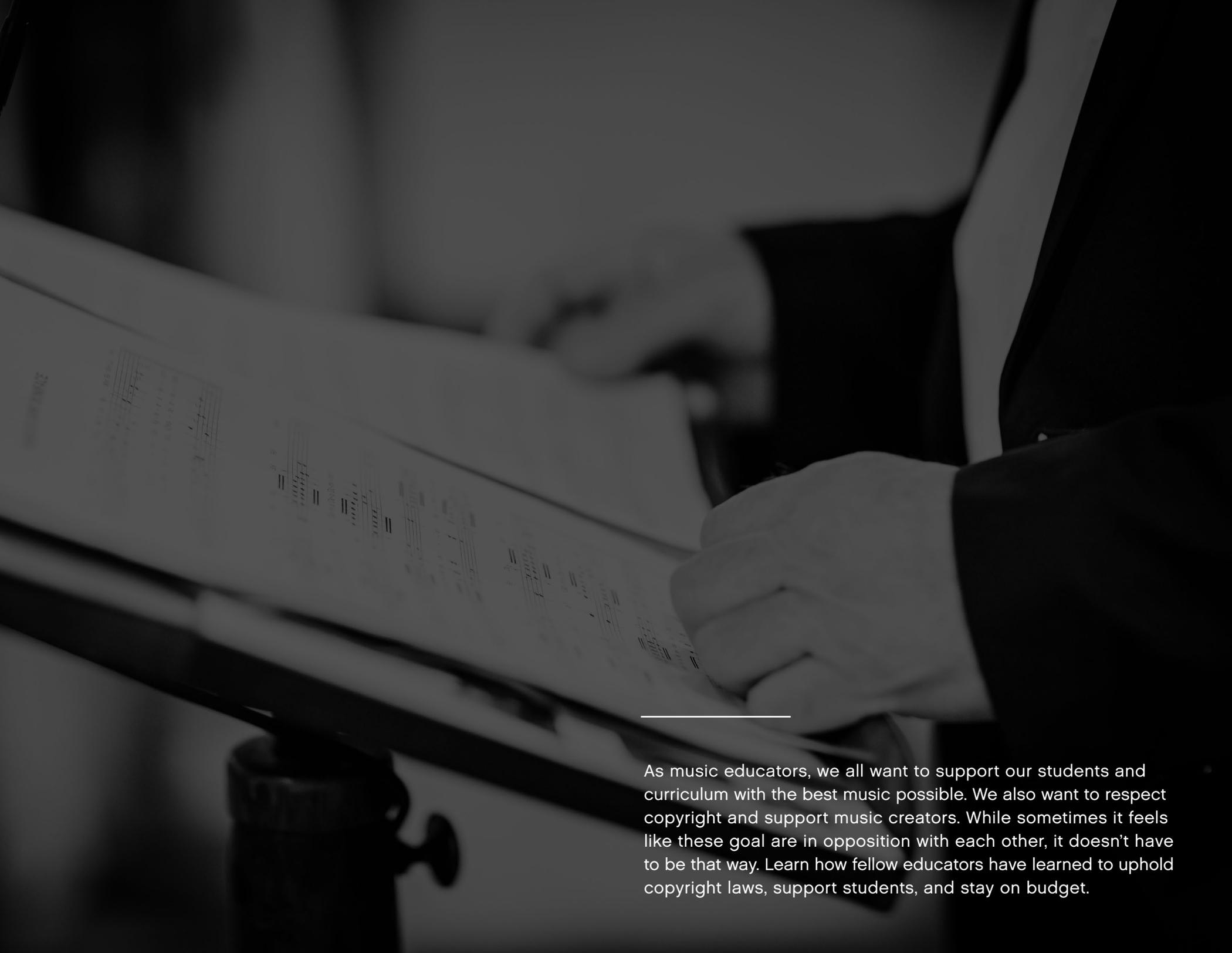


An open book of sheet music is shown from a high-angle, close-up perspective. The pages are aged and yellowed. The left page is mostly obscured by a white text box, but some musical notation is visible. The right page shows several staves of music with notes and rests. A small number, '13176', is printed on the right page. The book is slightly curved, showing the thickness of the pages.

copyright for music educators

smartmusic®



As music educators, we all want to support our students and curriculum with the best music possible. We also want to respect copyright and support music creators. While sometimes it feels like these goal are in opposition with each other, it doesn't have to be that way. Learn how fellow educators have learned to uphold copyright laws, support students, and stay on budget.

