Good afternoon, everyone. Thank you all for joining us today. My name is Ana Cackley. I'm the Communications Assistant here at Atla. And I'd like to welcome you to today's program, "Special Topics in Copyright: Showing Movies on Campus and in the Classroom." Before we get started, I just like to point out a few features of the webinars interface. By default, you will be listening in using your computer's speaker system. But you can also join us by phone if you would like. At the bottom of your screen, you should see a control panel. It contains a chat box where you can type in questions for the speaker and contact us about any technical issues. You can send in your questions at any time, and we will collect those and address them during the Q&A portion at the end. We now have live transcription for our Atla Webinars, you can find the live Transcript by going to the red button in the top left corner of your screen labeled live on custom live streaming service. If you click the carrot, and then click View live streaming service, it will open up the transcript in a new browser window. We will make this transcript available on our On Demand Learning web page. Today's presentation is being recorded. That recording will also be available on the On Demand Learning web page. And everyone who registered for today's webinar will receive an email notification when it's available. And now I'd like to introduce you to our presenter. Today, we have with us our very own Christine Fruin. She's the Scholarly Communication and Digital Projects Manager here at Atla. And with that, I will turn it over to Christine. Thank you for your patience, folks, as we switch presenters.
And good afternoon. I'm so happy to see so many folks joining us today for what I knew would be a very popular topic as this is one that I have gotten so many questions on over the last 15 years that I have been doing this kind of work. So looking through the attendance list, I know that we have a lot of guests that are with us that are perhaps not familiar with or part of Atlas, I want to extend a special welcome to you all. And I know that this was advertised out to a number of our partner organizations through the professional development Alliance. And so I'm assuming you have heard about it through that. So welcome. Thank you, Ana, for the introduction. I am Christine Fruin. Did see also a lot of familiar names. A lot of folks that joined us for the first two webinars in this series that we're doing on copyright this spring, if you did miss the first two of those, I highly recommend that you go back and view those at your convenience. I when I designed this series, I really did set it up to kind of build on each other that each of the parts. And so you're going to you'll see if you've been with us from the beginning in January, you're going to hear kind of some of the same kind of setup, but to start and then we kind of do a deeper dive into whatever, whatever the particular topic is. So if you missed those or you want a refresher, you were there and may want to view them again, those are available on demand off of our website. So today, I'm in this third part of the four part series, we are diving into the topic of showing videos in class and on campus. And as I said, I know that this raises a lot of questions when again, when I was looking at the attendee list, I know we have a lot of K through 12. Folks with us today. And I know that you all this is something that comes up a lot. And before we started on and I were chatting a little bit, I said I'm probably going to burst some bubbles today, unfortunately, about showing videos in schools, unfortunately. But hopefully, we will have some time for questions here at the end. So I'll go ahead and be quiet and it will start diving in. So again, if you've been in the first two webinars in this series, you have seen this screen before. And I just I like to start with it. Because underpinning everything that we talked about when we talked about copyright is this overarching purpose of copyright law, which derives from the Constitution itself. And the purpose of copyright law, we always need to bear in mind when we look at its provisions when we look at its exceptions when we think about its applications to make sure that we are serving this purpose. And its purpose is found in Article One, section eight, clause eight, to promote the progress of science and the useful arts by securing for limited time to authors and inventors the exclusive right to their respective writings and discoveries. So remembering the purpose to promote the progress of science and the useful arts and that actually is a much more broader term than you may think. And in exchange for, you know, promoting those things we are giving to creators exclusive rights for a limited period of time and so we talked about the last time last month and one of these big exceptions to that exclusivity is fair use. And but there's several other statutory limits on these exclusive rights that a copyright holder has, what are those exclusive rights, we talked about those quite a bit in the first webinar in the series. But just
really quickly, those exclusive rights include the right to make copies, the right to distribute the right to make derivative works, and so on, and so forth. So there's several of those. But as we said, there are exceptions to those exclusive rights there are, excuse me, there are times when other users who are not the copyright holders, can also do those things, make copies, make, you know, distributions of works perform or display, which is exactly what we are doing when we are showing films on campus or in class, or even online classes as we are, we are performing those films. And so if the use falls within one of these limits, you know, within one of these exceptions, we don't need to get permission, we can act within the boundaries of the exception. And then if our actions exceed the boundaries of those statutory exceptions, then we know we need to get permission, or otherwise somehow change or limit the content that we are using. So we're going to talk about the exceptions that apply to showing films today. And those exceptions are, excuse me,

