

FERPA CONSIDERATIONS FOR REMOTE INSTRUCTION

In light of the coronavirus/COVID-19 emergency, the Massachusetts Community Colleges have replaced face-to-face instruction with remote instruction. Remote instruction may include utilizing video and audio recordings of class sessions and student projects. These recordings may be used to allow students to watch a missed class session, to review an earlier session, to share with subsequent classes, to incorporate into massive open online courses (MOOCs), or for accreditation purposes. Depending on how the recordings are created or edited, they may constitute student educational records that are protected under the Family Educational Rights and Privacy Act (FERPA), the federal student privacy law. As a general rule, it is important to keep in mind that to the extent FERPA applies to student educational records in a physical classroom, it applies with equal force and affect to student educational records in a virtual setting. This guidance explains acceptable practices for utilizing video and audio recordings in a remote instructional setting.

1. Are video or audio recordings of classroom lectures a protected student record under FERPA?

If a recording includes only the instructor, it is not a student record and FERPA does not limit its use. If the recording includes students asking questions, making presentations or leading a class, and it is possible to identify the student, then the portions containing recordings of the student do constitute personally identifiable information (PII). A student's PII cannot be released absent a student's prior, written consent, except as permitted by FERPA.

2. May a recording that includes student participation be posted for other class members to view or listen to?

Yes. If access is *limited to other students in the class*, FERPA does not limit or prevent its use and does not require obtaining a written consent from any students who are identifiable in the recording. This allows instructors to create access for students in the class to watch or re-watch past class sessions.

3. What if the professor wants to allow access to a recording (that includes student participation) to others outside of the class, is this permitted?

There are several ways to provide access to recordings that include student participation to others outside of the class.

- a. The institution, working with the instructor, may obtain individualized FERPA consents from the students in the recording which allow use of this portion of the recordings. This type of consent can be obtained on a case-by-case basis or from all the students at the outset of a class.
- b. Recordings can be edited to either omit any student who has not consented to the use of their voice or image, or be edited to de-identify the student in the recording (which can include avoiding or removing any mention of the student's name, blurring the student's image, altering voice recordings, etc.).

- c. Recordings can also be planned so that students (such as those asking questions during a class) are not shown in the video or referred to by name (another way to de-identify the student).

4. What is the easiest way to comply with FERPA if I am video recording my class sessions and students will be asking questions and doing presentations?

Plan the recordings so that they do not show students who are asking questions, don't refer to the students by name, and avoid repeating the student's question in the recording (de-identifying the students removes the need for a specific consent from each student depicted). If a student happens to appear on camera, their identity can be edited out or a written consent can be obtained.

Because student presentations and video projects make it more difficult to de-identify participating students, the institution, working with the instructor, should obtain a FERPA consent from the students.

5. What is the process for obtaining a student's prior, written consent to release their PII?

Any and all questions concerning the release of student PII, including how and under what circumstances a prior, written consent is required and/or obtained, should be directed to the College's Registrar for assistance.