contents

- The Importance of Copyright Law:
Dos and Don'ts for Music Educators** 4
Pam Phillips, co-author of *Copyright Handbook for Music Educators and Directors*, shares tips to help music educators follow proper copyright usage, support composers and arrangers, and do right by their students and administrators.
- My Classroom Experience with Music Copyright** 8
Band director Mark Connor shares tips to help you get your students the music they need, stay within your budget, *and* respect copyright laws.
- Copyright and Your Marching Band** 12
As soon as marching band season ends, it's time to begin planning next year's show. Will you use a stock arrangement or hire someone to write a custom show? Copyright plays a big role in this decision. Here's some advice from the perspective of Austin Mitchell, a freelance music arranger.
- Festivals, Copyrighted Music, and Ratings:
How to Avoid Not Getting a Rating** 16
Have you heard the one about the director whose ensemble went to festival and didn't receive ratings because of copied music? It sounds like a setup for a joke, but it's not. Learn how to ensure this doesn't happen to you.

the importance of copyright law: dos + don'ts for music educators

Pam Phillips

“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.”

- *Copyright Handbook for Music Educators and Directors*

The world of copyright can be intriguing, interesting, frustrating, complicated, and confusing, all at the same time. It also is something that impacts music teachers and directors every day. Following proper copyright usage assists the composers and arrangers in making a living from their craft. Those of us in the arts and responsible for educating future artists need to support our fellow creatives. My hope is that there will always be ways to make a living in music. We can be part of that circle and teach the students that art has value.

What does a copyright owner control?

- The right to reproduce the copyrighted work in copies or sound recordings.
- The right to prepare derivative works based on the copyrighted work.
- The right to distribute copies or sound recordings of the copyrighted work to the public.
- The right to perform the copyrighted work publicly.
- The right to display the copyrighted work publicly.
- [For sound recordings] The right to perform the copyrighted work publicly by means of a digital audio transmission.

The permission to use or reproduce a work is granted in different ways depending on its use. Each right controlled by the copyright owner must be considered when planning a new project. Music educators and directors are most commonly concerned with these situations:

- Using printed music
- Creating and using audio and video recordings
- Performing in public
- Uploading to the Internet
- Downloading from the Internet
- Arranging music

Copyright Law:

DOS AND DON'TS FOR MUSIC EDUCATORS

DO

- Do view sample pages online to review and select music.
- Do arrange songs in the public domain (most folk songs, carols, hymns, and spirituals) for your ensemble.
- Do make emergency copies if purchased music is delayed or backordered before an imminent performance.
- Do make copies from classroom resources that are clearly labeled as reproducible.
- Do copy short musical excerpts (no more than 10% of an entire work) to use for academic purposes.
- Do the right thing—support the arts by legally purchasing music.

DON'T

- Don't download and copy sample pages to avoid purchasing music.
- Don't create your own arrangements of copyrighted material without written permission from the copyright holder.
- Don't keep emergency copies in your music library—replace them with purchased copies as soon as possible.
- Don't share reproducible materials from school to school—one is required per building/organization.
- Don't post copyrighted materials online.
- Don't set a bad example by using illegal copies.

Copyright infringement can result in both civil and criminal action. The information on this flyer is not intended as legal advice. Please visit mpa.org to learn more about copyright law.



Alfred Music
LEARN • TEACH • PLAY

What is public domain?

In the U.S., a general rule of thumb is that if the piece was written or published from 1923 and on, it will still be under copyright. There are exceptions to this because copyright law continues to evolve. This applies to newly composed works, arrangements, and new editions of classics. For example, an edition of a Beethoven symphony that was published 20 years ago is protected just the same as a piece that was written two years ago.

Music written or published before 1923 is most likely now considered public domain. Public domain means that anyone can freely use that music – perform it, create derivative works (arrangements), include it in other collections, and so on. In order to do so, be sure your source material is public domain and that it's not recent arrangement or edition of an older work.

How can I research the copyright status of a particular work?

- Look for a copyright notice. If you find the name of a publisher, contact them with any inquiries.
- Research online databases – allmusic.com, ASCAP, BMI, SESAC, copyright.gov, the Harry Fox Agency, the Library of Congress.
- Check the website of print music publishers and music retailers for copyright notices.
- Review the dates of the composer's life and composition itself.

Additional advice:

Here are some additional guidelines for United States copyright law that may be helpful.

