

Intellectual Freedom and Viewpoint Diversity Act (House Bill 233) Preliminary Guidance

** Updated 8/13/21*

This document represents the most current guidance available and is subject to change.

Anticipating additional guidance from the legislature and Board of Governors, the following general guidelines are offered to assist in the implementation and compliance with HB 233 (<https://www.flsenate.gov/Session/Bill/2021/233>)

CORE SYLLABUS STATEMENT

Students may, without prior notice, record video or audio of a class lecture for a class in which the student is enrolled for their own personal, educational use. A class lecture is defined as a formal or methodical oral presentation as part of a university course intended to present information or teach enrolled students about a particular subject. Recording class activities other than class lectures, including but not limited to lab sessions, student presentations (whether individually or part of a group), class discussion, clinical presentations such as patient history, academic exercises involving student participation, test or examination administrations, field trips, private conversations between students in the class or between a student and the faculty member is prohibited. Recordings may not be used as a substitute for class participation and class attendance and may not be published or shared without the written consent of the faculty member. **Failure to adhere to these requirements may constitute a violation of the USF Student Conduct Code (<https://usf.app.box.com/v/usfregulation60021>).**

General Guidance for Faculty:

A USF student may, without prior notice, audio or video record a class lecture in which the student is enrolled for the following purposes:

- (a) personal, educational use of the student;
- (b) in connection with a complaint to the university where the recording is made; or
- (c) as evidence in, or in preparation for, a criminal or civil proceeding.

A class lecture recording may not be published without the written consent of the faculty member except as provided by statute. Violation of this provision may subject the student to disciplinary action by the university and/or to legal action by a person injured by the publication.

A class lecture is defined as a formal or methodical oral presentation as part of a university course intended to present information or teach enrolled students about a particular subject. A class lecture will occur most often in a course identified by the university as a lecture-type course, whether online or in-person, as opposed to a lab course or a course section identified as a discussion section.

Class lecture does not include lab sessions, student presentations (whether individually or as part of a group), class discussion, clinical presentations such as patient history, academic exercises involving student participation, test or examination administrations, field trips, private during a class session. Recordings may not identify a student who has not consented to being recorded.

To publish means to share, transmit, circulate, distribute or otherwise provide access to the recording, regardless of format or medium, to another person, or persons, including but not limited to another student in the class. Additionally, a recording or transcript of the recording is published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, picket signs, or any mode of print.

What can students record?

Students may audio or video record a class lecture, defined as a formal or methodical oral presentation as part of a university course intended to present information or teach enrolled students about a particular subject. A class lecture will occur most often in a course identified by the university as a lecture-type course, whether online or in-person, as opposed to a lab course or a course section identified as a discussion section.

Do students have to ask permission to record?

No, students do not need to ask for permission to record the class lecture, as long as they are making the recording for a permitted purpose.

Is there anything that students are not allowed to record?

Students are prohibited from recording class activities other than lectures, including but not limited to lab sessions, student presentations (whether individually or as part of a group), class discussion, clinical presentations such as patient history, academic exercises involving student participation, test or examination administrations, field trips, private conversations between students in the class or between a student and the faculty member.

What are the implications for guest lecturers?

Because guest lecturers deliver by definition a course lecture, yes, they can be recorded. Out of professional courtesy, faculty should offer guest lectures advanced notification.

What are the permitted purposes for students making the recording?

There are three permitted purposes for students making the recording: (1) personal, educational use, (2) for use in a complaint against the institution, or (3) for use as evidence in a civil or criminal proceeding. Students may not record for any other purpose without the written consent of the faculty member.

Are there any restrictions to the use of the recordings?

Yes, recordings made may not be used to engage in academic dishonesty, may not be used as a substitute for class participation, and may not be published or shared in any way without the faculty member's written consent.

Does this law change how students may behave in the classroom?

No, students must adhere to classroom behavioral expectations while recording; recording that disrupts the learning environment may violate the student code of conduct.

What if I prohibit cell phones in the classroom?

Faculty should be aware that cell phones may be used as a recording device in the classroom; however, that doesn't prohibit faculty from restricting student use of cell phones in the classroom for other purposes (e.g., texting and/or other disruptive uses).

Are there any other reasons a student may record?

Recording a class lecture or other class activities may be a part of an accommodation granted by the USF Student Accessibility Service (SAS) Office. If that is the case, SAS will have provided the student an appropriate accommodation letter.