



Department of
Education

Intellectual Property Procedures

Effective date: 11 June 2014

Version: 1.2

Accurate at the time of printing 29/07/2021.

These procedures must be read in conjunction with the Intellectual Property Policy.

Table of contents

1. Policy supported	3
2. Scope	3
3. Procedures	3
3.1 Marking of intellectual property	3
3.2 Use of Department material externally by employees	4
3.3 Research	5
3.4 Students' intellectual property	5
3.5 Contracts with third parties	5
3.6 Use of Department intellectual property by external clients/entities	6
3.6.1 Distributing Department intellectual property	6
3.6.2 Licences granted by the Department	6
3.6.3 Requests by third parties to reproduce intellectual property owned by the Department	7
3.7 Use of third party intellectual property by Department employees	7
3.7.1 Central and regional education office employees	7
3.8 Use of Aboriginal cultural and intellectual property	8
4. Definitions	8
5. Related documents	12
6. Contact information	13
7. History of changes	14
8. More information	14
Procedure review date	14
Procedure last updated	14

These procedures must be read in conjunction with the Intellectual Property Policy.

1. Policy supported

Intellectual Property Policy

2. Scope

This policy applies to all employees.

3. Procedures

3.1 Marking of intellectual property

Employees must:

- include an imprint page in all Department/corporate publications as per Intellectual Property Pack sections 2 or 3; and
- consider if a project/program should be trademarked if it is likely to have a significant commercial value.

Guidance

See Intellectual Property Pack section 2: Imprint page - General use (allows copying for educational purposes).

For an example of an imprint page for use in a commercial context, see Intellectual Property Pack section 3: Imprint page – Commercial product.

Department/corporate publications can include, but are not limited to, books, CDs, DVDs, research papers, and original text documents.

Examples of intellectual property created in schools can include, but are not limited to:

- teaching resources/aids;
- websites and software;
- educational programs;
- assessments; and

- school policy, plans, research and reports.

Schools should show ownership of their materials through:

- the use of their school crest or emblem on the publication; or
- a copyright statement in the footer attributing either the Department or the school and the date.

All third party materials should be acknowledged.

For more information, see [Intellectual Property Pack](#) section 1: Guidelines for Intellectual Property.

3.2 Use of Department material externally by employees

Employees who want to use or distribute externally intellectual property belonging to the Department must:

- seek the Director General's agreement in writing, clarifying intellectual property ownership, before creating intellectual property or using the Department's intellectual property (for example, a software app, website, textbook, video, game or curriculum resource connected with employment) in a private capacity; and
- verify that their application for approval is accompanied with all supporting documentation.

Guidance

Under the [Copyright Act 1968](#), the Department (as the employer) owns the copyright in material created by its employees in the course of their duties unless otherwise agreed between the employer and employee.

This includes materials created outside of normal work hours such as programs of work, assessment strategies and work sheets.

An employee creating intellectual property subject to copyright outside normal working hours, and which cannot be linked in any way to their employment, retains the copyright.

Under section 102 of the [Public Sector Management Act 1994](#), employees require approval from the delegated authority of the Director General to engage in secondary employment or business activities which develop works for publication and commercial reward, (retaining the copyright in these works).

Employees should use [Intellectual Property Pack](#) section 4: Copyright clearance request for use of Department of Education's intellectual property when making an application for the use of intellectual property belonging to the Department.

Supporting documentation that should accompany the application includes:

- a clear description of the Department works being the subject of the authorisation;

- copyright requests and permissions to use the materials from all third parties whose intellectual property is contained in the work;
- the names of owners of the moral rights;
- the source of funding;
- details of the process of developing the materials; and
- the proposed plan for distribution including any financial arrangements.

It is highly recommended that employees seek advice from the Principal Consultant, Intellectual Property and Copyright.

3.3 Research

Employees undertaking research as part of formal study, which may include intellectual property used during their employee functions or responsibilities, must clarify copyright ownership with their line manager.

Guidance

There is a standard licence that provides for third parties to use the Department's intellectual property for personal research and study or for non-commercial use by not-for-profit organisations. See [Intellectual Property Pack](#) section 4: Copyright clearance request for use of Department of Education's intellectual property .

3.4 Students' intellectual property

Employees must obtain written consent (licence) before publishing or distributing by any means any student work, including use on a school website.

Guidance

Students own the intellectual property in their own work. For students under the age of 18, consent is given by a parent. Students over the age of 18 years may give permission for use of their work.

The [Enrolment pack](#) (staff only) includes a consent form that requests parents provide consent to have their child's images and/or their work published.

