



Public Viewing of Films and Movies

As college departments and organizations move forward with programming initiatives, campus members must be mindful about the legal and acceptable uses of video tapes/DVD and showing movies for the public. 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**. For campus purposes, that means your residence hall room/suite. For home purposes, it means anywhere in your private residence. Same rules apply for movies/television shows that are video taped at home on VCR's.

Anytime a group shows a movie in any context, the group must purchase the **public viewing rights (copyright)** for that particular showing. Copyright purchase for film currently runs between \$300-\$600 per showing for popular titles from major movie distributors. Independent films could cost less but must be negotiated with the holder of the copyright for those films. [Swank Motion Pictures](#) is a film distributing company that works with college environments and handles most commercial grade film titles.

There is an exception to the public performance fees for college and universities. **That exception is only in the case of face-to-face classroom instruction by a faculty member**. The faculty member may show the film/movie outside the normal class period (i.e: at night), however, **it is only for those students who are registered for the class**. The movie must also be shown in spaces that are designated for instruction; therefore library screening rooms, residence hall or student union lounges, cafeterias do not qualify. A faculty member cannot show it for his/her class and then open it up to the rest of the campus. In order to invite others, the public viewing rights must be purchased. Acceptable attendance for films in which the copyright is not purchased only include students registered for the class, the instructor and guest lecturer(s).

Purchasing public viewing rights does not depend on variables such as audience size or charging of admission. Regardless if it is three people versus 300 people, size is not considered in determining if public viewing rights need to be purchased. Size may, however, influence the amount of the public performance fee. You still have to purchase the copyrights even if you are offering the movie/film to the audience for free. **Non-profit educational institutions qualify for the face-to-face teaching exemptions, however, that does not mean that because you are a not profit educational institution that all films/movies shown are exempt. This principle Only those with an instructor present with students enrolled in the class qualify. holds true no matter how much educational or intellectual value is contained the in film.**

You must always keep in the forefront that just because you purchased the film, rented or checked it out, you cannot turn that video tape or DVD into a program. Public performance rights must be purchased and secured before advertising any event related to movie/film viewing. **Failure to adhere to these guidelines, even if done so innocently and inadvertently, can result in fines from \$750 to \$30,000 per showing**. If admission is charged to the event and the organization/person receives some commercial or personal financial gain, fines can range upward to \$150,000 plus a year in jail.

What are "Public Performances?"

Suppose you invite a few personal friends over for a dinner and a movie. You purchase or rent a copy of a movie from the local video store and view the film in your home that night. Have you violated the copyright law by illegally "publicly performing" the movie? Probably not.

But suppose you took the same videocassette and showed it at a club or bar you happen to manage. In this case you have infringed the copyright of the movie. Simply put, video tapes obtained through a video store are not licensed for exhibition. Home video means just that - viewing of a movie at home by family or a close circle of friends.

What the Law Says

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 the purchase of a video tape carries with it the right to show the tape outside the home.

In some instances no license is required to view a videotape, such as inside the home by family or social acquaintances and in certain narrowly defined face-to-face teaching activities.

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.

Penalties for Copy Right Infringement

"Willful" infringement for commercial or financial gain is a federal crime and punishable as a misdemeanor, carrying a maximum sentence of up to one year in jail and/or a \$100,000 fine. Even inadvertent infringers are subject to substantial civil damages ranging from \$500 to \$20,000 for each illegal showing.

How to Obtain a Public Performance License?

Obtaining a public performance license is relatively easy. Fees are determined by such factors as the number of times a particular movie is going to be shown, how large the audience will be and so forth. While fees vary, they are generally inexpensive for smaller performances. Most licensing fees are based on a particular performance or set of performances for specified films.

In other specialized markets, such as hotels and motels, many Hollywood studios may handle licensing arrangements directly.

Why is Hollywood Concerned About such Performances?

The concept of "public performances" is central to copyright and the issue of protection for "intellectual property." If a movie producer, author, computer programmer or musician does not retain ownership

of his or her "work," there would be little incentive for them to continue and little chance of recouping the enormous investment in research and development, much less profits for future endeavors.

Unauthorized public performances in the U.S. are estimated to rob the movie industry of between \$1.5-\$2 million each year. Unfortunately, unauthorized public performances are just the tip of the iceberg. The movie studios lose more than \$150 million annually due to pirated videotapes and several hundred million more dollars because of illegal satellite and cable TV receptions.

Copyright Infringers are Prosecuted

The MPAA ([Motion Picture Association of America](#)) and its member companies are dedicated to stopping film and video piracy in all its forms, including unauthorized public performances. The motion picture companies will go to court to ensure their copyrights are not violated. Lawsuits for example, have been filed against cruise ships and bus companies for unauthorized on-board exhibitions.

If you are uncertain about your responsibilities under the copyright law, contact the MPAA, firms that handle public performance licenses or the studios directly. Avoid the possibility of punitive action.

1984 Copyright Act

Section 110 of the 1984 Copyright Act does provide a specific exemption to the licensing of what is clearly a public performance and what is ***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 sources, such as pre-recorded video tapes. Copies made from illegitimate sources or broadcasts are not allowed.
2. Performances and displays must be part of a systematic course of instruction and not for entertainment, recreation, or cultural value. The instructor should be able to show how the use of 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 institution and for which students must register.
3. The instructors or pupils must give performances and displays from the same location in which it is being screened; no broadcasting from outside sources (such as closed-circuit television) is allowed.
4. Performances and displays must be given in classrooms and other places devoted to instruction; library screening rooms, residence hall & student union lounges, and cafeterias do not qualify.
5. Performances and displays must be a part of the teaching activities at a non-profit teaching institution. Businesses that conduct educational seminars and certain technical schools do not qualify.
6. Attendance is limited to the instructors, pupils, and guest lecturers. Only students registered for the class may attend the screening. No fee specific to the screening may be charged.