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I started this with a tickle in my throat, I was hoping you would not come back. So one of the biggies. And this is directly speaking to showing films is found in Section 110, one of the Copyright Act, and this is known as the face to face teaching exception. So under the terms of this statute, you can display or perform works in their entirety without permission, so long as showing or performing those works is for education or teaching purposes. The statute is very, very particular about that, that there has to be in a classroom setting, I mean, the language is in there. And it has to be the act the act of showing or performing or displaying. So it's limited only to copyright works that are capable of being performed or displayed. So that this doesn't actually cover like district distribution of print works. So photocopying things and distributing them, this does not apply, this only applies to works that are capable of being performed or displayed has to be done in the context of educational or teaching activities. So this is where this is sometimes where the bubble bursting comes in. Oftentimes, whether you perhaps are in a public library, or you are in this K through 12, or even in the in the academic environment, if if the if the film is not being shown for those purposes, your activity does not fall within this and then you're going to need, you're going to need permission, which we're going to dive into much, much more in a little bit. So I'm just I'm previewing that for you now. It's just I'm just, you know, kind of preparing you for some potential bubble bursting. If you were under the impression like, wow, I'm at an educational institution is showing a film, I'm covered not in all circumstances. So that's face to face teaching. It envisions being in a physical classroom, you've got instructor you have students occupying the same
space, with the growth of online who actually with the growth of distance learning in the late 90s. There was a need for Well, what about, you know, when we have students that are attending at a distance, and what some of you may not know is in those early days of distance education, teaching was still synchronous, it was not it was not so much asynchronous at that point, you had students attending class via closed circuit television, at remote or satellite campuses. So the teacher you had students that were live in class, but then you also had students that were attending at a distance. And so this seven, the 17 USC one time, one, the face to face teaching exception, didn't necessarily apply to those students that reviewing a distance. And so there were at that point, you know, some thoughts about asynchronous learning. And I mean, online education was still pretty much non existent at that point. It was just very, very new. And so what was developed in response to that was what is known as that some of you may have heard of as the TEACH Act, and this became then the second part of that statute, 110,

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now the TEACH Act. We’re going to talk about it here and then we’re going to leave it here. We’re going to leave it because it is not all that it’s cracked up to be. So the TEACH Act permit showing, and this, again is from the statutory language itself permits only showing a reasonable and limited portion of copyrighted materials to online students as part of systematic mediated instructional activities. It's like what what does that mean? And in which folks have been struggling to define what systematic mediated instructional activities mean, does that mean a synchronous learning or not? What What does this what kind of teaching activities does that cover? reasonable Unlimited, there is actually, in the congressional digest in the taken from the statute or the congressional debates that was going on while this legislation was before them, it was said, and no way is showing an entire film reasonable and limited. So we kind of have evidence there, this does not include showing full films online. Furthermore, the T check impose, imposes many requirements upon the instructor upon the institution and upon the information technology staff of that institution. Before teach that can even be invoked. The kind of requirements are on the instructor is basically tying the showing of these reasonable and limited portions of films, to the pedagogical objectives of the syllabus. So they have to provide evidentiary bases for showing these films online. The institution has to have in place a copyright education program where they are regularly instructing and providing information to faculty about copyright law as it applies to their teaching activity. And then
Information Technology, your it or your information systems, the kinds of things they have to have in place in terms of having protected servers and and other mechanisms in place to prevent any unlawful or unauthorized downloading or access to instructional materials. So the institution institutions that invoke the TEACH Act, and I’m telling you, there are very, very few that do probably are even, I would be surprised if there are following all of the requirements that the teacher actually imposes. But this is what we have, however, a much better mechanism for sharing online course materials. In particular, you know, films is going to be fair use, we talked about Fair Use extensively last month, so I'm not going to spend time on it here. If you want to know more and dive more into that, I would encourage you to revisit the the Fair Use webinar that we recorded. Last month, I also did a webinar on copyright and online teaching. I want to say last March, sometimes sometime early last year, I think it was last March. And if if Ana she she knowing Ana, she'll put the link up to that. So you even may want to watch that recording as well. So applying fair use to showing film in an online environment, you’re going to, again, apply