This policy has been developed to serve as a guideline for student organizations, college departments or individuals who wish to hold a public showing of a film/movie/tv show.

The U.S. Copyright Act (U.S.C. Title 17, Sections 101 and 106) grants all rights of public exhibition of a copyrighted work to the owner of the copyright. Under the current U.S. Copyright Act, viewing movies and other works are classified into two categories (in addition to classroom use): Private home showings for members of family and a limited number of guests; and Public performances at which anyone may attend or at which the audience is not a family. Congressional reports on copyright applications define public performances to include “semi-public” places such as clubs, lodges, factories, summer camps, fraternities, residence hall lounges and schools. These rules apply whether or not admission is charged.

DVDs, tv shows, and video tapes that are rented from video stores/vending machines (i.e. Redbox), purchased, checked out of the library, and rented/purchased electronically (including online paid subscription services) through sites such as Netflix, Amazon, iTunes, and Hulu, are for home or personal viewing purposes only. This means they can only be viewed in your private living spaces such as your residence hall room/suite. The same rules apply for movies and/or television shows that are recorded at home on DVR, VCR, or other electronic means. The purchase of a pre-recorded film/movie does not give the tape owner the right to a public performance of that film/movie. Permission must still be obtained.

Therefore, any student organization, college department or individual interested in showing films/movies/tv shows as entertainment, whether to its members or to the “general public”, must purchase the public viewing rights (copyright) for that particular film/movie/tv show. In addition, purchasing public viewing rights does not depend on audience size or charging of admission. In other words, the public viewing rights will need to be purchased regardless of the size of the anticipated audience and still apply even if you are offering the film/movie for free.

The only exception to the public performance fees is for colleges and universities in the case of face-to-face classroom instruction by a faculty member. Section 110 of the 2006 Copyright Act does provide a specific exemption to the licensing of what is clearly a public performance and what is face-to-face teaching. This means that a faculty member may show a film/movie in or outside of the normal class period; however, it is only for those students who are registered for the class. In addition, showing the film/movie must be an integral part of the class. Finally, the film/movie must be shown in spaces that are designated for instruction; therefore library screening rooms, residence hall or student union lounges and cafeterias do not qualify.

Please remember that showing a film without first obtaining the copyright puts the university, college, your organization and yourself at risk of liability, which can include fines, penalties, court costs and legal fees. Any willful infringement of the copyright “for purposes of commercial advantage or private financial gain” is a federal crime. The first offense is punishable by up to five years in jail, or a $250,000 fine, or both. Anyone involved with the illegal showing of a copyrighted film can be named in a copyright
infringement suit. This includes student organizations, academic departments, organization advisors, and college officials as well as the individual who knowingly operated the equipment at the illegal showing(s). Even innocent or inadvertent infringes are subject to substantial civil penalties.

If your student organization would like to show a film/movie for an event, please contact Swank Motion Pictures to purchase copyright permission. Their website is www.swank.com. If your student organization would like more information on laws regarding public viewing, please visit www.copyright.gov or www.mpaa.org. Please direct any further questions regarding the viewing/showing of films/movies on campus to the Office of Student Activities or 218-477-2790.

This policy has been developed from information from the following: Albion College, Worcester Polytechnic Institute, Macalester College, and Swank Motion Pictures, Inc.
MEMORANDUM

DATE: February 4, 2009

TO: Chief Academic and Student Affairs Officers
   Intellectual Property Coordinators

FROM: Tim Price
       Deputy to the Senior Vice Chancellor for Academic and Student Affairs
Scott Goings
       Assistant General Counsel

SUBJECT: Showing of Movies By Student Groups or Other Campus Organizations

We have recently received several inquiries about the appropriateness of student groups showing movies on campus. This is a reminder that generally these activities constitute a public performance requiring a public performance license – not simply a rental from the local video store. This is true whether or not the students charge a fee. As a resource, the following is a link to materials explaining these issues (with a helpful flow chart), see attached reference document and:
http://www.monmouth.edu/academics/CETL/docs/CopyrightMovies.pdf

As you may know, Board of Trustees Policy 3.27 underscores that: . . . the Minnesota State Colleges and Universities system promotes the recognition and protection of these (copyrighted) rights, including the rights of reproduction, preparation of derivative works, distribution, and performance (emphasis supplied).

Please share this information with campus constituents for their information, as necessary. Contact Assistant General Counsel Scott Goings at 651-297-3289 if you have questions about these issues.

Attachment

c: Mike Lopez, Associate Vice Chancellor for Student Affairs
   Gail M. Olson, General Counsel
Copyright Guidelines for Exhibiting Movies and other Audiovisual Works*

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, a classroom, the auditorium, or the Tap Room), whether or not any such people attend.

   (Generally speaking, then, showing a movie in your home or dorm room will not constitute a public performance, as long as you limit attendance to family and friends. Most other showings will constitute public performances.)

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 Digication or other forms of electronic transmission) that will take place in a classroom or similar place devoted

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*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, please contact the General Counsel.*
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 legitimate 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 from California Newsreel 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. The Public Domain Movie Database publishes a list of movies it believes to be in the public domain, but it is neither complete nor authoritative.)

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.

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

- By renting the movie directly from a distributor that is authorized to grant such licenses, such as Swank Motion Pictures, Inc., rather than from a video store.
- By contacting the copyright holder (generally the studio) directly.

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.

If you have any questions about movie licenses or about copyright law generally, please contact the General Counsel.
So you want to show a movie on campus . . .

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
<th>Go</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are you going to show the movie to anyone other than your family or a small group of your friends?</td>
<td></td>
<td></td>
<td>Go: Your showing is not a public performance, and you do not need a public performance license.</td>
</tr>
<tr>
<td>Are you going to show the movie in a place that is open to anyone other than your family or a small group of your friends (e.g., a classroom, the auditorium, or the Tap Room)?</td>
<td>Yes</td>
<td>No</td>
<td>Caution: Your showing is a “public performance”.</td>
</tr>
<tr>
<td>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 legitimate copy?</td>
<td></td>
<td></td>
<td>Go: Your showing falls within one of the applicable exceptions, and you do not need a separate public performance license.</td>
</tr>
<tr>
<td>Did the movie come with an express license specifically authorizing you to show the movie in the manner intended?</td>
<td>No</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Is the movie in the public domain?</td>
<td>No</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Stop: You need a public performance license.</td>
<td></td>
<td></td>
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