permission will infringe his copyright, so make sure your use is covered by the terms and conditions, or otherwise with the copyright owner's consent.

If the terms and conditions do not cover your proposed use and you need to obtain the copyright owner's consent, you could look for contact details that come with the software. Otherwise, the software retailer could be the first point of contact and enquiry – you may wish to see the IT technical staff in your school regarding this.

**11. Freeware from the Internet, e.g. animators, is usually meant for personal use. Will teachers infringe copyright if they use this software for developing teaching and learning resources for presentations and distribution to the public?**

There are many kinds of freeware available, not only those for personal use. Different freeware comes with different terms and conditions of use (e.g. for unlimited academic use) so you should check these out.

**12. I heard that there is a 10% allowance on what teachers can copy. How does this apply to material in electronic form (e.g. e-book extracts, sound clips, movie clips) which teachers may want to incorporate in teaching resources?**

You are right on the 10% allowance, though conditions apply. These are described at pages 7 and 8 (ii) Multiple Copying and Communication not exceeding 10% or a Chapter.

For literary, dramatic and musical works in electronic form, there are a few ways to determine the copying limits.

First, is the work divided into pages? If it is and there are at least 10 pages, then the allowance is either up to 10% of the number of pages or 1 chapter, whichever is more. Many e-books do come in pages so despite their electronic nature, this "10% exception" is relatively straightforward to apply.

However, if the work is not divided into pages, other ways are used to calculate the copying limits. You can copy either up to 10% of the bytes or of the number of words or up to 1 chapter, whichever is more.

Usually, the number of bytes is reflected under the "properties" of the electronic work. If not, you may wish to enlist the help of IT technical staff in your school to ascertain this value. As for the number of words, apply the "word count" function. This is an easy way for users to know at a glance the number of words in a given text.

As for electronic media such as sound recordings and movies, the 10% allowance does not apply. Other exceptions may apply, e.g. if it is done for the purpose of criticism or review. Please see 9(g) for a related question.

**13. Is it acceptable to make a back-up of legally obtained software?**

Yes. The owner of legally obtained software can make a back-up copy of the original as long as the back-up copy is made for the sole purpose of being used if the original copy is lost, destroyed or unusable.

This exception applies even if the copyright owner states otherwise in the terms and conditions of use.

**14. Can teachers record a segment of a TV programme and:**

**(a) Use it for teaching in class?**

**(b) Upload it in the teacher's resource sharing portal for use by other teachers?**

(a) Yes, if the teacher does so under the authority of the school (which must qualify as an educational institution) and the recording is only used for teaching purposes in that school. To this end, it is useful to keep records of each recording and the use made of it.

(b) Yes, if the teacher does so under the authority of the school (which must qualify as an educational institution) and the recording is only used for teaching purposes in that school. The resource sharing portal cannot be shared outside the school. It is also useful to remind other teachers in the same school by stating in the portal that the resource is only to be used for teaching purposes in the school.

## Use of Copyright Material in Internet Related Situations

**15. Is it necessary to seek permission to link other websites to school websites?**

It is good practice to check out the terms and conditions of use of the website concerned, to see if this is allowed. In general, copyright owners are more concerned with commercial deep-linking than with non-profit linking by schools to the home pages of their websites. If in doubt, the school could try to contact the website owner for specific permission.

The school should also be careful not to create links to websites which may carry content that infringes copyright. In such a case, the school might infringe copyright by "authorising infringement", in that others make unauthorised copies of the content using the link the school provided.

**16. Who is the resource owner in the cluster depository; MOE or the teacher who created the resources? Does the same issue apply to an independent school? Is there any implication when the resource creator leaves the school or leaves the service?**

The copyright to works created in the course of employment belongs to the employer. Hence, while an MOE teacher may be the creator of resources in the cluster depository, MOE is actually the copyright owner. Likewise, an independent school which directly employs its own teachers owns the copyright to works created by them in the course of employment.

When the resource creator leaves, the copyright is still owned by the employer (whether MOE or the independent school in this scenario). The school can continue to use the resources, as well as control how others use it.

It is a different matter, however, where the teacher uploads existing copyright material (e.g. 10% of a copyright work as allowed under certain conditions described at pages 7 and 8 under (ii) Multiple Copying and Communication not exceeding 10% or a Chapter) to the depository. The copyright is still owned by the original copyright owner who can control how others use the work. The school does not gain any ownership rights merely because the law allows it to make copies or communicate copyright works within limits. The school only acquires ownership rights over resources that its employees create.

- 17. Some websites allow free downloading of their resources. Can teachers**  
**a) Upload them into a central repository for teacher sharing?**  
**b) Use them for teaching and other school activities?**

Free downloads simply mean that – the resource can be downloaded at no cost. What users can do after they download the resource depends on what the copyright owners intend. Teachers should check the terms and conditions of use to find out how they can use the resources.

Depending on how much of the resources is copied (as in both (a) and (b) above) and communicated (as in (a) above), teachers might – regardless of the terms and conditions – still be able to use 5-10% of the resources in the proposed ways. Please see pages 7 and 8 under (i) Multiple Copying and Communication not exceeding 5%; and (ii) Multiple Copying and Communication not exceeding 10% or a Chapter for details of these exceptions under our copyright law.

- 18. Can we upload pictures copied from the Internet, without seeking permission (especially if sources are not clear), onto the teachers' resource sharing portal? Our resource sharing portal is only accessible by password.**

One should exercise caution in relation to content available on the Internet. Not everything free is legal; and not everything technically possible is legally in the clear.

There are two acts in this scenario which may infringe copyright, namely the copying of pictures from the Internet and the uploading of these onto the portal for teachers to access (known as “communicating” the pictures). You should check the terms and conditions of use to see whether you can do so.

There is a limited situation where teachers can do so under an exception in our copyright law. Please see page 9 under (iv) Multiple Copying and Communication exceeding 10% for the conditions. Basically, if a picture accompanies a literary, dramatic or musical work which is legitimately copied and / or communicated (up to 5-10%), or if the picture is provided to explain or illustrate the literary, dramatic or musical work, the picture can be copied and / or communicated in its entirety.

- 19. How do I know if the content I am downloading from the internet is copyrighted? Sometimes, there is no indication.**

In general, a work enjoys copyright protection if it is original and expressed in a tangible form. Thus, it is safe to assume that the file / picture / diagram is protected by copyright unless otherwise indicated, or if the work is old enough for copyright to have expired.

- 20. Can students or teachers download content from the Internet using school computers for personal and non-commercial use?**

There is no special exception for students and teachers in downloading music for personal and non-commercial use as such, whether using school or personal computers.

One should exercise caution in relation to content available on the Internet. Not everything free is legal; and not everything technically possible is legally in the clear. It is easy for almost anybody to make content available on the Internet. Some of these are legitimate copyright owners or their licensees. Others are not.

If the online music is put up by legitimate copyright owners, you should check the terms and conditions of use. Sometimes you will be allowed to download the original music for non-commercial use, including distributing it to friends (e.g. independent music labels which want publicity this way). Other copyright owners may require a fee and impose tighter control on how you can use the music (e.g. for personal home use only).

On the other hand, if the online music is not legitimate, you should definitely not download it. Otherwise, you will be infringing copyright.

Thus, you should be careful to check before downloading music from the internet. It may not always be possible to tell if the source is legitimate. If you do not receive a clear and satisfactory response from the people responsible for putting up the music, you should not download it.