those four factors analysis. And or excuse me, so as I said, this is better than TEACH Act. But we’ve got there’s some there’s a little bit more that you have to do beyond beyond fair use. And we’re going to talk about that in a moment. And I’ve already kind of previewed here, the DMCA, the Digital Millennium Copyright Act. So fair use for showing films online fair use is actually only one hurdle that you have to cross in addition to meeting your fair use standard. You also have to look at the DMCA. So what is the DMCA. So this may be new to a lot of you and my K through 12. Folks, this applies to you as well. Because as you’re gonna see, some of these exceptions also apply to you not just necessarily teaching online. So DMCA, the Digital Millennium Copyright Act. I think some of us in the room are probably of the vintage that you remember Napster. The DMCA was, was enacted somewhat in response to Napster and services like it where folks were just ripping CDs, and putting them up online for anybody to download and access. So the DMCA legislation was passed to prohibit and make it unlawful for anyone to circumvent the TPM or the DRM. So the technological protection measures TPM, or the digital rights management DRM technology that is built into media so not only CDs, but also DVDs, blu rays, there’s there are there are you know, there are little locks on there that are intended to prevent you from ripping or you know, copying content from that media. Now, thankfully, they did. recognize that there actually may be some legal circumstances where we want to allow folks to do that where we want to allow folks
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Circumvent TPM and DRM to rip material from CDs, DVDs, and Blu-rays. So every three years, the Librarian of Congress is empowered to create new or renew existing exemptions. And we just actually had, I don't know how the pandemic is going to impact this, we should be due for new exemptions. I think this actually this year in 2021, because the last ones were in 2018. I'm so some exemptions, and some of these were new, actually in 2018. So if some exemptions, and this is where I'm talking about, so this is going to be particularly important, where you are wanting to show content online, so if you're needing to digitize films, to show to online classes, you need to look at not just fair use, but also these DMCA exemptions. So let's talk about them here real quick. I did want to also talk about, there's a really important exemption for access by persons with disabilities. So if you have students, whether this whether they're in an online class or in a physical classroom, who needs to have captions added or audio descriptions added to create an accessible version that is permitted under the DMCA you can make those kinds of modifications create copies of the content to create to create an accessible version for those students, so long as they are not otherwise already available. So the film distributor doesn't already make a captioned version commercially available if it's not available, institutions. And this, you know, all institutional to educational institution types, whether it's higher ed, K through 12, public private doesn't matter. You can add captions audio descriptions, to to facilitate access to material. So I wanted to put that important exemption out there first, as far as digitizing films to make available online. So under the exemption that was first they have they have refined it, the Library of Congress has refined it over time, the very first exemption, which I think may 2012, or 2015, was actually in 2000. Her main back as far as 2009. Initially, it was only films studies, classes could digitize Well, thankfully, you know, other faculty, other folks lobbied really hard and got that exemption to be expanded later on to all to all kinds of institutions and classes. So the exemption for education states that short portions. So that's not the whole film. These are short clips from a lawfully made and acquired media. So you have to make sure that you have a lawful video to begin with, and not already a kind of maybe an illegal copy. But once it had been lawfully acquired by by you by your institution library. So short portions may be digitized for the following purposes. So by educators and students for the purpose of criticism, comment, teaching or scholarship, very, very similar to the fair use kind of preamble, the preamble language in the Fair Use statute, criticism, comment teaching or scholarship by faculty of MOOCs. Some of you may or may not be familiar with MOOCs, these, these are those massively open online courses. So Faculty of MOOCs can digitize short portions. But for MOOCs, the limitation is still to film studies or other courses requiring close analysis of film and media excerpts. That's, that's only for MOOCs. However, also, the exemption says and also must meet the TEACH Act requirements. They threw that in there as well, as far as others, so by educators and participants, and nonprofit digital and media literacy programs offered by libraries, museums, and other
nonprofit entities with an educational mission. So for most of you, you’re going to be coming into that first bullet. So where you have a faculty member, you have a fifth grade teacher who’s still perhaps teaching online in the pandemic, who needs to digitize short portions, short clips of films, and how much you may say, Well, what’s the short portion? That’s where you’re going to go back to fair use to determine Okay, what how much is needed, looking at all the sport Fair Use factors. And then of course, the purpose being for criticism, comment or teaching. So as I said, showing films online, two hurdles first have to justify it under fair use, and then you have to make sure that your activity comes within one of these DMCA exemptions. So I previewed this a couple slides ago about public performance rights when talking about section 110. One. So recall section 110. One permits the showing of films in their entirety, in a classroom setting during face to face teaching