

Copyright Guidelines for Churches

Reproducing and Using Printed Materials Music and Media



A Resource from LeaderResources
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Copyright Information

A copyright is "a legal device that provides the creator of a work of art or literature, or a work that conveys information or ideas, the right to control how the work is used."

Stephen Fishman, Esq. The Copyright Handbook, 1996.

A copyright in the United States is automatic – you do not have to register it with the Copyright Office. You hold the copyright to anything of substance that you write. Registering your copyright merely makes it more likely that you will win should there be a legal dispute. This also means that even things that do not have a copyright notice on them are still copyrighted.

Churches can and are sued for copyright violations. Therefore, it is important for church leaders to be aware of and observe copyright regulations. Here is a quick summary of the use of copyright materials in an educational context. Note, this does NOT include public worship where you must get permission before using music or printing lyrics. "Fair use" allows one to quote from a work (such as the quote above) or use portions of a work in certain contexts. We will address the use in Sunday School or a youth group.

One other note: copyright law is filled with grey areas. It is not always clear what is permitted or prohibited until someone wins or loses a legal case. As the U.S. Copyright Office website says: "Under the fair use doctrine of the U.S. copyright statute, it is permissible to use limited portions of a work including quotes, for purposes such as commentary, criticism, news reporting, and scholarly reports. There are no legal rules permitting the use of a specific number of words, a certain number of musical notes, or percentage of a work. Whether a particular use qualifies as fair use depends on all the circumstances."

According to the Copyright Office, there are "fair use" purposes: "for the reproduction of a particular work may be considered fair, such as criticism, comment, news reporting, teaching, scholarship, and research." It identifies four factors to be considered in determining whether or not a particular use is fair:

1. The purpose and character of the use, including whether such use is of 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

The goal of a church should be to avoid those practices that are clear violations and seek to follow practices that are clearly appropriate or at least "defensible." That doesn't mean you won't be sued, but it means you have a reasonable defense if you have been consistently careful. Most copyright holders will first issue a "cease and desist" letter which you should promptly follow. But beyond that, use common sense. Churches tend to be blatant copyright violators, copying everything in sight for classes and committees, putting lyrics in bulletins, etc. The goal of these guidelines is neither to scare you nor give legal advice that guarantees compliance – not even an intellectual rights lawyer can do that! The best we can do is avoid clearly illegal practices and be respectful without becoming totally paranoid. As the Copyright Office itself acknowledges on its website FAQs: "The distinction between fair use and infringement may be unclear and not easily defined." (<http://www.copyright.gov/fls/fl102.html>)

Suggested Guidelines

Printed materials

Copying must meet the tests of brevity and spontaneity.

- Brevity means you can't copy an entire book or a substantive part of a work.
- Spontaneity means you need to do it so near the time of use so it would not be reasonable that you could obtain permission in time, that you aren't directed by your employer to make the copies (it is the instructor's choice) and that you don't use the item again and again.

Many schools¹ follow guidelines such as these for making photocopies to use in class:

- Poetry: Copies of a poem of 250 words or less that exist on two pages or less or 250 words from a longer poem.
- Prose: Copies of an article, story or essay that are 2,500 words or less or excerpts up to 1,000 words or 10 percent of the total work, whichever is less. So, for example, a chapter from a book or one article from a periodical, a short story or essay.
- A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

Avoid the following:

- Making copies of different works that could substitute for the purchase of books, an anthology, publisher's reprints, or periodicals
- Copying the same works repeatedly (e.g, copying and using a particular poem, song, etc. as the opening or closing ritual for your meeting each week)
- Copying the same material for several different classes or programs in your church.
- Using a work of more than 2,500 words in its entirety
- Special works "that combine language and illustrations and which are intended sometimes for children and at other times for a general audience." (e.g., a child's book). Special works should never be copied in their entirety. An excerpt of no more than two pages or 10 percent, whichever is less, is the general guideline for special works.

Music

Printed music follows much the same rules as printed materials. The place where churches most often fall into illegality is printing hymn lyrics in bulletins or assembling a "song book" for Children's Chapel, a youth group or a church event. These are illegal unless you have a license from a company like www.ccli.com or www.onelicense.net. The only exception to this is if the hymn is in public domain (it will be identified as such).

