

Copyright law has always been difficult to maneuver and may not evolve as quickly as technology does. Over the last several months many churches have moved to online worship and have many questions about copyright. Below are six of the most common misconceptions about copyright and the correct information.

1. I have Sundays and Seasons Augsburg copyright and it has all the hymns available for download, so I have permission to use anything in ELW, LBW etc.

Sundays and Seasons copyright ONLY covers the liturgies and texts in ELW, not the hymns and songs. You MUST have a secondary copyright license. The recommended license is OneLicense.net.

2. We're not using our hymnals, but as long as we print no more copies of the bulletin than we have hymnals, we can reprint the music in our bulletin without a copyright license.

You must have a copyright reprint license to reprint any music in a bulletin regardless of if you own the hymnals.

3. We're only printing the words in our bulletin, so we don't need copyright licenses.

While there are a few exceptions where texts or music are in the public domain, most of the texts and lyrics of hymns and songs are copyrighted. In the ELW, at the bottom of each hymn there is information as to if it is copyrighted and who holds the copyright.

4. We're on the radio without a streaming license, so we don't need a license to stream online.

A radio or TV station has the appropriate licensing to cover your church's broadcast of copyrighted material during your service. Once you start streaming/broadcasting your service on your own (internet or low-powered FM transmitter for example), you need appropriate licensing.

5. I can use a recording of my choir or musician on my live-stream and its covered under my copyright license. I don't need a license if the only music we stream is my organist/pianist's prelude and postlude.

ANY copyrighted music used during a live-stream must have permissions. Your organist's prelude or postlude must be covered under your copyright license. Your choir's anthem must be covered under a copyright license. You can not use an archival recording of your choir (audio or video) as part of your live stream without holding a mechanical license (a license to record and broadcast a piece of music) for that piece of music. Onelicense.net holds most of the copyrights you'll need for live-streaming choir anthems, bell anthems and organ and piano music not in the public domain.

6. We can pre-record our service to post on youtube or social media and be covered under our copyright license.

You cannot produce a pre-recorded service with copyrighted music for later use without a mechanical license. There are specialized companies (that provide cost effective solutions for churches who want to pre-record their services for later broadcast. It also provides the ability to use archival video or audio of your church choir as well as broadcast and perform music at events such as concerts, on-hold music in your phone system, retreats, ceremonies, camps, wedding receptions etc. christiancopyrightsolutions.com offers 2 license options that cover most everything ASCAP, BMI etc) you'll likely want to broadcast or perform outside of worship services starting at \$250/ year.

Copyright law is very specific and binding. There are 2 major exceptions under copyright law; Religious services and education. Churches (unless you have a school) only fall under the Religious Services Exemption.

The **religious services exemption** allows the public "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" (17 U.S. Code § 110(3)). In other words, you do not have to get permission from the copyright owner or pay royalties to perform music or display the lyrics of a work in a religious service.

The exemption is a vital one. It is the only special treatment that churches and ministries receive under copyright law. As long as services are being conducted at a religious gathering, the exemption would apply even if they are held in "non-religious" venues such as an auditorium, stadium or theater. The exemption excludes performance activities at a place of worship that are for social, educational, fund-raising or entertainment purposes.

In CPA and attorney Richard Hammar's book, *Essential Guide to Copyright Law for Churches*, he quotes from the House of Representatives on the Copyright Act 1976 Reports:

To be exempted...a performance or display must be "in the course of services," thus excluding activities at a place of worship that are social, educational or fund raising, or entertainment purposes.

There are three key steps to understanding how the Religious Service Exemption applies to your church's activities. Let's break it down into three important elements:

1. What are the **TYPES** of copyrights – there are eight types of works that can be copyrighted
2. What are the exclusive **RIGHTS** that are exempt
3. What is the specific location and **SETTING**

Types of Copyrights

Only musical works (music and lyrics) and non-dramatic literary works (like poems, prose, short stories, books, periodicals) are exempt.

Types of Rights

Only “public performance” and “public display” of the works covered are included. Only two of the six types of rights.

Where and What

“During the course of services at a place of worship or other religious assembly” is specified. The exemption EXCLUDES performance activities at a place of worship that are for social, educational, fund-raising or entertainment purposes.

The RSE does NOT cover music being performed or played outside a religious service for activities such as:

- concerts
- aerobics and dance classes
- youth programs
- social events
- fund-raisers
- coffee shops
- conferences and seminars
- camps and VBS
- on-hold music

<https://sco.library.emory.edu/copyright/religious-organizations.html>

https://www.ecfvp.org/uploads/tools/files/LR_Copyright_Guidelines_010711.pdf

https://www.gcfa.org/media/1366/copyright_compliance_for_local_chuches_2015.pdf

<https://kjk.com/2015/11/12/the-fair-use-doctrine-and-the-religious-services-exception/>

<https://www.lib.purdue.edu/uco/CopyrightBasics/exceptions.html>

<https://librarycopyright.net/resources/exemptions/index.php>

