

# Jacobs School of Music

## Policy on Rights of Ownership and Use of Audio and Video Recordings

### Preamble

The purpose of this policy (“Policy”) is to support the educational mission of the Jacobs School of Music (“JSoM”) and Indiana University (“IU”) by facilitating the creation, use and promotion of audio and video recordings (“recordings”) involving JSoM students, faculty, staff, visitors and guest artists. This Policy distributes rights of ownership and use in such recordings in a manner that JSoM believes is fair, ethical, and beneficial to all involved with the creation of the recordings, and that is consistent with other IU policies including its Intellectual Property Policy (available at [https://www.indiana.edu/~vpfaa/academicguide/index.php/Policy\\_I-11](https://www.indiana.edu/~vpfaa/academicguide/index.php/Policy_I-11)), which shall govern in the event of inconsistency with this Policy. This Policy covers audio and video recordings and all other audiovisual materials in physical, electronic, and all other formats or media in existence or yet to be developed.

### 1. Ownership of Copyrights in Audio and Video Recordings Made at JSoM

- a. *Recordings Made Using JSoM Facilities.* The Trustees of Indiana University (“Trustees”) shall own all copyrights in audio and video recordings of live concerts and recording sessions and all other audiovisual materials made using JSoM facilities and/or resources (“JSoM Recordings”), unless JSoM agrees otherwise in a signed agreement. JSoM Recordings shall include, without limitation:
  - i. Recordings by JSoM personnel of performances by faculty and students, for archival, instructional, scholarship, promotional, or commercial purposes.
  - ii. Recordings by JSoM faculty and students (possibly with the assistance of outside contractors) for personal use, such as grant applications or competitions; and
  - iii. Recordings by JSoM personnel of performances by musicians who are not JSoM faculty or students (“Guest Artist(s)”).
- b. *Outside Contractors.* Unless negotiated otherwise, non-IU record labels and contractors shall not own any rights in JSoM Recordings and may only use such recordings under license with JSoM in full compliance with this Policy. All non-IU contractors retained by a faculty member, student, or otherwise to make or assist in the making of a recording in JSoM facilities must comply with all IU policies regarding outside contractors.

### 2. Rights of Use in Recordings

- a. *General Rule.* Except as permitted by this Policy or with the approval of the Dean of JSoM or his/her designee, no JSoM Recordings may be reproduced, adapted, distributed, displayed, performed or otherwise used in any manner or media for any commercial or other purpose.

- b. *Rights of Principal Artists and Guest Artists.* “Principal Artist” shall be defined as any faculty member or student who is: (a) a soloist; (b) a small ensemble member (8 players or less with a single player on each part); (c) a large ensemble leader; or (d) a composer. “Guest Artist” shall be defined as any artist who is not a JSoM faculty member or student and who performs, or whose musical composition is performed during a guest appearance at the JSoM or a JSoM event. Any Principal Artist or Guest Artist whose performance or musical composition is embodied in a JSoM Recording, and his/her heirs and successors, shall have the following rights:
- i. The right to receive upon request a single copy of such JSoM Recording, and shall have the right to obtain a copy consistent with the Recording Arts Department policy in effect at the time of the request, and the right to use such recording solely for his/her personal, noncommercial use, such as in a professional portfolio or grant application; and
  - ii. The right to reasonable attribution in accordance with applicable professional standards.
- c. *Rights of Non-principal Artists.* Any artist on a JSoM Recording who is not a Principal Artist may request a copy of such recording from JSoM Recording Services and shall have the right to obtain a copy consistent with the Recording Arts Department policy in effect at the time of the request.
- d. *Commercial Use.* JSoM Recordings are typically used for promotional and educational purposes. However, JSoM and its authorized agents may commercially reproduce, adapt, distribute, display, perform, sell or otherwise use JSoM Recordings, in any manner or medium, in accordance with this Policy. Unless negotiated otherwise, proceeds from the commercial use of any JSoM Recordings shall be used to benefit JSoM’s educational purposes.
- i. *General.* All such commercial use requires the approval of the JSoM Performance Coordinating Committee, the Director of Recording Arts, and the Dean of JSoM.
  - ii. *Students.* As a general rule, prior to making commercial use of a JSoM Recording featuring a Principal Artist who is a student, JSoM will seek the permission of such student; however, permission shall not be required.
  - iii. *Faculty.* Prior to the commercial use of any JSoM Recording of a faculty member who is a Principal Artist, JSoM shall attempt to obtain permission from such person or his/her heir(s). If such person or heir(s) cannot be located with reasonable efforts, JSoM may proceed with use, with the permission of the Dean of JSoM or his/her designee.
  - iv. *Guest Artists.* Any JSoM Recording of a Guest Artist may be used only with written permission from such Guest Artist or his/her heir(s). If such Guest Artist or heir(s) cannot be located with reasonable effort, JSoM may proceed to use such recordings upon approval by the Dean of JSoM or his/her designee.