- Don't trust the grapevine's knowledge. There are great resources online and in print.
- Laws vary between countries. The copyright laws in the country you live in will apply to you. Treaties establish international copyright law.
- If what you are doing causes someone else to lose income, then it is most likely a copyright infringement.
- Be wary of "free" music on the Internet. It may have been illegally scanned and posted.
- Not everything on "public domain sheet music" sites, such as IMSLP, is public domain.
- If you have any doubts, consult an intellectual property attorney. This article is not intended to provide legal advice; it is a guideline to provide resources.

The content of this article, which first appeared on the [Alfred blog](#), is excerpted from *Copyright Handbook for Music Educators and Directors* by Pam Phillips and Andrew Surmani. For additional resources, see *Music Publishing: The Complete Guide* by Steve Winogradsky. A two-page reference called "Copyright Clinic 2017" is also available at phillipsfiddlers.com/handouts. For the definitive law, visit copyright.gov and/or consult with an intellectual property attorney.



Pam Phillips has a broad background in arts management and production, including producing concerts, camps, and workshops. In her role as an editor she has worked on production of DVDs, CDs, orchestra pieces, and books. Pam is the project coordinator for Alfred Music's revolutionary new Sound Innovations method. View her complete bio and additional posts at Alfred.com.

my classroom experience with music copyright

Mark Connor

This past fall, after teaching college music theory for 17 years, I took a job teaching 4th through 8th-grade band at a small independent school. When I arrived, there was some miscellaneous equipment, a full set of music stands, and one drawer full of music. In that drawer was some good stuff, but only a few of the pieces were both grade-appropriate for the students and had not been performed recently. With an additional desire to add diversity to my programming I knew that I needed to buy some music, but with a budget of only \$300 I knew immediately that I had to find creative, and cheap, solutions.



My first order of business was to find some music for both my very small middle school band and my fifth-grade band for the holiday concert, and then to make a plan for programming music for three bands (including the fourth-grade beginners) for the two spring concerts. Fortunately, I am a composer and have the ability to quickly generate arrangements and original music for my ensembles, but I still needed much more than I could provide.

Copyright Law

I understand that there are times when well-intentioned people struggle with copyright. For some perspective, when I took my first band directing job over 20 years ago I played pretty fast and loose with copyright. Without going into specifics, there were a few instances where I copied some student parts and made some pep band arrangements without permission. I falsely believed that because I had the best interests of my students in mind, and because it was for educational purposes, I was in the clear.

Fortunately for me, and for my employer, my transgressions were mostly innocuous and I never faced legal repercussions. However, there could have been stiff fines for me and my school, and I most certainly could have lost my job. In the words of composer Robert W. Smith, trying to save money doesn't always save you money.

According to the Music Publishers Association website, the following are expressly forbidden under copyright law:

- Copying to avoid a purchase
- Copying music for any kind of performance (there is an emergency provision)
- Copying without including the copyright notice
- Copying to create anthologies or compilations
- Reproducing material designed to be consumable such as workbooks, standardized tests, and answer sheets
- Charging students beyond the actual cost involved in making copies as permitted

I would go further and also warn against making digitized copies of parts and distributing them to your students on the Internet, arranging music under copyright (including that cute *Baby Shark* arrangement for the pep band), and even lending scores to other institutions.

A note about lending libraries: There is a very real danger that with the rise of centralized libraries for music that we may end up in a situation where publishers feel forced to either charge more per copy, thus squeezing out the independent schools or smaller school districts, or move to a rental system similar to what the orchestral world uses. Neither of these potential outcomes will help us make music with our students and both will raise the price for music.

Disclaimer: I am not a lawyer. If you have specific questions about copyright, please seek the advice of a legal professional!

Free Music

So if we can't copy music, then what do we do? Fortunately, a multitude of excellent resources exist for finding free band music. My first stop for acquiring holiday tunes – that were playable for even my youngest musicians – was the outstanding [One Size Fits All Band Books](#). OSFABB has a large number of flex band style arrangements from grades 1-3, with the majority between .5 and 1.5.

Other great sites with loads of free music, particularly for more advanced bands, include the [Band Music PDF Library](#), which features thousands of works written before 1923 that are now in the public domain. This collection includes marches by Karl King, Henry Fillmore, and John Philip Sousa among a variety of works originally published by companies such as C.L. Barnhouse and Carl Fischer during the golden age of band music. Another collection of free sheet music is available through the [United States Marine Band](#).



