

## **Frequently Asked Questions: House Bill 233 and Student Recordings**

### **When can a student record?**

A Student may record a class lecture for three specified purposes as outlined in House Bill 233/Section 1004.097, Florida Statutes:

1. For the student's own personal educational use;
2. In connection with a complaint to the University where the recording is made; or
3. As evidence in, or in preparation for, a criminal or civil proceeding.

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

Students may audio or video record a class lecture for a class in which the student is enrolled. A class lecture is defined as an educational presentation delivered by faculty or guest lecturer, as part of a University of West Florida course, intended to inform or teach enrolled students about a particular subject. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

### **When are students allowed to record?**

Students may record at any time during a class lecture, so long as the recording is made for one of the above listed specified purposes.

### **Do students need permission to record?**

No. Students do not need to seek permission from the lecturer prior to recording a class lecture. However, the recording must be made in accordance with the three specified purposes.

### **Can a student share a recording with another student?**

No. A recording of a class lecture may not be published without the consent of the lecturer. Publish means share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of the recording, is considered to be published if it is posted on or uploaded to, in whole or part, any media platform, including but not limited to social media, book, magazine, newspaper or leaflet.

### **Are students required to inform faculty that they are recording a class lecture?**

No. Students may record a class lecture under the specified purposes listed above without informing the lecturer or receiving consent from the lecturer.

**If a faculty member is recorded, will they receive a copy of that recording?**

No. A student who records is not obligated to share the recording with the lecturer. In order for the student to publish such a recording, the student must obtain written consent from the lecturer.

**Will students be advised that they are prohibited from publishing the recording without the prior written consent of the lecturer, and the consequences of publishing without consent?**

Yes. Students are required to know the laws of the State of Florida and the University Regulations as set forth in UWF Regulation 3.010 Student Code of Conduct Code. Additionally, a statement will be added to syllabi expressly noting that students may not publish recordings without the written consent of the lecturer.

**What are the consequences for a student who publishes a recording without consent?**

A student who publishes a recording without consent may be subject to a civil cause of action. A person injured by a violation of Section 1004.097, Florida Statutes, may seek declaratory and injunctive relief and may be entitled to damages plus court costs and reasonable attorney fees. Total recovery may not exceed \$200,000. Additionally, a student in violation may be subject to discipline under UWF Regulation 3.010 Student Code of Conduct.

**Can a faculty member prevent a student from recording the class lecture?**

No. If the faculty member is delivering a class lecture, then a student has a legal right to record the class lecture, if the recording is made in connection with the three specified purposes listed above.

**Will student recordings violate other students' privacy under the Family Educational Rights and Privacy Act (FERPA)?**

No. Student recordings are not "educational records" as defined under the Family Educational Rights and Privacy Act (FERPA). Under FERPA, in order for a record to have privacy protection, the photo, video, and/or recording must be (1) directly related to a student; AND (2) maintained by an educational agency or institution or by a party acting for the agency or institution (20 U.S.C. 1232g(a)(4)(A); 34 CFR § 99.3 "Education Record"). Please visit the link for more details and examples provided by the U.S. Department of Education; [FAQs on Photos and Videos under FERPA | Protecting Student Privacy \(ed.gov\)](#)

**Are there any exceptions?**

Recording a class lecture or any other class activity outside of the definition of class lecture may be permitted as a part of an accommodation approved by the University's Disability Resource Center (DRC).