**Copyright Materials**

**//nafme.org/my-classroom/copyright/**

# **Copyright**

Unlike most educators, music educators must face copyright compliance frequently throughout their career. Although the thought of copyright can be intimidating and a complex subject, NAfME has a multitude of resources that can help you better understand U.S. copyright law.

# **Quick Links:**

* [Main Copyright Resources](https://nafme.org/my-classroom/copyright/#MainResources)
* [Licensing Information](https://nafme.org/my-classroom/copyright/#info)
* [Performance Rights for NAfME Members](https://nafme.org/my-classroom/copyright/#rights)
* [Understanding Copyright Law](https://nafme.org/my-classroom/copyright/#understanding)
* [Posting Your Music Performance Online](https://nafme.org/my-classroom/copyright/got-permission-to-upload-that-video/%22%20%5Ct%20%22_blank)
* [Helpful Links](https://nafme.org/my-classroom/copyright/#links)
* [Frequently Asked Questions](https://nafme.org/my-classroom/copyright/#faqs)
* [Teaching Your Students about Copyright](https://nafme.org/my-classroom/copyright/#teaching)
* [The Every Student Succeeds Act (ESSA) & Copyright](https://nafme.org/my-classroom/copyright/#ESSA)

## **Main Resources**

* **[The Basics of Copyright for Music Educators](https://nafme.org/wp-content/files/2014/05/Basics-of-Copyright-Session-2017-Updated.pdf%22%20%5Ct%20%22_blank) – A Presentation by NAfME**
	+ Members of NAfME’s Public Policy and Advocacy staff often provide distance learning and in-person orientation opportunities for music educators.  This includes a session on the basics of copyright for music educators.  You can access the slides to our copyright presentation **[here](https://nafme.org/wp-content/files/2014/05/Basics-of-Copyright-Session-2017-Updated.pdf%22%20%5Ct%20%22_blank)**.
	+ If you are interested in having a member of our Public Policy staff present about copyright compliance at your state MEA conference or school district professional development training, please contact us at advocacy@nafme.org.
* **[NAfME Academy](https://nafme.org/community/elearning/%22%20%5Ct%20%22_blank)**
	+ [NAfME Academy](https://nafme.org/community/elearning/%22%20%5Ct%20%22_blank) is a brand new, state-of-the-art online learning platform for music educators. The Academy allows educators to access the relevant professional development they need to further enhance their teaching and serve the needs of students through dynamic and effective materials and learning opportunities.  This includes several [webinars](https://nafme.org/community/elearning/nafme-academy-content/%22%20%5Ct%20%22_blank)on copyright compliance for music educators.
* **[NFHS & NAfME](https://nfhslearn.com/courses/61124/understanding-copyright-and-compliance%22%20%5Ct%20%22_blank)**
	+ NAfME recently partnered with the National Federation of State High School Associations (NFHS) to produce an extensive copyright compliance course that is specific for music educators.  You can access the course for **free** on [NFHS’ Learning Center](https://nfhslearn.com/courses/61124/understanding-copyright-and-compliance%22%20%5Ct%20%22_blank) – [https://nfhslearn.com/courses](https://nfhslearn.com/courses%22%20%5Ct%20%22_blank) – followed with searching the term, “copyright.”

## **Licensing Information**

**[Songfile®](http://www.harryfox.com/public/songfile.jsp%22%20%5Ct%20%22_blank)** — The Harry Fox Agency’s Songfile is an easy and fast way for those who plan to make and distribute 2,500 copies or less of their recordings to obtain the necessary mechanical licenses for cover versions of songs. Licenses can be obtained for CDs, cassettes, LPs, or permanent digital downloads. Under U.S. Copyright law, recordings of student performances must be properly licensed.

The MPA encourages its publishers that are not already HFA affiliates to register their catalogs for mechanical licensing through Songfile and also provides marketing support. Through Songfile, educators can obtain licenses for CDs, cassettes, LPs, and permanent digital downloads from HFA’s entire database of over 2.3 million songs in all genres. Licensing royalties from Songfile are paid to publishers on a commission-free basis.