activities. What about when you’re wanting to show a film that isn’t in a classroom as part of face to face teaching teaching activities? Well, then you’re determining whether or not you need to acquire a public performance license, or public performance rights or sometimes I shorthand it to PPR. So when do you need to get a public performance license? And I will say right now, these are rarely inexpensive. So let’s kind of walk through the different scenarios here. Do you need public performance rights? If the showing of the film is open to the public? Yes, yes, you do. So if you are doing a movie showing at your public library, open to anyone, if you are doing a film series, perhaps on campus that’s open to anyone open to the public advertised folks, Oh, my gosh, you’re charging, maybe not charging admission, but seeking donations, you maybe you’re serving snacks, anything that kind of has the flavor of just being this open, open viewing open showing in an open space, you are going to need a public performance license to do that, if the showing is in a public space, where access is not restricted, such as the showing of a film for a class, but you’re saying Oh, but we’re gonna invite others to come as well. So maybe the root of it is yes, this is something I’m requiring my students to go to. But it is something that is also being open and invited to everyone else, as well likely need a public performance license there. Finally, if persons attending are outside the normal circle of family and friends, so if you’re just having people over to your house, you know, when we’re all vaccinated and all that, having folks over to watch a film, watch a movie, you’re getting ready for the Oscars. And that’s what we’re doing in our house. We’re getting ready for the Oscars in April and starting to tick off those Best Picture nominees, having folks over to watch movies that you don’t need to poke from inside, but you’re doing it at your church, you’re doing it at your at a club, your women’s group, your toddler group or something. Once it gets beyond that normal circle of family and friends, then it does become a public performance. Maybe even if it’s at somebody’s house, if it’s if it’s your clubs meeting at your house. And you’re saying who’s gonna know? Well, probably nobody. I’m just telling you what the law says you can you can make your own decisions when wet. So those are some common scenarios where you would need a public performance license. What about when don’t you. So again, if you’re the converse of what
we just talked about, if you're privately viewing the film at home with only your family and friends and attendance, so don't need a public performance license for that. If you are an instructor showing the film in class as part of the course curriculum, to officially enrolled students in a classroom that is not open to others to attend, which is essentially the definition of that statutory exemption we found at 110. One, or of course, if the film is in the public domain, the thumbs in the public domain, or if it is a Creative Commons licensed film, you can show that all day long to whomever you want, and don't need to worry about copyright or licensing in any form. Now, I have the Yes Here I have the no but there is also a maybe this is this is my maybe. So there are situations that fall kind of in this gray area that it's kind of educational, maybe has an educational component. So these are things like showings by student clubs or other campus organizations. Sometimes there's a showing of a film with a plan for a facilitated discussion afterwards. The club itself or the student organization, or the civic group has as part of its mission, education, education and teaching are part of its mission part of its activities. So probably, I mean, there many of us are in agreement that in that situation where you're showing a film, there's a plan for discussion, it's by a group has education as its mission probably can make a really good fair use. Fair Use argument to view that film without public performance rights. hasn't really been tested, but somewhat comfortable some comfort area in that in that kind of this gray area of maybe. However, if the film is hosted by a group or club, but it's advertised open to the public, so you are actually advertising it's open. Anyone not just club or campus organization, civic group members, it is something that is openly advertised to the public. Even if there is going to be discussion there, this is generally considered to be entertainment, edutainment. And public performance license would generally need to be considered. So sometimes this is maybe where public library showings are going to fall. church group maybe show if something if really the kind of the distinguishing thing here is, are you advertising it to the public? Once you once you kind of cross that line, that's where you need to be thinking about public performance, public performance rights, this is generally considered to not be fair use. So let's talk a little bit about other licensing restrictions that may come into play when talking, looking at films that you want to want to show either in class, online, all the different kind of scenarios that we were just talking about. So in this day and age, in the 21st century, we have a plethora of streaming services available to us everything from old standby Netflix, and Hulu, and Amazon Prime. Now we've got Disney plus, we've got Paramount we've got, oh, I know there's Sundance Chan. I mean, all everybody's got a streaming service these days. Generally speaking, those are all private subscription, individual subscription access. And if you've ever looked at a Netflix subscriber agreement, Hulu subscriber agreement, a Disney plus subscriber agreement, there is language in those licensing in those subscriber agreements that specifically prohibit you from showing them in the classroom. So if you know of a faculty member who is regularly dialing up Netflix in the classroom, that you might just want to me just put out a blanket statement that this is not this is not permitted.