If you have any arranging or transcribing skills, there is also the exceptional [International Music Score Library Project](#) which has over 137,000 works in the public domain! There are also numerous sites with free chorales, warm-ups, and even free beginning band method books. I'll include a list of some of those resources at the bottom of this article. Social media groups and message boards also offer a tremendous resource for finding free music, and often a request for suggestions is answered by tens or even hundreds of responses.

SmartMusic is more affordable than you think. [Try it for free!](#)

Other Solutions

There are many other great free resources and ideas for filling a music library but I want to mention two other really great ways to acquire music on a limited budget. The first comes from Ron Sikes, the band director at Jefferson VII High School in Missouri. On the bottom of his concert program, he states that anyone who buys a piece of music for the school will have their name written in the score and then each time it is performed they will be mentioned in the program.

Another great way to find inexpensive new music, and it even offers the bonus of interaction with a living composer, is to look for inexpensive commission consortiums for new band music. I've seen composers, particularly young composers, with buy-in fees for group commissions as low as \$25 or \$30!

Final Thoughts

When I mentioned this article to Robert W. Smith, who publishes several of my works for band, he told me that as teachers, we need to spend money on what we teach. Without spending money on music, there will be very little incentive for composers to keep writing and without new music we lose some of the vibrancy of what we do. Remember that music is our curriculum and we need to support those who are the creators, whether they are self-published or distributed through one of the large publishing companies.

And finally, if anyone reading this really needs a free Grade 1.5 or Grade 3 march, drop me a line and let me know. I've got two marches that I wrote and I'm happy to send either or both to anyone who has a genuine need for more literature!

Additional Resources

- [36 Chorales for Band](#)
- [Three Warm Up Chorales for Band](#)
- [The Habits of Musicianship \(University of Texas\)](#)
- [Beginner Band Books by Matthew Provino](#)
- [Beginner Band Method Books by Justin Dickson](#)



Mark J. Connor is a composer, educator, conductor, and the host of the [Everything Band](#) podcast. See his full bio on the [SmartMusic blog](#).



copyright and your marching band

Austin Mitchell

Now that the marching band season has come to an end, you may be in the beginning stages of planning for next year. One of the first decisions to make is whether to go with a stock arrangement, write a custom show, or hire someone to do so for you. One factor in making this decision is copyright.

Without following proper protocol you – and your arranger – can unintentionally infringe on composers' copyrights. When this happens, publishing companies and composers don't get paid for their work, and you can open the door for legal troubles for you, your school or group, and your collaborators. To help avoid this, I'd like to share some of my experience as an arranger.



Public Domain

When I am contemplating arranging published music, I draw a mental line in the sand at 1923. Music published before 1923 is often in the public domain, meaning that it's available to the public and not subject to copyright.

Public domain is my best friend. As it includes most music from the beginning of time through the romantic era, it gives us a lot to work with. However, some pre-1923 pieces are still under copyright, so always do thorough research and never assume a piece is in the public domain. A good resource for public domain music is the [International Music Score Library Project](#).

Music Under Copyright

The other side of my line in the sand is music still under copyright. This part of the published music world is a bit more sticky. If you're looking to arrange music that is still under copyright, it is possible. To do so you're required to obtain permission of the copyright owner, and they have the right to decline this permission.

I have arranged a lot of music still under copyright. Many composers and publishing companies are willing to have their music on the marching band stage. However, it's vital that you go through the proper channels to legally obtain the permission before arranging the work. This is one place where I recommend getting a head start on since this process can take quite a bit of time.

How Do I Get Permission?

The path to getting permission to arrange and perform a piece of copyrighted music can have a lot of twist and turns. If you have the time, you can do the research and find the copyright owner yourself. If you don't have time to do research, perhaps your arranger can offer some assistance. This is one of the many services I provide my clients.

Sometimes connecting with the copyright holder is as simple as going to a composer's or a publisher's website and finding their phone number. Other times you may not find any information online. Organizations like [Tresona](#) and [Copycat Licensing](#) are great for those tough situations and will take care of this process for a fee.

How Are Licenses Negotiated?

When you reach out to the copyright owner for rights, you typically pay a fee for the arrangement. Sometimes, you can negotiate this fee. One factor is the amount of the work being used in your arrangement. Another is the length of time the arrangement can be performed. The time frame is limited to continue to protect the composer and publishing company. While you may be able to haggle with the cost and timeline, in reality this is in the owner's ballpark since you are asking for permission. Once you reach an agreement be sure to get it in writing.

