

## Reproduction and Performance of Hymns and Other Liturgical Music by Schools

---

This advice relates to the fact that Catholic schools wish to make reproductions of hymns and other liturgical music and then use such reproductions to “perform” this music in connection with school activities.

### A. BACKGROUND

The Copyright Act does, by virtue of Section 28 (Performance In Class), provide for the performance of music at a school provided each such performance is:

- ⇒ in the presence of pupils and teachers
- ⇒ provided in the course of receiving instruction

However, Section 28 (Performance in Class) does not extend to:

- ⇒ circumstances where parents or members of the public (parish) are in attendance, unless these persons are involved in the actual teaching process
- ⇒ events unrelated to a course of instruction
- ⇒ out of class events
- ⇒ the reproduction (copying) of music

Consequently whilst the Copyright Act does provide for schools to perform musical works including “Church Music”, Section 28 only applies in very limited circumstances.

In addition to Section 28 schools also have certain limited additional rights to copy and/or perform music as a consequence of certain remunerable licences which are common to all Australian schools. These licences are:

- ⇒ The AMCOS Licence
- ⇒ The APRA Licence
- ⇒ The Part VB CAL “Print” Licence

The detailed provisions of these licences are set out in the National Copyright Guidelines available from the Smart Copying website ([www.smartcopying.edu.au](http://www.smartcopying.edu.au)).

In summary, hymns and other liturgical music may be able to be copied and performed in accordance with the terms and conditions of the above cited licences but the application of these licences is limited, as illustrated by reference to the following ***Frequently Asked Questions*** arising from use of “Church Music” by schools.

#### 1. **If a school organises a School Mass at the local Parish Church, which will only be attended by staff and students, does the school’s AMCOS agreement cover this scenario?**

##### (a) *Reproduction*

The AMCOS agreement does not apply.

Part VB of the Copyright Act permits the reproduction of a reasonable portion of a work solely for the educational purposes of the school. A reasonable portion is no more than 10% of any given hymn *unless* the work is not separately published or where it is separately published, it cannot be obtained within a reasonable time at an ordinary commercial price. In this case, the **whole** of the work may be reproduced solely for the educational purpose of the school. Given that these hymns are usually only available in books of collected hymns, it is likely that these hymns will not be separately published.

In the circumstances outlined, it is arguable that the reproduction is for the educational purposes of the school.

(b) *Performance*

The AMCOS agreement does not apply. Section 28 of the Copyright Act is also unlikely to apply.

**2. If a school organises a School Mass at the local Parish Church, which will be attended by staff, students, parents and special guests, is the AMCOS agreement sufficient for this scenario?**

(a) *Reproduction*

The AMCOS agreement does not apply. In these circumstances, it is less likely that the reproduction could be said to be for educational purposes of the school and thus Part VB is unlikely to apply.

(b) *Performance*

The AMCOS agreement does not apply. Section 28 of the Copyright Act will also not apply.

**3. If a school has an outdoor celebration away from the school, do the same rules apply as to the first two questions?**

Yes

**4. What if there are a number of schools involved in a special celebration at a venue such as St Mary's Cathedral?**

The same principles as in (1) above would apply.

**5. What if the music is projected, via a data projector or OHP onto a screen - does this assist copyright issues as photocopies are not required in this scenario?**

This is still a reproduction and a performance and thus the same principles apply.

**6. Is the CEO covered under the AMCOS agreement for staff celebrations?**

No.

**7. What is required for Speech Nights that are held at venues away from the school? e.g. Town Hall.**

The venue makes no difference.

**(a) Reproduction**

Part VB may apply if it could be said to be for the educational purposes of the school.

**(b) Performance**

Section 28 of the Copyright Act would not apply.

**B. APPLYING EXISTING SCHOOLS' MUSIC LICENCES TO REPRODUCING HYMNS AND LITURGICAL MUSIC**

When considering whether Hymns (and other Church music) can be copied within the terms and conditions of the relevant Copyright agreements for schools (e.g. the CAL and AMCOS licences) the following issues need to be addressed:

**(a) *Why are the Hymns being copied?***

The copying purpose must be an educational purpose of the school. For Catholic schools an educational purpose includes:

- sacramental programs
- religious education programs
- school liturgies involving students and staff only

**(b) *Who is the material being copied for?***

The existing school Copyright licences only apply to copying for and/or on behalf of a school's students and teachers (i.e. parents and parishioners are not covered unless they are part of an actual teaching process).

**(c) *Where will the material copied be used?***

The existing Copyright licences for schools apply to material copied for use by the school as part of its program of educational instruction. In some cases a church or chapel may be part of the school.

**(d) *Which hymns/music are to be performed?***

Particular licences only include certain "works", for example the APRA repertoire does not usually include the copyright owners of hymns.

**C. WHEN IS A SPECIAL “CHURCH MUSIC” LICENCE REQUIRED BY A SCHOOL(S)?**

If a school engages in worship/liturgy involving hymns/liturgical music and that worship/liturgy involves persons other than just teachers and students of the school then a special licence should be purchased, see below.

In addition, a special licence should be considered if a school’s worship/liturgy is held at a location other than the school site, even if the worship/liturgy only involves teachers and students of the school.

Also a special licence is likely to be required when “whole works” are to be reproduced.

Specific licences for the reproduction of Church music may be obtained from organisations such as:

<p>One License, LLC 7343 S. Mason Ave. Chicago, IL 60638 1-800-ONE-1501 708-458-5900 708-458-4940 – FAX</p> <p>Australia &amp; New Zealand <a href="mailto:infoau@onelicense.net">infoau@onelicense.net</a></p> <p>Website <a href="https://www.onelicense.net/">https://www.onelicense.net/</a></p>	<p>Christian Copyright Licensing International PO Box 6644 Baulkham Hills BC, NSW 2153 Ph: 1-300-225-400 Fax: (02) 98945701 Website: <a href="http://www.ccli.com.au">www.ccli.com.au</a></p>
--	---

Many Catholic Schools across NSW and Australia already purchase one or other of the available “Church Music” Copyright licences. Also it should be remembered that each licensing organisation may have a different repertoire of licensed works.

Specialist advice on liturgical music issues can be obtained from the Australian Copyright Council on (02) 9318 1788. The Australian Copyright Council provides copyright advice and sells a range of guides, including a guide for Churches. Their web site is: <http://www.copyright.org.au>

If further information is required please contact me directly.

**PLEASE NOTE THE ABOVE CITED INFORMATION IS NOT TO BE RELIED UPON AS CONSTITUTING FORMAL LEGAL ADVICE, IT ONLY REPRESENTS GENERAL ADVICE ON ISSUES ARISING**