

What is Considered a Public Performance?

The concept of “public performance” is central to copyright. The circumstances that constitute public performance are clearly defined in the law: “A place open to the public or any place where a substantial number of persons outside of a normal circle of a family or its social acquaintances are gathered.”

Why Royalties?

Royalties are the shares paid to authors, computer programmers, playwrights, musicians, inventors, movie producers, etc. out of the proceeds from the sale, performance or use of their work. Most people participating in a movie production depend upon these royalties as payment for work performed. If these men and women lose ownership of their work and do not receive revenue, much of which is collected through licensing fees, there would be little incentive for them to continue to invest their time, research and development costs to create future endeavors.

Consequently, there is increased attention by the copyright owners to unauthorized legal use of the copyright creations. The fee for your performance includes royalties to the people who worked on the movie.

If you have any doubts about these statements regarding copyright, please consult your copyright attorney to have legal questions answered or verified.

What The Law Says

The Federal Copyright Act (Title 17, United States code, Public Law 94-553, 90 Stat. 2541) governs how copyrighted materials, such as movies, may be utilized publicly. Neither the rental nor the purchase or lending of a videocassette or DVD carries with it the rights to exhibit such a movie publicly outside the home, unless the site where the video is used is properly licensed for copyright compliant exhibition.

This legal copyright compliance requirement applies to colleges, universities, public schools, public libraries, daycare facilities, parks, recreation departments, summer camps, churches, private clubs, prisons, lodges, businesses, etc. regardless of whether admission is charged, whether the institution is commercial or non-profit or whether a federal, state or local agency is involved.

The movie studios who own copyrights, and their agents, are the only parties who are authorized to license sites such as colleges and universities. No other group or person has the right to exhibit or license exhibitions of copyrighted movies.

Furthermore, copyrighted movies borrowed from other sources such as public libraries, colleges, personal collections, etc. cannot be used legally for showings in colleges or universities or in any other site which is not properly licensed.

The “Education Exemption”

Under the “Education Exemption,” copyrighted movies may be exhibited in a college without a license only if the movie exhibition is:

- An “integral part of a class session” and is of “material assistance to the teaching content.”
- Supervised by a teacher in a classroom.
- Attended **only** by students enrolled in a **registered** class of an accredited nonprofit educational institution.
- Lawfully made using a movie that has been legally produced and obtained through rental or purchase.

Those Who Violate Copyright Law Can Be Prosecuted — Consult Your Legal Copyright Advisor or Attorney

The Motion Picture Association of America (MPAA) and its member companies are dedicated to stopping film and video piracy in all its forms, including unauthorized public performances, illegal downloading, etc. The motion picture companies can go to court to ensure their copyrights are not violated.

To avoid the possibility of embarrassing publicity and fines, consult your legal copyright compliance advisor or attorney if you are uncertain about your responsibilities under copyright law.

Frequently Asked Questions

What constitutes a public performance?

Any exhibition of a movie outside the privacy of a home setting is considered a public performance.

Do we need a license even if we don’t charge admission?

Yes! A license is required for all public performances regardless of whether admission is charged.

What if a video store or equipment provider says it is okay to exhibit rented or purchased movies?

These stores rent and sell movies for “Home Use Only” and cannot provide legal permission for use outside the home. You can only obtain licensing directly from a licensor (such as Swank Motion Pictures, Inc.), not from a third party.

Who bears the responsibility if a film is shown without a license?

The management of the venue or premises where the movie is shown bears the ultimate responsibility and consequences of copyright infringement. However, anyone involved with the public performance of copyrighted material should seek compliance.

I own the movie. Do I still need a license to show it outside my home?

Yes! Neither the rental, purchase or lending of a videocassette or DVD carries with it the right to exhibit movies publicly outside the home.

I want to show an old movie, from the 1930’s or ‘40’s. Do I still need a license?

Absolutely. Copyright pertains to all movies regardless of the year it was produced.

If I purchased a license to show a movie, can I show that movie whenever I want?

No. Licenses are for a specific, designated time frame. There are no annual licenses available to colleges and universities.

A small group is having an informal gathering in our facility. Do we still need a license?

Yes! A license needs to be obtained regardless of the number of people attending the screening, if the movie is being shown outside the home.