*ISSUES OF U.S. COPYRIGHT LAW RELATING TO
THE USE OF MOVIES IN THE CLASSROOM*

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| **Classrooms in Public Schools and Nonprofit Educational Institutions: Rented or Purchased Movies May Be Played By Teachers Without a License** Section 110(1) of Title 17 of the United States Code grants a specific exemption from the copyright laws for: performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made ....This means that no license from the copyright holder is required when a teacher at a public school or non-profit educational institution uses a lawfully purchased or rented copy of a movie in classroom instruction. It doesn't matter who purchased or rented the film, so long as it was legally obtained. The exemption is granted for "face-to-face" teaching activities only. This means that the teacher (or a substitute teacher) must be present. The exemption covers a "classroom or similar place devoted to instruction." This gives teachers some flexibility. For example, it is likely that a gymnasium used for large educational presentations in which several classes are convened together would be covered so long as a teacher presented the film. Note that remotely accessing a film from a central memory storage facility is probably not permitted. See 17 U.S.C. § 1201(a). **It is illegal to circumvent technological measures that effectively control access to copyrighted works, such as digital locks, to make compilations of scenes from various movies.** Title 17 U.S. Code § 1201(a)(1)(A). However renting or purchasing a movie and showing a small portion of it and then taking it out of the DVD or VHS player and putting in another does not involve circumventing any type of lock. **Snippets: Fair Use in Any Context** Snippets of movies can be shown in the classrooms of public schools and non-profit educational institutions without a license pursuant to Section 110(1) of Title 17 quoted above. In other contexts, short snippets of films may be used under the Fair Use Doctrine. Section 107 of Title 17 contains a list of the various purposes for which the reproduction of a particular work may be considered "fair use" and, as such, does not require a license. "Fair Use" is limited to relatively small portions of copyrighted materials used for criticism, comment, news reporting, teaching, scholarship, and research. The statute sets out four factors to be considered in determining whether or not a particular use is fair: 1. the purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes;2. the nature of the copyrighted work;3. amount and substantiality of the portion used in relation to the copyrighted work as a whole; and4. the effect of the use upon the potential market for or value of the copyrighted work. The distinction between "fair use" (which is permitted) and infringement (which is not permitted) is unclear and is not easily defined. There is no specific number of words, lines, or notes that may safely be taken without permission. Acknowledging the source of the copyrighted material does not substitute for obtaining permission. Adapted from: [Article on Fair Use](http://www.copyright.gov/fls/fl102.html) by the U.S. Copyright Office. Click on the link for more about fair use. Fair use does not entitle a person to break any electronic locks. **Snippets: Breaking Electronic Locks** Most copies of movies (DVDs, electronic copies, etc.) have digital locks that prevent the use of snippets and, except in a few specific circumstances, it is illegal to circumvent those locks. 17 U.S.C. 1201(a)(1)(A). The only exception relating to the classroom is for the film or media studies department of a university. In Title 17 of the U.S. Code of Federal Regulations, Section 201.40 the Librarian of Congress determined that "during the period from November 27, 2006 through October 27, 2009, the prohibition against circumvention of technological measures that effectively control access to copyrighted works set forth in 17 U.S.C. 1201(a)(1)(A) shall not apply to persons who engage in noninfringing uses of . . . (1) Audiovisual works included in the educational library of a college or university's film or media studies department, when circumvention is accomplished for the purpose of making compilations of portions of those works for educational use in the classroom by media studies or film professors." There is an exception in 17 U.S.C. 201(d) which provides that "A nonprofit library, archives, or educational institution which gains access to a commercially exploited copyrighted work solely in order to make a good faith determination of whether to acquire a copy of that work for the sole purpose of engaging in conduct permitted under this title [17 U.S.C.A. S 1 et seq.]." This would include the educational use permitted by Section 110(1) or fair use. However, the exception only applies to making a determination of "whether to acquire a copy" of the work, not to the use of the work. *N.B.: The analysis on this web page applies only to copyrights in the U.S. Copyright law may be different in other countries. This analysis should not be construed as legal advice and, any person, before acting on it should seek advice from their own attorney.* Authorities: 17 United States Code, Sections 110(1) and 1201; [Public Performance Rights for Movies and the Face to Face Teaching Exemption](http://www.csbsju.edu/sald/club_resources/face_to_face_exemption.htm) from the College of St. Benedict, St. John's University; "Use of Video Cassettes in the Classroom," by Ralph D. Mawdsley; 32 Education Law Reporter 1163; West Publishing Company, 1986; and "Copyrights, Cassettes and Classrooms: The Performance Puzzle," by Francis M. Nevins, 43 Journal of the Copyright Society of the U.S.A. 1 (1995). James A. Frieden, Esq. Create Lesson Plans from 425 Movies and Film Clips!http://www.teachwithmovies.org/copyright.html |