



Virtual and Other Classroom Recording and Student Privacy (FERPA)

4/14/2020

The U.S. Department of Education recently provided guidance to schools and colleges regarding the sudden transition to distance learning due to the COVID-19 outbreak and issues of student privacy covered by the Family Educational Rights and Privacy Act (FERPA).

If any student, or information about a student, is identifiable in a recording of a class or other educational event, it may constitute an education record protected under FERPA.

Recordings of the instructor without any student interaction, or disclosure of any student's personally identifiable information, are fine because they are not considered education records.

To ensure FERPA compliance, the University of Miami has established the following guidelines:

- **Limit access to remote instruction to only students enrolled in the course and other officials as needed (teaching assistants, faculty supervisor, etc.).**
- **Instruct all students enrolled in the course that they are prohibited from recording or sharing recordings of the class sessions or meetings and include that language in the course syllabus.**
- **Best practice is not to record students, identifiable information about students, or any part of a class that involves student interaction.** Recording includes by any means including audio (such as telephone calls) and visual (such as via zoom).
- **However, if you choose to record any or part of a course:**
 - Inform students that a recording is being made, and for what reason(s) the recording may be reviewed, and by whom. This should be explicitly stated in the syllabus as well as in specific class sessions or prior to an event. FERPA applies equally to recordings made outside of a particular course, such office hours, guest lectures, or presentations.
 - Should a student appear in a recording, limit access to the video to other students currently enrolled in the same class. (NOTE: This is FERPA-protected and cannot be used for future sections of the course.)

- If students will be permitted to review a recording in which a student is identifiable, the syllabus should prohibit student's capture or copying of the recording by any means or sharing with others.
- Any recordings made should be stored only on University-approved devices or storage solutions.
- Should you wish to use the recording outside of the current course (in any venue, including future courses), you may either:
 - Edit the recording to remove any portion in which a student appears or blur the student's image and distort the student's voice. The recording will no longer be an educational record and therefore not subject to FERPA; or
 - Obtain individual written consents from the students in the recording which allow use of this portion of the recordings. This can be requested of all students at the outset of a class or event. A sample template for consent is attached.

Student Consent

- A student's consent to appear in a recording must be both ***informed and voluntary***.
 - ***Informed*** means that the request for consent must inform the student of all of the intended uses of the recording.
 - ***Voluntary*** means that a consent is freely given without persuasion or coercion and that the student receives neither advantage nor disadvantage by providing consent.
- The student's consent must be documented (written or electronic signature) and dated. In addition, the consent must specify the records that may be disclosed, the purpose of the disclosure, and identify the parties to whom disclosure must be made.
- A student who does not consent to appear in a recording must have the same educational experience as a student willing to be recorded.
- If a student refuses to provide consent, a recording may still be made as long as it contains no record of that student.
- A student's consent or lack thereof may not be tied to a student's grade in the course in any way.

Required Record Retention

- Per FERPA regulations, any recordings made of classes involving students without student consent, must be protected as an education record. We recommend retaining them for a period of no more than one year and then destroying them.

- Should you leave the University of Miami, you are still bound by FERPA regarding access to any recordings made without student consent or by the terms outlined to students in the signed consent forms.
- You must retain copies of the signed consent forms for as long as you retain and/or share copies of the recordings.

University of Miami's FERPA Policy:

<https://www.oaa.miami.edu/student-consumer-information/FERPA/index.html>

***SAMPLE* Syllabus Statement**

Below is an example of language that an instructor could include on a course syllabus to inform students regarding class recordings:

Class Recordings: Students are expressly prohibited from recording any part of this course. Meetings of this course might be recorded by the University. Any recordings will be available to students registered for this class as they are intended to supplement the classroom experience. Students are expected to follow appropriate University policies and maintain the security of passwords used to access recorded lectures. Recordings may not be reproduced, shared with those not in the class, or uploaded to other online environments. If the instructor or a University of Miami office plans any other uses for the recordings, beyond this class, students identifiable in the recordings will be notified to request consent prior to such use.



SAMPLE Student Consent for Class Recording

I, (the undersigned), understand that I am attending class sessions or events that may be audio or video recorded. I was informed or made aware of this by the instructor before the start of the event. I hereby permit the University of Miami to release education records that consist of my voice or likeness as I participate in these classes or events. I am consenting to allow these materials to be used for educational purposes, including for institutional review of instruction and for the education of other students. I understand that I will receive no money or remuneration of any kind from the University related to this consent and release, or the materials covered by this consent or release. I acknowledge that I do not have the right to approve any materials developed by the university as authorized.

I understand that my consent here is independent of and separate from any other directive or consent I may have given to the University with regard to the release of my voice or likeness (such as for the release of Directory Information).

I understand my consent and release are voluntary and not a condition or requirement of my participation in this class or event.

____ I agree to the above terms

____ I do not agree to the above terms

Course Number and Title _____

Semester and Year _____

Course Instructor _____

Student name (please print) _____

Student signature _____ Date _____

Parent/guardian name if under 18 (please print) _____ Date _____

Parent/guardian signature if under 18 _____ Date _____