



Copyright Office
University of Michigan Library
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©Guide: Teaching, Scholarship, Copyright, and Movies

Technology now allows faculty to stream movies and other media for teaching in unprecedented ways. Students and faculty value the ability to view movies and clips anytime, anywhere, and they rely on the library to provide movies for teaching purposes. Copyright law affects many of the choices we make as scholars, students, and librarians as we legally acquire, view, and use movies for teaching and educational needs.

This ©Guide provides an overview of key parts of the US Copyright Act related to the user of movies for teaching. These elements of the law interrelate, and several aspects are likely to apply simultaneously to the same situation. Generally, these provisions work together to provide educators a broad set of abilities to make use of copyrighted materials in their day-to-day teaching. Understanding them will allow teachers to use copyrighted materials effectively and to respect the protections provided to them by the law.

There is a tremendous amount of confusion in how to apply these different strands of copyright law. This guide is an effort to clarify the law and its limits as well as identify ways it may support certain use of movies for teaching purposes. Contact us directly with specific questions. We are happy to meet with you or your department to discuss copyright as it relates to your work.

The information presented here is intended for informational purposes and should not be construed as legal advice. If you have specific legal questions pertaining to the University of Michigan, please contact the Office of the General Counsel.

This guide was prepared by the University of Michigan Library Copyright Office and is under revision as of January 2017.

What is copyright?

Copyright law gives the copyright holder (often the author or publisher) the right to control certain uses of works that are protected by copyright. It also gives users the right to make certain uses of those works without permission.

What are the rights of a copyright holder?

Economic rights form the bulk of a copyright holder's rights under US law. They stand in contrast to moral rights, which are less recognized under US law.

In US law, the economic rights of copyright holders are listed in Section 106 of the Copyright Act:

Subject to sections 107 through 122, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

1. to reproduce the copyrighted work in copies or phonorecords;
2. to prepare derivative works based upon the copyrighted work;
3. to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
4. in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
5. in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
6. in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

What is fair use?

Fair use allows certain uses of copyrighted material without permission from the copyright holder. There are four factors to consider when determining whether your use is a fair one. You must consider all the factors, but not all the factors have to favor fair use for the use to be fair.

The four fair use factors are

1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. the nature of the copyrighted work;
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

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4. the effect of the use upon the potential market for or value of the copyrighted work.

Fair use favors “purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, [and] research.” While many uses for educational purposes are fair, not all are. You need to evaluate your use each time you are reproducing copyrighted material — to show in your class, to hand out copies, to include in your writing, or to post on your course website.

Fair use is codified at 17 U.S.C. § 107.

Other than under fair use, am I allowed to use this work in my classroom?

US copyright law permits teachers and students to make certain uses of copyrighted works in face-to-face teaching. As a teacher or student, you are allowed to perform or display a copyrighted work without permission in “a classroom or similar place devoted to instruction” during face-to-face teaching at a nonprofit educational institution.

If the work is a motion picture or other audiovisual work, you must use a copy of the work that was lawfully made.

This is codified at 17 U.S.C. § 110(1).

Other than under fair use, am I allowed to use this work in an online or distance learning class?

US copyright law gives teachers the right to use works for distance learning without permission under certain circumstances.

If you

- are, or are acting under direction or actual supervision of, an instructor in a class session offered by an accredited nonprofit educational institution or governmental body;
- are using the material as an integral part of a class session;
- are using the material that is directly related to and of material assistance to your teaching content; and
- are using a copy of the work that was prepared lawfully,

and the copyrighted work

- was not “produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks;” and

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- will be transmitted solely to students officially enrolled in the course for which the transmission is made or officers or employees of governmental bodies as a part of their official duties or employment,

and your use is:

- performing a nondramatic literary work (e.g., reading a short story aloud);
- performing a nondramatic musical work (e.g., singing a song);
- performing a reasonable and limited amount of any other work (e.g., playing an excerpt from a movie); or
- displaying any work in an amount comparable to what would be used in a live classroom,

and your institution

- institutes a copyright policy;
- provides information about copyright to faculty, students, and relevant staff members;
- provides notice to students that materials used in connection with the course may be subject to copyright protection; and
- if the transmission is digital, applies the required technological measures,

then US copyright law permits your use.

This provision, which is sometimes called the TEACH Act, is codified at 17 U.S.C. § 110(2).

Circumvention of Copyright Protection Systems

Even when copyright law permits your use of a work, it may be illegal to circumvent copy-prevention technology in order to make that use. For instance, it is generally illegal, under 17 U.S.C. § 1201, to circumvent the Content Scramble System that restricts access to works on some DVDs. However, the US Copyright Office creates specific exceptions to this law every three years. For information about the current exceptions, please consult the 2015 Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, available online from the U.S. Copyright Office.