COPYRIGHT & COMPLIANCE

What our schools need to know!
PRESENTERS

• **Mr. Don Hinton** Exec. Director Mississippi HS Activities Association

• **Mr. Alan Greiner** Exec. Director Iowa High School Music Association
U. S. CONSTITUTION
ARTICLE I, SECTION VIII

... SECURING FOR LIMITED TIMES TO AUTHORS & INVENTORS THE EXCLUSIVE RIGHT TO THEIR RESPECTIVE WRITINGS & DISCOVERIES
Educators, coaches, and administrators cannot claim “no knowledge”. When in doubt about copyright consult legal counsel.
Basic Facts

• COPYRIGHT PROTECTS CREATIVITY AND FINANCIALLY COMPENSATES.

• ON AVERAGE, RECORD LABELS AND MUSIC PUBLISHERS CONTROL MOST MUSIC RIGHTS.

• MONETARY FINES FOR COPYRIGHT CAN RANGE FROM $750.00 TO $150,000.00 PER INFRINGEMENT.
Basic Facts

- Purchasing a song (EX. ITUNES) grants the user personal use of the music only. The user cannot alter the music or create additional copies.
- Music cannot be mixed or edited without a license from the copyright owner.
- Editing music requires written permission from recording companies and all publishers.
4 FACTORS OF “FAIR USE”

- PURPOSE (educational etc.)
- KIND OF WORK (novel, song etc.)
- HOW MUCH IS BEING COPIED AND HOW IMPORTANT IS THE COPIED MATERIAL TO THE WORK?
- IS THE MONETARY VALUE OF THE WORK HURT BY THE UNAUTHORIZED USE?
EXPRESSLY PROHIBITED

- COPYING TO AVOID PURCHASE
- COPYING WITHOUT INCLUDING A COPYRIGHT NOTICE
- REPRODUCING MATERIALS DESIGNED TO BE CONSUMABLE (WORKBOOK, PUBLICATIONS, ETC.)
- CHARGING STUDENTS BEYOND THE ACTUAL COST
2001 A&M Records et al v. Napster

Decision—peer to peer file-sharing services were liable for copyright infringement of music traded; artist; companies etc., were not compensated for their music
2005 *BMG Music et al v. Cecilia Gonzalez*

Decision—college student who illegally downloaded 1,370 songs and held liable for $22,500.00; plaintiffs agreed to only seek damages for 30 songs for the minimum of $750.00 per song instead of the maximum $30,000.00 which would have cost Ms. Gonzalez $41,100.00 in damages

Decision—former high school cheerleader from Texas was ordered to pay $27,750.00 for illegally downloading music; the appellate court rejected Harper’s defense that she didn’t know anything about copyright law and that she thought peer to peer file sharing was similar to listening to music on the radio.
2014 Sony Music Entertainment v. Extreme Traxx Productions et al

Decision—selling unauthorized versions, remixes, and mashups of songs to cheerleading squads across the country; Sony Music sought the maximum of $150,000.00 per song and the case was settled out of court for an undisclosed amount.
Protected trademarks need license agreement for authorized use (Oct. 2018)

Georgia Tech University  Local High School Mascot
May 2019

Jury decided the school district owes $9.2 million in copyright infringement to DynaStudy. The school district had made copies of a biology review guide for students.
BASEBALL

COPYRIGHT INFRINGEMENT

$1000.00 PER PAGE X 7 PAGES

SCHOOL HELD COACH RESPONSIBLE FOR PAYMENT
NFHS course “Understanding Copyright and Compliance”

Available free of charge … REQUIRED

Included in the courses offered at www.nfhslearn.com

Spirit coaches, music teachers, band instructors and coaches are the obvious areas to scrutinize to insure copyright compliance

Additional areas of concern that administrators may overlook are speech and drama
NFHS has compiled 10 units to help coaches navigate copyright

Some topics included: “Festivals and Contest” and “Performances and Exemptions”

By having our coaches complete these courses as administrators we are doing due diligence to keep employees within compliance and protect our schools from litigation
THEATRE & DRAMA

These instructors must also become familiar with potential copyright issues.