So I was part of a group several years ago that tried to negotiate with Netflix to get educational licenses. And it's not Netflix, it's being difficult, it's the individual studios that they license with, there's just not an economical model, that's going to work that educational institutions would even ever probably be able to afford to pay what the studios would license the content to Netflix for for Netflix to turn around and offer educational subscriptions. It's just it's just not economically feasible. And mainly just because the studios don't just don't want to play nice. So subscription streaming services, just as a general rule, those are individual use only, not intended to be used in a physical classroom for a student club showing for anything beyond you dialing it up and watching it at home, on your TV or on your iPad while you're on the exercise bike or on your phone while you're writing public transportation, not intended for public or group viewing commercial digital copies. So these are films that things that perhaps maybe digital versions that you've bought from Amazon from the iTunes Store. Where else can you buy digital media, I haven't bought a digital movie and so long I'm there's probably other places. Again, you need to look at the licensing restrictions that come with those. So one of the things that we talked about, we talked about Fair Use last month, is when you have a license at play, fair use kind of becomes unfortunately moot. It becomes what the license says that at that point. It's a contract that you as the subscriber you as the purchaser, and the person that has sold the content or licensed the content to you the terms of that contract control, sometimes Fair Use rights are spoken to in those agreements. And this kind of scenario when you're talking about film, generally not fair use is just kind of not you are bound to do to not do and only do what the terms of the subscriber agreement or licensing agreement say so many digital like born digital copies of films will have very similar language that you would have seen in a subscription streaming services about about even so insofar as using this in an online classroom, when I was a collection development librarian in the early 2000s. And we were starting to see we're starting to buy digital versions of movies. When we had a growing online, online coursework at the University of Illinois. It became suddenly to our shock and dismay. How many of those Digital Copy says this may not be streamed to an online class. And it's like, oh, wow wish we would have known that. So you have to start becoming very weird to start becoming very savvy, and looking really closely at the fine print before buying digital copies of movies to see if those restrictions were there about. And sometimes they say you can use sometimes they even go so far saying you cannot use any clips of this film either. So really watch any kind of language on the website itself, where you may be buying it, anything that may download with it, when it gets went went after you download it, about what kind of restrictions there may be on using it. The same goes for physical media. So this is like if you’ve actually bought DVDs or blu rays for your school for your library, that oftentimes there are restrictions, either in a shrink wrap. So sometimes, right before you open up the package, stickers that might be on the shrink wrap on the outside of the DVD or Blu ray paper statements that come on the invoice that shipped with it. Or
again, look at the language on from the vendor where you’re buying it and see sometimes they will place as a condition of sale, I’m saying that you may not digitize any portion of this DVD or Blu ray for use in a physical or online classroom. And again, this becomes contractual, this becomes terms that you are bound by, regardless of what Fair Use may say, regardless of what the DMCA may say, you have suddenly entered into a purchase agreement a contract about how you can or cannot use it. Again, back when I was a collection development librarian. We used to see this on even films we bought from PBS and other entities, it was a sticker right on the DVD. That said you may not digitize any portion of this media for use in online classes. So really even watch your physical media about any restrictions regarding digitizing or online. But another thing you want to watch for with respect to purchasing physical media, is whether it came with a public performance license. So we used to find this a lot as well back in the day is that when if there were films that were commonly and frequently being used by groups that were very popular for to use, or were being checked out by civics organised civic organizations in the community, we you can often buy DVDs that come in, you know this by looking at the price, oh, okay, I can either buy this film for 40 bucks, or $140. And a lot of times with the difference in prices, is you are purchasing one of the versions with a public performance license. So if you find that there is a DVD or a film that is frequently being used, for purposes, that would be defined as a public performance, really important to know, first of all, if you’ve already bought it so that you’re not paying for a for PPR again, when you’ve already paid for it. So again, this was something that we found is that we were often times telling folks to get PPR and we had already paid for it when we bought the DVD. And so be really, you know, sometimes you can tell despite the price you pay, look really closely at the vendor website, especially you know, if you are the the acquisitions librarian, or the media librarian, really, really watched your websites, watch your invoicing and such for language that says if the DVD already comes with perform public performance license, but even more importantly, is to communicate that to people. So this was a problem that I quickly realized both when I was at University of Illinois. And again, when I was University of Florida, we we were acquiring these mass quantities of films, these huge, huge film libraries of DVDs and blu rays, and had no idea we’re just buying them because we had different selectors, buying things and so forth. And then folks would come to us and say, Oh, can I use this in an online class? Oh, can I use this to show at a film you know, a film series that this club is going to do student government is going to do a kid’s movie. And if we as the purchaser should have known that there was no mechanism in place to track that. And so both that University of Illinois and then again University of Florida, I devised a system whereby we were record we were recording that we had ABCD and E and you know the like this, I think he was this film is in the public domain D this film may be used online see this film comes with public performance license. A you know, the use of this dome is restricted I I’m kind of paraphrasing it may not exactly been the breakdown. And then we went through at University of Florida particular went through 14,000 films, and
altered the cataloguing metadata to add all of those those codes and set up a search whereby users at the library could actually search for all the films of the 14,000 films that we had. Which films came public performance licenses, or which films could be specifically digitized for use and on our, you know, had an online teaching license portion of that, you know, license that came with it or so forth. So we did, we wrote a paper about this, we did a whole presentation on it at the Charleston conference in 2016. I did put the link up for that, if you’re interested in learning more, it’s a project that I’ve done twice, and I was really super passionate about I’m still really passionate about because I just saw all the collection development dollars that were going towards purchase of these licenses or permissions. And then nobody on campus knew that we had them and they weren’t getting used. So it’s a really cool, really cool project

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that I’m proud

Christine Fruin 35:42
of. And so I like sharing it and this is perfect for other folks to maybe consider doing or just to be thoughtful about when you’re buying media, make sure that you are informing your patrons, what what you actually have in what’s available to them and making that discoverable by them as well, so that they can plan accordingly. Whether it be for you know, educational activities in the classroom, or for other kinds of campus activities as well.

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well.

