

Recording of Class Sessions for Remote Learning

There are several reasons that faculty might record or allow students to record, all or portions of classes, including:

- The educational needs of students with documented disabilities.
- Asynchronous remote learning if we must move to a fully online mode during the course of the semester.
- If the faculty member wishes to illustrate some particular skill or methodology (e.g., an artistic technique) that would require close proximity (less than 6 ft distance) to the instructor.

The increased recording or partial recording of class sessions raises two important points for faculty:

1. Intellectual Property – who owns the recordings?
2. Student and Faculty Privacy – how do we protect the privacy of individual students who might be recorded without their consent as they ask questions and make comments during a typical class.

Intellectual Property Considerations

Traditionally, the material produced by faculty in the regular course of preparing for and teaching classes, including such things as syllabi, worksheets and assignment instructions, examinations and tests, examination review guides and the like, are regarded as the intellectual property of the instructor who produced them. The AAUP statement articulates its stance in the following declarations

“Intellectual property created, made, or originated by a faculty member shall be the sole and exclusive property of the faculty, author, or inventor, except as he or she may voluntarily choose to transfer such property, in full, or in part.” ([AAUP Sample Intellectual Property Language](#))

“Material created for ordinary teaching use in the classroom and in department programs, such as syllabi, assignments, and tests, shall remain the property of the faculty author, but institutions shall be permitted to use such material for internal instructional, educational, and administrative purposes, including satisfying requests of accreditation agencies for faculty-authored syllabi and course descriptions.” ([AAUP Special Committee on Distance Education and Intellectual Property Issues](#))

Lectures, then, are teaching content that is created by instructors, and thus are intellectual property. There are some caveats and considerations, however. Faculty may legitimately include another individual’s copyrighted material in their presentations under fair use doctrine. A political science professor might show a table of data produced by media outlet to the class to highlight a contemporary issue; a science professor might use a graphic from a textbook to illustrate a concept; an art professor might display a photograph of an artwork, with either the artwork itself being copyrighted or the photograph of that artwork being copyrighted. Use of these types of copyrighted material are permissible under “fair use” doctrine since they are for educational rather than commercial purposes and are for a limited duration. The presence of these types of copyrighted material in a lecture does

become a consideration when universities wish to record and then monetize those recorded class sessions, since material they contain may no longer be considered “fair use.”

There are other important considerations when determining intellectual property rights within a recording of classroom activities. Guest lecturers or student presenters retain copyright of their materials, for example. If a faculty member designs a course using “extraordinary university resources” – as part of a grant, for instance – the terms of the grant might mean that instructional material produced is not the faculty member’s intellectual property.

There are also important questions raised by the recording of lectures when the recording device is owned by someone other than the lecturer. The owner of the recording device may have some grounds to claim ownership of that recording. The AAUP points out that digital learning resources are problematic because, while the intellectual content is being produced by the instructor, the digital content could not be created without the university resources. Nevertheless, universities have continued to recognize course materials, including lectures, as intellectual property of the instructor.

There are several technologies that faculty can use to record instructional material including, but not limited to, recording a voiceover for PowerPoint slides, recording via Camtasia, using an editing software to record the instructor giving brief lectures, or recording a Zoom class meeting. Zoom is a central component of our hybrid learning model, since it is the means by which students learning remotely will interact with the instructor and students in the classroom. When utilizing some of this software, the faculty member can retain control over the recording, since the file can remain on the instructor’s computer. In other cases, including Zoom, the file is stored first on the CSB|SJU Zoom website and, while it can be downloaded by the instructor, remains on the CSB|SJU Zoom website for 30 days. Because recordings are automatically deleted after 0 days, faculty who wish to save their save this content for their future use should download and save the recordings.

Suggested Syllabus Statement re Copyright

Materials in this course, including the syllabi, lecture notes, discussion guides, assignments, and tests, are the intellectual property of the instructor and are protected by US copyright law. Course materials, including recordings of instructional material made by or for students with accommodations, are for the educational use of the student and may not be shared or distributed without permission of the instructor.

