



## **HACS Campus Guidelines for Activities Regarding Public Performances (3/16/2016)**

When you buy, rent, or borrow a DVD or videotape of a movie (or any other audiovisual work) made by someone else, you normally obtain only the copy, and not the underlying copyright rights to the movie. You certainly are free to watch the movie yourself, but, beyond that, your rights are quite limited by law. In particular, you do not have the right to show the movie to “the public.” In most cases, doing that requires a separate “public performance” license from the copyright owner.

To determine whether you need such a license, you must determine whether what you want to do would constitute a “public performance,” and, if so, whether there are any exceptions that would allow you to proceed nevertheless without a license. (Warning: Law Ahead! A flowchart summarizing the decision process in very general terms appears at the end of these guidelines; it should be used in conjunction with these guidelines.)

### **1. Is it a “public performance”?**

The showing of a movie will be considered to be a “public performance” if either of the following is true:

- You will be showing the movie to people other than members of your family or a small group of your friends.
- You will be showing the movie in a place that is open to people other than members of your family or a small group of your friends (for example, in a classroom, an auditorium, the refectory/cafeteria, chapel, or campus commons), whether or not any such people attend.

Generally speaking, then, showing a movie in your place of residence will not constitute a public performance, as long as you limit attendance to family and friends. Most other showings will constitute public performances. All other campus facilities are considered public places.

### **2. Is there an applicable exception to the license requirement?**

Even if your proposed showing will constitute a “public performance,” you still will not need to obtain a license if any of the following is true:

- You will be showing the movie in the course of “face-to-face teaching activities” (that is, not through a course management system or other forms of electronic transmission) that will take place in a classroom or similar place devoted to instruction (that is, not in an

auditorium or other public venue, unless it is being used for, and restricted to participants in, the teaching activities), and you have a legally obtained copy of the movie (which, in general, does not include one that you have videotaped yourself from a broadcast).

- Your copy of the movie came with an express license authorizing the particular manner of showing. (For example, some educational movies, such as those purchased directly at the institutional price, come with licenses to show the movies for certain noncommercial institutional purposes.)
- The movie you wish to show is in the “public domain.” (Determining whether a particular movie is in the public domain can be quite difficult, and even movies that are quite old can still be protected by copyright. Please check with the Copyright Compliance Committee for confirmation at [copyright@holyapostles.edu](mailto:copyright@holyapostles.edu).

Note, however, that there is no general “educational,” “nonprofit,” or “free of charge” exception. Even a showing that is all three of those things will require a license if it constitutes a “public performance” and does not fall within one of the exceptions listed above. Thus, most showings outside of the class context will require licenses.

**3. If you do need a “public performance” license, you can obtain one in any of the following ways:**

- by renting the movie directly from a distributor that is authorized to grant such licenses
- by contacting the copyright holder (generally the studio) directly and obtaining written permission, or
- by contacting your Copyright Compliance Committee at [copyright@holyapostles.edu](mailto:copyright@holyapostles.edu)

In most cases, you will be eligible for a “non-theatrical” public performance license, which is considerably cheaper than what a commercial cinema must pay. Still, the cost is likely to be at least several hundred dollars, especially for the most recent movies. That may seem unreasonable, but keep in mind that inability or unwillingness to pay is not a valid defense to a copyright infringement lawsuit.

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Note: In reading these materials, please keep in mind that they do not constitute, and should not be considered a substitute for, specific legal advice. The resolution of legal issues frequently hinges on slight changes in the facts and circumstances, and your particular situation may well be different from those described in these materials. If you have questions about your situation, consult your institution’s copyright office at [copyright@holyapostles.edu](mailto:copyright@holyapostles.edu).

These pages have been adapted from the Rhode Island School of Design website and used with the permission of Attorney Steven McDonald. The original titles are: *Copyright Guidelines for Exhibiting Movies and other Audiovisual Works* and *Hey, Kids, Let’s Put on a Show! So You*

# So you want to show a movie on campus . . .

Are you going to show the movie to anyone other than your family or a small group of your friends?		<p style="color: green; font-weight: bold;">Go: Your showing is <u>not</u> a public performance, and you do <u>not</u> need a public performance license.</p>
Yes	No	
Are you going to show the movie in a place that is <i>open</i> to anyone other than your family or a small group of your friends <i>e.g.</i> , a classroom or an auditorium)? (Remember, only residence halls are considered private)		
Yes	No	
<p style="color: black; font-weight: bold;">Caution: Your showing is a “public performance”.</p>		
Will you be showing the movie as part of live, face-to-face teaching activities in a classroom or similar place devoted to instruction, and do you have a lawfully obtained copy?		<p style="color: green; font-weight: bold;">Go: Your showing falls within one of the applicable exceptions, and you do <u>not</u> need a separate public performance license.</p>
No	Yes	
Did the movie come with an express license specifically authorizing you to show the movie in the manner intended?		
No	Yes	
Is the movie in the public domain?		
No	Yes	
<p style="color: red; font-weight: bold;">Stop: You need to obtain public performance rights.</p>		