Christine Fruin 36:11
A question that I also frequently get, in terms of physical media is the home use only warning? And what does that mean? I can’t tell you how many times I’ve gotten the question of Oh, Home Use only does this mean I can’t show it in my class? No, it does not that that license, um, that good old FBI warning does not actually foreclose your 110 one rights to show that film and class in its totality, or your fair use rights as well. So you can kind of just ignore that home use only warning, it does not change your copyright on your the rights you have under copyright law under either 110 one or fair use, or DMCA exemptions, and so forth. I keep seeing lots of blinking of questions. And so I’m anxious to get dogs your kind of questions everybody has. So the kind of the next thing we want to
talk about here is finding alternatives. So if we'd have time to get to those questions. So this is what's really going to become important for you is finding alternatives, especially for you know, making content available for online students in particular, or just perhaps for those public performances. So this is always my, this is kind of another one of my cautionary tales about these, I call them community video hosting sites, so things like YouTube, Vimeo, Vimeo, dailymotion, there's probably other ones out there that I am not aware of. So these can actually be very rich resources for finding content that's easily, you know, easily to, you know, really easy to plug into a CMS or an LMS, a course management system or a learning management system, you can use the embedded video players. And as I've told people that, you know, that rarely invokes any kind of copyright concerns, because all you're doing is pointing that embedded player to an externally hosted video. So you're really not making any copies of anything. It's it's very convenient. And very, you know, you don't have to necessarily concern yourselves with fair users, because you're not actually copying or anything, you're just you're just pointing a viewer to you're sharing a URL and pointing to view pointing the viewer, the embedded viewer to it, where the caution lies is the massive amount of infringing material that is on YouTube, Vimeo, etc. And the fact that the things that you need to be aware of if you are using infringing material that's available on the site. So the first thing is, is sustained, like the sustainability of that. So sites like YouTube rely upon takedown notices from the rights holders themselves. So I tell folks that are either working with faculty or faculty themselves, that if they're going to utilize this kind of community, hosted video in their in their courses, to make sure that it's not something that's liable to get taken down. If it is something that is clearly been put up in violation of the copyright holder. And you've planned in July to show this in your fall class. What's the likelihood of that still being there in October, and then you're scrambling to either find a legal version of it or find some kind of substitute. So just for purposes of your sanity, don't use things that have been put up there in violation of the copyright holders rights because chances are especially if it is something that belongs to Disney, or any of the major television or movie production studios. They have people that regularly seek out and whose jobs it is to just do takedown notices they have and they have automated ways of doing it as well. It's just a really, it's just a bad practice to utilize. You're going to give yourselves headaches. If you rely upon that content being there when you need it. There's also ethical concerns about should you be using infringing content? As I said, You are really not you're not copying it, you're not, you know, you're not, you may not be invoking copyright yourself in what you're doing. But what are the ethical? What are the ethical implications of you directing students to content that, you know, has been posted illegally? Do you have institutional policies around ethics, the ethics of doing that of sharing illegally copied material, I'm not going to tell you one way or another. That's that's an ethical question more so than a legal one and something that you need to perhaps turn to institutional policy to remedy. Further, if you are intending to make clips or to download it, or in any
other way, make copies of content that is illegal, that is a basic tenant of fair use jurisprudence, that your source copy is legal. So if you are sourcing something if you are making clips from if you are using some kind of screen grabbing screen capturing screen recording software, to copy or clip from something that is illegal, really seriously weakens and undermines any kind of fair use claim that you may make the the basic undermining of fair use in any Best Practice Guide you’re going to look at is that the source material itself was legally obtained is a legal copy. So just I’m not telling you not to use YouTube, Vimeo and the like, but really be a savvy user and look at who is posting it. You know, is this something that was posted by the rights holder themselves, or with permission. So I will step down off of my soapbox about that. There are a number of library database products. Alexander street press used to be a big player. Oh, there’s another one that I’m drawing a blank on. But there are a number of vendors out there who specifically licensed to library’s databases of streaming video, they are often already captioned, which is really great. For purposes of accessibility, they usually have things where you can already kind of set time marker, so you can like have it play specific clips only. They’re usually licensed to be used in online courses, oftentimes in their entirety. So if there is films that you want to show all the way through. So library database products, I know for a lot of folks just are not economically feasible. But for other folks, you know, it is if you are an institution that does heavily use media content, something worth exploring, if there’s a video database out there that has a lot of content that you can use, and kind of obviate the need of some of these other considerations. There are also a number of free and legal online video websites out there. So a number of things, a number of places will put