

College Music Symposium: Guidelines for Permissions

Please note that the following guidelines do not constitute legal advice. The information is intended only to provide initial guidance to those who wish to submit their work to Symposium. The result in a particular circumstance is a function of all the facts and circumstances. If you have questions concerning your submission to Symposium, legal advice should be obtained from a competent professional who is aware of all of those facts and circumstances.

Introduction

Symposium welcomes submissions from authors of written articles, creators of video, composers of music, and performers of music. These works are submitted for purposes of criticism, comment, teaching, scholarship, and research. When sending a proposal to *Symposium*, submit your own work, work in which you are the principal creator and which you have the right to submit. If you submit the works of others, you must make sure that the work is not protected by copyright (i.e., the work is in the public domain) or that you have permission to use the work.

The College Music Society (CMS) takes appropriate steps to insure that *Symposium* is used only for its intended professional, critical, and educational purposes, and does not inadvertently present copyright-protected material on the *Symposium* website. For that reason, when submitting an article, photograph, video, or sound file to *Symposium* for consideration, it is the responsibility of the submitter to do everything reasonably possible to ensure that CMS will not be violating the rights of any copyright owner if the article, photograph, video, or sound file is accepted and posted to the website.

The *Symposium* website delivers content for purposes of criticism, comment, teaching, scholarship, and research, as well as to enrich music teaching and learning by musicians and the public. *Symposium* is not a means of sharing, downloading, swapping, or exchanging any files, whether copyright protected or in the public domain.

Symposium welcomes submission of all work for which you own the copyright. If, however, the work you submit is protected by copyright, the permissions required depend on whether it is (1) a written work, (2) a photograph, (3) a video, or (4) a musical work.

These distinctions are discussed below and are intended to help submitters understand the copyright permissions they need to obtain before submitting their work to *Symposium*. Please do not submit copyrighted video or sound recordings for which permission has not been obtained.

1. Permissions Required for Submitting Written Works

You are the owner of the copyright in any unpublished written work you created. For example, if you wrote an article, you own the copyright and you may submit the article to *Symposium*. Submit to *Symposium* only original written work that you have created and, thus, for which you own the copyright. Do not submit to *Symposium* written articles or written works of others.

Written articles and other works often contain photographs, video, or sound files that are used to underscore points being discussed in the written work for purposes of criticism, comment, teaching, scholarship, and research. If your article or written work contains photographs, video, or sound files, please note the following:

Permissions Required for Use of Photographs within Written Works

If the photograph is in the public domain, you do not need permission to include the photograph in your article and you may submit the photograph with your article to *Symposium*.

If you took a photograph, then you own the copyright.

If you hired a photographer to take the photograph, or have a photograph taken by someone else, then in the absence of an agreement between you, the copyright belongs to the photographer and not to you. The submission is considered copying and distribution of the work, and you must obtain permission to use the work. If the subject matter of the photograph is protected by copyright, such as a work of art not in the public domain, then the photograph might itself be a copy of that work and you must obtain permission to submit the content. Obtain written permission(s) to post the photograph on the *Symposium* web site. The permission might look like this:

I ___[name]_____ residing at _____[address]_____
hereby grant permission for my photograph of _____[the work]_____
to be posted at the *Symposium* website in perpetuity.

Signed: _____

Dated:_____

Permissions Required for Use of Video and Sound Files within Written Works

Authors of written works often find it useful to include in their work video and sound files. These may be (a) short excerpts of works or (b) entire works.

Short Excerpts -- If you are including short excerpts, you may wish to claim to be making a *fair use* of these excerpts for *Symposium's* purposes of criticism, comment, teaching, scholarship, and research. You may submit to *Symposium* with your written article or work these short excerpts if you are making the claim of *fair use*. You may find it useful to review the American Musicological Society's precis concerning the fair use doctrine, available [here](#). If you cannot in good conscience make the claim of fair use for the purposes of criticism, comment, teaching, scholarship, and research, obtain the full permissions discussed above and below for use of the excerpts you are submitting.

Entire Works -- If you are including in your written article or work not excerpts, but *entire video or sound works* and the works are not in the public domain, you must obtain permission to include these video and sound files. Therefore, the entirety of sections 2. and 3. below concerning submission of video and sound files apply to you.

2. Permissions Required for Submitting Video Works

If the video is in the public domain, you do not need permission and you may submit the video to *Symposium*.

