UNDERSTANDING COPYRIGHT

What the law says and how we use it in education

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WHO IS THE NFHS
LEGAL DISCLAIMER

This presentation is educational and is not intended to be legal advice. The information presented here is believed to be accurate at the time of publication. However, music copyright law is complex and it is recommended that you consult your legal counsel prior to taking action.
“To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

Copyright Law of the United States
and Related Laws Contained in Title 17 of the United States Code

December 2016
ADAM RUINS EVERYTHING
INTERCHANGEABLE TERMS

- Author
- Composer
- Photographer
- Inventor
- Publisher
- Producer
Copyright laws protect creativity.
The time and creative effort of the composer
The investment of time and money by the publisher
Your music retailer who supplies your musical needs
Copyright owners’ rights
To make copies or recordings of a copyrighted work
To prepare derivative works
COPYRIGHT CONTINUUM

Less Protection

Common Signs
Ideas
Listing of ingredients
Facts
News
Literary

More Protection

Music
Literary
Sound recordings
Dramatic
Architectural
Pictorial, graphic, and sculptural
Motion pictures and other audiovisual
Choreographic
HOW LONG DOES COPYRIGHT PROTECTION LAST

- 70 years after the author’s death
- 95 years after the creation of an anonymous work
- Works created prior to 1923 are mostly in the public domain
- 1998 Copyright Act extended protection from 75 years to 95 years
  - Referred to as the “Mickey Mouse Act”
    - 1928 materials will be public domain beginning in 2024
COPYRIGHT INFRINGEMENT

- Using of a work protected by copyright law without permission, infringing certain exclusive rights granted to the copyright holder, such as the right to reproduce, distribute, display or perform the protected work, or to make derivative works.
HOW THINGS HAVE ALWAYS BEEN DONE

• Each school was typically told to make sure what they were doing was copyright compliant:

• Vicarious Liability: the host or sponsoring entity need to see the licensing/permission obtained, review it, and make sure of copyright compliance prior to allowing groups to perform.

  – Vicarious Liability is being used by several entities to enforce copyright compliance
ALWAYS GET PERMISSION

- Copyrighted work is protected by the person or organization that created the work.
- You cannot use material without asking for the proper permissions.
- Educational use is not an excuse to use copyrighted works without permission.

Aerosmith, Adele, Elton John, R.E.M., Luciano Pavarotti, George Harrison, Rolling Stones
**SCENARIOS**

- **Question:** Does a work have to be registered in order to be copyright protected?

- **Question:** I have a visually impaired student that needs their scripts larger than the printed page. Can I make a copy that enlarges the size of the script from a legally purchased copy?

- **Question:** Can I sell or loan works from my library?

- **Question:** Can I make a recording of my students?
FAIR USE

- Purpose and character
- Nature of the work
- Amount of work being used
- Potential harm caused to the creator

When in doubt don’t assume it’s fair use
SCENARIOS

- **Question**: I plug my MP3 player into the PA system for speaker transitions which is completely ok because I bought each song from iTunes?

- **Question**: I purchased a recording that says it comes with performance rights, can I put this on my video and use it in my presentations?

- **Question**: I found a great photo and want to use it, I asked the photographer for permission, but didn’t hear back.

- **Question**: I want to use an article for a publication, if it’s factual it should be ready for publication, correct?
COPYRIGHT INFRINGEMENT PENALTIES

- Non-Willing
  - $750 - $30,000
- Willful
  - $150,000
- Willful with Commercial Gain
  - $250,000 up to 5 years in prison
- Statute of Limitations
  - 3 Years
HOW TO AVOID COPYRIGHT INFRINGEMENT

- Copyright laws are designed to protect the creator of original works, which are creative expressions from others using and profiting their work, without permission.

- Use Caution If It's Not Your Original Work.

- Don't Believe the Urban Legends.

- Look for Fair Use.

- Ask for permission
WHAT CAN WE DO?

- Educational Exemptions
  - Face-to-face instruction exemption
  - Emergency copying exemption
- Ask for permission!
- Music, Theatre, and Speech need Performing Rights on top of Royalty Rights
Search Results

Your search for Walk by any author returned the following results. (Click any publisher name for more information.)

Total results: 41
Results 1 - 20

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Publisher</th>
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<tbody>
<tr>
<td>A Walk in the Woods</td>
<td>Lee Blessing</td>
<td>Dramatists Play Service</td>
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<tr>
<td>Boardwalk Melody Hours</td>
<td>Tom Chiodo</td>
<td>Samuel French</td>
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<td>Murders</td>
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<td>Cake-Walk</td>
<td>Colleen Curran</td>
<td>Playwrights Union of Canada</td>
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<tr>
<td>Cakewalk</td>
<td>Peter Feibleman</td>
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<td>Dead Men Don’t Walk</td>
<td>Clifford Wright</td>
<td>New Theatre Publications</td>
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<tr>
<td>Dreamwalk</td>
<td>Drama. By Eddie Kennedy.</td>
<td>Dramatic Publishing</td>
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<td>Essays on George F. Walker: Playing with Anxiety</td>
<td>Chris Johnson</td>
<td>Playwrights Union of Canada</td>
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<tr>
<td>How Are Things With the Walking Wounded?</td>
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<td>Playwrights Union of Canada</td>
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<td>Julia Walks on Stilts</td>
<td>Alexis Kozak</td>
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<tr>
<td>Long Walk to Forever</td>
<td>Based on the story by Kurt Vonnegut, Jr. Adapted by Bryan P. Harnetiaux.</td>
<td>Dramatic Publishing</td>
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<tr>
<td>Madam, Will You Walk?</td>
<td>Sidney Howard</td>
<td>Dramatists Play Service</td>
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KNOW YOUR PUBLISHERS

- Required permissions
  - Publishers that require permission

- Limited Permissions
  - Broadway Play Publishing
    - 5 minutes or less no permission needed
    - Standard fees for full-length ($50) and shortened plays ($35)

- Green and Red Lists
  - Samuel French

www.nfhs.org
RESOURCES

- NFHS Understanding Copyright and Compliance
  - Theatre and IE tracks coming in June 2019

- PRO negotiations
  - ASCAP
  - BMI
  - SESAC
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