



## **Frequently Asked Questions: Recording Classes Under FERPA and PA Law**

Drexel has a continuing obligation under the Family Educational Rights and Privacy Act (FERPA), the federal student educational records privacy law, to protect the privacy and confidentiality of student education records.

Depending on the content and uses, recordings of classes may constitute student education records that must be protected under FERPA.

The below FAQs are based on the questions we have received as of September 10, 2021, regarding the acceptable practices for recording and sharing class recordings and supersede any previous guidance issued by Drexel.

Please note: These FAQs will be updated as needed on the [Office of Compliance, Privacy and Internal Audit's website](#) to reflect new inquiries and any necessary updates to the guidance provided.

### **1. What is a student education record?**

Any record that directly relates to a Drexel student and is maintained by Drexel or a party acting on its behalf is a student education record that is protected under FERPA. Student records include but are not limited to information such as grades, transcripts, class lists, course schedules, financial aid information, student coursework, or images/audio/or video recordings of identifiable students.

Student education records can only be used as permitted by FERPA's nondisclosure provisions or in a manner allowed by a student's written consent.

### **2. What records are considered to directly relate to a student?**

Any record that is personally identifiable to a student is considered to directly relate to the student.

Personally Identifiable Information ("PII") includes information that alone or in combination is linked or linkable to a specific student. PII includes, but is not limited to, information such as a student's name, their Drexel student ID number, social security number, email address, telephone number, information that would allow a reasonable person in the community to identify the student with reasonable certainty, and information that when combined could be linked to a specific individual such as place of birth, date of birth, or mother's maiden name.

**3. Can I record in-person class session(s)?**

Yes, in-person class sessions may be recorded. If possible, avoid recording students and keep the focus on the instructor. Recordings that only contain the instructor are not a student education record under FERPA.

The portions of a class recordings that include student participation such as students asking questions, making presentations, or leading the class where it is possible to identify the students (e.g., through their voice, name, or image), constitute student education records under FERPA and should only be shared with other students who are enrolled in the same class. (Please see FAQ 4 for more information on what constitutes enrollment in the same class).

**4. Can I record remote class sessions hosted on Drexel sanctioned platforms (e.g. Zoom, Teams, Blackboard Collaborate Ultra)?**

Yes. Per previous communications, virtual class sessions may be recorded. Please follow instructions provided in the following resources:

- [DUIT Zoom Best Practices](#)
- [Frequently Asked Questions for Drexel Zoom Users](#)
- [Protecting Student Privacy Within the Virtual Learning Environment](#)
- [Expectations and Accommodations for the Return to Campus](#)
- [Drexel ITG Blog Post on Zoom](#)

**5. What can I record when recording a class session?**

In all class settings, you may record the instructor and the information presented by the instructor during the class session. Prior to recording, the instructor should ensure that the recording device (i.e., video camera) is positioned directly on the instructor and any screens, boards or other media the instructor will use for providing instruction and information to students during the class session. The instructor should not set the recording device to capture images of students attending the in-person class session.

**6. What does “the same class” mean?**

The same class means that students are enrolled in the same course, during the same term. This definition specifically includes remote, asynchronous, companion sections of in-person courses that are cross-listed by the Office of the University Registrar and share a Blackboard Learn Course Shell.

If the class is cross-listed under the University Registrar’s [course scheduling policies](#), a recording of the class that includes student education records may be shared with members of that class. If the class is not cross-listed, class recordings that include the student education records of one section of the class cannot be shared with the other

section of the class without student written consent. The Office of the General Counsel will provide an approved consent for the use of class recordings upon request.

### ***Cross-Listed Courses***

There are various scenarios which may necessitate the cross-listing of an in person synchronous course and a remote asynchronous companion section of the course such as if there are international students with a time zone differential enrolled in the course or as a student ADA accommodation.

Cross-listed courses share a BlackBoard Learn Course Shell and as a result share the same BlackBoard Learn course materials, class list, and allow the students enrolled in the course to participate in the same online discussions. Students enrolled in a cross-listed course are considered to be enrolled in the same class under FERPA and class recordings may be shared with them without issue.