their content freely available online. So for example, PBS puts a lot of its programming up on its websites for free. Some of the other documentary film, places do the same, I have a list, I have a LibGuide that is on showing films on campus and on classes in class on campus, where I kind of have a running list of these free and legal because that's the important part has not just free but legal, online video websites as well. But you can actually find quite a lot. There’s some quite a quite a lot of documentary content in particular, on there. And then the last one I suggest is students. So what I am a strong advocate of is all of these subscription services that we talked about on the previous slide. So your Netflix, your hulu’s, your Disney pluses, your Amazon Prime’s most students, I bet you, especially in the US, and I know a number of our members do have international students and this may this may not be an option. So I don't want to, you know, I don't want to I'm not making, you know, this overarching presumption. But most students, especially in the US or North America, do have Netflix, Hulu, amazon prime or their parents do and they have access to it. And there is such a humongous growing catalogue of films on there, that libraries work with your faculty, encourage them to work with you to do some planning on their syllabi, and investigate whether these films are available or these documentaries or wherever the case may be through these services. And instead of showing it in class require students to watch them in advance of the class period where it's going to be discussed. I actually had
a professor that I worked with before, who we found that, like everything he was wanting
to show was on Netflix. It just so happened to all the films he's wanting to show and, and
when I broke it down for him, what it would cost for us to buy streaming licenses for all of
these films versus the cost for students to subscribe to Netflix, if they didn't already for
three months. For his class of like, 45 students, it was cheaper for all of them to pay for
Netflix for three months, then for him to stream by streaming licenses for two of those
films. So, you know, as long as you are, I feel like as long as you are advising students
upfront this, this course relies a lot on film, here are all the films that we're going to watch
this semester, here are all the places that they're available, you student just like we require
students to buy a book you student are responsible for, you know, having a subscription to
our or accessing and film here, or back in the day, when we actually could have a physical
library, you know, you could keep perhaps a physical copy of it on reserve in the library, if
that wasn't available to them to subscribe to. So rely upon the resources that students
probably already have available to them as well. don't discount that as an option. So here
are some additional resources. So we talked last time in the fair use about these best
practices for fair use guides that the Center for Media Studies has been doing. One of the
very first ones they did was best practices for fair use and online video. So this is really
more about videos that you are creating, using utilizing your creativity and creating your
own video, and and perhaps picking parts of other videos out there to create something
new. But there there is some there's some good advice in there all the same. I wrote an
article that was actually cited to by Congress, during one of these rulemaking are by the
Library of Congress during one of these rulemaking sessions, the struggles and solutions
for streaming video and the online online classroom is also out there, I kind of go over all
the legalities of this as well as the for those of you who've been watching these issues for a
while, talk extensively about the AI me versus UCLA lawsuit. And then as I mentioned, the
LibGuide, there is a whole tab on showing movies. And that's a good place to find this list
of free and legal streaming video sites there. So we have about 10 minutes for questions,
I've seen the thing blinking quite a bit, I'm going to be quiet now. And take a look at those
real quick and hopefully we can get to a lot of them. I know that was a lot of ground to
cover. And I went through things very quickly. For those of you in the audience today who
are Atla members, um, you should have by now either received an email or seen a
newsletter post or seeing the blog post about my copyright office hours. So those are
actually scheduled for tomorrow. So I just want to invite you for those of you are Atla
members, if you have questions that don't get answered today about this, or if you have
other copyright questions or other things you want to chat with that I will be hosting office
hours in zoom tomorrow. And you should be able to find the details in that either in an
email you got or in the newsletter or on the Atla blog. So I'm going to stop sharing and
turn my attention to the q&a and the chat. So Oh, boy worship, were just Okay, so some of
this is Ana sharing things. So let's look at the chat here though. Um, Joanne says, am I
correct that this does not apply to subscriptions to educational film collections from
vendors, like infobase. Okay, so Joanne, I'm gonna need a little. Am I correct that this does not apply? So I don't know what the this is. Um, so perhaps you could give me some further context in the chat. And I'll circle back that because I'm not sure what the this this does not apply to. I don't know what this what this refers to. Sorry. Oh, I answered your question. Ok. Okay. Um, Amanda, what is the resale issue for reselling used versions of these defeated DVDs that had the sticker package? Because the person or institution that buys a used copy agree? Actually, yes. Technically, technically. Yes, whoever bought it, but what is your responsibility to maintain that sticker or to inform them have that I

