**Copyright Information**

**What is “fair use?”**
The Copyright Law provides authors and composers with exclusive rights in their works. When enacting copyright legislation, however, the Congress realized that there needed to be provisions for uses of copyrighted material (in scholarship, news reporting, and criticism for example) that did not require permission. Section 107. Limitations on exclusive rights: Fair use contains these provisions.

The four criteria to be considered in determining whether a use of copyrighted material is “fair” are:

1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. The nature of the copyrighted work;
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole;
4. The effect of the use upon the potential market for or value of the copyrighted work.

**Guidelines for Educational Uses of Music**

**Permissible Uses**

Emergency copying to replace purchased copies which for any reason are not available for an imminent performance provided purchased replacement copies shall be substituted in due course.

For academic purposes other than performance, single or multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole which would constitute a performable unit such as a section, movement or aria, but in no case more than 10 percent of the whole work. The number of copies shall not exceed one copy per pupil.

Printed copies that have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted or the lyrics, if any altered or lyrics added if none exist.

A single copy of recordings of performances by students may be made or evaluation or rehearsal purposes and may be retained by the educational institution or individual teacher.

A single copy of a sound recording (such as a tape, CD, LP, or cassette) of copyrighted music may be made from sound recordings owned by an educational institution or an individual teacher for the purpose of constructing aural exercises or examinations and may be retained by the educational institution or individual teacher. (This pertains only to the copyright of the music itself and not to any copyright that may exist in the sound recording.)

**Prohibitions**

Copying to create or replace or substitute for anthologies, compilations or collective works.

Copying of or from works intended to be “consumable” in the course of study or of teaching such as workbooks, exercises, standardized tests and answer sheets and like material.

Copying for the purposes of performance, except as in 1(a) above.

Copying for the purpose of substituting for the purchase of music, except as in 1(a) and 1(b) above.

Copying without inclusion of the copyright notice that appears on the printed copy.
Guidelines for Educational Uses of Books and Periodicals

Single Copying for Teachers

A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her scholarly research or in use in teaching or preparation to teach a class:

- A chapter from a book;
- An article from a periodical or newspaper;
- A short story, short essay, or short poem, whether or not from a collective work;
- A chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper.

Multiple Copies for Classroom Use

Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion; provided that:

- The copying meets the test of brevity and spontaneity;
- Meets the cumulative effect test (only one class per item copied); and,
- Each copy includes a notice of copyright. (Please check the web site for more detailed information.)

What kinds of works can be protected by copyright?

Any work of authorship, including musical works and accompanying words, that is both “original” and “fixed in tangible form” is eligible for copyright protection. “Original” means that the composer claiming the copyright actually wrote the music or that the performer actually performed the music captured on a sound recording. To be “fixed in any tangible medium” means that the composition must be notated in some form, or recorded.

NOTE: Whether a work is unpublished or not is irrelevant to the question of whether it is protected by copyright, as non-published works may be considered copyright once they are in fixed form.

When works pass into the public domain

<table>
<thead>
<tr>
<th>Date of Work</th>
<th>Protected from</th>
<th>Term of Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Created 1-1-78 or after</td>
<td>When work is in fixed form</td>
<td>Life of composer +70 years</td>
</tr>
<tr>
<td>Published before 1923</td>
<td>In public domain</td>
<td>None</td>
</tr>
<tr>
<td>Published from 1923-63</td>
<td>When published with notice</td>
<td>28 years + poss. renewal of 67 years. If no renewal, public domain</td>
</tr>
<tr>
<td>Published from 1964-1977</td>
<td>When published with notice</td>
<td>95 years from notice</td>
</tr>
<tr>
<td>Created before 1/1/78, but not published</td>
<td>1/1/78</td>
<td>Life + 70 years or 12/31/2002, whichever is greater</td>
</tr>
<tr>
<td>Created before 1/1/78, but published between then and 12/31/2002</td>
<td>1/1/78</td>
<td>Life +70 years or 12/31/2047, whichever is greater</td>
</tr>
</tbody>
</table>

This information in this appendix was gathered from the web site “A Guide to Copyright for Music Librarians,” which can be found at http://www.musiclibraryassoc.org