Privacy Considerations

The recording of class sessions that involve student questions and responses, or classes that involve small or large group discussion is also problematic for student privacy. Because we are a small liberal arts college and our pedagogy is focused on active learning, particularly large and small group discussion, students in the class may be recorded expressing opinions or providing personal information. The privacy of students becomes significantly more concerning in a social media environment where comments can be taken out of context and disseminated widely. Faculty, particularly untenured faculty, are at risk in this environment, too. It is essential that both students and faculty are protected from doxing and other forms of cyber-bullying.

Thus, instructors must consider the potential impact on students and themselves as they record classroom activities. Instructors should be aware that students have the right to privacy within the classroom experience. The instructor may choose not to record a class discussion of a sensitive topic, when recording that discussion will, in the view of the instructor, inhibit the discussion or present a significant privacy problem for students. They should be aware of the recording and the protections available. It is good practice to notify students of the recording of the class before the recording is made.

Suggested Syllabus Statements / Email Advisories re Student Privacy

If the instructor, for reasons of pedagogy, course content, or student privacy, does not wish class sessions to be recorded, they have the authority to restrict such personal recordings.

Suggested Syllabus Statement re Recording of Class Sessions

Students may not make audio or video recordings of any class sessions unless the student has an approved accommodation from Student Accessibility Services, has requested permission of the instructor, and has signed a recording agreement. Recording or distribution of any course content without permission of the instructor is a violation of copyright and educational privacy law.

If the instructor is recording full class periods for most of the class periods in a semester (as might be the case in a remote-learning environment) a statement in the syllabus should make this clear.

Most class periods will be recorded on Zoom and will be made available through the course Canvas for all students until the end of the semester. Recordings are for personal academic use only, where personal academic use is restricted to the personal study use by an individual. The recording may not be shared, replicated, or published, in whole or in part, or used for any other purpose. Recordings will be deleted 30 days after the end of the semester. You may contact me or the Academic Dean, Barb May, with any questions or concerns.

If recordings are only used intermittently throughout the course, students should be informed of the recording before each class period via email or through the Canvas announcements.

Suggested Email Notification re Class Recording

[This is based on Macalester College's Email Template]

Subject: Recording in Class

Body: This announcement serves as notification that recording will be occurring in our class on the following dates: _____ to _____. These recordings will be posted on the course Canvas and are for personal academic use only, where personal academic use is restricted to the personal study use by an individual. The recording will not be shared, replicated, or published, in whole or in part, or used for any other purpose. The recording will be destroyed or stored by the appropriate office at the end of the semester. You may contact me or the Academic Dean, Barb May, with any questions or concerns.

Recording for Students with Disabilities

The ADA requires instructors to provide adequate accommodations to students who have a documented disability. For students with certain disabilities, recording of class sessions can be helpful.

In compliance with federal law, therefore, instructors must give permission for students to record classroom activities if doing so qualifies as a legitimate academic adjustment. When balancing accessibility needs with the privacy of other students in a discussion-based class, the faculty member, in full consultation with the Student Accessibility Service office, might consider a different accommodation, such as a note-taker rather than recording. Students with permission to record the class are regulated by the same constraints regarding sharing or distribution of course materials as other students.

Students who wish to record a class session using their own devices must be registered with Student Accessibility Services, have an approved accommodation to record the class session, and must request permission from and gain approval of the instructor. The recording must be for personal academic use, may not be shared beyond the course, and must be destroyed at the end of the semester. The student must sign a recording agreement and this form is held by the Student Accessibility Services office for the semester. The instructor has the authority to prohibit the recording, in part or in full, of any class session, provided that an appropriate alternative accommodation is available.

Current Syllabus Statement for Students with Disabilities

Syllabus Statement

Student Accessibility Services recommends that all University instructors use a statement in their course syllabi to inform students of the instructor's willingness to provide reasonable accommodations. We offer the following example of a syllabus statement for faculty who would like to include this information in their course syllabi.

Syllabus Statement – Students with Disabilities

Your experience in this course is important to me. I am dedicated to removing barriers and creating a more accessible classroom environment.

If you registered with Student Accessibility Services and have been determined eligible to receive academic accommodations, I encourage you 1) ensure that your accommodation letter is properly uploaded onto Clockwork and 2) schedule a time for us to meet, in person, to discuss your needs in this course. Be advised that while I am committed to honoring approved accommodations, students are responsible for requesting them in a timely manner.

