

Guidelines for Congregations and Agencies of the Moravian Church in America For the Use of Copyrighted Materials

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1. Moravian Church Policy on the Use of Copyrighted Materials

Each person, congregation, board, and agency of the Moravian Church has a clear responsibility to adhere to the laws of our land. "We will be subject to the civil authorities as the powers ordained of God, in accordance with the admonitions of Scripture (Rom. 13:1) (I Peter 2:13-14) and will in nowise evade the taxes and other obligations which are lawfully required of us (Rom. 13:7)." (*Moravian Covenant for Christian Living*, section IV, "The Witness of a Christian Citizen", paragraph A, "Recognition of Civil Authority"). The Ten Commandants also declare, "Thou shalt not steal." (Ex. 20:15; Deut. 5:19)

The copyright laws of the United States and Canada protect musical compositions, written prayers, sermons, poems, hymn and song lyrics, liturgies, videos, web sites, and software. Our commitment to Christ calls us to respect the rights of others as well as the law of the land. Each Moravian congregation, board, and agency should ensure compliance with the following policies:

- a. Hymn and song texts and music, prayers, liturgies, and other worship materials shall not be copied, printed, posted on web sites, or projected without the copyright permissions and citations required by law.
- b. All worship materials in the public domain may be used, but careful investigation will first be made before any materials are considered to be in the public domain. If clear evidence of public domain status cannot be found, the materials will be treated as subject to copyright protection.
- c. Unauthorized photocopies, including choir music, will not be used... Warnings shall be posted at copy machines.
- d. Videos shall not be shown in our churches or other public places without the proper licenses.
- e. Text, videos, or pictures found on web sites shall not be copied, displayed, projected, or printed without permission.
- f. Computer software shall be used only in compliance with the license purchased. If the software is licensed for use on one computer, it shall be used on one computer only.
- g. It is the responsibility of each individual to comply with these guidelines and with the U.S. and Canadian Copyright laws. No one shall instruct another person to act in contradiction to these policies, and each employee or volunteer shall have the right and responsibility to refuse to act in contradiction to these policies or to the law as he/she understands it.

2. What Is Copyright?

Canadian copyright law is very similar to U.S. law. Please refer to the website referenced at the end of this document for specific references. Hereafter, when this document references U.S. Copyright Law, the reader should assume that Canadian Copyright Law also applies. The Copyright Act declares that "copyright" in an original work belongs to the creator of the work – whether the work is a visual creation, musical composition, arrangement or accompaniment of a piece of music, words to a hymn or sermon, video, web site, piece of software or other protected work. The creator of the work is the first owner of the copyright and may transfer that all or part of that ownership to others by assignment of licensing. The owner of a copyright holds five rights exclusively: the rights

- to reproduce the work
- to adapt the work
- to distribute the work or sell it
- to display it publicly
- to perform the work for the public

This means that anyone other than the creator (or the person or company to whom the creator has assigned or licensed the copyright) who wants to make copies of something, adapt it, sell it, display it, or perform it, has to have permission. Copyright includes such things as photocopies, printing the text in a bulletin, projecting it on a screen, including it on a CD or cassette for distribution to members or friends – anything other than its use *in its original format* in a “live” situation.

Years ago, the U. S. Copyright Act required a copyright notice to appear on all copies of published copyrighted works, plainly identifying the copyright’s owner and the year the copyrighted material was created. Fortunately, many creators of copyrighted material continue to use copyright notices. However, since 1989 the U. S. Copyright Act has not required this notice in order for the material’s creator to claim copyright protection of the material. As a result, the absence of a copyright notice does not mean the material is not copyrighted, and does not give you a right to use it freely. You must still determine the material’s copyright status.

3. What is Fair Use?

You’ve heard of the concept of “Fair Use”. This is based on a section of the U. S. Copyright Act and means generally that in very limited circumstances, one or more of the exclusive rights of a copyright owner can be exercised by someone other than the owner. The Copyright Act lists four factors that can be considered to determine whether something constitutes fair use: the purpose and character of the use, the nature of the copyrighted work, the amount of the work to be used, and the effect of the use on the potential market for it. However, these are not the only factors a court might consider, and in a particular case one factor might be deemed more important than the others. This means that you must treat the “fair use” concept with caution.

For example, although copying something for criticism or teaching on a one-time basis is sometimes considered fair use, *most often copying for congregational use is outside the fair use limits*. In addition, there is no “bright line” that tells you when your use is “fair use”. There is sometimes a misconception that “use of no more than ten percent of a copyrighted material is ‘fair use’.” However, that is not an accurate statement of the law; there is no such bright line.

4. Videos, Software, and the Internet

Purchasing or renting a video does not give the right to show it anywhere other than for your personal use, and generally only in your own home. That means generally that any other use would require permission from the owner of the copyright in the video; as a specific example, you need a license in order to show videos to your youth group!

Computer software is generally protected by Federal copyrights and licensing agreements. While some creators of software expressly allow use of the software by others, this is an exception, not the general rule.

