



Music Licensing for Virtual Conferences

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As the COVID-19 pandemic continues to prevent large gatherings, many state music education associations are opting for virtual conferences for the 2020–2021 school year. Maintaining compliance with copyright laws has always been necessary at state music education gatherings, and virtual events may include additional measures that administrators need to consider.

Necessary Licenses for Music and Performances

Performing or displaying copyrighted materials during face-to-face teaching activities may be exempted from some copyright restrictions under certain conditions. Such exemptions do not apply in areas of professional development, adjudication, or entertainment performed outside of the classroom.

Performance licenses, synchronization licenses, and mechanical licenses are the most common permissions sought for virtual conferences. If a musical work is not in the public domain, a license is likely needed to transmit the work in a virtual setting.

Most public performances require a performance license. There are three main Performance Rights Organizations (PROs) that issue licenses for their copyright-owner members: [ASCAP](#), [BMI](#) and [SESAC](#). A performance license from a PRO permits the licensee to hold public performances of any work in that PRO's catalog.

A sync license is required for recordings that include a visual element, such as an audio/video concert recording. A sync license is not necessary for livestreaming a performance but becomes necessary if that livestream is captured as a recording. Sync licenses need to be obtained directly from the music publisher. There is no rate set by law, and the publisher can refuse to issue the license if they choose.

A mechanical license must be obtained to distribute copies of an audio recording of a composition or musical work not in the public domain. The rate paid for a mechanical license is regulated by statute and established by the [Copyright Royalty Tribune](#). An efficient way to obtain a mechanical license is through the Harry Fox Agency. This agency was established by the National Music Publishers' Association to provide an information source, clearinghouse, and monitoring service for licensing musical copyrights. Henry Fox Agency licenses the largest percentage of the uses of music in the United States on CDs, digital services, records, tapes, and imported phono records

NAfME Obtained Performance Licenses

NAfME holds performance licenses with ASCAP and BMI for NAfME and Federated State Music Education Associations (MEAs). This covers only nondramatic performances sponsored by NAfME and its Divisions and State Organizations. Traditionally this has included:

- Performances at NAfME national, Division, or state MEA conferences.
- Performances at NAfME or MEA meetings.
- Other Association concerts, such as for the anniversary of the founding of an MEA.

Both ASCAP and BMI have searchable databases of music they license. NAfME Federated State MEAs can use these works without needing to request a license if it is an MEA-sponsored performance.

Frequently Asked Questions for Virtual Conferences

Question: How can NAfME's obtained performance licenses be used for your State MEA's virtual conference?

Answer: NAfME's performance licenses allow State MEAs to legally stream a live performance, in real time, at your virtual conference if the performance rights of the music performed are managed by BMI or ASCAP. The license only covers the livestream of the performance in real time. No additional purchase of a performance license is required by the State MEA for this function.

Question: Does the NAfME obtained performance license allow my State MEA to record the livestreamed performance?

Answer: No. Performance licenses only cover the livestream in real time. They do not cover recordings. This is important to keep in mind, as some virtual platforms automatically record the livestream and publicly display the recording on the virtual platform; this recording cannot be distributed or publicly displayed without additional licenses. In most cases, a mechanical license is required to reproduce and distribute audio recordings, and a synchronization license is required to sync audio with video.

Question: Can our State MEA use the NAFME obtained performance license for music being played in professional development workshops?

Answer: Only if the music in the workshop is performed live, the works' performance rights are managed by BMI or ASCAP, and the performance will not be recorded. If a session is recorded, additional licenses will need to be obtained from the publisher of the works used.

Question: Can you livestream a performance on social media platforms?

Answer: Yes. NAFME's agreements with ASCAP and BMI allow State MEAs to livestream in-person performances in real time using works from the ASCAP and BMI catalogs (see above). If for some reason the performance would not be covered under those agreements (i.e., the performance is not sponsored by a State MEA or the work is covered by a different PRO), a performance license will need to be acquired in order for the performance to take place.

If you are livestreaming using a social media platform (e.g., YouTube, Facebook, Instagram, or Tik Tok), the platform may have performance rights licenses secured for live performances shared using their livestream service. This would allow a user to livestream a performance without coverage under another license if the work performed is in the catalog of the PRO with which that social media platform has a license agreement.

However, even though performance licenses cover livestreams, they do not cover recordings. This is important to keep in mind, as some livestreaming services automatically record the stream and publicly display the recordings on the virtual platform when the livestreaming session ends; this recording cannot be distributed or publicly displayed without additional licenses. Please do your due diligence in verifying what licenses your social media platforms have, as well as adjusting the social media platforms livestreaming function according to the types of license you have.

Question: Can displays or performances be evaluated at an online adjudicated event or any other aspects of a virtual music education conference?

Answer: Yes. For a NAFME-sponsored or State MEA event, NAFME's obtained licenses with ASCAP and BMI allow for one livestream performance, in real time, of the adjudicated work if that work's performance rights are managed by ASCAP or BMI. If the work is not managed by these PROs, the event holder will need to seek certain permissions from the appropriate PRO to legally facilitate the performance of musical works. Similarly, any other portions of music education conferences and festivals need proper performance licensing. Some online platforms have already purchased a performance license, so you can contact the PRO or the platform's customer support for more details.

Question: Can a recording of a performance serve as an archival recording that our State MEA can keep if we do not share the recording?

Answer: No. The archived recording exemption is strictly limited to in-school performances.