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you don't really have a, there's no really no liability to you as the selling institution. But it's just something to be aware of. If you're buying you DVDs for your library to perhaps you know, investigate, I mean, to the best of your ability. I mean, we, at the end of the day, as long as you're acting in good faith, that is a, that's you're always starting off on the right foot if you're acting in good faith. So if you yourself are buying the use copy, you have no idea what kind of licensing may have attached to it. Um, don't sweat about that so much. Um, let's see, why can we ignore one warning, but not the other? FBI warning has, it has nothing to do that is more about this is this really it's very hard to spend this is more about piracy, then and that than then other kinds of, like fair use and things. It's it's, it is nonsensical. It's just it's not applicable. It does not, it just just not, it does not cancel out fair use. It just it just doesn't. I don't know. It's I don't know how else to say that. But it just, it's just globally accepted. That just does not apply to that. It's it's that warning is directed towards other kinds of activities. I know it's a weak answer, but it's the answer that I have. How will I know? So this is often a common question, Kathy, how will I know if a film on YouTube or Vimeo is legal copy? I always tell people to go with your gut. I mean, look at look at who the user is, who put it up. I mean, if it is, and this is this is a real, this is a real life example. Someone wants came to me and asked about using an episode of Big Bang Theory they had found on YouTube. And I asked them I asked the was an instructional designer. And I asked them I said, I said, Did CBS put up put that up? Or the you know that which was the film studio who would have owned the rights? Like No, I said, well, who put it up? The name of the user was big bang theory fanboy. And I said, probably not the. So sometimes just by looking at the user alone is going to tell you whether or not and I it's very doubtful that that person probably had permission from CBS studios to put that up. So it's really just about sometimes it's as simple as just looking to put it up. And
sometimes even looking at the description. Perhaps it was somewhat, you know, it may say used with permit us with permission from the studio film. I’ve sometimes seen that with documentary films, and they will link out to like the documentary film producers. Now, could they be lying? Yes, but you’re acting in good, what looks like a good, you know, looks like this is probably legitimate, you’re relying in good faith upon it. So there is no way to really like conclusively know for sure. It’s just kind of using your common sense a lot of times to be able to tell me, I’m not sure if that’s a question, just as Films on Demand. If there’s a question there, I’m happy to come back to it. Um, Belinda, can you share the LibGuide to the free and legal online videos, I had it up on that slide. I will be sharing out a PDF, but um, or I think I love autumn may have on a may have posted the link to it. If not on if you wouldn’t mind doing that. That would be great. And now turn to q&a.

53:31

Um,

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so Kelly, so the library can digitize short portions of videos housed in library for educational purposes. Yes. So you’re looking at fair use? And you’re and and DMCA? Absolutely, you can? Absolutely you can. Kyle asks, What is someone to do if Netflix is the only place that you can watch the film it is so is it is. So it is a Netflix original series, the only thing you can do is have students watch it from their own accounts on their own time. That’s the only option you have. Unless it is something you know, sometimes Netflix series. I don’t even know if you can buy Netflix, I know you can rent Netflix shows on DVD, but that same kind of restriction is going to apply. You’re obtaining them through your subscription. So your subscription subscriber agreement is going to apply to that. So unfortunately, your hands are really tied with content that’s on it’s a it’s really a darn shame. There are a couple and I should have included this link. There are a couple films on Netflix that they have specifically said and I want to say the Ava DuVernay documentary on the 13th amendment, I think is one of them. There are a couple films on Netflix that they have said okay, this film only will be available for you to use in the classroom and I believe Ava DuVernay is the 13th amendment document. And there’s a couple other I’ll see if I can find a list, Kyle. And I should add that out. And if I find it, I will add it to this LibGuide. Because I should have probably done that a while ago. So I will look for that and add that as well. copy of the PowerPoint presentation be available. Yes, I will provide it to Ana. And I believe Ana sends out kind of a, an email after the fact and she will attach it to that. Well, this webinar, Colleen asks, Will this webinar recording be available for me to share with my colleagues later on? The recordings are posted on the Atla website, and
they're accessible to anyone they're not behind a password or anything. So once they're posted on our on demand, learning page, anybody can go there and watch them. If I if I'm wrong on jumping in correctly, I think I think that's a true and honest answer.

55:49
You are correct. Yes.

55:49
Okay. Thank you.

Christine Fruin  55:54
All right. Oh, Mark. Okay. Oh, Colleen, where can we find it? Maybe I can put that in the chat. The on demand. Link to Sorry, I'm, I asked you to do a lot. Thank you. Ashley says what if you are an education organization that wants to host a program that ties watching a program to an activity in one room in a space? Where does a cam? I'm trying to understand. I want to make sure I understand your question to Ashley, we want if you're an educational, so I'm not sure I'm sorry. I'm not sure I understand your question. You are welcome to email me though, Ashley. And we can kind of have an email conversation. I want to I don’t I we only have about a minute left. And I'm not sure I understand. I want to make sure I understand. Okay, so any other quick last questions? Well, thank you all for attending. I hope you found some answers today. Maybe some answers that you didn't want. Maybe you did. Maybe some of you were empowered or reassured. Or I gave you some different ways of looking at how to serve your students and faculty and teachers. Next month, we're doing the last part in the series on digitizing Special Collections and Archives. And so maybe we'll see you next month. Thank you, everybody.