Executives from the leading music education, mechanical licensing, and serious/educational music publishing organizations, [The Harry Fox Agency (HFA)](https://www.harryfox.com/%22%20%5Ct%20%22_blank), the National Association for Music Education, [The Music Teachers National Association (MTNA)](http://www.mtna.org/%22%20%5Ct%20%22_blank), and the [Music Publishers’ Association (MPA)](http://mpa.org/%22%20%5Ct%20%22_blank) have formed an unprecedented collaboration to connect America’s music educators with the music catalogs they need to license when they record student performances.

## **Performance Rights for NAfME members**

Through an agreement with ASCAP and BMI, NAfME (or MEA) sponsored groups are granted performance rights of music managed by these organizations. (This covers only performances sponsored by NAfME or federated state associations of NAfME.) However, if members wish to record their students’ performance of any work, permission must be obtained through Harry Fox Agency. For more information, see[NAfME Member Benefit Eases Performance Licensing](https://nafme.org/my-classroom/nafme-member-benefit-eases-performance-licensing/%22%20%5Ct%20%22_blank)or visit the [Harry Fox Agency](http://www.harryfox.com/%22%20%5Ct%20%22_blank)  or the [National Music Publishers’ Association](https://www.nmpa.org/home/index.asp%22%20%5Ct%20%22_blank).

## **Music Licensing and Publishing Organizations**

**[Music Publishers’ Association of the United States](http://www.mpa.org" \t "_blank) —**Includes a Copyright Resource Center which offers forms needed to obtain permission to arrange music, copy out-of-print music, or report a copyright violation. Also offers documents on copyright issues and a list of additional Web links, and an [FAQ](http://www.mpa.org/content/copyright-faq%22%20%5Ct%20%22_blank) section.

**[Music Library Association’s Copyright Guide](http://copyright.musiclibraryassoc.org" \t "_blank) —**Includes a list of online resources and an excellent [FAQ](http://copyright.musiclibraryassoc.org/Resources/FAQ%22%20%5Ct%20%22_blank) section.

**[The Harry Fox Agency](http://www.harryfox.com" \t "_blank)** — HFA was established by the National Music Publishers’ Association to provide an information source, clearinghouse, and monitoring service for licensing musical copyrights. HFA licenses the largest percentage of the uses of music in the United States on CDs, digital services, records, tapes, and imported phonorecords. See HFA’s [Licensing](http://www.harryfox.com/public/LicenseMusiclic.jsp%22%20%5Ct%20%22_blank) and [FAQ](http://www.harryfox.com/public/FAQ.jsp%22%20%5Ct%20%22_blank) lists.

**[ASCAP](http://www.ascap.com" \t "_blank)** — Information on copyright and performing rights.

* [Licensing FAQ](http://www.ascap.com/licensing/licensingfaq.aspx%22%20%5Ct%20%22_blank)
* [Internet Licensing](http://www.ascap.com/licensing/licensingfaq.aspx%22%20%5Cl%20%22general%22%20%5Ct%20%22_blank)
* [ASCAP Clearance Express](http://www.ascap.com/licensing/licensingfaq.aspx%22%20%5Cl%20%22general%22%20%5Ct%20%22_blank)— (ACE is a database of song titles licensed by ASCAP in the United States)
* [Fairness in Music Licensing](http://www.ascap.com/legislation/legis_qa.html%22%20%5Ct%20%22_blank)
* [History of Music Licensing](http://www.ascap.com/~/media/files/pdf/licensing/general/brochures/ascap_keeps_you_in_tune_with_the_copyright_law.pdf%22%20%5Ct%20%22_blank)
* [Resources on Copyright and Songwriting](http://www.ascap.com/music-career/resource-guide/resource-3.aspx%22%20%5Ct%20%22_blank)

**[BMI](http://www.bmi.com" \t "_blank)** — Please see the [Music Licensing General FAQs](http://www.bmi.com/licensing/entry/533038%22%20%5Ct%20%22_blank).

## **Understanding Copyright Law**

**[The United States Copyright Law: A Guide for Music Educators](https://nafme.org/united-states-copyright-law-a-guide-for-music-educators/%22%20%5Ct%20%22_blank)** — A brief history of the 1976 revision of copyright law, rights (and limitations of these rights) of copyright owners, copyright duration, penalties for infringement, plus resources for duplicating out-of-print works; arranging, performing and recording rights; and fair use guidelines. Revised 2003.

