MUSIC TEACHERS NATIONAL ASSOCIATION

FAQs For Online Music Competitions and Recitals

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In all of these FAQs, it is assumed that the music at issue is copyrighted and not in the public domain, unless noted otherwise.

1. *Are permission forms required for students to participate in online recitals and competitions? If so, what is the best legally acceptable way to collect them (Print, sign, scan and return/digital signature/online form/hard copy in the mail)?*

   Yes, you should obtain written permission for the student or, if the student is a minor, written permission from the student's parent or guardian. In addition, a student holds a copyright on their performance and consent would be needed to post it online.

   As far as how that permission is documented, there is no formal requirement. Electronically signed documents are recognized in all states as valid. As long as the teacher or studio can document that permission was given, the form of permission is not important.

2. *Do I need to secure permission or synchronization licenses for students performing copyright music in a **live-streamed recital** using Zoom or another videoconferencing service?*

   It depends. If the recital is being streamed to a limited audience such as a private Facebook page that is available only to a limited number of friends and family, then a license is not needed. Of course, if there are 250 friends and family with access to the Facebook page, then we have exceeded a limited number and a license may be needed.

   In cases where the live-streamed recital will be available publicly, the next issue becomes what platform you are using. Some platforms have entered into agreements with music publishing companies and/or music licensing organizations, like ASCAP, to allow videos with copyrighted music they control to be posted on the platform. For example, Facebook has agreements with Universal Music Publishing Group, Sony/ATV and ASCAP. Facebook has also entered into individual agreements with self-published songwriters.

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As we detail in the FAQs, every platform is different. Facebook and YouTube, because of their size, were targets of copyright lawsuits by music publishers and songwriters. In response, they have set up internal copyright policing systems to detect possible copyright infringements in videos that are posted. They have also implemented claims systems to resolve infringement disputes. None of these systems are perfect and many of the details periodically change as refinements are made to the systems. Music teachers should weigh the pros and cons of the various platforms before selecting which one to use.

3. *Do I need to secure permission or synchronization licenses for students performing copyright music in a **pre-recorded recital** posted on Facebook, YouTube, or my studio website?*

   This is a very difficult questions to answer because it will depend on the platform you use and who holds the rights to the song or songs in the video. Generally, you can post the recital to Facebook and YouTube without any fear of terrible things happening to you. Their internal systems will scan the videos for possible infringements and notify you if something is found. The worse thing that can happen is that they will take the recital video down and assign you a copyright strike. If you accumulate enough strikes, you can lose the right to post to the platform.

   The options presented to you are going to be decided by the copyright holder.

   In extreme cases, they may direct Facebook or YouTube to take down the video. You have a right to appeal that as seen below. Another option is that the infringing portion of the video is muted. The copyright holder may also choose to monetize the video so that they receive any ad revenue associated with the video. Or, they can let the matter slide and leave the video up.

   With Facebook and YouTube, you may check the video once it has been posted to see if any copyright infringement claims are made. This then gives you the option to take down the video. However, simply taking down the video will not save you from receiving a copyright infringement strike. We discuss in Question 5 how to handle a copyright claim and the consequences of receiving one.

   Instagram also has internal policing systems which will post on the video a warning of a possible copyright infringement. Vimeo's internal monitoring system is less robust than Facebook and YouTube. Zoom currently does not have an internal system for monitoring possible copyright infringement.

   If, instead of using an online platform, you post the recital video to your studio's website, you can obtain webcasting licenses from ASCAP, BMI and SESAC. For ASCAP, the

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link is https://licensing.ascap.com/?type=digital. You can also call an ASCAP licensing specialist at (800) 471-1733.

4. *How do I prove I have the appropriate copyright permission/license when uploading a video to Facebook or YouTube?*

   Unfortunately, there is no way to notify YouTube or Facebook in advance that you have the permission to use copyright music before uploading a video to their platforms.

   With YouTube, once you upload your video, it will be scanned by YouTube's "Content ID". If Content ID detects that your video contains copyrighted audio or video content, YouTube will send you a copyright notice indicating that third-party content has been identified on the video. If that were to happen, the video can be blocked or removed, the audio can be muted or a third-party ad can be run over the video to monetize the content used in the video and compensate the content owners for the use of the video.

   If you have permission to use the copyrighted material in your video or if the Content ID system is incorrect in detecting copyrighted music in your video (this is often the case with classical music), you can dispute the claim. Please see Question 5 below for that process.

5. *What should I do if I receive a copyright claim notice on my video?*

   YouTube advises that if you receive a Content ID Claim on a video you posted, you can dispute the claim. If you hold the necessary rights or you believe YouTube has misidentified your video, go to the YouTube website to file the dispute to the copyright claim. Simply Google "Dispute a Content ID Claim–YouTube" and you will see step-by-step instructions on how to file a dispute.

   If Facebook notifies you that it has taken down your video because of a copyright claim, you may file a DMCA counter-notification. Facebook will forward that to the complaining party. If within 14 business days the complaining party does not respond, your video will be restored.

6. *For a live competition, can competitors send PDF copies of the music for the judges to use for evaluation purposes?*

   Yes. If the student purchased the sheet music, he or she can submit a PDF copy of it for the judges to use for evaluation at a live competition. However, as noted below in Question 7, only one copy of the sheet music could be used by the judges.

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7. *If there is a live competition with judges seated 6-feet apart, can competitors supply one original score and two photocopies? Or PDFs of all the music that the judges could view on individual iPads?*

   Unfortunately, you would not be able to make two copies of the score and distribute them to the judges without violating copyright laws. Copyright laws would not allow you to make the two copies for the judges who are spaced apart because of COVID-19 concerns. It would be necessary to purchase three sets of the sheet music to give one to each judge.

   The same is true with PDFs that are sent to the judges and then displayed on individual computers. If there are three judges, then, unless the music publisher consented, you would need to show that three sets of music were purchased.

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