



BOISE STATE UNIVERSITY

University Policy 1140

Recording Learning Activities

Effective Date

August 24, 2020

Responsible Party

Provost and Vice President for Academic Affairs, (208) 426-1202

Vice President of Student Affairs and Enrollment Management, (208) 426-2384

Scope and Audience

This policy applies to all University students, faculty, and other instructors wishing to record a Learning Activity.

Additional Authority

- Title 29 United States Code § 701
 - Section 504 of the Rehabilitation Act at 34 C.F.R. Section 104.44
 - Title 17 United States Code, the Federal Copyright Act (the Copyright Act), §102-112
 - Family Educational Rights and Privacy Act of 1974 (FERPA)
 - Idaho State Board of Education Policy, Section V.M.
 - University Policy 1090 (Intellectual Property)
 - University Policy 1130 (Use of Copyrighted Works)
 - University Policy 2020 (Student Code of Conduct)
 - University Policy 2250 (Student Privacy and Release of Information)
 - University Policy 8000 (Information Technology Resource Use)
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1. Policy Purpose

To outline when the Recording of Learning Activities is permissible and to ensure faculty, students, and other instructors understand their rights and responsibilities when Learning Activities are Recorded.

2. Policy Statement

This policy seeks to balance legitimate Recording of Learning Activities, the privacy of students and instructors, and the intellectual property rights of faculty. The University is committed to providing appropriate accommodations to students who require recorded lectures for documented disabilities registered with the Educational Access Center (EAC).

3. Definitions

3.1 Learning Activity

A lecture, discussion, laboratory, field study, or other activity facilitated by an instructor while teaching a course offered by Boise State to its students.

3.2 Course Material

Any materials prepared by an instructor for use in teaching a course offered by Boise State to its students, including lectures, lecture notes, syllabi, study guides, bibliographies, visual aids, images, diagrams, multimedia presentations, examinations, web-ready content, and educational software.

3.3 Recording

The capturing of any Learning Activity including visual aids and multimedia presentations for instruction utilizing the Recording function of any technology or device (e.g., video collaboration platform, lecture capture, camera, cell phone, tape recorder, digital recorder, tablet, etc.).

4. Responsibilities and Procedures

4.1 Accommodation

- a. Students who are registered with the EAC and have been approved to record Learning Activities, or have a Recording made as a reasonable accommodation, are permitted to make Recordings or have Recordings made. To the extent practical, notice should be given by the instructor to any student(s) whose participation might be captured in a Recording made as a reasonable accommodation.

- b. Such Recordings are limited to personal use for private study and/or research purposes (not for commercial, marketing, promotional, or third party use), unless written permission is granted by the instructor and other students in the class.
- c. Contact the EAC for current requirements and details on the services provided for students with disabilities.

4.2 Privacy of Students and Instructors

- a. Students and instructors engaged in the instructional process have a reasonable expectation of privacy. Assurance of privacy encourages open and robust discussion on issues and ideas without concern that participants' statements might be taken out of context and used against them, thereby enhancing teaching and learning.
- b. Accordingly, except as permitted as an accommodation as described in Section 4.1, any Recording which would capture student(s) and/or instructor(s) engaging in a Learning Activity, must only be done with explicit notice to all participants. Such notice must also include the intended use of the Recording. This applies to a Recording made by an instructor and to University-directed Recordings.
- c. Except as permitted as an accommodation as described in Section 4.1, no Recording may be made by a student unless prior written consent to do so is given by the instructor and by all other participants.
- d. For Recordings made by an instructor, or for University-directed Recordings, Students wishing not to be recorded should work with the instructor to select a technological solution where the student's synchronous or in-person participation is anonymized in the Recording. If the technological solution does not allow for anonymized student participation, the instructor should work with Learning Technology Solutions to identify other options.
- e. Any student participating in an anonymized mode during a Recorded Learning Activity must inform their instructor of their avatar and pseudonym in advance of the Recording.
- f. Instructors must adhere to FERPA requirements in any Learning Activity as required under University Policy 2250 (Student Privacy and Release of Information).

