

## University Procedure on Recording of Classroom Lectures, Disability Services Exception:

1. If a student is *not registered with Disability Services for Students (DSS)* and 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 DSS and recording of class sessions is a reasonable modification for that student, (see below).
  - 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.
2. Instructors may prohibit audio and video recording of their class sessions to protect their proprietary interest in their intellectual property, Montana Board of Regents Policy 401.3(C) – Copyrights, *unless* the student wishing to record the lectures is registered with DSS, and DSS has recommended the recording of class sessions as a form of reasonable modification for that student. 34 C.F.R. § 104.44.
  - a. Audio recording of classroom activity, lectures, and discussions is a form of reasonable modification for students with disabilities under the Rehabilitation Act of 1973. 29 U.S.C. § 701 et seq.; 34 C.F.R. § 104.44.
  - b. DSS will only recommend audio recording as a form of reasonable modification if audio recording of classroom activity will specifically address a student's functional limitations.
  - c. In limited situations, DSS may recommend video recording of classroom activity as a form of reasonable modification, but only if video recording will specifically address a student's functional limitations.
  - d. A student registered with DSS must inform the instructor of their modification 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. § 45-8-213(1)(c) (2013). Privacy in Communication. However, the instructor should make reasonable efforts to protect the privacy of the student requesting the modifications.
  - g. If the instructor is concerned that recording of the class activity, discussions, and lectures by a student registered with DSS will fundamentally alter the classroom experience, they should contact DSS to discuss other means of providing the modification.

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

1. Audio recording of classroom activity, lectures, and discussions is a form of reasonable modifications for students with disabilities under the Rehabilitation Act of 1973. 29 U.S.C. § 701 et seq.; 34 C.F.R. § 104.44.
2. DSS will only recommend audio recording as a form of reasonable modification if audio recording will specifically address a student's functional limitations.
3. In limited situations, DSS may also recommend video recording of classroom activity as a reasonable modification, but only if video recording will specifically address a student's functional limitations.
4. If the student is registered with DSS and recording of class sessions is a reasonable modification for that student, the student must inform the instructor in a timely manner that they are requesting a modification to record the class sessions by providing the instructor with their DSS letter of verification identifying recording of class sessions as a reasonable modification.
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 should make reasonable efforts to protect the privacy of the student requesting the modifications. Mont. Code Ann. § 45-8-213(1)(c) (2013). Privacy in Communication.
7. If the instructor is concerned that recording of the class will fundamentally alter the classroom experience, they should contact DSS to discuss other means of providing the modification.

### **Boilerplate Language for Instructor's Academic Syllabi**

The University of Montana assures equal access to instruction through collaboration between students with disabilities, instructors, and Disability Services for Students (DSS). If you think you may have a disability adversely affecting your academic performance, and you have not already registered with DSS, please contact DSS in Lommasson 154. The (ACADEMIC PROGRAM/DEPARTMENT) and (INSTRUCTOR X) will work with you and DSS to provide a reasonable modification.

If you register with DSS and they suggest the audio or video recording of classroom activity, discussions, and/or lectures as a modification, 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 modification. 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 modification.

**Suggested Classroom Recording Contract**

Class Name: \_\_\_\_\_ Semester: \_\_\_\_\_

Disability Services recommended modification:  Audio Recording  Video Recording

I, \_\_\_\_\_, am a student registered with Disability Services for Students (DSS) at the University of Montana. DSS has recommended either audio or video recording of classroom activity, discussions, and lectures as a reasonable modification.

1. I understand that my ability to record these lectures is only for my academic benefit as a reasonable modification recommended by DSS.
2. I have provided my instructor with my DSS letter of verification identifying the recording of classroom lectures as a reasonable modification 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 student, 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.