



March 24, 2020 (Subject to Revision)
Office of General Counsel

FAQ Regarding Recording Lectures in Distance Learning

Are Kaltura, Zoom, and Office 365 FERPA-Compliant?

Yes. Minnesota State has entered into enterprise-level accounts with these vendors, and the system-wide contracts contain provisions making them FERPA-compliant. You must use your system-issued Zoom, Kaltura, and Office 365 accounts, and not a personal account for these terms to be effective.

Can I record student voices and images?

Private recordings (available to be viewed only in Brightspace/D2L to members of the same section) can capture student-identifying data (student images, names, and voices) without written consent. Private recordings can be shown to members of the same section in real-time or asynchronously. This allow students in the class to watch or re-watch past class sessions as their schedules allow. This is allowable because the Department of Education has advised that a student does not have a right to be anonymous in their classes.

Public recordings (posted on a website, YouTube, or anywhere that can be viewed by anyone not in a class section) cannot capture any student-identifying data (including images, names and voices) without express written consent from the students. Your campus may have a release for image capture, or a system-approved release template is available here.

Do I need to tell students they are being recording?

Yes, Minnesota law requires you to tell students (a “Tennessee warning”) that a recording is being made, how the recording will be used, and who has access to the recording.

Are video or audio recordings of classroom lectures a protected student record?

If a recording includes only the faculty member, it is not a student record and FERPA does not apply. If the recording includes students asking questions, making presentations or leading a class, and it is possible to identify the student (by voice or image), then the portions containing recordings of the student are educational records and are protected by FERPA and the MGDPA and may not be shared without written consent.

If faculty wants to allow access to a video (including student participation) to others outside of the class, is this permitted?

Possibly. There are several ways to use recordings that include student participation.

1. The faculty member 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. A form template is available to download [here](#), or your campus may have an approved form.
2. Faculty may also edit recordings 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.).
3. Recordings can also be planned so that students (such as those asking questions during a class) are not shown or heard in the video or referred to by name (another way to de-identify the student).

Who can I contact if I have additional questions?

Office of General Counsel

Sarah McGee Sarah.McGee@minnstate.edu, 651-201-1410 (calls are forwarded)

Dan McCabe Daniel.McCabe@minnstate.edu, 651-201-1833 (calls are forwarded)

Amanda Bohnhoff, Amanda.Bohnhoff@minnstate.edu, 651-201-1676 (leave a message)