



## Copyright: What can I do and what can I not do?

Pam Phillips

*If you are in doubt, it's probably not ok!*

*Copyright is about as clear as tax law. This handout addresses the most common questions and reflects my best understanding of the law. Please use the resources at the bottom for further research.*

*Always seek advice from an intellectual property specialist.*

### 1. Why have copyright?

It's an attempt to balance the need for the free flow of ideas, educators' needs and the rights of the creators of content. There is quite a bit of controversy surrounding copyright. Since the law is often not clear, often the courts are the arbiters.

### 2. How to tell if music is copyrighted

- a. Music published prior to 1923, is most likely public domain, however, new arrangements of Public Domain (PD) tunes will be copyrighted.
- b. Currently copyright extends for the life of the composer plus 70 years. If a corporation, such as Alfred Music, holds the copyright the copyright is usually 95 years after publication.
- c. Copyright for a piece created in the mid-20<sup>th</sup> century lasts for different lengths of time.
- d. Check the bottom of the piece of music, on the CD or the CD booklet, websites listed in resources. Depends on when it was created and in what country.
- e. Out of Print does NOT mean Public Domain (PD).
- f. Keep records of all you do to attempt to follow copyright law.

### 3. The copyright holder is who you would contact for permissions

- a. Each educational publisher has a spot on their website for this
- b. Other publishers or recording artists – look on websites below for publisher contact info.

### 4. Print Music and Copying

A. The law does recognize educational needs but it does not mean that everything is ok. Fair use means exceptions to the law to allow for educational use. It is not always clear-cut but comes down to a balance of public good with the rights of the copyright owner.

B. Educators can:

- i. Make a copy of a lost part in an emergency, if it is replaced with a purchased part. Many publishers now have sites where you can purchase a single part. Check out [totalsheetmusic.com](http://totalsheetmusic.com).
- ii. Make one copy per student of up to 10% of a musical work for class study as long as that 10% does not constitute a performable unit. The amount is approximate.
- iii. Make a few copies of a lost or damaged part if unable to purchase a replacement.

C. Educators cannot:

- I. Copy or scan to avoid purchase. This includes copies handed out to prevent loss or damage to originals. If anything you do takes money from someone, its not fair use.
- II. Copy without including a copyright notice
- III. Copy to create anthologies or compilations
- IV. Reproduce materials designed to be consumable (such as workbooks, standardized tests, and answer sheets) Many of these are now reproducible.
- V. Reproduce music or recordings to a website

### 6. Using recordings and making CDs

A. You can:

1. Make a single recording of a student performance for study and for the school's archive
2. Make a single recording for use in class using copyrighted material

B. Mechanical licensing - This is the licensing required to put a recording of a song on a CD. Easy to apply for and pay. Can't be denied once a song has been recorded. Obtain either through the

[www.phillipsfiddlers.com](http://www.phillipsfiddlers.com)

[www.alfred.com](http://www.alfred.com)

publisher or through Harry Fox Agency, [harryfox.com](http://harryfox.com). Check Harry Fox first. 9.1 cents/up to 5 minutes duration.

#### 7. Video - Synchronization

- A. This means music is synchronized to images on video. Each piece must be negotiated individually, however various services including Harry Fox are beginning to handle this.
- B. Difficult and expensive but getting a bit better due to ease of making and posting videos, but this is why local cable access channels often don't broadcast school concerts anymore.
- C. Consult an intellectual property lawyer or a service.
- D. There are more and more services that will take care of these things for you. ASCAP and BMI also do some of this or contact each publisher.
- E. You can use a very small part of a copyrighted video to teach film scoring. Can't break the codes on the movie.
- F. The Motion Picture Licensing Corporation deals with permission to run a movie at a concert. [Mplc.org](http://Mplc.org)

#### 8. Internet

- A. Content on most sites is covered by copyright and being posted does not mean its PD.
- B. It's not ok for you or a parent to video and post a concert.
- C. It's not OK to scan and post print music or to post recordings.

#### 9. Performing copyrighted music

Performing rights organizations, ASCAP, BMI and SESAC, handle payments to artists when their songs have been performed. These royalties are paid by the venue. Educational performances are in a gray area. Purchase of educational music provides an implied right to perform in a school setting if no admission is charged. If you perform in a pro venue, they should handle this. It is possible to get one-time licenses in order to charge admission legally.

#### 10. Arranging for your own group

- A. Permission must be given in advance of doing an arrangement. Contact the permissions dept. at the publisher who owns the piece or the copyright holder. Allow 6 weeks for your request.
- B. You can, without permission, edit or simplify the music to fit your ensemble, provided that the fundamental character of the work is not distorted. Lyrics are not supposed to be altered.
- C. If you are recording a piece and paying for a mechanical license, doing a cover, you can alter the piece to fit your ensemble but may not change the melody or fundamental character of the work.

#### 11. Publishing your own music

- A. Permission to arrange does not imply permission to publish.
- B. The © is not required on the bottom of the piece of music for it to be protected by law, but is required for recourse to the courts. If you write a piece of music, put ©DateName. You can also register the work with the government copyright office. Assume that any new works (written since 1923) are copyrighted even if the copyright is not stated.

#### 12. Resources – each site has many helpful links

Copyright.gov	<a href="http://musiced.nafme.org/resources/">musiced.nafme.org/resources/</a>
<a href="http://loc.gov/teachers/copyrightmystery/">loc.gov/teachers/copyrightmystery/</a>	<a href="http://Nmpa.org">Nmpa.org</a>
<a href="http://Harryfox.com">Harryfox.com</a>	<a href="http://Mpa.org">Mpa.org</a>
<a href="http://Musicforall.org/resources/copyright">Musicforall.org/resources/copyright</a>	<a href="http://pdinfo.com">pdinfo.com</a>
<a href="http://ASCAP.com">ASCAP.com</a>	<a href="http://BMI.com">BMI.com</a>
<a href="http://classicalarchives.com">classicalarchives.com</a>	<a href="http://creativecommons.org">creativecommons.org</a>

Self-publishing - JWPepper and SheetMusicPlus

*Copyright Handbook for Music Educators and Directors*, Phillips and Surmani, Alfred - later in 2017  
*The Teacher's Guide to Music, Media and Copyright Law*, James Frankel, Hal Leonard