Any student who feels they may need an accommodation based on a documented medical condition, mental health condition or learning disability (or suspects they may have one), is encouraged to contact [Student Accessibility Services](mailto:sas@csbsju.edu) (320-363-5160 or sas@csbsju.edu). Student Accessibility Services is located in room 105 of the Henrita Academic Building at CSB. You are welcome to contact me if you have additional questions regarding Student Accessibility Services and classroom accommodations.

Privacy and Intellectual Property Contract for Students with Disabilities to Record Class Sessions

Digitally Recorded Class Session Agreement

Student _____

Year: 20____ Semester: Fall Spring Summer

Course _____

Prefix - /Number Course Name

Students who require an accommodation for note taking have the legal right to record class sessions and presentations for *their* personal study only (Section 504 of the Rehabilitation Act of 1973). Students must inform the instructor of their accommodation and no recording of lectures may proceed without permission of the instructor. Class sessions recorded for this purpose are not to be shared with other people without the consent of the instructor.

All information contained in any digitally recorded lecture is protected under federal copyright laws and may not be published or quoted without the express consent of the lecturer or speaker and without giving proper identity and credit to the person. This includes posting to social media or sharing with others, in any way, electronically.

Digitally recorded class session may not be used for antagonistic purposes against any lecturer or any student whose remarks in class are recorded.

Recordings of class lectures or discussions are to be deleted at the end of the semester.

Violation of this agreement is considered Academic Dishonesty and will be addressed by the instructor and the Academic Dean's office. In addition to the normal academic sanctions, it may result in the termination of academic accommodations following the violation.

I have read and understand the above agreement on digitally recorded lectures. I pledge to abide by the above policy with regard to any lectures I record while enrolled in this class.

Instructor's Signature _____

Student's signature _____

Date _____

Resources

American Association of University Professors. 2013. AAUP Statement on Intellectual Property. <https://www.aaup.org/report/statement-intellectual-property>

American Association of University Professors. n.d. "Sample Intellectual Property Policy and Contract Language." <https://www.aaup.org/issues/copyright-distance-education-intellectual-property/sample-ip-policy-language>

American Association of University Professors. n.d. "AAUP Work on Intellectual Property" <https://www.aaup.org/get-involved/issue-campaigns/intellectual-property-risk/aaup-policy-work-intellectual-property>

Lee, Herbert. 2020 "Intellectual Property and Copyright in Course Materials during COVID-19 Remote Teaching: Information and Language for Instructors, Memo to UC Santa Cruz Faculty" <https://news.ucsc.edu/2020/03/intellectual-property-and-copyright-in-course-materials-during-covid-19-remote-teaching.html>

Macalester College. n.d. "Classroom Recording Policy." <https://www.macalester.edu/academicprograms/academicpolicies/classroomrecording/#:~:text=Macalester%20College%20prohibits%20sharing%2C%20distributing,students%20via%20email%20in%20advance.>

Maloney, Edward and Joshua Kim. 2019. "Intellectual Property and Digital Learning: Developing a Campus Strategy." *Inside Higher Ed*. June 12. <https://www.insidehighered.com/digital-learning/blogs/technology-and-learning/intellectual-property-and-digital-learning>

Norbury, Keith. 2012 "Who Owns Captured Lectures?" *Campus Technology*. November 27. <https://campustechnology.com/articles/2012/11/27/who-owns-captured-lectures.aspx>

University of Minnesota Disability Resource Center. n.d. "Instructor Training Resources FAQs." <https://disability.umn.edu/instructor-training-resources/faqs>

University of Pittsburgh Center for Teaching and Learning. 2020. "Intellectual Property Rights Regarding Lecture Recordings." <https://www.etskb-fac.cidde.pitt.edu/best-practices/intellectual-property-ip-rights-regarding-lecture-recordings/>

U.S. Department of Justice, Civil Rights Division. 2020. "A Guide to Civil Rights Law." February. <https://www.ada.gov/cguide.htm#anchor65610> (see Section 504 of the Rehabilitation Act)