

Fair Use Guidelines for Print and Recorded Music:

Introduction:

Fair use is a legal principle that provides certain limitations on the exclusive rights of copyright holders. The purpose of these **guidelines** is to provide guidance on the application of fair use principles by educational institutions, educators, scholars, and students who wish to copy, perform, or create a digital copy of a **print** musical score or record, copy, or download a **recorded** performance or **recorded** song under fair use rather than by seeking authorization from the copyright owners for non-commercial educational purposes. These guidelines apply to fair use only in the context of copyright.

Fair Use Limitations: Section 107 of the Copyright Act sets forth the four fair use factors which should be assessed in each instance, based on the particular facts of a given case, to determine whether a use is a "fair use."

<http://www4.law.cornell.edu/uscode/17/107.html>

The limitations and conditions set forth in these guidelines **do not apply** to works in the **public domain** (See Chart for details) - such as U.S. government works or works on which copyright has expired for which there are no copyright restrictions.

<http://copyright.cornell.edu/resources/publicdomain.cfm>

These guidelines also do not apply in situations in which an individual or institution has obtained permission for a particular use.

Also, license agreements may govern the uses of some works and users should refer to Xavier University Copyright Agent for guidance (see below). If you seek to use copyrighted material that goes beyond *fair use*, you must obtain written permission from the copyright owner to copy or perform the work. For more information and samples of permission letters, see the U.S. Copyright Office.

<http://www.copyright.gov/>

Please refer to **Xavier University Copyright Agent** for guidance or if you have any questions.

Amy Filiatreau
filiatreaua@xavier.edu (email)
513 745-4359 (voice)

Print Music (Musical Scores)

Permissible Uses:

1. 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.
2. For academic purposes other than performance (in class instruction, multimedia presentations or projects), 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. As a guideline: **no more than 10 percent of the whole work should be copied**. The number of copies shall not exceed one copy per pupil.
3. Printed copies which 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. (This rule does not apply to musical parodies. A parody exists when one imitates a serious piece of work, such as literature, music or artwork, for a humorous or satirical effect and this use fall in the scope of the fair-use defense. For more information see Stanford University's Copyright and Fair Use Guidelines.
http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter9/9-c.html

Beyond Fair Use (not allowed, unless written permission has been obtained):

1. Copying to create, replace or substitute for anthologies, compilations or collective works.
2. Copying from works intended to be "consumable" in the course of study or of teaching such as workbooks, exercises, standardized tests and answer sheets.
3. Copying for the purpose of performance, except as in Permissible Use 1 above.
4. Copying for the purpose of substituting for the purchase of music, except as in Permissible Use 1 above.
5. Copying without inclusion of the copyright notice which appears on the printed copy.
6. As a guideline: **no more than 10 percent of the whole work should be copied** for academic purposes other than performance (in-class instruction or multimedia presentations or projects). See Permissible Use 2 above.

Recorded Music

Permissible Uses:

1. A single copy of recordings of performances by students may be made for evaluation, student portfolio, or rehearsal purposes and may be retained by the educational institution, individual teacher, or student.
2. A single copy of a sound recording (such as a CD 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 which may exist in the sound recording.)

- Legally obtained copyrighted music (CD, cassette, or legally downloaded) may be used for in class instruction or multimedia class presentations or projects. As a guideline: no more than 10%, or 30 seconds, of the musical sound recording should be incorporated as a part of the in class instruction, multimedia presentations or projects created.

Beyond Fair Use- (not allowed, unless written permission has been obtained):

1. Any illegally obtained copyrighted music (downloaded from peer to peer networks, file sharing sites) may not be used for in class instruction, multimedia presentations or projects.

Citing Musical Resources:

All Music that is used for assignments must be cited using the appropriate citation style required by the faculty member. For citation style guides see Xavier University Library Citation Style Help.

http://www.xavier.edu/library/help/style_guides.cfm

Databases and Resources that Contain Print or Recorded Music:

For a list of subscription database and free resources that contain print or recorded music please see Xavier University Library Database guide for Audio Clips & Music.

http://www.xavier.edu/library/databases/audio_databases.cfm