Work produced for moderation exercises or assessment is exempt.

3.5 Contracts with third parties

Employees must confirm that a written contract with third parties is in place in arrangements where intellectual property is created, or collaborations that may result in the creation of intellectual property.

Guidance

See [Intellectual Property Pack](#) section 5: Guidelines on contracts with third parties.

3.6 Use of Department intellectual property by external clients/entities

3.6.1 Distributing Department intellectual property

Employees must seek advice from the Principal Consultant, Intellectual Property and Copyright before applying for approval from the Director General to distribute, assign or sell Department intellectual property.

Guidance

Approval is required where:

- the intellectual property is being considered for publication or distribution for financial gain; or
- the material has been developed using funding or other resources provided by a school, Regional Education Office or Central Office; and
- the material is being used outside the Department.

The sharing of intellectual property developed with the assistance of a grant from an external body (for example, the Commonwealth Government) is governed by the legal contract covering the grant and should also align with Department policy.

3.6.2 Licences granted by the Department

Employees must:

- finalise negotiations of licence (upfront agreements) before copyright materials are shared with others outside the Department;
- seek advice from the Principal Consultant, Intellectual Property and Copyright regarding the format of licenses for commercial purposes;
- obtain written licences when granting licences to third parties; and
- save all licence agreements on the Department's record management system.

Guidance

See [Intellectual Property Pack](#) section 6: Major issues to be considered in licensing transactions

3.6.3 Requests by third parties to reproduce intellectual property owned by the Department

Employees must submit all requests from third parties to reproduce Department intellectual property to the Principal Consultant, Intellectual Property and Copyright.

Guidance

For further information see [Intellectual Property Pack](#) section 7: Guidelines for requests by third parties

3.7 Use of third party intellectual property by Department employees

3.7.1 Central and regional education office employees

Line managers must verify that any third party intellectual property used by the Department has been:

- included on a copyright register for that project;
- cleared for copyright; and
- approved by the project manager or Director.

Employees must:

- gain permission in writing from relevant copyright owners prior to using, modifying and repurposing a third party's work;
- confirm that all holders of moral rights are aware of and have consented to the proposed use of their works, such permission must be recorded on the copyright register;
- fully attribute the works of any third party incorporated into Department works in the manner requested by the copyright owner; and
- keep all third party copyright permissions and the copyright register on file in the Department's record management system for future reference.

Guidance

School staff wishing to use a third party's intellectual property for the purposes of educating their students are able to reproduce works in accordance with the [Copyright Act 1968](#) and the statutory and voluntary licence agreements in place.

Refer to the [Copyright for Schools Guidelines](#), the [Department's copyright website](#) (staff only) and the [National Copyright Guidelines](#).

The statutory and voluntary licences for copying by school staff are not available to employees in the Central and Regional Education Offices. Staff working in the Central and Regional Education Offices require clearance for all third party works to be incorporated into corporate documents or on the Department's internet and intranet sites.

Permission needs to be obtained even if the material is not commercially published, for example, student work.

Copyright registers are used to record and maintain records for all Department published works including online print materials, videos, podcasts, images, brochures, etc.

Copyright clearances should be obtained and entered into a copyright register which should then be placed on HPRM. All correspondence seeking and gaining permissions should also be placed on HPRM.

See [Intellectual Property Pack](#) section 8: Department website third party copyright clearance form.

See [Intellectual Property Pack](#) section 9: Copyright clearance request letter for use of third party material on a Department or school website.

See [Intellectual Property Pack](#) section 10: Sample letter to request permission to use third party material in a Department or school publication.

See [Intellectual Property Pack](#) section 11: Sample letter to extend existing copyright permission.

See [Intellectual Property Pack](#) section 12: Copyright Register.

3.8 Use of Aboriginal cultural and intellectual property

Employees must take into consideration Aboriginal perspectives and sensitivities concerning intellectual property. Notices should advise of culturally sensitive content.

Guidance

For more information see [Intellectual Property Pack](#) section 13: Use of indigenous cultural and intellectual property rights.

4. Definitions

Copyright

Protects the original expression of ideas in a material form, for example, original works of art, scripts, books, reports, information sheets, music, films, broadcasts and computer programs. Copyright protects only the material expression of ideas not the ideas themselves.

Copyright protection is provided automatically when a work is created and no registration is required. Copyright covers:

- literary, dramatic and musical works;
- artistic works, including logos, architectural designs, maps etc;
- sound recordings;
- films, DVD and VCR footage, podcasts, webinars and broadcasts;
- photographs; and
- published editions of literary, dramatic, musical, and artistic works.