### ***Non Cross-Listed Courses***

If the different class sections are not part of a cross-linked course, students enrolled in different class sections are not considered to be enrolled in the same class. As a result, the students' education records (including class recordings, and other data such as the fact of their enrollment in another section of the course) cannot be shared with different class sections without the student's written consent. The Office of the General Counsel will provide an approved consent for the use of class recordings upon request.

#### **7. Can I share class recordings with enrolled students in the same class who are absent from the recorded in-person or Zoom class session?**

Yes. Class recordings that include student participation may be shared with students currently enrolled in that same class whether or not they were present for that particular session.

#### **8. Can I share class recordings with individuals who were not enrolled students in the same class (i.e., visitors, individuals auditing the course, non-instructor Drexel faculty or professional staff) but were present in the recorded in person or Zoom class session?**

Generally, no, not if:

- 1) the recording includes any information that is linked to or linkable to a specific student or students such as photo, video, audio, name, and
- 2) the instructor has not obtained the express, written consent of each student or each individual attending the recorded class prior to recording the class. The Office of the General Counsel will provide an approved consent for the use of class recordings upon request.

**9. Can I share class recording with non-enrolled students or others who were not present in the recorded or remote class session?**

Generally, no, not if:

- 1) the recording includes any student identifiable information such as their photo, video, audio, name, the fact of a student's enrollment in the course, and
- 2) the instructor has not obtained the express, written consent of each student in the recorded class prior to recording the class. The Office of the General Counsel will provide an approved consent for the use of class recordings upon request.

**10. Can I share my recorded class sessions with other sections of the same course?**

Although you may discuss the same information in different sessions of a particular class topic, because the discussion, questions and participants are not the same, the class becomes a different class. Therefore, because this is not the same class, as defined in FAQ 5., you may not share the class recording with a different section of the class. Students who are not enrolled in the same class are considered third parties under FERPA so generally, no, you may not share a recording with another section if:

- 1) the recording includes any information that is linked to or linkable to a specific student or students such as photo, video, audio, name, and
- 2) the instructor has not obtained the express, written consent of each student in the recorded class prior to recording the class. The Office of the General Counsel will provide an approved consent for the use of class recordings upon request.

**11. Can I share my previously recorded lectures/guest lectures/guest speakers that contain student information?**

If a previously recorded lecture contains information that is linked or linkable to a specific student or students such as photo, video, audio, name, you may not share it with another section unless:

- 1) You have obtained written consent from each of the students depicted in the recording. The Office of the General Counsel will provide an approved consent for the use of class recordings upon request, or
- 2) Drexel's Instructional Technology Group ("ITG") has edited the video recording to remove the student identifying information.

If the recording includes only the lecturer/speaker's video, audio and presentation materials and does not include any student identifiable information, the recording may be used by you in subsequent class sessions and sections at Drexel.

**12. How long am I permitted to use the class recording with currently enrolled students?**

Class recordings that include information that is linked or linkable to a specific student or students, must only be used for the duration of that class.

**13. Where should I store or maintain recorded class sessions?**

Class session recordings should only be maintained in Drexel IT sanctioned and approved systems (i.e., Blackboard Learn and Drexel Streams/Kaltura) and not stored locally. Drexel ITG must be consulted regarding storage and destruction of class recordings. Please consult the following University resources for more information:

- [DUIT Tutorial Video](#)
- [DUIT Zoom Best Practices](#)
- [Drexel ITG Blog Post on Zoom](#)

**14. Do I need to obtain student consent to share recorded class sessions?**

Generally, yes, if the class recordings will be shared with any individual who is not enrolled in that same class, in which case you must obtain express written consent from the students whose identifiable information is depicted or contained in the recording.

**15. Is the Zoom recording notice sufficient to share class recordings with another class?**

No. The Zoom notice is not intended to comply with FERPA and does not meet Drexel's written consent requirement for the sharing of class recordings with individuals who are not enrolled in the same class.