If you took the video, then you own the copyright.

If you hired a videographer to take the video, or you have video taken by someone else, then in the absence of an agreement between you, the copyright belongs to the videographer and not to you. The submission is considered copying and distribution of the work, and you must obtain permission to use the work. The video itself might include works protected by copyright. It can be problematic if the video has a musical score. If the score is a copyrighted work, in addition to the issues raised below under sound files, there are issues with the use of the music in connection with the video itself which may require a synchronization (or "sync") license. If necessary, please discuss this issue with CMS prior to submission.

To post the video on the *Symposium* web site, obtain written permission of the videographer and anyone else whose copyrighted work was captured by the video. The permission might look like this:

I _____ [name] _____ residing at _____ [address] _____
hereby grant permission for my video of _____ [the work] _____
to be posted on the *Symposium* website in perpetuity.

Signed: _____

Dated: _____

3. Permissions required for Submitting Sound Files

In a musical composition there can be two copyrights – in what we call **the underlying composition** and in the **sound recording** of the performance of that underlying composition. The copyright *in a music composition* (i.e., **the underlying composition**) differs from the copyright *in a particular performer's recording* of that composition (**the sound recording**).

Obtaining Permission to Make a Recording of the Underlying Composition

Music in the Public Domain – If the underlying composition is in the public domain, copyright has lapsed and you do not need permission to make a recording. After copyright has lapsed, performers are free to make a sound recording of any **underlying composition** in the public domain.

If you are not sure whether the composition is in the Public Domain – If you are not sure if the music you wish to record is in the public domain, and therefore does not require license authority, one means of checking is to use the search capability on <http://www.pdinfo.com>. Another means is to look at the printed music and see if the copyright year is 1922 or before; in the United States and in most countries, the music is in the public domain.

Music Protected by Copyright – You may, however, wish to make a recording of an **underlying composition** that is protected by copyright. In this case, you *must obtain permission of the copyright owner* for use of **the underlying composition**. This permission is granted through a **“mechanical license.”**

If you can reach the composer – If you know the composer personally, or can get in touch with the composer, it may be possible to obtain directly from her or him permission to record the work. This is, in essence, a *waiver of the mechanical license*. Your permission might look like this:

I _____ [name of composer] _____ residing at _____ [address] _____ hereby grant permission for my composition of _____ [the work] _____ to be recorded by _____ [your name _____] and to be submitted to *Symposium* for its consideration. I understand that the sound file may be posted in digital form on the website in perpetuity solely for purposes of criticism, comment, teaching, scholarship, and research.

Signed: _____

Dated: _____

If you cannot reach the composer – If you cannot reach the composer you need to obtain a **mechanical license** in order to make a recording of the work. Fortunately, there is an easy and affordable way for you to meet this requirement under the law. Limelight, located at <https://www.songclearance.com>, provides those wishing to make recordings of works protected by copyright with a quick and straightforward means of obtaining a **mechanical license**. By answering a few questions on a simple form and paying a small fee, Limelight will do all the work necessary to obtain the **mechanical license** for you. *Make sure you obtain permission for a “digital download.”* Another means of obtaining a **mechanical license** is through the Harry Fox Agency at <http://www.harryfox.com> and its Songfile service. With the **mechanical license** in hand, a performer is now free to make and distribute a recording of the work.

Even if you have made every good-faith effort to obtain the permission of the copyright holder to make a recording of **the underlying work** but have **not** received permission, **do not** submit your recording to *Symposium*. **Do not submit to *Symposium* the recording of a work not in the public domain for which permission to make a recording of that work has not been obtained. If you have not obtained permission to make a recording of a work under copyright** – either through the waiver of the mechanical license or through obtaining the mechanical license – **do not submit the recording to *Symposium*.**

The Sound Recording

Those submitting to *Symposium* **the recording** of the underlying composition must be either (a) the composer of the underlying composition or (b) the performer on the sound recording. Do not submit to *Symposium* recordings made by others. The submitter must have the permission of all performers on the sound recording. All performers have a claim to copyright in the particular performance. If the composer or performer submitting the work has used others in rendering the performance – for example, a duet or a trio performing – the submitter should obtain the permission of those other performers. The permission might look like this:

I _____[name]_____ residing at _____[address]_____
hereby grant permission for my performance of _____[the work]_____
to be posted on the *Symposium* website in perpetuity.

Signed: _____

Dated:_____