NFHS units include topics such as “Dramatic Rights” instructors must be compliant when using the works of others.

“Mashups and Cover Music” will allow music included in stage performances to be purchased, performed, and presented in an ethical manner.
Music In Schools: When to seek copyright advice if in doubt!

- Band or choir performances
- Pre-game music when athletes warm-up
- Time outs during games or half-time
- Walk-Out music for softball/baseball
- Cheer/dance performances or competitions
- Plays or musicals
WHY WORRY?

- It’s the Law!
- You have liability!
- Folks are checking!
WHAT IS COPYRIGHT?

Exclusive rights retained by the creator:

- Duplication and Distribution of the work
- Perform the work
- Create Derivative Works
- Record and Distribute those recordings

This Photo by Unknown Author is licensed under CC BY-NC
ISN’T COPYRIGHT COMPLIANCE EACH PARTICIPATING SCHOOLS’ RESPONSIBILITY?

- Yes, but....!!!
WHAT DO I NEED TO DO?

• Require compliance for participation!
• Check to make sure that all licensing is in place when needed!
• Secure performance licensing for all non-exempt usages!
I DON'T KNOW ANYTHING ABOUT COPYRIGHT AND CERTAINLY NOT ENOUGH TO KNOW IF SCHOOLS ARE COMPLIANT OR NOT.

WHAT DO I DO?

• EDUCATE YOURSELF - Take the NFHS Course!
I'VE TAKEN THE COURSE!

I'VE TOLD ALL PARTICIPATING SCHOOLS THAT THEY MUST BE U.S. COPYRIGHT LAW COMPLIANT WITH EACH OF THEIR PERFORMANCES.

IS THAT ENOUGH?

- Probably not – if challenged, you would need to prove it.
- Best Practice – get their agreement in writing!
NEXT STEP:
VERIFY THAT ALL PERFORMANCES HAVE THE CORRECT LICENSING NEEDED.

Don’t Worry – NFHS can help!
NFHS Celebrates Centennial Indianapolis During 100th Summer Meeting
## Copyright Compliance

### My Schools

<table>
<thead>
<tr>
<th>School Name</th>
<th>Activity Type</th>
<th>Manager</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lake Wobegone High School</td>
<td>Band/Marching Band/Pep Band</td>
<td>John Smith</td>
</tr>
<tr>
<td>Wobe Players</td>
<td>Band/Marching Band/Pep Band</td>
<td></td>
</tr>
<tr>
<td></td>
<td>No Selections were found.</td>
<td></td>
</tr>
<tr>
<td>Wobe Pride</td>
<td>Band/Marching Band/Pep Band</td>
<td>John Smith</td>
</tr>
<tr>
<td></td>
<td>No Selections were found.</td>
<td></td>
</tr>
<tr>
<td>Wobe Singin’ and Dancin’</td>
<td>Choir/Show Choir</td>
<td></td>
</tr>
<tr>
<td></td>
<td>No Selections were found.</td>
<td></td>
</tr>
</tbody>
</table>
# Copyright Compliance

These are events that you are hosting or managing. Event information is only kept on file for 240 days.

### Upcoming Events

<table>
<thead>
<tr>
<th>Event Name</th>
<th>Date</th>
<th>Time</th>
<th>Action Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>NW State Marching Band Festival</td>
<td>10/21/2017</td>
<td>08:00 AM</td>
<td>Edit, Delete, View Attendees</td>
</tr>
<tr>
<td>Jefferson Invitational</td>
<td>09/02/2017</td>
<td>08:00 AM</td>
<td>Edit, Delete, View Attendees</td>
</tr>
<tr>
<td>&quot;We Play Flat&quot; Jazz Band Contest</td>
<td>04/02/2018</td>
<td>08:00 AM</td>
<td>Edit, Delete, View Attendees</td>
</tr>
</tbody>
</table>