Generally, software is accompanied by licensing information that states express restrictions on copying the software and on the number of computers on which it can legally be loaded and used. To load and use software on more systems than the license confers is a violation of U. S. copyright law and a kind of theft. (See Exodus 20:15) Read the license agreements carefully and do not try to cut corners by

buying one copy and using it on another person's computer.

Materials on the internet are notoriously easy to copy: It is easy to download a file from a Web page – a posted graphic, original material, or even music files. However, copyright laws presently apply to anything that is posted on the Web, whether it carries a copyright notice or not. You should not presume that any material you find on the Web is free for the taking and for unrestricted use. Make sure that if you decide to use something you have found in cyberspace, you are as diligent about determining the material's copyright status as you would be if the material was found in a book or hymnal.

5. Obtaining Permission to Use a Copyrighted Work

Obtaining permission should not be difficult if you plan ahead. Don't wait until the last minute! Most often, obtaining permission requires making a written request or phone call (followed up by a confirming written communication, such as an e-mail) to the copyright owner with this information:

- What do you want to use?
- How and when will you use it? (one-time bulletin, permanent publication, recording; date of use and the type of event – concert or worship service)
- How many copies do you plan to make?
- Do you plan to sell or lease any copies?
- What is the organization and contact person, with address, telephone and email?

After you have made a request, you will receive a written response indicating that you have the permission, or if permission is not granted, a reason why you may not use the work. There may be a fee to reproduce the work. The fee is usually based on the way you plan to use the work. The permission procedure is the same whether you want to use a hymn, a part of a liturgy, the text of a poem, a photograph, a work of art, an article from a book or a magazine, or a graphic you have found on the Internet. You will usually also receive a copyright permission line that you will be expected to print with the copied text, in a program or bulletin, or elsewhere.

Song books and hymnals provide copyright information either on the page of each hymn or in an acknowledgments section usually located at the back of the book. Contact information for copyright holders and administrators may also be included in the book. If no copyright is listed for the hymn, it may be in the public domain and, if it is, may be reprinted without additional permission. However, if the hymn was written after 1922, it's a very good idea to check with the Moravian Music Foundation or Interprovincial Board of Communication to be certain before you print the hymn.

Separate copyrights can be applied to the hymn tune, musical arrangement, text, or translation. In other words, each of those types of copyrightable works may be created separately and be subject to a different claim of copyright.

If you don't think you have time to apply for copyright permission, then don't use the copyrighted work. Choose something that is already in the public domain. In cases where a piece of music is out of print, permission must still be sought before making copies. A publisher may grant permission to make photocopies, but these should so indicate on the copy. All unauthorized photocopies should not be used.

6. Copyright Licenses

A copyright license enables a congregation to reproduce hymns, liturgies, or songs from specific copyright holders without having to request or pay for permission each time you reproduce them. Some licensing agencies also provide broad licenses covering the use of numerous copyrighted materials, and

some of these agencies (such as those examples listed below) focus on church and worship-related materials. Obtaining a license can save time and money if the congregation regularly reproduces congregational songs in worship folders or other media. Some licenses also grant permission to make audio recordings of hymns and songs that occur in worship.

However, licenses are not blanket permissions to reproduce whatever you wish at any time. Remember that each licensing agency generally holds the licensing rights for only a specific collection of copyrighted works, not all copyrighted works, and therefore that agency may not be able to give you a blanket license covering all copyrighted materials you wish to use. A license for use of copyrighted material should be in writing, as a precaution against misunderstanding the scope of the license, and you must carefully review copyright licenses and understand the limitations of each one. Licenses may have reporting responsibilities to ensure that congregations remain within the parameters of the license and to determine compensation for composers and writers. If a congregation is to make good use of a license, they need to read the agreements carefully and consider what they really need and want to copy or use. The most widely used licensing agencies are these:

- [Christian Copyright License International](http://www.ccli.com) -- <http://www.ccli.com>
- [OneLicense.net](http://onelicense.net) -- <http://onelicense.net/>
- [LicenSing](https://www.licensingonline.org/en-us) -- <https://www.licensingonline.org/en-us>
- [Christian Video Licensing International](http://www.clvi.com) – <http://www.clvi.com>

7. Additional Resources for Copyright Information

Much of the information in this document comes from the Evangelical Lutheran Church in America and is used with permission:

<http://www.elca.org/Growing-In-Faith/Worship/Learning-Center/Copyrights-and-Permissions.aspx>

Other good resources include the following web sites ...

From the United Church of Christ:

<http://www.ucc.org/music-arts/copyright-and-the-church.html>

From the Presbyterian Church (USA):

<http://www.presbyterianmission.org/copyright/>

An important resource needed in both provincial offices and MMF offices:

<http://store.churchlawtodaystore.com/esgutocolawf.html>

A download that looks very interesting and helpful

<http://store.churchlawtodaystore.com/whchlenetokn1.html>

U.S. Copyright Office

<http://www.copyright.gov/>

From ASCAP:

<http://www.ascap.com>

From BMI:

<http://www/bmi.com>

From SESAC:

<http://www.sesac.com>

Canadian Copyright Office

<http://publications.gc.ca/site/eng/ccl/aboutCopyright.html>