

FLATHEAD VALLEY COMMUNITY COLLEGE

Policy Manual

CHAPTER I – DOCTRINE

SECTION 120: RECORDING AND INTELLECTUAL PROPERTY RIGHTS

Approved: July 26, 2021

This policy seeks to balance legitimate Recording of Learning Activities, the privacy of students and instructors, and the intellectual property rights of instructors. FVCC is committed to providing appropriate accommodations to students who require recorded lectures and auxiliary aids for documented disabilities registered with the Coordinator for Disability Services.

Definitions:

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.).

Learning Activity: A lecture, discussion, laboratory, field study, or other activity facilitated by an instructor while teaching a course offered by FVCC to its students.

Use of Recordings

1. Use of any permitted Recording made by a student, including a Recording permitted as a reasonable accommodation, 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.
2. Students are not permitted to record a Learning Activity on behalf of an absent student without receiving prior written permission from the instructor.
3. 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.

Recording:

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.
- B. Instructors have the right to prohibit audio and video recording of their lectures, unless the requesting student is registered with Coordinator for Disability Services 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 FVCC Code of Student Conduct, FVCC Policy, and possibly applicable federal and international copyright laws.
- 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.

Instructors may prohibit audio and video recording of their class sessions to protect their proprietary interest in their intellectual property, unless the student wishing to record the lectures is registered with Coordinator for Disability Services, and Coordinator for Disability Services 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. Coordinator for Disability Services 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, Coordinator for Disability Services 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 the Coordinator for Disability Services 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 for any of their classes to protect their proprietary interest in their classroom lectures.
- 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 accommodation.

Intellectual Property Rights:

- A. Works which are produced by an employee in connection with an approved and sponsored research project are treated in accordance with the agreement negotiated with the sponsor. In the absence of such agreement or to the extent such an agreement does not fully address ownership of works produced, such works shall be treated in accordance with sections B or C of this policy.
- B. When an employee is assigned work or responsibilities for the specific purpose of developing computer programs, visual aids, manuals, public relations material, or other copyrightable works, the works produced pursuant thereto and all royalties therefrom shall be the property of the campus. Assignment of the copyright shall be indicated either on the individual employment contract or in a separate document countersigned by the employee. Should the campus and the employee agree to a division of royalties such division must be included in the contract or in a separate document countersigned by the employee. If the campus does not wish to copyright the work, the employee may obtain a written release from the president and may then copyright the work in his/her own name. Upon written request for release by the employee the campus will respond within thirty (30) days.
- C. When an employee develops copyrightable works other than those defined in paragraphs A or B above, he/she shall refer to Chapter VIII Section 10- Academic Freedom.