

University Procedure on Recording of Classroom Lectures, Reasonable Accommodation Exception:

1. If a student wishes to record classroom activity, discussions, and lectures, they must discuss this with their instructor. Students should be aware of the following laws and policies:
 - a. Recordings of classroom lectures are the intellectual property of the instructor. Montana Board of Regents Policy 401.3(C) – Copyrights.
 - b. Instructors have the right to prohibit audio and video recording of their lectures, unless the requesting student is registered with the Office for Disability Equity (ODE) and recording of class sessions is a reasonable accommodation for that student). Students who wish to record lectures as a reasonable accommodation, must utilize the process outlined in section 2.
 - c. Sharing of or selling recordings of classroom activity, discussions or lectures with any other person or medium without permission of the instructor is a violation of the UM Student Conduct Code, University Policy, and possibly applicable federal and international copyright laws. Montana Board of Regents Policy 401.3(C) – Copyrights.
 - d. Recording human conversations without all party's knowledge of the recording is illegal under Montana Law. Mont. Code Ann. § 45-8-213(1)(c) (2013). Privacy in Communication. Therefore, if an instructor permits a recording, the instructor must inform the other students in the class that audio or video recordings will be made of classroom activity prior to any recording taking place.
 - e. Recordings authorized pursuant to this provision are not considered a reasonable accommodation under the ADA.
2. If a student is registered with the Office for Disability Equity and ODE has recommended the recording of class sessions as a form of reasonable accommodation for that student 34 C.F.R. § 104.44. An instructor may not prohibit the recording unless extenuating circumstances exist. Instructors and students should be aware of the following laws and policies:
 - a. Audio recording of classroom activity, lectures, and discussions is a form of reasonable accommodation for students with disabilities under the Rehabilitation Act of 1973. 29 U.S.C. § 701 et seq.; 34 C.F.R. § 104.44.
 - b. ODE will only recommend audio recording as a form of reasonable accommodation if audio recording of classroom activity will specifically address a student's functional limitations.
 - c. In limited situations, ODE may recommend video recording of classroom activity as a form of reasonable accommodation, but only if video recording will specifically address a student's functional limitations.
 - d. A student registered with ODE must inform the instructor of their accommodation request to record classroom lectures in a timely manner before they record any classroom lectures or activity.
 - e. The instructor can require a student to use the **Classroom Recording Contract** (see the page 4) for any of their classes to protect their proprietary interest in their classroom lectures. Montana Board of Regents Policy 401.3(C) – Copyrights.
 - f. The instructor must inform the other students in the class that audio or video recordings will be made of classroom activity prior to any recording taking place. Mont. Code Ann. § 45-8213(1)(c) (2013). Privacy in Communication. However, the instructor must make

reasonable efforts to protect the privacy of the student who has received the accommodations.

- g. Extenuating circumstances include, but are not limited to, the following:
 - i The recording will fundamentally alter the classroom experience.
 - ii Recording the class, lecture, or discussion poses a legitimate threat to others.
- h. If an instructor believes that an extenuating circumstance exists, and that recording the class activity, discussion or lecture may therefore be an unreasonable accommodation, the instructor must notify ODE of the extenuating circumstance, and work with ODE to determine appropriate limits on the recordings and/or an alternative accommodation.

University of Montana ODE Policy on Recording of Classroom Lectures (for ODE Website):

1. Audio recording of classroom activity, lectures, and discussions is a form of reasonable accommodations for students with disabilities under the Rehabilitation Act of 1973. 29 U.S.C. § 701 et seq.; 34 C.F.R. § 104.44.
2. ODE will only recommend audio recording as a form of reasonable accommodation if audio recording will specifically address a student's functional limitations.
3. In limited situations, ODE may also recommend video recording of classroom activity as a reasonable accommodation, but only if video recording will specifically address a student's functional limitations.
4. If the student is registered with ODE and recording of class sessions is a reasonable accommodation for that student, the student must inform the instructor in a timely manner that they are requesting an accommodation to record the class sessions by providing the instructor with their ODE letter of verification identifying recording of class sessions as a reasonable accommodation.
5. The instructor can choose to require the student to use the **Classroom Recording Contract** to protect the instructor's proprietary interest in their classroom lectures. Board of Regents Policy 401.3(C) – Copyrights.
6. The instructor must inform the other students in the class that audio or video recordings will be made of classroom activity prior to any recording taking place. However, the instructor must make reasonable efforts to protect the privacy of the student requesting the accommodations. Mont. Code Ann. § 45-8-213(1)(c) (2013). Privacy in Communication.
7. If the instructors are concerned that recording of the class will fundamentally alter the classroom experience or another extenuating circumstance exists, they should contact ODE to discuss other means of providing the accommodation.

Boilerplate Language for Instructor's Course Syllabi:

The University of Montana assures equal access to instruction through collaboration between students with disabilities, instructors, and Office for Disability Equity (ODE). If you think you may have a disability adversely affecting your academic performance, and you have not already registered with ODE, please contact ODE. The (ACADEMIC PROGRAM/DEPARTMENT) and (INSTRUCTOR X) will work with you and ODE to provide a reasonable accommodation.

If you register with ODE and they suggest the audio or video recording of classroom activity, discussions, and/or lectures as an accommodation, you must see (INSTRUCTOR X) in (OFFICE) and complete a **Classroom Recording Contract** *before* you begin recording lectures. Classroom lectures are the intellectual property of the instructor, and recording of lectures is allowed solely for a student's academic benefit as a reasonable accommodation. Furthermore, under Montana Law the instructor must inform the other students in the class that audio or video recordings will be made of classroom activity prior to any recording taking place. The instructor will make reasonable efforts to protect the privacy interest of the student requesting the accommodation.

Suggested Classroom Recording Contract:

Class Name: _____ Semester: _____

Office for Disability Equity recommended modification: ☐ Audio Recording ☐ Video Recording

I, _____, am a student registered with Office for Disability Equity (ODE) at the University of Montana. ODE has recommended either audio or video recording of classroom activity, discussions, and lectures as a reasonable accommodation.

1. I understand that my ability to record these lectures is only for my academic benefit as a reasonable accommodation recommended by ODE.
2. I have provided my instructor with my ODE letter of verification identifying the recording of classroom lectures as a reasonable accommodation in a timely manner before I have recorded any lectures, discussions, or classroom activity.
3. I understand that the instructor must inform other students in the class that audio or video recordings of classroom activity will take place before I begin recording, but that the instructor will make reasonable efforts to protect my right to privacy.
4. I will not share these recordings with any other individual, whether or not they are in my class, without permission from the instructor.
5. I will not share these recordings with any other person, source, or through any medium without permission from the instructor.
6. I understand that these recordings are the intellectual property of the instructor, and that any sharing of these recordings with any other person or medium without permission of the instructor is a violation of the UM Student Conduct Code, University Policy, and applicable federal and international copyright laws.
7. At the instructor's request, I will delete or destroy these recordings upon completion of the academic term for which these recordings were made. (See below).

By signing this contract, I agree to the terms above.

Student Name (please print): _____ Student ID #: 790-_____

Student Signature: _____ Date: _____

Instructor Name (please print): _____ Instructor ID #: 790_____

Instructor Signature: _____ Date: _____

☐ Please destroy the recordings upon completion of the academic term for which they were made.