### Past Events

<table>
<thead>
<tr>
<th>Event Name</th>
<th>Date</th>
<th>Time</th>
<th>Action Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greiner Show Stompers Extrodinaire</td>
<td>06/09/2017</td>
<td>08:00 AM</td>
<td>Edit, Delete, View Attendees</td>
</tr>
</tbody>
</table>
### Attendees for NW State Marching Band Festival

These are the attendees for your event

#### Cedar Rapids Jefferson High School

<table>
<thead>
<tr>
<th>Selection</th>
<th>Band</th>
<th>Composer</th>
<th>Arranger</th>
<th>Publisher</th>
<th>License Type</th>
<th>Number</th>
<th>License File</th>
</tr>
</thead>
<tbody>
<tr>
<td>Band of the Blue</td>
<td>Band</td>
<td>Composer</td>
<td>Arranger</td>
<td>Publisher</td>
<td>License Type</td>
<td>Number</td>
<td>License File</td>
</tr>
<tr>
<td>test name</td>
<td>test</td>
<td>test</td>
<td>test</td>
<td>test</td>
<td>Master Use</td>
<td>12345</td>
<td>TresonaShow17.pdf</td>
</tr>
<tr>
<td>When Love Takes Over</td>
<td>Choir</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>240752</td>
<td></td>
</tr>
<tr>
<td>Jefferson Swing</td>
<td>Churchill</td>
<td></td>
<td></td>
<td></td>
<td>Custom Arrangement</td>
<td>240752</td>
<td></td>
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</tbody>
</table>

#### Greene County High School

<table>
<thead>
<tr>
<th>Selection</th>
<th>Band</th>
<th>Composer</th>
<th>Arranger</th>
<th>Publisher</th>
<th>License Type</th>
<th>Number</th>
<th>License File</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jefferson Jive Jazz</td>
<td>Choir</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
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</table>

#### Lake Wobegone High School

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<thead>
<tr>
<th>Selection</th>
<th>Band</th>
<th>Composer</th>
<th>Arranger</th>
<th>Publisher</th>
<th>License Type</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wobegone Players</td>
<td>Band</td>
<td>Composer</td>
<td>Arranger</td>
<td>Publisher</td>
<td>License Type</td>
<td>Number</td>
</tr>
<tr>
<td>The best song ever sang</td>
<td>John Smith</td>
<td></td>
<td></td>
<td></td>
<td>Custom Arrangement</td>
<td>1234568</td>
</tr>
</tbody>
</table>
WHAT IS A PERFORMANCE LICENSE AND WHY DO I NEED TO BE CONCERNED ABOUT IT?

I MEAN, I BOUGHT THE MUSIC/CD SO THAT GIVES ME THE RIGHT TO PERFORM IT OR PLAY IT FOR OTHERS, RIGHT?
AS LONG AS OUR MUSIC PERFORMANCES ARE COPYRIGHT COMPLIANT THEN WE SHOULD HAVE NO OTHER CONCERNS … CORRECT?

Nope: Any event that uses copyrighted material in some sort of public display needs to be aware of their responsibilities with regard to that materials usage and display.

These include but are not limited to:

• School Logos
• Mascots
• Commercially recorded music played for athletic events
• Cuttings used in Speech and Theater Events
• Spirit/Cheer routines that use music
• Dance Recitals
• Music played between classes
• Photos!!!!!
WE ARE USING MUSIC IN WAYS THAT ARE NOT EXEMPT FROM LICENSING. WHAT DO WE DO?

NFHS Can Help!!!

PERFORMING RIGHTS ORGANIZATIONS (PRO’S)

- ASCAP – NFHS national provisional license – you’re covered
- BMI – Get a “school license”
- SESAC – no license available, make your request to them in writing
- OTHER - contact the publisher and request usage permission (or don’t use)
HOW DO I FIGURE OUT WHICH PRO CONTROLS THE MUSIC I WANT TO PERFORM?

Go to ASCAP.COM
Dr. James Weaver  
Director of Fine Arts  
NFHS  
Email: jweaver@nfhs.org  
Office: 317-972-6900

HAVE QUESTIONS?

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Iowa High School Music Association  
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