**16. Should I notify students that the class session will be recorded?**

Yes. It is a best practice to notify students in the syllabus that class sessions will be recorded, advise them as to the purpose and intended use of the recordings, and notify them that they are not permitted to capture or copy the recording themselves and/or share the recording with others, unless otherwise authorized to do so by the university. The following language should be included in your syllabus to provide notice of planned class session recording:

*“Meetings of this course might be recorded. Any recordings will be available to students registered for this class. Students are expected to follow appropriate university policies and maintain the security of passwords used to access recorded lectures. Recordings, or any part of the recordings, may not be reproduced, shared with those not in the class, or uploaded to other online environments.*”

It is also important that the instructor reminds students at the beginning of the term and during the first class session that class sessions will be recorded. The instructor's verbal notification that class sessions will be recorded should be included in the class session recordings.

Please see the following University resources for more information.

- [Remote/Hybrid Teaching and Learning Resources Guide](#)
- [Syllabus Statements Related to Remote Teaching](#)

**17. PA law requires explicit consent to audio and video recordings. Do I need to obtain consent from each student consent to record a class session, especially a Zoom session?**

Generally, no. Pennsylvania is a “two-party consent” state. This means that under Pennsylvania law, it is generally illegal to use any device to record communications, whether they're wire, oral or electronic, without the consent of everyone being recorded. The aim of the law is to make secret recordings of people illegal. However, the law does not apply in situations where the person or people involved in the communication have no expectation that their communications are private, such as oral communications in public spaces or in a classroom setting.

That being said, instructors are advised to clearly notify students when classes are being recorded, both prominently on the class syllabus and orally during the first day of class. Additionally, Instructors should only share class recordings that contain student identifiable information with enrolled students in the same class, as those students generally expect that information shared in the classroom setting will only be shared with members of that same class.

**18. What if a student does not want to be recorded?**

If a student notifies the instructor or other officials that they do not wish to be recorded during class sessions, the instructor must ensure that the student is not included in class recordings. This applies to both in person and virtual class sessions. Students who do not wish to appear in a recording must have the same educational experience as students willing to be recorded. Requesting that they not ask questions or must sit in certain seats is not appropriate.

**19. Can I share Zoom chat content with students enrolled in the same class?**

Generally, yes. But be sure to only share the information that is pertinent to class discussion and that was entered into the chat in the general forum. Where individuals

shared private chat content, either only to the instructor or only to other individuals in the class, the content of those private chats should not be shared with the entire class.

Zoom chat content should be treated as part of the class session recording and should only be shared with enrolled students in the same class.

**20. Can I post my recorded class sessions to sites like YouTube, IGTV, Vimeo or other video hosting platforms?**

No. Recorded class sessions that include information that is linked or linkable to a specific student or students must not be posted to sites like YouTube, IGTV, Vimeo or other hosting platforms. Even if posting recorded classes to the private section of these sites, recordings of class sessions may not be posted to YouTube, IGTV, Vimeo or other video hosting platforms. Instead, recorded classes should be posted to the class session site on BlackBoard Learn, Kaltura or other approved platforms available through Drexel ITG.

If the instructor has recorded lectures that do not include any information that is linked or linkable to a specific student or students, and the recorded lecture only includes the instructor's video, audio and presentation materials, then the instructor may post recordings of their lecture that do not contain student identifiable information to such other video hosting platforms.

Please note, if students are asked to view the instructor's recorded lectures on an external video hosting platform, students must not be required to subscribe, register, like or comment on the content and/or platform, or in any way be required to provide personally identifiable information when accessing the recorded lecture.

**21. Does anyone beside enrolled students and the instructor have access to recorded class sessions?**

While recorded class sessions should only be shared with students enrolled in the same class and the instructor, instructional support staff who assist the instructor for the class, members of Drexel ITG and other Drexel personnel necessary to maintain University systems and policy integrity may have access to class recordings solely to carry out essential functions of the University.

These FAQs are accurate as of Sept. 10, 2021, and they are subject to change. They will subsequently be posted and updated on the [Office of Compliance, Privacy and Internal Audit's website](#). If you have any questions regarding the above FAQs, please contact Privacy Program Services at [privacy@drexel.edu](mailto:privacy@drexel.edu).