The only place where copying of lyrics "might be" legal is under the same rules of fair use within an educational context for instructional purposes. This means there has to be an analysis and discussion of the lyrics related to something you seek to teach students. But you can't print lyrics as part of the

¹ The following is based on information provided by a committee of the Authors League of America and reviewed by Irwin Karp, Counsel for the Association of American Publishers, Inc. However, it is not intended by them or by LeaderResources to provide legal advice. If you are concerned about any of these issues, consult an intellectual rights lawyer in your state.

opening or closing worship – even if it relates to the lesson’s “theme” unless you have a license. You can, however, “perform” the song in worship (sing it) – see the notes on performance in religious services on p. 4. Again, the best way to deal with this is to get a license that allows you to copy lyrics.

Don’t make a copy of a music CD you bought or download music that isn’t legal to download (check each website – they will normally tell you if it is legal but aren’t likely to say anything if they music isn’t legal).

Multi-media

These guidelines always assume that you are working with a lawfully acquired works (e.g., not copied from a purchased or rented DVD, downloaded illegally from the internet, etc.).

This is an area of shifting opinions and a lack of clarity. Again, from the Copyright Office website: “It is not necessary to obtain permission if you show the movie in the course of “face-to-face teaching activities” in a nonprofit educational institution, in a classroom or similar place devoted to instruction, if the copy of the movie being performed is a lawful copy. This exemption encompasses instructional activities relating to a wide variety of subjects, but it does not include performances for recreation or entertainment purposes, even if there is cultural value or intellectual appeal.” 17 U.S.C. § 110(1)

The Copyright Office is clear that you can use movies in an educational institution and that certainly covers a school run by a church. However, many argue that this does not apply to a Sunday School class or youth group as a church is not primarily an “educational institution.” The rules change (or, more precisely, are constantly being interpreted), so you need to review them regularly. While there aren’t many clear cut answers to what you can do, there are very clear answers to what you can’t do.

- You may NOT show an entire movie to a group at church for entertainment without a license. It does not matter if you rent it or purchase it – unless it comes from an organization (such as the Episcopal Media Center) that specifically provides permission for church use. Other than that, you need a license. You can obtain a license from a group such as Church Video License (www.cvli.com).
- Even with a license, you may not charge a fee to view the movie (you can charge for food or for items at a silent auction, etc. as long as those charges are clearly linked to those items). You also can not use trademarked names, titles, etc. in public announcements (e.g., the local newspaper) although you can use them internally (your church newsletter). In other words, don’t compete with your local movie theatre by announcing a free version of what they are selling!
- Some legal scholars say you may show very small, discrete portions of a movie necessary for instructional purposes. However, many argue that this does not apply to a church class as a church is not an “educational institution.” Do this at your own risk.
 - In any case, you may NOT compile a DVD with multiple clips on them to show during a worship service, in a class or at a youth group meeting. The July 26, 2010 ruling allows only students and teachers of *institutions of higher learning* to “rip” movie clips and assemble their own DVDs. The religious service exemption (p. 4 below) only applies non-dramatic works, not movies.
 - Even with a license, teachers and students in a non-university contexts such as church youth groups or Sunday School classes may NOT burn copies of the movie or a portion of the movie onto a DVD or download it to a computer to show in class. You have to use the original DVD which has a system of protecting it from being copied – it is illegal to use the software designed to get around that anti-copying system and make a copy.

YouTube and other online videos: Whoever creates a video automatically owns the copyright on that clip and that person has the right to give or deny permission to republish the video (e.g., on your website) or use the video with or without royalties. When someone posts a video on YouTube, they are given the option to enable or disable the “embed” code. If they enable it, you will see the HTML code displayed at the side of a video -- that’s what allows you to post that video on your website or blog. Theoretically, if someone enables the “embed” code it means they want you to embed the video elsewhere. BUT that assumes the copyright owner knows what they are doing! There are lawsuits of people who have posted videos on YouTube, enabled the “embed” code and then sued people who subsequently embedded that video. Those lawsuits may resolve this issue if/when they are settled (or thrown out of court). But in the meantime, here are some things you should consider before using a YouTube video either to embed on your site or to show in a public setting:

- Check the site to see if the owner specifically gives permission, in which case you are free to use it without much concern. The only issue is: Did the creator obtain releases from any people appearing in the video? Probably not. So if the video shows someone doing something that is embarrassing, defamatory, etc. or is of minor children, we recommend that you not use it.
- Ask the creator of the video for permission (best option if you plan to post it on your website where it will be widely available over time). As the YouTube site says: “The rights to any screen shots or footage of third party content on our site are not ours to grant. You would need to follow up with the individual content owners regarding the rights to this footage. You may want to try emailing the user through your YouTube account.”
- Avoid embedding or showing any video that is or contains a commercial TV show or movie – even if the embed code is there (unless you can assure yourself that the copyright owner posted it and gave permission). Lots of people post YouTube videos of things they copy off of television or a movie promotion website and then mark it as free to embed – but they don’t have the right to grant that permission as their own YouTube posting of the material is illegal. That person may be well intentioned (sharing this great movie trailer or sharing a “fan compilation” of online clips), but you could still end up in court and incur legal costs as well as embarrassment.