Employee

A person who is currently employed by the Department of Education under the School Education Act 1999 or the Public Sector Management Act 1994.

Intellectual property

The umbrella term given to a range of legal and moral rights that come into being with the creation of literary and artistic creations, scientific and industrial works, and discoveries, and covers copyright, patents, industrial designs, trademarks, and plant breeding rights. Intellectual property rights can be dealt with like any other form of property (such as land and goods), that is, they can be bought, sold, and leased (licensed).

ISSN

The International Standard Serial Number (ISSN) is a unique code for the identification of serial publications, for example, the Department of Education's Annual report.

ISBN

The International Standard Book Number (ISBN) is a 13-digit number that uniquely identifies books and book-like products published internationally.

Moral rights

Separate from copyright, moral rights are associated with an author's creativity and personality, as opposed to the 'economic' rights already protected under the Copyright Act 1968. Moral rights are only held by individuals as authors of their work. Unlike the economic rights of a copyright owner, moral rights are not transferable by assignment, by will or by operation of law.

Parent

In relation to a child, means a person who at law has responsibility for the long-term care, welfare and development of the child; or the day-to-day care, welfare and development of the child.

Statutory licence

A licence provided by legislation. It enables a school to copy limited amounts of material for the purposes of a course of education provided by it. Copyright Agency Limited and Screenrights administer these statutory licences for schools.

SCIS

The Schools Catalogue Information Service (SCIS) is a national cataloguing service for Australian, New Zealand and international schools. The SCIS number uniquely identifies a product for cataloguing in schools. Each record has complete cataloguing details including abridged and full Dewey Decimal Classification numbers and SCIS subject headings. For books, the description will typically include:

- title
- author/editor/illustrator
- ISBN
- publisher
- place and date of publication
- a brief physical description.

Trademarks

Refer to words, phrases or logos (or a combination of these) that are used to identify the trade source of goods or services of an organisation. Depending on the circumstances, trademark rights may also extend to sounds, smells, shapes, or aspects of packaging such as colour.

Third party materials

Material incorporated into a document/resources that is owned by someone other than the Department.

Valuable intellectual property

Intellectual property that either generates, or has the potential to generate income or improved business reputation for the Department of Education.

Voluntary licence

A licence which is not provided by legislation, but is purchased by the Department for example the Australasian Mechanical Copyright Owners' Society (AMCOS) licence that enables the copying of print music and the Australasian Performing Right Association (APRA) licence enabling the performance of copyright musical works in schools.

Works

The output of a writer, artist, or musician considered or collected as a whole which can include, but is not limited to, the following categories:

- literary works;
- artistic works;
- musical works; and
- dramatic works.

5. Related documents

Relevant legislation or authority

[Copyright Act 1968 \(Cth\)](#)

[Designs Act 2003 \(Cth\)](#)

[Patents Act 1990 \(Cth\)](#)

[Public Sector Management Act 1994 \(WA\)](#)

[School Education Act 1999 \(WA\)](#)

[Trade Marks Act 1995 \(Cth\)](#)

Related Department documents

[Records Management](#)

[Research Conducted on Department of Education Sites by External Parties](#)

[Software Licences – Policy and Guidelines](#)

[Students Online](#)

[Telecommunications Use](#)

Other documents

[Copyright for Schools Guidelines](#)

[Copyright website \(staff only\)](#)

[Government Intellectual Property Policy and Best Practice Guidelines](#)

[Intellectual Property Pack](#)

[Music Copyright: Guide for Schools](#)

[National Copyright Guidelines](#)

[Records Management Manual for School College and Campus Records \(staff only\)](#)

6. Contact information

Policy manager:

Manager, E-Schooling

Policy contact officer:

Principal Consultant, Intellectual Property and Copyright E-Schooling

T: (08) 9264 4058

E: copyright@education.wa.edu.au

W: [Use copyright materials in schools \(staff only\)](#)

7. History of changes

Effective date	11 June 2014
Last update date Policy version no. Notes	Endorsed by the Director General at Corporate Executive meeting 2 May 2014.
Effective date	11 June 2014
Last update date	25 January 2015
Policy version no. Notes	Contact email updated D15/0027727
Effective date	11 June 2014
Last update date	6 October 2015
Policy version no. Notes	Replaced manager position, reference to TRIM and contact information. Removed sentence in Guidance under Section 3.6.3. D15/0326946

8. More information

Supporting content

Policy

[Intellectual Property Policy](#)

Procedure review date

11 June 2017

Procedure last updated

6 October 2015