**[Mechanical Licensing & You](https://nafme.org/my-classroom/copyright/mechanical-licensing-you-what-you-need-to-know-before-recording-your-schools-performances/%22%20%5Ct%20%22_blank)**: What You Need to Know Before Recording Your School’s Performances.”

**[Licensing and Other Copyright Questions](https://nafme.org/my-classroom/copyright/licensing-and-other-copyright-questions/%22%20%5Ct%20%22_blank)**— You know you need some kind of permission for using other people’s music in your classes. So what do you do next?

**[MEA Managers Webinar on Copyright](https://nafme.org/mea-managers-webinar-on-copyright/%22%20%5Ct%20%22_blank)**— Includes participation of a U.S. Copyright Office attorney, who presents information and responds to questions. Covers a variety of copyright issues, including

* Fair Use exemptions
* Licensing a musical work for various uses
* Parents recording concerts
* Using photocopies of sheet music for competitions
* Web presentation (streaming/on demand)
* Sheet music excerpts in PDF for student download
* Recording an accompaniment part for students to practice with
* DVDs of concerts
* YouTube
* Using music excerpts in publications

Here are some articles on copyright of interest to music teachers:

* [Copyright: The Public Domain Maze](https://nafme.org/my-classroom/copyright/copyright-the-public-domain-maze/%22%20%5Ct%20%22_blank)
* [Copyright: Arranging, Adapting, Transcribing](https://nafme.org/my-classroom/copyright/copyright-arranging-adapting-transcribing/%22%20%5Ct%20%22_blank)
* [Copyright: Recording and Selling Student Performances](https://nafme.org/copyright-recording-and-selling-student-performances/%22%20%5Ct%20%22_blank)
* [Copyright: Changing Lyrics](https://nafme.org/my-classroom/copyright/copyright-changing-lyrics/%22%20%5Ct%20%22_blank)
* [Copyright: Performance Exemptions](https://nafme.org/my-classroom/copyright/copyright-performance-exemptions/%22%20%5Ct%20%22_blank)
* [Copyright: Performance Licenses](https://nafme.org/my-classroom/copyright/copyright-performance-licenses/%22%20%5Ct%20%22_blank)
* [Copyright: Parody](https://nafme.org/my-classroom/copyright/copyright-parody/%22%20%5Ct%20%22_blank)
* [Got Permission to Upload That Video?](https://nafme.org/my-classroom/copyright/got-permission-to-upload-that-video/%22%20%5Ct%20%22_blank)

## **Helpful Links**

#### **Fair Use and Copyright Law**

**[The United States Copyright Office](http://www.copyright.gov" \t "_blank) —**The U.S. Copyright Office site contains a great deal of information on copyright law and pending legislation. They have several publications available including brochures, fact sheets, and reports and studies, as well as an [FAQ](http://www.copyright.gov/help/faq%22%20%5Ct%20%22_blank) section.

**[Stanford University Libraries on Copyright & Fair Use](http://fairuse.stanford.edu" \t "_blank) —**Information on copyright issues including current legislation, additional resources, and an overview of copyright law.

#### **Public Domain Information**

**[Public Domain Music](http://www.pdinfo.com/index.php%22%20%5Ct%20%22_blank) —**A reference site to help identify public domain songs and public domain music

## **Frequently Asked Questions**

**Must a student purchase a second piece of music for his or her accompanist?**
Accompanists must have original music to play from. Copying a single page to alleviate a difficult page turn can be justified, but copying the entire work is copyright infringement.

**During juries and/or recitals, if a student has the original and the faculty wants to follow along with the music for assessment and grading purposes, may copies be made?**Copying may be permissible, but ONLY if permission is granted by the copyright holders. Write to the publisher and explain your situation. Make sure to get the permission in writing. And remember, unauthorized photocopies are copyright infringements.

(If permission is not granted, perhaps students could borrow copies among their peers, from their teachers, or at a music library.)

**I’m doing research on a topic related to the effects of music on children and want to use a particular CD. Do I need to purchase a CD for each participant, or can I simply purchase one and make copies?**
Copyright for music and recordings is no different than it is for books or plays. Buying only one CD and making copies is a copyright infringement. To use a CD for research purposes, contact the copyright holders to receive permission. More information can be obtained from the [Music Publishers Association](http://www.mpa.org" \t "_blank).

