

Distance Learning Student Privacy Rights

FREQUENTLY ASKED QUESTIONS

Q: Do privacy rights change with a transition from in-person to distance learning?

A: No. Faculty are providing their courses to students via tools allowing recording of lectures, which may also include recording student participation. Faculty should provide the same level of privacy in the distance instruction as they provided in person and should consider the recording to be a private record to be reviewed only by registered members of the class.

Q: Should students be informed that a course is being recorded?

A: Yes. Faculty should inform all students/participants in their classes that the class session is going to be recorded. Faculty must offer appropriate accommodations to participants who choose not to be recorded. If students do not want their likeness or image included in the recording (that will be made and available for classmates to view) they must let the instructor know and may elect not to participate via video recording.

Q: Do students have a privacy right to the comments they make in the distance classroom?

A: Yes. Students have a right to not have their comments in class disclosed to others who are unconnected with the class, but the faculty members and their classmates may hear their questions and comments without violating FERPA, which is a federal law (20 U.S. C. Section 1232g and 34 C.F.R. 99) that protects all student education records maintained by an educational institution.

Q: Are there recommended features/settings, regardless of the video conferencing platform/solution that best ensures compliance with FERPA regulations?

A: Yes. Here are the recommended Meeting Host settings/features that are commonly available across most video conferencing solutions available today:

- a. Meeting Invitations are sent directly to participants, not aliases or website postings
- b. Turn ON the “waiting room” feature where the FERPA disclaimer can be presented ~5min prior to the session start time
- c. Turn OFF ability for participants to record sessions
- d. Turn ON and “set a password” for all sessions/classes/recordings
- e. Turn OFF “private chat”
- f. Turn ON ability to “mute individual participants” and “mute all”
- g. Turn OFF ability for participants to “save chat”

Q: What are the common platforms/solutions for video conferencing that are available?

A: Consult your information security officer for acceptable solutions, but at this time California University/Golden Gate College uses Zoom or Tencent Video Conference, and all its security features should be used. If you have questions how to use the Zoom/Tencent security features, please contact your Education Assistant for appropriate guidance.

Q: Who should be able to access the recording(s) and how long will recordings be made available via the learning management system (such as Canvas)?

A: The faculty members and students enrolled in the class are the only persons who should be able freely to access and view recorded class sessions, and they will be provided confidential access to the recordings. These class recordings are made for academic purposes and will be made available to only the course faculty and students enrolled in the class. The recordings will be erased after the final exam.

Q: What “language” should faculty communicate to students regarding their privacy and other relevant rights and responsibilities during this Distance Instruction?

A: The following is a template of “language” for campus faculty to use (this language should be presented in the “waiting room”):

Any time that a class session is recorded during the Distance/Online Instruction Period, students will be notified. If students do not want their likeness during class participation included in the recorded class session, they may elect to not participate via video recordings. Recordings will be available for viewing during the Remote Instruction Period subject to the following:

- *Only students enrolled in the subject class during the Distance/Online Instruction Period may view the recording.*
- *Students may not post or use the recordings in any other setting (e.g., social media) for any purpose. Students who violate this will be subject to student discipline, up to and including expulsion Federal and California law as well as University policies protecting intellectual property rights and use of instructional materials (including any recordings of class sessions) remain in effect during the Remote Instruction Period.*
- *If faculty have any plan to use the recording for a different class in the future, the faculty member will need written FERPA consent from those students in the current class who are identifiable in any of the recordings. A FERPA consent form signed by all students in the course will also be needed if the recordings are made available to others beyond the classroom on a nonsecure digital platform.*

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