Safe Harbours

The Copyright Act 1968 (Act) contains a ‘safe harbour’ scheme (Part V Division 2AA of the Act). This scheme provides legal protection to schools and TAFEs in certain circumstances for copyright infringements committed by users of their IT systems and services. As long as a school or TAFE follows the rules set out in the system, they can receive legal protection under the safe harbour scheme.

The Safe Harbour scheme ensures that schools and TAFE institutes are not exposed to unnecessary legal risk from providing Australian students with the tools to ensure they are fully equipped for the demands of an innovative digital workforce.

One of the rules of the safe harbour scheme is that the school/TAFE must have a policy in place that provides for termination, in appropriate circumstances, of the accounts of repeat infringers. Most schools/TAFEs have this type of policy in place. If you are unsure, you can contact the National Copyright Unit for advice.

Schools and TAFEs have made arrangements with the National Copyright Unit to help schools and TAFEs respond to any take down notices received under the safe harbour scheme. This fact sheet explains what to do if you become aware of infringing network on your school's/TAFE’s network.

**What should I do if I find infringing material on my school/TAFE network?**

There are three main ways a school/TAFE might discover their network has been used by a user for the purposes of copyright infringement:

1. The network user has used the system to transmit infringing content (for example, a staff member connecting a laptop to the network and using file sharing software like BitTorrent to download a pirate copy of a movie);
2. A link hosted on the school/TAFE website directs users to infringing content; or
3. The school/TAFE discovers that content hosted on the website or in a learning management system includes infringing content (for example, material included in a teaching resource stored in a learning management system).

**Use of the network to transmit infringing content**

Schools/TAFEs will obtain legal protection under the safe harbour scheme without taking any steps in relation to copyright infringements done by staff or students (or parents, members of the public etc using school/TAFE networks), so long as:

1. The transmission is initiated by someone other than the school/TAFE (eg, a user must “press send” or receive any transmission involving infringing material); and
2. The school/TAFE does not make any substantial modifications to the copyright material transmitted.

As long as the school/TAFE is not involved in transmitting or modifying the infringing material, the school/TAFE will be protected by the safe harbour.

**Linking to infringing content**

If a school/TAFE becomes aware of a link that directs users to material that is infringing copyright (or if the school/TAFE suspects that the material is likely to be infringing copyright), the school/TAFE must immediately (within 1-2 days of becoming aware that the link may, or in fact does, point to infringing material) remove or disable access to the link.

**Hosting infringing content**

If a school/TAFE becomes aware that material hosted on its network infringes copyright (or if the school/TAFE suspects that the material is likely to be infringing copyright), it must:

1. Immediately (within 1-2 days of becoming aware that the material may or in fact does infringe copyright) remove or disable access to the material;
2. Contact the NCU to let them know that you have removed the content. The NCU will then advise you of any other steps to follow to ensure that your school/TAFE complies with the rules set out in the safe harbour scheme (for example, there are some circumstances where the school/TAFE is required to let the network user know that the content has been removed).

**What if someone wants to send a take down notice to a school or TAFE?**

All take down notices issued under the scheme should be sent to:

The National Copyright Director  
National Copyright Unit  
105 Phillip Street  
Parramatta NSW 2150

notices@det.nsw.edu.au  
Tel: 02 7814 3855

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.