**Can our band legally sell videotaped copies of its concerts?**
A single copy of a videotaped performance of your ensemble can be made to keep on file for reference or review. If you want to make multiple copies and distribute them, either **with or without charge**, you will need permission of the copyright owners for each piece of music performed on the videotape. You will also need permission from parents to have their children videotaped.

**Is a public school district allowed to use recorded music of one of their school ensembles in a publication? The publication may be a TV advertisement or a CD for a business in the area. The music would be purchased according to copyright.**
The school must license the music properly with a synchronization license and a mechanical license. Mechanical licenses are available from the **[Harry Fox Agency](http://www.harryfox.com" \t "_blank)**. For synchronization licenses, contact the publisher directly (publisher information is available on the [ASCAP](http://www.ascap.com" \t "_blank), [BMI](http://www.bmi.com" \t "_blank), and [SESAC](http://www.sesac.com" \t "_blank) sites). If another business is used, make sure that business is responsible for all licensing. Also, be sure to check local law regulations.

Find more information on these questions and other copyright issues in the [MEA Managers Webinar on Copyright](https://nafme.org/resources/mea-managers-webinar-on-copyright/%22%20%5Ct%20%22_blank%22%20%5Co%20%22MEA%20Managers%20Webinar%20on%20Copyright).

## **Teaching Your Students about Copyright**

**[Creativity in the Classroom](https://nafme.org/my-classroom/copyright/nafme-member-benefit-eases-performance-licensing/copyright-performance-exemptions/creativity-in-the-classroom/%22%20%5Ct%20%22_blank)** — A program designed to encourage students to respect intellectual property and develop a greater awareness of the value of their creative work in a variety of subject areas. Lessons demonstrate how students can label their creative work with the copyright symbol, the year, and their name, just as they see on any published, professional creative work.

**[National Copyright Awareness Week](http://media.csusa.org/caw/caw_2006_home.htm%22%20%5Ct%20%22_blank)** — The Copyright Society of the USA presents Copyright Awareness Week (CAW), every March. The goal of the event is to teach students basic concepts about copyright. Teacher curriculum materials are available.

**[Donny the Downloader](http://www.ascap.com/music-career/resource-guide/dtd/%22%20%5Ct%20%22_blank)** program for middle school students — produced by ASCAP and i–SAFE

## **ESSA & Copyright**

The music community most closely associates the Every Student Succeeds Act of 2015, or ESSA, as the first piece of federal legislation to enumerate music as part of a “Well-Rounded Education.”  However, tucked within the immense K-12 education law are minor statutes that prescribe a goal to educate students and parents about “the harms of copyright piracy.”

Our [Advocacy Bulletin Blog](https://nafme.org/essa-and-copyright/%22%20%5Ct%20%22_blank) outlines what these section of the law mean and how it affects music educators.

**Note:**NAfME does not presume to give legal advice. If you have technical questions about possible legalities of a copyright, speak to your school’s principal or district’s music supervisor for advice on legal counsel, or contact [Harry Fox Agency](http://www.harryfox.com/index.jsp%22%20%5Ct%20%22_blank) or the [Music Publishers’ Association](http://mpa.org/%22%20%5Ct%20%22_blank).

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National Association for Music Education
ASCAP Foundation
Copyright Society of the USA
Music Teachers National Association
National Association of Secondary School Principals
National Association of Elementary School Principals
National School Boards Association
U.S. Register of Copyrights
American Bar Association

# **Mechanical Licensing & You: What You Need to Know Before Recording Your School's Performances**

### Mechanical Licensing & You: What You Need to Know Before Recording Your School’s Performances

**By Maurice Russell, Vice President of Licensing, Harry Fox Agency**

File under “It was a great idea at the time”: you decide to record your students’ upcoming concert, maybe as a fundraiser, maybe just to be a nice memento of their performance. To raise the necessary funds for renting recording equipment and pressing the CDs, you solicit advance orders from the students, their parents, and friends, and get a great response. The kids are so excited that they will be on a real CD.

The concert sounds great. The recording goes perfectly – and with some fantastic acoustical luck, you can’t even hear that baby that cried in the second number. You take your precious master recording to the CD duplicator, whose ad promises less than a week turnaround time — perfect for what you promised all those folks that preordered their CDs; they’ll have them for holiday gifts.

