



# Petition for New Exemption Under 17 U.S.C. § 1201

## 8th Triennial Rulemaking

Please submit a separate petition for each proposed exemption.

**NOTE:** Use this form if you are seeking to engage in activities not currently permitted by an existing exemption. If you are seeking to engage in activities that are permitted by a current exemption, instead of submitting this form, you may submit a petition to renew that exemption using the form available at <https://www.copyright.gov/1201/2021/renewal-petition.pdf>.

If you are seeking to expand a current exemption, we recommend that you submit both a petition to renew the current exemption, and, separately, a petition for a new exemption using this form that identifies the current exemption, and addresses only those issues relevant to the proposed expansion of that exemption.

### ITEM A. PETITIONERS AND CONTACT INFORMATION

Please identify the petitioners and provide a means to contact the petitioners and/or their representatives, if any. The “petitioner” is the individual or entity proposing the exemption.

Brigham Young University  
Copyright Licensing Office  
3760 Harold B. Lee Library  
Provo, UT 84602  
copyright@byu.edu

Brigham Young University—Idaho  
Intellectual Property Office  
McKay Library 120C  
525 S Center Street  
Rexburg, ID 83460  
wisen@byui.edu

**Privacy Act Advisory Statement:** Required by the Privacy Act of 1974 (P.L. 93-579)

The authority for requesting this information is 17 U.S.C. §§ 1201(a)(1) and 705. Furnishing the requested information is voluntary. The principal use of the requested information is publication on the Copyright Office website and use by Copyright Office staff for purposes of the rulemaking proceeding conducted pursuant to 17 U.S.C. § 1201(a)(1). NOTE: No other advisory statement will be given in connection with this application. Please keep this statement and refer to it if we communicate with you regarding this petition.

## ITEM B. DESCRIPTION OF PROPOSED NEW EXEMPTION

Provide a brief statement explaining the nature of the proposed new or expanded exemption. The information that would be most helpful to the Office includes the following, to the extent relevant: (1) the types of copyrighted works that need to be accessed; (2) the physical media or devices on which the works are stored or the services through which the works are accessed; (3) the purposes for which the works need to be accessed; (4) the types of users who want access; and (5) the barriers that currently exist or which are likely to exist in the near future preventing these users from obtaining access to the relevant copyrighted works.

Petitioners need not propose precise regulatory language or fully define the contours of an exemption class. Rather, a short, plain statement describing the nature of the activities the petitioners wish to engage in will be sufficient, as proponents will have the opportunity to further refine or expound upon their initial petitions during later phases of the rulemaking. The Office anticipates that in many cases petitioners will be able to adequately describe in plain terms the relevant information in a few sentences, or even a single sentence, as with the examples below.

Brigham Young University and Brigham Young University—Idaho (“Petitioners”) are nonprofit educational institutions that offer courses and degrees in a wide variety of subject areas. Petitioners employ numerous instructors who need to show students clips from motion pictures (including television shows and videos) in the course of their teaching activities on countless occasions. In virtually every case, such performances are non-infringing under one or more statutory exemptions, such as 17 USC §§ 107, 110(1), or 110(2). Even so, it is often necessary to circumvent technological protection measures (TPMs) on motion pictures before such non-infringing educational performances can occur.

While in the past three years, Petitioners have relied on the current exemption for motion picture excerpts used for educational purposes by college and university faculty and students (codified at 34 CFR § 201.40(b)(1)(ii)(A)), the current exemption still does not permit circumvention of TPMs for many uses that are essential to desired educational objectives. Petitioners understand that countless other nonprofit educational institutions, instructors, and students have also been negatively impacted by the limitations of the current exemption.

Petitioners propose a clarification and expansion of the current exemption for motion pictures for educational use, such as the following:

Motion pictures (including television shows and videos), as defined in 17 U.S.C. 101, where the motion picture is lawfully made and acquired on a DVD protected by the Content Scramble System, on a Blu-ray disc protected by the Advanced Access Content System, or via a digital transmission protected by a technological measure, where circumvention is undertaken by college and university employees or students or by kindergarten through twelfth-grade (K-12) educators or students (where the K-12 student is circumventing under the direct supervision of an educator), including of accredited general educational development (GED) programs, for a noninfringing use under 17 U.S.C. §§ 107, 110(1), 110(2), or 112(f).

**ITEM B. DESCRIPTION OF PROPOSED NEW EXEMPTION** (CONT'D)

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