

MEMORANDUM TO: The University Community

It is important to remember that as Monmouth establishes a reputation for hosting some of the best, most exciting cinema in the area, our use of films will come under increasing scrutiny. The University respects the rights of the makers and distributors of all films shown on campus. Distributors have brought legal action against individual faculty members at other institutions who exceeded fair use in their film screenings. According to copyright law, it is the responsibility of the user to track down clearances. The following guidelines are designed to help protect *you* and help you show the films you want to show.

Use of films on campus

There are a number of circumstances under which films may be shown on campus:

1. Face to face classroom setting

You can show an entire film in a face-to-face classroom setting (i.e. not distance education) that is limited to the students registered for that class if you have a *legitimate copy* of the movie (a copy of the movie that was not made in violation of the copyright law). This may include purchasing the movie outright from a retail store or other source or renting the movie from a rental service. If you cannot obtain a legitimate copy of the through these means you may have to secure a copy of the movie by securing certain rights as outlined below. In addition, a portion or in some cases all of a film, may be shown in a face to face classroom setting under the Fair Use exception to the copyright law which is also discussed below.

2. Performance rights

Performance rights for a film allow it to be viewed in the following settings: home viewing, library use, face-to-face educational use in a classroom setting where all the students are enrolled in the class as well as the right to show the film in a public setting when the viewers are not charged a fee. If you wish to invite anyone other than the students on your roster into the classroom for the screening then you will generally need to secure performance rights.

3. Educational rights

Educational rights for a film allow it to be viewed in the following settings: home viewing, library use, and face-to-face educational use in a classroom setting where all the students are enrolled in the class, the film is directly related to the course curriculum, and no one else has been invited. Films labeled “Educational Rights” cannot be shown in any sort of public setting, even on campus free of charge. In the event that the film has an Educational Distributor, then you will need to secure those clearances first.

Special “Performance Rights”, which requires seeking permission from the copyright owner or their representative and the payment of a fee, must be obtained for these to be shown outside the settings listed above.

4. Fair Use

The Fair Use doctrine is an exception to the general provisions of the copyright law that allows for use of a copyrighted work under certain circumstances without requiring the permission of the copyright holder. The application of this doctrine is rather complex and requires a case by case analysis of the particular work to be used and the nature of the use. The factors that are considered are the character of the use, the nature of the work, how much of the work will be used and the impact of the use on the market for the original. The fact that the use is connected with a non-profit educational institution is very favorable. Also, generally speaking, the smaller percentage of the work that is used, the greater the likelihood that the fair use doctrine will apply. However, this exception is very difficult to correctly apply and individuals seeking to use a film under this exception should consult with the Office of the General Counsel.

Obtaining performance and educational rights

Distributors of documentary and independent films often sell educational rights, and sometimes performance rights, at an institutional fee. These are higher than the price of a copy for home use, and the performance clearances generally pertain to one-time screenings. It is possible to purchase performance rights for recent major studio releases from distributors, such as SWANK, at an institutional fee. The MU Library will purchase films for the collection with performance rights whenever possible, but will not be able to acquire performance rights for films that need one-time public screening clearances.

Additional information is available on the MU website:

https://www.monmouth.edu/resources/general_counsel/copyright.asp#Exceptions

Additional sites and articles:

http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter0/0-e.html

<http://www.insidehighered.com/news/2007/11/16/fairuse>

<http://www.cmstudies.org/documents/SCMSBestPracticesforFairUseinTeaching-Final.pdf>

How to acquire film rights

1. Check with the MU Library to see if the University already has the rights to the film in question.
2. If the library does not have the film and you would like it to purchase a copy, please submit your request via the library page at:
http://library.monmouth.edu/services/purchase_media.php Please indicate the courses in which this film will be used. If you have further questions about the purchase process, contact Reference & Instruction Librarian Lisa Coats (lcoats@monmouth.edu).

3. Since the MU Library does not pay for performance rights for one-time screenings, you may request that the rights be purchased by the sponsor of your event (Department Chair, Dean, or other budgetary source).
4. Once you have permission to pursue the rights, contact the distributor. IMDB.com is the best source for this information; you can also try Googling the title with the key words: “distributor” and “purchase.” Contact the distributor as soon as possible. Large organizations in the U.S. often get back to you within a few days, but smaller groups, individual filmmakers, and foreign distributors can take longer. Shows from cable channels such as Animal Planet, Discovery Channel, or Lifetime are also difficult to clear.

The distributor has purchased these rights from the copyright holder with the understanding that they can then re-sell them not only for commercial performances, but for non-profit and campus events such as ours. Educational purchase prices normally range between \$100-250. Most distributors also have a rental fee of approximately \$50 for a one time use. One-time performance fees are also in the same range and even higher for newer studio releases.

Be sure to include in your request the fact that it will be for a non-profit educational screening, and describe the purpose of your particular organization. If the cost is too high you may be able to negotiate a lower price by letting them know what your budget is.

5. If you are still stuck, contact Beverly Peterson, University Film Specialist, at bpeterso@monmouth.edu.

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