“Can I have your mechanical licenses for these songs?” the clerk asks you. Given that you don’t know what one is, it’s clear you don’t have them. “Sorry, but you need to have mechanical licenses in order for us to duplicate these CDs. It’s the law.” No amount of pleading seems to work. You call three other duplicators, and they all tell you the same thing. You made a commitment to your students — you don’t want to let them down. You’re going to have to figure out this mechanical licensing thing, and fast.

A mechanical license might sound like something you need to work on your car, but obviously, it’s not. Simply stated, a mechanical license is required under U.S. Copyright Law if you want to manufacture and distribute recordings of compositions written by someone other than yourself. They ensure that the music publisher, and ultimately the songwriter, gets compensated for the use of their work.

The fact that you are working for a school, or making only a few copies, or even that you might not charge for the recordings, does not exempt you from the need to obtain a mechanical license. This aspect often gets confused with the concept of “fair use,” which is much more limited under copyright law than most people realize. Fair Use is generally considered to apply to purposes such as the use of excerpts for criticism, news reporting, teaching and research. So, for example, while you may be able to distribute copies of a CD of song excerpts to your students to illustrate certain concepts from their class work, a recording of their concert would not fall under the Fair Use exemption.

You may have also heard of something called “public domain.” When a song’s copyright expires, you no longer need to obtain a license — it is considered to now be in the public domain. However, never presume a song is old enough to be in public domain — always check (for example, Stravinsky’s works are not in the public domain). A good resource to check is the website [www.pdinfo.org](http://www.pdinfo.org" \t "_blank). But be careful: while the song may be in public domain, the particular *arrangement* you chose may currently be under copyright and the song will need to be licensed.

So how do you obtain this mythical mechanical license? There are several methods. One is directly from the music publisher. Another is through a licensing agent such as The Harry Fox Agency (HFA). Finally, you can obtain a compulsory license as described in the U.S. Copyright Act; however, most people do not go this route as it is very labor intensive and requires quite a bit of ongoing administration and reporting after the license is issued.

Whichever route you chose, you will probably need to provide at a minimum the name of the song, the songwriter(s), the publisher(s), and the length of your group’s performance of the song in minutes and seconds (you should have some idea of this from your rehearsals; more on this latter point in a moment). You will also need to supply the name of your recording and its projected release date (the date you intend to begin to distribute copies of the recording). You may also be asked for the record company name, which is the entity that is officially responsible for the recording — probably the school or your department.

The timing is important because the royalty rate is calculated based on the length of the song’s performance. Under current U.S. copyright law, the mechanical royalty rate is 9.1¢ for a composition five minutes or less in length, or 1.75¢ per minute for songs over five minutes, rounded up to the nearest whole minute. This is then multiplied by the number of copies of the recording you intend to make. So, for example, for 500 copies of a recording of a composition that is 5 minutes and 30 seconds long, the math would be: 6 x $ 0.0175 = 0.105 x 500 = $52.50. This royalty is paid directly to the music publisher, who shares it with the writer, arranger, or their estate.

It’s key to start the mechanical license process early, preferably before you record. This way, if you have any delays in obtaining your licenses, it does not disrupt your plans. HFA has a simple online system called HFA Songfile that allows you to complete your transaction in minutes with a credit card, but if HFA does not represent one of the songs, or you otherwise decide to go directly to the publisher, the process is generally paper-based and can take longer.

If you decide to do any variation on the original composition, such as change the lyrics or make it part of a medley, this is considered a derivative work, and specific permission to create and use the work must be obtained from the publisher. Unlike with a standard mechanical license, there is no rate set by law for this type of use, and the publisher has the right to refuse to allow you to modify the composition.

Another very important exception — video. If you decide to videotape your group’s performance to make DVD or VHS copies, you move from mechanical licensing to synchronization licensing (in technical terms, you are now “synching” video images to a musical performance). Like a derivative work, synchronization licenses need to be obtained directly from the music publisher, there is no set rate, and the publisher can refuse to issue the license if they choose.

With these basics in mind, you should be able to obtain your mechanical licenses and proceed with your recording without a hitch. You’ll be able to focus your energies on more important things . . . perhaps getting those altos to come in on time, *finally*?

**Feedback?**Contact Laurie Jakobsen at Harry Fox Agency.