After you have purchased the rights to arrange and perform a piece, and the music has been arranged, you may ask yourself, "Do I own the arrangement?" Since the arrangement created is a by-product of the original piece, whoever owns the copyright owns the arrangement.



Final Thoughts

No one wants to deny a fellow musician their rightful share. No one wants to make their organization vulnerable to legal action. I've heard of schools, directors, and arrangers being fined thousands of dollars, and of people subsequently losing their jobs. The secret to avoiding problems is to plan ahead, start early, and never assume anything, whether it be that the copyright holder will say "yes," that the ancient piece is in the public domain, or that your students will remember to bring their folders without you reminding them to do so.

Good luck to you as you begin planning for next season.

Additional Resources

- NAFME offers many [copyright resources for music educators](#) on their website.
- [Copyright and Fair Use charts](#) and tools from Stanford University Library



Austin Mitchell is a customer success representative and documentation specialist for MakeMusic, a trumpet player, and a freelance music arranger.



festivals, copyrighted music, + ratings: how to avoid not getting a rating

Pam Phillips

We have all heard stories of an ensemble going to a festival or contest and being told that ratings will not be given due to copied music. How does a director avoid such disappointment for students and parents, as well as the embarrassment for all? Planning ahead will usually solve the problem! Here are suggestions for navigating the various issues that can arise.



Virtually all organizations that run festivals require that all music used by performers and judges must be original; in other words, it cannot be copied. For solo and small ensemble events, this includes the music used by the student(s), by the accompanist, and the music for the judge. For large ensemble events, this means all the music on stage and the scores provided for judges. This is a rule that is rarely, if ever, waived for any circumstance, which means that it falls to the director to be prepared.

First, I would recommend selecting music well in advance. Take the time to see if your selections are available. Look at this as invested time rather than spent time because it will pay back with peace of mind! If there is a piece that is out of stock, there is time to check to see if you can obtain it. Do the research as you select music.

Next, order your music, including the extra scores, at least 8 weeks in advance of the date of the festival. The reason for this is to allow

time for the unexpected issues (that we all expect) to arise! If a piece of music is out of stock with your retailer, check with other retailers to see if you can get it elsewhere. However, if you have started the process 8 weeks in advance, most likely your retailer can obtain the music from the publisher in time for the event.

Wonderful classic pieces that are out of print can be perfect for festivals! How do you replace missing parts or obtain extra scores for such a piece? If you are playing a piece that is out of print, thus not available for purchase, the rule still applies. Before you commit to performing that piece, be certain you can obtain the originals you need or that you can obtain permission to make copies. To obtain permission, contact the publisher or copyright holder. Be sure to begin this process well in advance to allow time for the request to be processed. I would recommend several months ahead. Do not assume you will get permission, so allow time to change to another piece if necessary.

Most festivals only accept copied music if the music is accompanied by an explicit letter giving you permission to make the copies legally. This will need to be obtained from the publisher or copyright holder and detail the name of the piece, the event for which you are using the copies, your name and school, the date of the event, and any other applicable details. The more detailed this letter is, the less likely you are to have any challenges from the festival. Include a copy of this letter with every score and keep several copies with you.

The ability to download and print music has opened new possibilities, particularly for solos and small ensembles! How do you prove music purchased digitally is not an illegal copy? Sometimes the music will have a statement to that effect on it; sometimes it will not. Unfortunately there are people who try to evade the system by providing their own letters or statement. This can make festival organizers understandably skeptical. I would recommend that you bring copies of the receipts showing exactly what you purchased and how many copies you purchased. Include that with every score and keep several extra copies with you.

If any of your music is copied or appears to be copied, it would also be good to contact the organizers of the festival. Explain your situation and be sure you are meeting the requirements of that festival. Again, invested time that will pay off!

A few extra steps, taken in advance, will provide peace of mind, ensure a good festival experience for your students, and make you look good in front of your administrators and the parents.

For additional information, consult [Copyright Handbook for Music Educators and Directors](#), or use the [Alfred Music Permissions portal](#) to request permission to copy.

