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# About the Authors

## **Pam Phillips**

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Pam has a broad background in arts management and production, and in the music industry. Pam retired from Alfred Music as Managing Editor, Suzuki and String Acquisition. She has worked on the production of instructional DVDs and audio CDs as well as hundreds of orchestra pieces and instructional books. Pam has also been the project coordinator for Alfred Music's revolutionary new method, *Sound Innovations for String Orchestra* and *Sound Innovations for Concert Band*.

Pam's career includes booking and producing concerts for professional artists as well as for school groups. She has administered numerous music camps and planned national and international music tours. Pam has run teacher workshops throughout the United States and has presented clinics at a variety of music conferences. She has also served as an assistant teacher in the elementary string classroom.

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Andrew was a founding board member and is a past president of the international Jazz Education Network (JEN). In addition, he served on the Music Technology Advisory Board at Indiana University-Purdue University Indianapolis (IUPUI), the Technology Institute for Music Educators (TI:ME) Advisory Board, and the College Music Society Editorial Review Board.

Andrew holds a Bachelor of Music degree in Trumpet Performance and a Master of Business Administration degree (M.B.A.) from California State University, Northridge.

### **A Note from the Authors**

We have worked with copyright in various educational and professional situations for over 35 years: Andrew within the music industry, academia, and nonprofits and Pam as a business manager of a fiddle ensemble, an assistant teacher, an editor, and a concert producer.

Our introduction to copyright has been based in real-world experience. This includes the embarrassment of being in error and, in one case, being face to face with a composer who very graciously explained that an infringement had occurred. This has led us to study copyright as it applies specifically to educational and nonprofit situations.

# Introduction

## What is the purpose of this book?

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The purpose of this book is to provide a brief, easy-to-read, introductory guide aimed specifically at basic copyright issues that music educators and directors in the United States face regularly.

Due to the changing nature of technology and the law, updates to this volume will be made at the time of reprints; however, it is always good to verify the latest legal rulings.

THIS HANDBOOK IS INTENDED AS A STARTING POINT. SINCE WE ARE NOT ATTORNEYS, WE STRONGLY RECOMMEND THAT YOU CONSULT AN INTELLECTUAL PROPERTY ATTORNEY ON ANY QUESTIONS YOU HAVE ABOUT COPYRIGHT LAW.

## What are the rights defined by copyright law?

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Under Section 106 of the U.S. Copyright Act of 1976, found at [copyright.gov](http://copyright.gov), there are various rights associated with copyrighted works controlled by the copyright owner.

These rights involve the following:

1. **Reproduction:** the right to reproduce the copyrighted work in copies or phonorecords [audio/sound recordings]
2. **Derivative Works:** the right to prepare derivative works based upon the copyrighted work

# General Information: What Is the Purpose of Copyright Law?

## **Why does copyright law exist?**

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Copyright law balances the need for the free flow of creative works with the need for authors or creators to be compensated for their creations. Copyright law provides protection for artists, authors, and creators and ensures that it is possible to be paid for an artistic endeavor. It allows artists to have control of their work and to be financially rewarded for their creations.

Compositions, books, websites, and other artistic works of all kinds exist because people expressed their individual creativity and their thought processes to create these works. That is why it is called intellectual property. This is the “work” of creators, including composers, and they all deserve to be paid for their work. Due to the provisions of copyright law, when a music educator or director properly uses a composition, the

composer is compensated for the work. Copyright law defines when the use of a work requires permission from the copyright owner, thus resulting in payment to the copyright owner or rightsholder(s).

## **Why is copyright important to our country?**

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Copyright is important in our society and for our economy even though it has a long, controversial history.

First of all, copyright is the law.

Secondly, the rights of the creator versus the good of society have been vigorously debated for hundreds of years. This concept was so important to the newly formed United States of America that Congress included it in Article 1, Section 8 of the United States Constitution in 1787.

To quote the Constitution:

“To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

Other items in Section 8 regarding the powers of Congress include the following:

1. The Power to Lay and Collect Taxes
2. The Guidelines on Borrowing Money and Regulating Commerce
3. The Rules of Naturalization
4. The Establishment of the Post Office
5. The Formation of Armies/Navies and the Ability to Declare War
6. Passing of Laws to Enforce the Constitution

The founders clearly indicated the fundamental value of copyright by including it with these critical components of the Constitution.

There is also a strong argument that compensation for use of intellectual property fosters creativity. Encouraging artistic creativity results in more works, as well as more innovative ideas and solutions. This creates a chain of inventiveness and originality, benefitting the community at large.

# Audio

## **Is permission required before making an audio recording of a concert?**

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It depends. The school does not need permission from the copyright holder to record the concert. Once a composition has been recorded and released to the public, anyone else may record it with a proper license, and the rights-holder may not refuse to issue the license. Use of that recording without licensing is restricted. For example, if a school and community group records its own performance and plans to sell CDs or digital downloads, they will need to secure mechanical licenses for all the copyrighted music included on the album, even though permission to record was not required.

Permission from the school or community group will be needed for anyone else, such as parents or community members, to record the concert.

Most professional groups will not allow the recording of their ensembles because they earn a living from selling their professional recordings.

## **Can the recording of a school concert be kept and played in class?**

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Yes, it is fine to make a single archival copy of a recording of a student performance of copyrighted music.