

Copyright and public performance regulations

Thank you for your interest in showing a movie on campus. This document has been designed to provide student groups with all of the necessary information to successfully program a movie.

Section 110 of the 1984 Copyright Act provides a specific exemption to the licensing of what is clearly a public performance: “face to face teaching.”

To qualify for the exemption, the showing must occur in a face-to-face teaching situation at a non-profit educational institution and meet **ALL** of the following six criteria:

1. Performances and displays of audiovisual works must be made from legitimate copies, including pre-recorded videocassettes, NOT copies from legitimate copies, and NOT copies from broadcasts (for example, I can't tape my favorite episode of "Law and Order" and make it available for a public showing).
2. Performances and displays must be part of a systematic course of instruction and not for entertainment, recreation, or cultural value of any part of the audience. The instructor must be able to show how the motion picture contributes to the overall course study and syllabus. The course does not have to be a credit course, but must be one recognized by the university and for which people register (for example, any showing must relate to an ongoing semester course).
3. Performances and displays must be given by the instructors or pupils, with no broadcasting from outside sources.
4. Performances and displays must be given in classrooms and other places devoted to instruction. The Student Center, residence hall lounge, cafeterias, and outdoor showings DO NOT QUALIFY. And a student organization cannot hold a showing in a classroom to get around this regulation because the showing isn't part of an ongoing course for which people have registered.
5. Performances and displays must be a part of the teaching activities of non-profit educational institutions. Businesses that conduct educational seminars and some technical schools do not qualify.
6. Attendance is limited to the instructors, pupils, and guest lecturers. Only people registered for the class may attend the screening. No fee specific to the showing may be charged.

The bottom line: if your organization wants to show a film on campus for entertainment or recreation, you must pay the licensing fees associated with the film.

If you do decide to go forward with a movie, public performance or display:

After you have selected the movie that you would like to view as part of a program, your first step is to purchase a public viewing license (\$300.00 - \$500.00) and rights to show the film in public, which is a public performance fee (\$300.00 - \$500.00). Even if you choose to show the movie for free, you are still required to purchase the copyrights. Federal copyright Laws protect all movies viewed in public areas regardless of format (35 mm, video tape or DVD). Video Tapes and DVDs that are available for purchase, rented from many commercial establishments, or checked out of the library are for home viewing purposes only. Which means they can only be viewed in your private living spaces.

What the Law Says

The present copyright law establishes the principal that a copyright is property and no one can use someone else's property without permission of the owner or the owner's licensing agent. To protect this property right, the law gives the copyright owner the right to license any public performance of the work with only a few exceptions to this provision. The law also permits the owner or licensing agent to collect a fee when others use the protected work. It is because of copyright enforcement efforts that schools are now hearing of their obligations under the law.

By law, as well as by intent, the pre-recorded home videocassettes and videodiscs which are available in stores throughout the United States are *for home use only* - unless you have a license to show them elsewhere.

The Federal Copyright Act (Title 17 of the United States Code) governs how copyrighted materials, such as movies, may be used.

Neither the rental nor purchase of a videocassette carries with it the right to show the tape outside of the home. No license is required to view a videotape inside the home by a family or social acquaintances, and home videocassettes may also be shown, without a license, in certain narrowly defined face-to-face teaching activities (Federal Copyright Act, Title 17, section 110.1). All other showings of the home videocassettes are *illegal unless they have been authorized by license* .

Taverns, restaurants, private clubs, prisons, lodges, factories, summer camps, public libraries, day-care facilities, parks and recreation departments, churches, and non-classroom use at schools and universities are all examples of situations where a public performance license must be obtained. This legal requirement applies regardless of whether an admission fee is charged, whether the

institution or organization is commercial or non-profit, or whether a federal or state agency is involved.

Businesses, institutions, organizations, companies or individuals wishing to engage in non-home showings of home videocassettes *must* secure licenses to do so - *regardless* of whether an admission or other fee is charged (Section 501). This legal requirement applies *equally* to profit-making organizations and non-profit institutions (Senate Report No. 94-473, page 59; House Report No. 94-1476, page 62).

Penalties for Copyright Infringement

"Willful" infringement done for purposes of commercial or financial gain is a federal crime and is punishable as a felony, carrying a maximum sentence of up to five years in jail and/or a \$150,000 fine. Even inadvertent infringers are subject to substantial civil damages, ranging from \$500 to \$20,000 for each illegal showing.

Face-to-Face Teaching

The face-to-face teaching exemption is valid only in situations where a teacher is present in a classroom, using a home videocassette for the purpose of teaching to students in a so-called "face-to-face" manner. This educational exemption is narrowly defined and only applies to full-time, nonprofit academic institutions.

Why Is Hollywood Concerned About Such Performances?

The concept of "public performance" is central to copyright and the issue of protection for "intellectual property." If a movie producer, an author, a computer programmer, or a musician does not retain ownership of his or her "work", there would be little incentive for them to continue. There would be little chance of recouping their enormous investment in research and development, much less profits to turn back into future endeavors.

Unauthorized public performances in the U.S. are estimated to rob the movie industry of between \$1.5-\$2.0 million each year alone. Unfortunately, unauthorized public performances are just the tip of the iceberg. The movie studios lose over \$150 million annually due to pirated videotapes and several hundred million more dollars because of illegal satellite and cable TV receptions.

Motion Picture Association: <http://www.mpa.org/>

United States Copyright Office: <http://www.copyright.gov/>

Library: <http://www.movlic.com/library/faq/faq.html>

