

Commercial Activities in TAFE

1. **Can the institute rely on Part VB to copy class materials, which are provided at cost, when delivering a professional development course for a commercial client?**

A TAFE is permitted to rely on Part VB, provided that the course materials are actually provided at no more than cost (ie the sale price only covers the physical production of the materials and does not include a profit margin). It does not make a difference where the course is delivered (eg at the campus or at an external location) or if the participants are given a TAFE student identification number when they are enrolled in or participate in the course.

2. **Can the institute rely on Part VB to copy class materials, if profit margin/admin fees are placed on the course materials, when delivering a professional development course for a commercial client?**

No, a TAFE is not permitted to rely on Part VB in this situation. Part VB can only be relied on where course materials that include the Part VB material are free or sold at cost (ie the sale price only covers the physical production of the materials and does not include a profit margin). It does not make a difference where the course is delivered (eg at the campus or at an external location) or if the participants are given a TAFE student identification number when they are enrolled in or participate in the course.

3. **Can a TAFE institute rely on Part VB to copy class materials for TAFE students based in other countries, where course delivery takes place overseas?**

Yes, a TAFE institute can rely on Part VB, provided that:

1. the students are undertaking a course run by the Australian TAFE institute (this means, for example, that students who complete the course obtain accreditation from the Australian TAFE); and
2. any print materials are copied in Australia, and digital materials stored on a server in Australia.

It does not make a difference who teaches the course.

4. **Can a TAFE institute rely on Part VB in preparing the course materials for students in a class when some of the students in the class are mainstream students and others are full paying (eg international) students, provided the materials are provided at cost?**

Yes. The courses are still being provided as part of the TAFE institute's educational purposes and therefore it can rely on Part VB.

5. **Can a TAFE institute rely on Part VB for a course which is fully costed (including profit margins and not subsidised by government), but where the course materials are provided at cost?**

Yes. The courses are still being provided as part of the TAFE institute's educational purposes and therefore it can rely on Part VB. However it would be wise to itemise the price of the course materials separately so that it can be demonstrated that they are not being provided for a profit.

6. **Can a TAFE institute license, for a fee, course materials, which include content copied under Part VB to:**

- a TAFE institute in another jurisdiction; or
- a commercial entity (eg A TAFE institute licenses its materials for a fee to a company, who uses these materials in-house to train their staff)

No. In both cases the copy is being supplied for a financial profit, even though it is included with the TAFE institute's own materials. It would be permissible for the copied materials to be separated from the TAFE institute's own materials and provided in a separate package on a cost recovery basis to another TAFE institute. However they could not be supplied to a commercial entity.

7. **Can a TAFE institute license, for no fee, course materials, which include content copied under Part VB to:**

- a TAFE institute in another jurisdiction; or
- a commercial entity (eg A TAFE institute licenses its materials for a fee to a company, who uses these materials in-house to train their staff)

It would be permissible to license the course materials to another TAFE institute, but not to a commercial entity.

8. **If content is available under a 'non-commercial only' Creative Commons licence, does this allow a TAFE to use it in course materials for courses that are fully costed (including profit margins and not subsidised by government) or in courses provided to commercial clients?**

No. This would be regarded as a commercial use.

9. **If content is available under a 'Free for Education' AShareNet licence, does this allow a TAFE to use it in course materials for courses that are fully costed (including profit margins and not subsidised by government) or in courses provided to commercial clients?**

Yes, the terms of the AShareNet Free for Education licence expressly allow educational providers to use the materials for teaching, even when the courses are fully costed. If the TAFE is charging separately for the materials, it can only do so on a cost recovery basis. For more information see www.aesharenet.com.au.

10. **Where a TAFE and a private RTO share delivery of a course, can the TAFE institute use Part VB materials in the course materials?**

Yes, provided the course is a course provided by the TAFE institute, Part VB material can be used by the TAFE institute.

11. **Can a TAFE teacher play a commercial film to students in a course that is fully costed (including profit margins and not subsidised by government) or in a course provided to a commercial clients?**

Yes, provided that the film is being played for the purposes of educational instruction and not for entertainment purposes.

The Smartcopying website has been produced by the National Copyright Unit on behalf of the Copyright Advisory Groups (Schools and TAFEs).
Except where otherwise noted, content on this site is licensed under a Creative Commons Attribution 4.0 International Licence.

ational Copyright Unit
Level 7, 105 Phillip
St, Parramatta
Tel: 02 7814 3855
Email:
pying@det.nsw.edu.