- v. *External Recording Labels.* Any non-IU recording label or other outside entity or person must obtain permission from the Trustees to commercially release any JSoM Recording.
- e. *Noncommercial Use.* As a general rule, prior to making any noncommercial use of a JSoM Recording in any manner or medium, JSoM will seek the permission of any featured Principal Artist; however, permission shall not be required. JSoM shall obtain the permission of any featured Guest Artist prior to a noncommercial use of a JSoM recording; however, if such Guest Artist or heir(s) cannot be located with reasonable effort, JSoM may proceed to use such recordings upon approval by the Dean of JSoM or his/her designee.
- f. *Archival and Library Use of JSoM Recordings.*
  - i. JSoM shall deposit JSoM Recordings in physical or electronic form in the IU Cook Music Library:
    - (1) For circulation to Library users in accordance with Library circulation policies; and
    - (2) As part of an archive from which the JSoM may make copies for authorized persons in accordance with JSoM policies.
  - ii. In exceptional circumstances, a Principal Artist may request that a JSoM Recording deposited in the Music Library not be circulated. The Director of the Cook Music Library or his/her designee shall have the authority to decide whether to comply with such a request.

### **3. General Provisions**

- a. *Rental Agreements.* If the publisher of any rental materials used in a recording made at JSoM specifies any restrictions on recording, the IU Purchasing Department or the department responsible for arranging the rental must inform the Cook Music Library Performing Ensembles Division Supervisor directly and provide documentation specifying the restrictions. Any such restrictions may affect the application this Policy, in which case JSoM will take reasonable efforts to notify those affected by such restrictions.
- b. *Attribution.* The phrase “Recorded at the Indiana University Jacobs School of Music ([year])” shall appear both on all CDs, DVDs, and/or other recorded media regardless of form, and on any accompanying packaging. In the case of broadcast media, the phrase “Recorded at the Indiana University Jacobs School of Music ([year])” shall be included in any program credits. Whenever appropriate, faculty, staff or students who participated in the making of the recording shall be included in the production credits.
- c. *Master Files of JSoM Recordings.* If a recording artist requests copies of master files from a JSoM recording session, JSoM, at its sole discretion, may choose whether to release such files. Prior to any release, the recording artist shall sign a document that lists the files taken and acknowledges that all policies regarding use and copyright set forth by IU and JSoM shall be observed. Regardless of the release of such files, JSoM reserves all rights in the respective JSoM Recordings

- pursuant to this Policy, including the right to commercially or non-commercially use such recordings.
- d. The Dean of the JSoM reserves the right not to release JSoM recordings to any party internal or external to Indiana University for artistic reasons.

#### **4. Dissemination and Binding Nature of This Policy**

- a. *Students.* In order to ensure that students are properly informed of this Policy before entering JSoM, and to avoid potential conflict following admission, students shall sign, as a condition of admission to JSoM, a statement acknowledging the applicability of the terms of this Policy and the IU Intellectual Property Policy. This Policy and the text of the student agreement shall be included in all IU bulletins regarding online documentation.
- b. *Faculty.* Similarly, this Policy shall be distributed to faculty and shall be referenced in any offer of appointment by JSoM, including visiting appointments.
- c. *Guest Artists.* Unless different terms are negotiated between a Guest Artist and IU, written agreements signed through the IU Purchasing Department to bring Guest Artists to JSoM shall include language stating that all Guest Artist performances shall be recorded by the JSoM and the rights in such recordings shall be governed by this Policy. If a Guest Artist or ensemble is appearing in a JSoM-sponsored concert without having signed a purchasing agreement, the department or faculty member serving as host shall be required to obtain a signed agreement prior to the performance.
- d. *Further Documentation.* IU, JSoM, students, faculty and Guest Artists may be required to execute documentation from time to time to effectuate the purposes of this Policy.