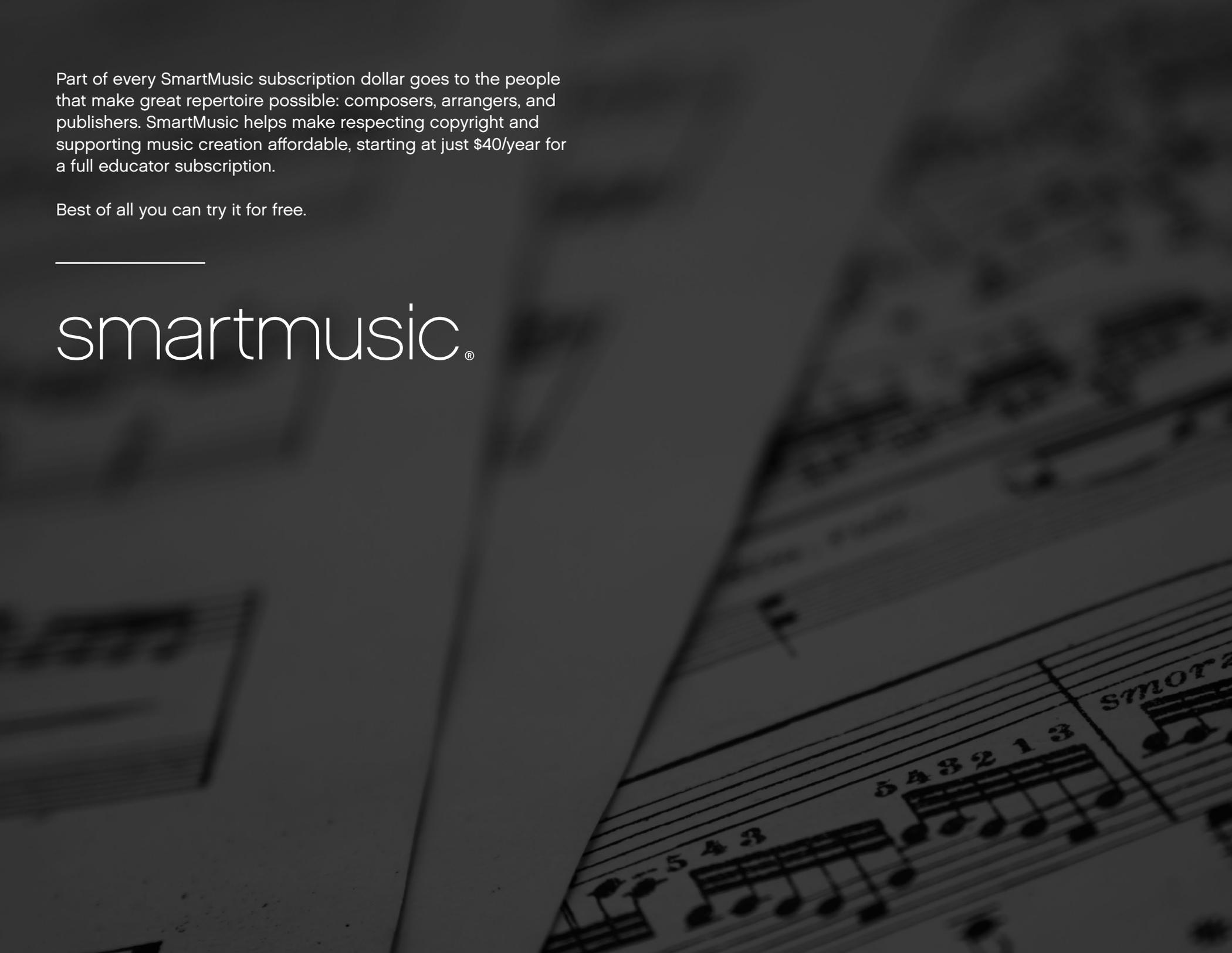


Pam Phillips has a broad background in arts management and production, including producing concerts, camps, and workshops. In her role as an editor she has worked on production of DVDs, CDs, orchestra pieces, and books. Pam is the project coordinator for Alfred Music's revolutionary new Sound Innovations method. View her complete bio and additional posts at [Alfred.com](#).

Part of every SmartMusic subscription dollar goes to the people that make great repertoire possible: composers, arrangers, and publishers. SmartMusic helps make respecting copyright and supporting music creation affordable, starting at just \$40/year for a full educator subscription.

Best of all you can try it for free.

smartmusic®

The background of the advertisement is a dark, grayscale image of a music manuscript page. It features several staves of music with notes and rests. In the lower right, there are some numbers (5 4 3, 5 4 3 2 1 3) and the word 'SMOT' visible on the staves, which are slightly out of focus.