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**TO:** Bret Danilowicz, Provost and Vice President, Academic Affairs  
**FROM:** Office of the General Counsel  
**DATE:** July 13, 2021  
**SUBJECT:** Guidance on Student Recordings of Class Lectures

### **GUIDANCE ON STUDENT RECORDINGS OF CLASS LECTURES**

Under a new law recently enacted by the Florida Legislature, a state university student may, without prior notice, audio or video record a class lecture for a course in which the student is enrolled if the recording is for one of the following purposes:

- (a) personal educational use of the student;
- (b) in connection with a complaint to the university where the recording is made; or
- (c) as evidence in, or in preparation for, a criminal or civil proceeding.

A recording of a class lecture may not be published without the consent of the lecturer, except it may be shared with university officials in connection with a complaint to the university or as evidence in a criminal or civil proceeding. Violation of this provision may subject the student to disciplinary action by the university and/or to legal action by a person injured by the publication.

For purposes of understanding the new statute, a class lecture is defined as a formal or methodical oral presentation as part of a university course intended to present information or teach students about a particular subject. A class lecture will occur most often in a course identified by the university as a lecture type course, whether online or in-person, as opposed to a lab course or a course section identified as a discussion section. Class lecture does not include student presentations (whether individually or as part of a group), class discussion (except when incidental to and incorporated within a class lecture), labs, clinical presentations such as patient history, academic exercises involving student participation, test or examination administrations, field trips, and private conversations between students in the class or between a student and the lecturer.

To publish means to share, transmit, circulate, distribute or otherwise provide access to the recording, regardless of format or medium, to another person (or other persons), including but not limited to another student in the class. Additionally, a recording, or transcript of the recording, is published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, picket signs, or any mode of print.

## **STUDENT RECORDING FAQ**

### **What can students record?**

Students may audio or video record a class lecture, as defined above. A class lecture will occur most often in a course identified by the university as a lecture type course, whether online or in-person, as opposed to a lab course or a course section identified as a discussion section.

### **Do students have to ask permission to record?**

No, students do not need to ask for permission to record the class lecture **IF** they are making the recording for one of the permitted purposes identified above.

### **Is there anything that students are not allowed to record?**

Students are prohibited from recording classroom activities other than lectures as defined above, including but not limited to student presentations (whether individually or as part of a group), class discussion (except when incidental to and incorporated within a class lecture), labs, clinical presentations such as patient history, academic exercises involving student participation, test or examination administrations, field trips, and private conversations between students in the class or between a student and the lecturer.

### **In some courses, students freely ask questions during class lectures. Is this back-and-forth exchange considered class lecture or class discussion?**

In general, class discussions are not part of the definition of “class lecture” unless the discussion is incidental to and incorporated within a class lecture. If students ask clarifying questions during the class lecture, and back and forth discussion results on that topic of the lecture, that back-and-forth exchange would be considered incidental to and incorporated within a class lecture and therefore subject to recording under the new statute. If students ask questions or engage in conversation with the faculty member about the lecture topic during a separate and distinct discussion portion of class following a class lecture, that back-and-forth exchange would not be considered part of the class lecture and not subject to recording.

### **What are the permitted purposes for students making the recording?**

There are three permitted purposes for students making the recording: (1) personal educational use, (2) for use in a complaint to the institution, or (3) for use as evidence in a civil or criminal proceeding. Students may not record for any other purpose without the consent of the instructor.

### **Are there any restrictions to the use of the recordings?**

Yes, recordings made may not be used to engage in academic dishonesty, may not be used as a substitute for participation in class, and may not be published or shared in any way without the lecturer’s written consent, except it may be shared with university officials in connection with a complaint to the university or as evidence in a criminal or civil proceeding. If a student publishes a recording of a class lecture

without the faculty member's written permission, and it is not in connection with a complaint to the university or as evidence in a criminal or civil legal proceeding, the student could face severe legal and/or disciplinary consequences. Florida law allows an injured party to sue for damages, including attorneys' fees, totaling as much as \$200,000.00. Failure to adhere to these requirements may also constitute a violation of the University's Student Code of Conduct and/or the Code of Academic Integrity.

### **Does this law change how students may behave in the classroom?**

No, students must adhere to classroom behavioral expectations while recording. A student who disrupts the learning environment while recording a lecture may violate the student code of conduct.

### **Are there any other reasons a student may record?**

Recording a lecture or other class activities may be a part of an accommodation granted by Student Accessibility Services (SAS). If that is the case, faculty will be contacted by SAS about these accommodations.

### **Is there language that may be included in the course syllabus?**

The following model language is suggested for inclusion in course syllabi, at the discretion of individual faculty:

"Students enrolled in this course may record video or audio of class lectures for their own personal educational use. A class lecture is defined as a formal or methodical oral presentation as part of a university course intended to present information or teach students about a particular subject. Recording class activities other than class lectures, including but not limited to student presentations (whether individually or as part of a group), class discussion (except when incidental to and incorporated within a class lecture), labs, clinical presentations such as patient history, academic exercises involving student participation, test or examination administrations, field trips, and private conversations between students in the class or between a student and the lecturer, is prohibited. Recordings may not be used as a substitute for class participation or class attendance and may not be published or shared without the written consent of the faculty member. Failure to adhere to these requirements may constitute a violation of the University's Student Code of Conduct and/or the Code of Academic Integrity."

The following model language may also be helpful in courses where debate and/or the Socratic method is incorporated into class lectures, at the discretion of individual faculty:

"One of the objectives of this course is to facilitate critical thinking and debate around topics, theories, and concepts where disagreement is not only anticipated, but encouraged. The ability to think critically, express your ideas clearly, and respond to the professor and other students civilly is the keystone of the academic experience. In this course, the professor may articulate positions and make statements for the purpose of accomplishing this objective and enhancing the learning environment. As a result, students should keep in mind that, at times, the ideas conveyed during class may not necessarily reflect the professor's personal beliefs or opinions on the subject matter."