Performance in Religious Services: The one exception to this is found in 17 U.S.C. § 110(3): “performance of a nondramatic literary or musical work or of a dramatico-musical work of a religious nature, or display of a work, in the course of services at a place of worship or other religious assembly.” Non-dramatic literary works would include poetry, novels, and books; non-dramatic musical works covers both song and musical composition. But this exception does not include movies, plays or scripts for radio, TV, drama, etc. So you can read a poem, an excerpt from a book or sing a song in worship. But if you perform a secular play, you need a license, even if it is during a worship service. Also, this exemption does not mean you can record your children singing a song or playing music, for example, and then show it publically in a non-worship context. You can perform the music, but not record and replay it publically.

Some works are issued under the Creative Commons License – if you see that listed, you know you can make copies – provided you don’t sell them. You can charge a fee to cover your costs (snacks, childcare, etc.) but you can’t go into business selling that material!

We encourage you to get a license for movies – it isn’t that expensive and it allows you to have “movie nights” and show full movies, which makes it well worth the cost. We also encourage your congregation to obtain a license for music – again, not that expensive and it allows you to use music. If you believe that something you want to copy might not fall under permissible use, contact the publisher or copyright holder and ask permission (give yourself plenty of time – 4-6 weeks for small publishers, three months+ for large commercial operations).

In all cases, make sure you include the copyright notice (name & date) and the words “used with permission” (if you got permission) or “copied under ‘fair use’ provisions” or “used under the Creative Commons License.” We strongly encourage you to destroy any copies you make after you’ve used them. Too often we leave copies lying around at a church and some years later another person finds a copy and makes copies, believing it is permissible to do so. Even if you obtained permission to make copies for your class, that does not allow someone five years later to make copies for another class. So destroy any copies you make.

Several other related issues:

- Email correspondence is copyrighted – it is not legal to forward or otherwise distribute someone’s email without their permission.
- Pictures are copyrighted to the person who took the picture. It is not legal to send, copy, post on a website or distribute a picture you didn’t take. If you “publish” a picture (e.g., on a website or in a newsletter) it is advisable to obtain a “model release” for individuals in the picture (or from their parents if they are minors) as well as permission from the photographer.
- You need a license to play music on your church website – even if it is your choir performing it.
- It is also wise to obtain written permission from all preachers (including youth and their parents) before posting sermons.

Online materials

All of what has been said above applies to materials you obtain online. The fact that it is posted on a website, found in Wikipedia or in a Google search does not mean you can freely use it anywhere and everywhere. Some of this is a matter of using common sense. Check out where the material came from and whether it is truly “public.” Make sure you use appropriately small amounts of a total work, mark it as a quote and give appropriate credit. Never charge a fee or sell something with an image, video, etc. on it. Don’t use downloaded images as a logo, on your website, as your bulletin cover, etc. Post a notice that you do not intend to violate anyone’s rights and if someone is concerned, tell them how to contact you so you can remedy it immediately. Most, not all, but most copyright owners will work with you if they are upset by what you have done with their material. The best you can probably do in this litigious society is increase the odds of avoiding litigation. But in a time when the law, interpretations of the law and people’s sense of what is and is not legal are all very fluid and thus confusing, it is best to consider these issues in advance and have a clear policy known to both staff and volunteers.

Finally, we encourage you to join those who help churches be observant of copyrights. Getting a license is a way to be safe and ensure that someone doesn’t inadvertently show a movie, print lyrics of a hymn, etc. without appropriate permissions. With the growing trend towards online publishing, it also is important that you pay attention to the license dates (often you can only use the downloadable materials during the time you pay for the license) – and destroy materials after the license has expired. All of those measures help keep churches on the legal side and also help our members be respectful of copyright holders’ rights.

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*NOTE: The above is not intended to provide legal advice (we are publishers, not lawyers).
If you have any questions or concerns, consult a lawyer in your state.*



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