4.3 Intellectual Property Rights of Faculty

- a. For courses offered by the University to its students, Course Materials are generally the property of the instructor and considered copyrightable works (see University Policy 1090 – Intellectual Property).
- b. Accordingly, except as permitted as an accommodation as described in Section 4.1, any Recording which would capture a lecture, lecture notes, multimedia presentation, discussion, or other activity facilitated by an instructor, must only be done with prior written permission from the instructor.

4.4 Use of Recordings

- a. Use of any permitted Recording made by a student, including a Recording permitted as a reasonable accommodation as described in Section 4.1, is limited to personal use for private study and/or research purposes (not for commercial, marketing, promotional, or third party use) by the student granted permission to make the Recording, unless written permission from the instructor explicitly allows otherwise.
- b. Students are not permitted to record a Learning Activity on behalf of an absent student without receiving prior written permission from the instructor.
- c. Use of a Recording made by an instructor is limited to the intended use(s) of which the instructor notified participants in writing through the course syllabus before making the Recording.

4.5 University-Directed Recordings

- a. University-directed Recordings are those created at the specific direction of a University unit for the University's ownership and use.
- b. Employees and students must cooperate with reasonable University requests for any documents and records needed to vest and memorialize the University's rights.
- c. A Recording will be deemed a University-directed work if it is created pursuant to a written agreement between the instructor and the University unit. A Recording will also be deemed a University-directed work if it is created pursuant to the standing policy of the unit in which the class is taught.

- d. A Recording will be considered a University-directed work regardless of whether it is made by a University employee, or by an external entity at the University's request.
- e. The University is the sole and exclusive owner of University-directed Recordings and is free to utilize University-directed Recordings for any lawful purpose of the University.
- f. University-directed Recordings may be archived by the University and made accessible to the University community for internal use.
- g. Before any Recordings are used in subsequent Boise State classes or made otherwise available, the recorded instructor must be consulted to ensure academic quality and to verify the currency of the recorded content.
- h. Any commercialization or external use of University-directed Recording must occur in accordance with University Policy 1090 (Intellectual Property).
- i. The contribution of the recorded instructor must be appropriately acknowledged, where practicable, in any future use of Recordings.

4.6 Violations

- a. Unauthorized use of any Recording is a violation of this policy. A violation of this policy may result in a Student Code of Conduct sanction up to and including expulsion in the case of a student, or disciplinary action up to and including dismissal from employment in the case of an employee.
- b. Unauthorized Recording and/or unauthorized use of a Recording may also constitute a violation of applicable law, including but not limited to laws relating to copyright, privacy rights, and educational records.

5. Related Information

Appendix A: Example Syllabus Statement for Learning Activity Recordings

I will use technology that allows recording for learning activities during this course (e.g., lecture, discussion, laboratory, field study, or other activity) and for those learning activities to be recorded. The use of such technology is governed by all applicable laws and by Boise State University policies, including the Family Educational Rights and Privacy Act of 1974 (FERPA),

the Information Technology Resource Use Policy (University Policy 8000), and the Student Code of Conduct (University Policy 2020).

A record of all learning activity recordings may be kept and stored by Boise State University, in accordance with FERPA and all applicable University policies, procedures, and guidelines.

I will not share recordings of learning activities outside of course participants, which include your fellow students, TAs/GAs/Mentors, and any guest faculty or community-based learning partners that we may engage with.

Students wishing not to be recorded should work with the instructor to select a technological solution where the student's synchronous or in-person participation is anonymized in the recording. You may not share recordings with other students or with anyone outside of this course without prior written permission from the instructor. Doing so may be a violation of the Student Code of Conduct and may result in Student Code of Conduct sanctions up to and including expulsion.

Revision History