

# Learning disabilities, bespoke audiobooks and representation: student rights with copyright

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## Snapshot

The wonderful team at Padua College share their work in making in-house audio book recordings available for students with a learning disability within the parameters of the Australian Copyright Act.

When discussing tech-enabled innovative pedagogical practices that can enhance the learning outcomes of students and their wellbeing, the last three words you would expect to enter the conversation would be the 'Australian Copyright Act'. As it happens, these seemingly disparate worlds are not mutually exclusive.

Questions regarding Australian copyright law have become quite topical, with the Australian government scaling back its temporary COVID-19 copyright exemptions at the end of 2020, leaving some educators with no other choice but to delete the classroom content they created during lockdown (Carey, 2020).

Despite this, enhancing educators' understanding of the Australian Copyright Act has the potential to open up some exciting opportunities to engage students with learning difficulties.

What constitutes a learning disability can vary, largely due to the differing and evolving perspectives on their definition and scope. This has resulted in the number of Australian students with a learning disability being reported as 4% 20 years ago (Louden et al, 2000), with contemporary figures now placing this number between 10% to 20% (Health Direct, 2021, Maxwell, 2019).

For the purposes of this article, a learning disability will be defined as a serious and ongoing difficulty with reading, spelling, writing and/or maths ("Raising children network", 2021).

Australian Library and Information Association provides clear guidelines that libraries provide 'accessible and inclusive services for people with disabilities' (Australian Library and Information Association, 2019). Importantly, there are not just professional and ethical obligations surrounding the catering for these students' needs but there are also legal requirements. Australian students must be provided with 'a reasonable adjustment' to ensure they can access educational material stemming from a disability, as outlined in the Disability Discrimination Act 1992 and the Disability Standards for Education 2005.

One method of addressing the learning needs of students when engaging with physical books is the use of audiobooks. The literature states that their integration in a classroom setting has been

found to enhance not only reading comprehension and fluency (Esteves & Whitten, 2011), but even reading attitudes (Moore & Cahill, 2016). With respect to students with learning disabilities, Moore & Cahill (2016) describe audio books as inclusivity tools which have the potential to allow previously disenfranchised students to engage in complex classroom discussions.

Audiobook access unlocks the learning potential of students with print-based disabilities such as Dyslexia. Which is one of the most prominent learning disabilities in Australia. Currently, this is conservatively estimated to impact 10% of the population (Australian Dyslexia Association, 2022), and in some texts it is estimated to account for 80-90% of all individuals with learning disabilities (Shaywitz & Shaywitz, 2020).

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With audiobooks, students are able read along with the printed text or to solely listen to the text performed by an actor. It can be a game changer for the confidence of students and their engagement in class. Hearing the intonation, the expression and the storytelling unfold reduces the cognitive load whilst reinforcing correct pronunciation, phrasing and the formal mechanics of the English language. Listening to the audiobooks at home also often involves the families and this enables a deeper, richer learning experience for students.

Schools may face both pedagogical and ethical challenges when making adjustments for students with print-based disabilities. What happens if a school's curriculum leaders want to choose a locally produced textbook that does not have an accompanying Audiobook? Does this restrict them to solely select material from blockbuster literature from larger markets eg American Young Adult fiction?

Representation of the student cohort in the prescribed literature is important, with a students' "invisibility within the library's programs and materials ... [being] harmful to a child's self-image" (Naidoo, 2014). Importantly, a recent study found that Australian writers of Young Adult fiction reporting they are "consciously choosing to challenge the lack of representation of their respective communities with their writing" (Booth and Narayan, 2018).

In response to this need, representatives from both the school's Library and eLearning teams attended a part time training course over several weeks, which examined Australian copyright law from an educational context.

It was advised that the Copyright Act has a significant provision to meet the needs of students with learning disabilities, specifically detailed in the Australian Copyright Act of 1968 Part IVA titled 'Uses that do not infringe copyright' and subsection 113F titled 'Use of copyright material by organisations assisting persons with a disability'. These state that copyright is not breached

as long as “the use is for the sole purpose of assisting one or more persons with a disability to access the material in a format that the person or persons require because of the disability” and that the “organisation, or the person acting on behalf of the organisation, is satisfied that the material (or a relevant part of the material) cannot be obtained in that format within a reasonable time at an ordinary commercial price”.

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It was therefore determined that the Copyright Act would allow our school to self produce audiobooks, as the prescribed books in question did not have an existing audiobook and were solely to be used by students with a documented learning disability.

The process to create, and administer these audiobooks was then established, involving numerous areas of the school. The English department with the library, determined any books that did not have audiobooks. The Learning Enhancement team then recorded an internal staff member performing an unabridged version of the book (this process was a lot longer than initially anticipated). These files were then edited by either the eLearning or Music team into chapters, ensuring it was easy to use by the student. Then it was uploaded to an online platform by the eLearning team that allowed the secure sharing of this content with students, without the targeted group’s ability to download the files onto their device and prohibiting anyone from outside this group to access these recordings.

The Learning Enhancement team administers student access and ensures that the physical book has been purchased by the targeted students as a condition of being provided access. The Library team ensures that the documentation processes have been adhered to and periodically ensures that a commercial version of the audiobooks has not been made available. Collecting and maintaining the records of student access had a dual benefit of demonstrating evidence of an adjustment for NCCD/funding purposes.

**The key to this, like all good initiatives, is meaningful partnerships...**

In conclusion, the needs of students with print based disabilities and the school community as a whole, can be uplifted from the fusion of the allowances in the ‘Australian Copyright Act and sound tech-enabled innovative pedagogical practices. The key to this, like all good initiatives, is meaningful partnerships between distinct (not disparate) teams to find unique solutions, ultimately levelling the playing field for all.

### **Please note**

The advice given in this article is general in nature and does not take into account your institution’s circumstances. You should consider whether the information is accurate, appropriate to your needs, and where appropriate, seek professional advice from legal counsel.

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