

# National Academy of Professional Studies (NAPS)

## Copyright Policy: Third Party Materials

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| <b>Related Documents</b>           | 004 Professional Code of Conduct<br>HR028 Employee Handbook<br>A009 Student Academic Misconduct Policy and Procedure<br>A010 Academic Integrity Policy<br>SS019 Student Code of Conduct<br>P006G Copyright NAPS' Quick Guide for Students<br>A003 Intellectual Property Policy<br>Copyright Act (Cth)  |
| <b>HE Standards Framework 2021</b> | 1.3 Orientation and Progression<br>2.2 Diversity and Equity<br>3.3 Learning Resources and Educational Support<br>5.2 Academic and Research Integrity<br>5.3 Monitoring, Review and Improvement<br>6.2 Corporate Monitoring and Accountability<br>6.3 Academic Governance<br>7.2 Information for Prospective and Current Students<br>7.3 Information Management |

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## 1. Policy Rationale

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This policy documents and clarifies the responsibilities and procedures with respect to third party copyright material for both staff and students.

The objectives of this policy are to:

- establish principles and procedures for dealing with material that is, or may be, protected by copyright;
- protect NAPS from the risk associated with the use of material that is, or may be, protected by copyright; and
- enable NAPS to foster free and creative expression and exchange of ideas and comments.

## 2. Overview and Application

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

## 3. Definitions

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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 NAPS.

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

## 4. Procedure

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This policy applies to all NAPS staff, students, contractors and agents and other stakeholders associated with NAPS. The Academy has a responsibility to provide information and guidelines concerning copyright. It provides such information during orientation and induction for new staff and students and other stakeholders. The information is further located on its website. NAPS will ensure that it will:

- equip its staff and students to address their copyright rights and responsibilities;
- develop, implement and support systems and processes that facilitate copyright compliance;
- ensure that 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 NAPS' corporate publications and information services, policies and facilities meet the requirements of the Copyright Act and are reviewed and revised periodically; and

- respond appropriately to any alleged breaches of the Copyright Act brought to its attention.

NAPS' employees, contractors and agents have a responsibility to:

- be aware of their rights and obligations in relation to copyright, including moral rights obligations;
- adhere to the requirements of the Copyright Act;
- apply NAPS' policies, practices and procedures when using copyright works;
- consult with the Registrar 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 NAPS' processes;
- consult with the Academic Team prior to entering into agreements with outside organisations on behalf of NAPS, particularly when third party copyright material has been used; and
- report any alleged breaches of copyright to the Registrar.

### Usage Requirements

To prevent copyright infringement, all NAPS' employees and enrolled students must be aware of the following:

- NAPS 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;
- NAPS does not permit the unlawful downloading, copying, compression, storage, transfer, distribution or sharing of any copyright material;
- NAPS does not permit the use of, or direction to, any content or material from a third party website for which NAPS does not have written permissions for use. In the case of website material, NAPS 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, or linked into NAPS' teaching and learning materials unless the third party has provided their written consent or permission to do so;
- NAPS 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, these rights must be respected including through an appropriate attribution of authorship; -
- NAPS 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 a specific written agreement to the contrary;

- NAPS will provide employees, contractors and students with information and resources to assist them in understanding and complying with their responsibilities under this policy;
- 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 a department. 'Sampling' 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 conduct of any of these monitoring activities; and
- employees, contractors and students must not use NAPS' facilities or equipment in a manner that infringes the copyright of any person.

### Non-Compliance

The Registrar will address copyright risks in the first instance. NAPS' 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 NAPS' policies including the Academic Integrity Policy. Some breaches of the Copyright Act are criminal offences, attracting heavy fines and terms of imprisonment.

**For a quick guide for students on copyright see Appendix 1 P006G.**

## 5. Policy Review

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NAPS may make changes to this policy and procedures from time to time to improve the effectiveness of its operation. In this regard, any staff member who wishes to make any comments about this policy may forward their suggestions to their supervisor or to NAPS' Registrar.

## 6. Further Assistance

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Any staff member who requires assistance in understanding this policy should first consult their nominated supervisor who is responsible for the implementation and operation of these arrangements in their work area. Should further advice be required staff should contact the NAPS' Registrar.

## 7. Additional Resources

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IP Australia: <https://www.ipaustralia.gov.au/about-us/about-this-site/copyright> 

## **APPENDIX 1: P006G What Can You Copy? - NAPS' Quick Guide to Copyright for Students**

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, including 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.

| <b>COPYRIGHT MATERIAL</b>  | <b>COPYRIGHT AMOUNT</b>   |
|--|---|
| From a literary, dramatic or musical work in a hard copy edition of 10 pages or more.                          | 10% of the number of pages or one chapter 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, radio and television programs. | Limited amounts based on the five factors specified in the Fair Dealing provisions (see later in this Guide) which allow you to determine what amount is a 'reasonable portion'.  |
| From the internet  | Check the terms of use on the website (also called 'Conditions of Use' or 'Copyright Conditions'). Where the terms of use do not specify an amount, use a limited amount based on the five factors specified in the Fair Dealing provisions (later in this Guide) 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 reasonably believe you are entitled to do so under the five factors specified in the Fair Dealing provisions.

For 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:

- research or study;
- criticism or review;
- reporting the news;
- parody or satire; or
- 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<br>(Australian Copyright Act)   | Considering Fairness and a reasonable portion   |
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| 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.  |
| 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.  |

### Important Points to 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; and
- 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. [NAPS](#)