# Operational Policy: Copyright (NAG 6)

## Blind & Low Vision Education Network NZ

## Statement of Intent

The Blind & Low Vision Education Network NZ (BLENNZ) has a responsibility to ensure it complies with the Copyright Act 1994 and any subsequent amendments.

These following sections of the Copyright Act 1994 in particular apply to BLENNZ:

1. **Description, ownership, and duration of copyright**, Part 1, Section 21,

First ownership of copyright, 1 - 3

2. **Moral rights**, Part 4, Section 94, 1(a)

3. **Dealing with rights in copyright works**, Part 5, Section 111,

Right to be identified as author or director, 1(a)

4. **Acts permitted in relation to copyright works**, Part 3, Section 69a,

Accessible format copy activities by authorised entity, 1 - 4

and

5. **Copyright (New Technologies) Amendments Act 2008**,

Amendments to Parts 1 to 5 of the Copyright Act 1994

## Policy Requirements:

### 1. Ownership of Copyright

#### For Employees\*

Section 21(2) of the Copyright Act provides that the employer owns the copyright of any literary, dramatic, musical, or artistic work that an employee creates in the course of his or her employment, unless otherwise agreed.

Therefore, Blind and Low Vision Education Network NZ (BLENNZ) owns the copyright in all works created by employees in the course of their employment, unless the employment contract states otherwise.

This would apply to any documentation, software, data compilations, drawings, music, or writing (among other things) that the employee creates while employed by BLENNZ.

Where BLENNZ financially supports an employee to undertake study or attend a training course, any work that is a result, copyright is owned by BLENNZ unless the employment contract states otherwise.

**\* Employed** means employed under a contract of service or a contract of apprenticeship; and employee, employer, and employment have corresponding meanings

#### For Contractors

The rule of first ownership of employee works (above) does not apply to works created by contractors.

Contractors own copyright in any works that they create in the course of their contract. Unless it is a commissioned work and is created in the course of the commission. The school automatically owns copyright in commissioned works.

However, different commissioning "rules" apply to different types of work. Therefore, in all instances there will be written agreements with contractors which stipulate that the contractor automatically assigns to BLENNZ all intellectual property created in the course of completing the contract.

**Contractor** means a person who is hired and/or commissioned and agrees to be paid for the work that is made in fulfilment of that commission.

**Commissioned** means to authorize; send on a mission; give a commission or order for.

#### For Volunteers

Volunteers will be treated the same manner as contractors.

Written agreements will stipulate that all work created by volunteers for BLENNZ will remain the property of BLENNZ. (This includes collage, braille and large print material etc.)

A **volunteer**\* is classed as an unpaid contractor. For somebody to be a volunteer they must not expect payment and they must not receive payment.

### 2. Moral Rights

#### For Authors and Creators

This section of the Act states that the author of a literary, dramatic, musical, or artistic work that is a copyright work has the right to be identified as the author of the work.

This means employees and contractors who create documents while employed by BLENNZ can choose to be identified as the author of the work while BLENNZ remains the copyright owner.

This will be entered either as a footnote on each page or singularly on the last page of the document.

For example;

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### 3. Rights for Access and Use in Copyright Works

#### For Employees and Contractors

**Licences and Creative Commons**

BLENNZ asserts it rights as the owner of the copyright on all documents created by employees and contractors while employed by BLENNZ. As owner of copyright BLENNZ gives permission to the ‘author’ of a work to choose how they wish the work to be accessed and used. This can be demonstrated with a licence.

Creative Commons provides a range of copyright licences, freely available to the public, which will allow the author to mark their work with the freedoms they want it to carry. Use the [License Chooser](file:///%5C%5Cblennz-fs01%5Cgroup%20drive%5CCopyright%20and%20Licensing%5CCreative%20Commons%20licensing-flowchart.pdf) to select one of six licences.

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### 4. The Marrakesh Treaty and Authorised Entities

#### For Employees and Resource Creators

**The Marrakesh Treaty**

The Marrakesh Treaty aims to help people who are blind, visually impaired or otherwise print-disabled have access to books and other literary works in accessible formats.

It provides an international legal framework for copyright exceptions that allows for the reproduction, distribution and cross-border exchange of copyright works in accessible formats – such as braille, audio and large print books – between countries party to the Treaty.

The Marrakesh Treaty entered into force for New Zealand on 4 January 2020.

**Authorised Entity**

BLENNZ is now an ‘Authorised Entity’ and are specifically authorized or ‘recognized’ by the government as an entity that provides education and information access to blind, visually impaired or otherwise print-disabled persons.

As an Authorised Entity, the Marrakesh Treaty allows BLENNZ to do the following:

Make accessible format copies of literary and artistic works without the permission of the owner of the copyright in those works, if the copies are intended for the use of a person with a print disability;

Import into New Zealand an accessible format copy of a work from an Authorised Entity in another Marrakesh Treaty country without the permission of the owner of the copyright in the work;

Provide the accessible format copy that was made by or imported to an Authorised Entity in New Zealand, and;

Export these copies to other Marrakesh member countries.

However, there are some restrictions. Part 69A of the Copyright Act 1994 states:

69A Accessible format copy activities by authorised entity

(1) An authorised entity does not infringe copyright in the relevant work if the entity acts in accordance with this section.

(2) An authorised entity may make an accessible format copy if the entity—

(a) has taken all reasonable steps to notify the owner of the copyright in the work of its intention to make an accessible format copy; and

(b) is making the copy to provide it only to persons who have a print disability, persons acting on their behalf, or other authorised entities; and

(c) ensures that the copy respects the integrity of the original work, as far as is reasonably possible and taking into account changes needed to make the work accessible in the alternative format.

For further information see [Link to Government Legislation - Copyright](https://www.legislation.govt.nz/act/public/1994/0143/latest/whole.html#LMS303111)

### 5. Copyright (New Technologies) Amendments Act 2008

The Copyright (New Technologies) Amendment Act 2008 will ensure our copyright laws keep up to speed with the dynamic nature of digital technology. The Amendments support the needs of business by improving clarity and certainty over the scope and enforcement of intellectual property rights.

This Act helps protect the intellectual property of creative workers in the face of changing technology, so that both creators and viewers of cultural products can all go on enjoying these things that enrich our lives.

These Amendments apply to many parts and sections of the Copyright Act.

Some of the main points are;

* It amends and replaces existing terms to create a technology neutral framework;
* It clarifies the liability of Internet Service Providers "ISPs" when it comes to copyright infringement; and
* It updates the existing permitted acts for fair dealing and educational establishments, libraries and archives.

## Supporting Documents

[Copyright Act 1994](http://www.legislation.govt.nz/act/public/1994/0143/latest/whole.html)

[MBIE - Marrakesh Treaty](https://www.mbie.govt.nz/business-and-employment/business/intellectual-property/copyright/the-marrakesh-treaty/)

[Copyright New Technologies Amendment Act 2008](http://www.legislation.govt.nz/act/public/2008/0027/latest/DLM1122643.html)

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Approved: (Principal)

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