

## **The Virtual Classroom and FERPA FAQs**

### **Q1: What is FERPA?**

**A:** FERPA, the Family Educational Rights and Privacy Act, is a federal law passed in 1974 and codified as 20 U.S.C. § 1232g. The law protects the privacy of personally identifiable information (“PII”) in students’ education records and provides students the right to view and amend those records. FERPA applies to any higher education institution receiving federal funds administered by the U.S. Department of Education. Thus, FERPA applies to CSU.

### **Q2: What are education records?**

**A:** “Education records” are records that are: (i) directly related to a student; and (ii) maintained by the University. Education records can exist in any medium including the following: handwritten, typed, computer generated, videotape, audiotape, film, microfilm, microfiche, e-mail, and other media.

Under FERPA, the University is prohibited from disclosing student education records or the PII contained therein, without prior written consent from the student, unless the disclosure meets an exception to FERPA’s consent requirement. CSU’s FERPA Release Form is available [here](#).

### **Q3: Does FERPA apply to virtual learning, such as a class/lecture delivered via Zoom.**

**A:** Yes. Anything that would be a FERPA violation in person would be a FERPA violation in the virtual learning environment. In other words, the University may not disclose education records or any PII provided in such records without the student’s written FERPA consent, unless an exception under FERPA exists.

### **Q4a: Are video and audio recordings of virtual classes where student images and voices are recorded an education record protected under FERPA?**

**A:** If the recording includes audio or video of a student (e.g., student asking questions, making presentations, leading a class, etc.), the recording is likely protected under FERPA. If a recording includes only the instructor, it does not create any FERPA concerns.

### **Q4b: If I want to share a recording of a virtual class that includes audio or video of students, do I need consent from each student in the class to do so?**

**A:** If the recording will be made available ONLY to the students in the class to watch or re-watch past class sessions, a FERPA consent from each student is not required.

### **Q4c: If I want to share a recording of a virtual class that includes audio or video of students, outside of the class (e.g. for use with other classes I teach, to include content in a conference presentation, or on a publicly accessible Internet platform), do I need consent from each student to do so?**

**A:** Yes, if the recording will be shared in any way outside of the class, a FERPA consent must be obtained from all students in the class beforehand. If one or more students do not consent to release, the recording must be edited to remove any personally identifiable information for those students. This could include the blurring of names and faces, and the removal or masking of audio.

### **Q4d: Are video and audio recordings created by students as course assignments where student images and voices are recorded an education record protected under FERPA?**

**A:** Yes, If the recording includes audio or video of a student (e.g., student asking questions, making presentations, leading a class, etc.), and/or project materials created by a student, the recording is likely protected under FERPA.

**Q4e: If I want to share a recording created by students as a course assignment where student images and voices are recorded and/or student-created project materials are displayed, do I need FERPA consent from each student to do so?**

**A:** If the recording will be made available ONLY to the students in the class to watch or re-watch, a FERPA consent from each student is not required. However, instructors are strongly encouraged specifically note in the course syllabus that recordings will be shared with the class.

The CSU FERPA Consent and Permission Related to Classroom Recordings and Project Materials [is available here](#):

To ensure compliance with FERPA, instructors are strongly encouraged to place recordings of virtual classes containing FERPA protected education records exclusively on the learning management system (i.e., Blackboard) and to grant access only to students enrolled in the course section in which the recording took place. It is further recommended that faculty advise students in the course syllabus that regularly scheduled classroom recordings are planned for the course and offer off-camera options to students who do not wish to be recorded.

**Q5: What if a student declines to sign a FERPA consent?**

**A:** Students cannot be compelled or required to sign a FERPA consent. If the instructor wants to share the recording outside of the class, the instructor may edit the student out of the recording or de-identify the student(s) if the student(s) refuses to consent. Note also that student-created project materials are also likely educational records under FERPA, and may also be protected under federal copyright law. Accordingly use or display of student materials outside of the class may require the student's permission prior to use or display.

**Q6: How can I comply with FERPA if I am video recording my class sessions and students will be asking questions or doing presentations?**

**A:** If the recording will only be shared with the other students in the class, FERPA does not limit or prevent its use and does not require obtaining FERPA consent from each student in the class. This allows instructors to create access for students in the class to watch or re-watch past class sessions.

If the recording will not be limited to students in the class, you can take steps such as the following:

- (i) obtain FERPA consent from each student in the class. This can be done on a case-by-case basis or from all students at the outset of class;
- (ii) don't record students who are asking questions;
- (iii) don't refer to the students by name; or
- (iv) have students turn off their video and audio. If a student is recorded and the student declines to sign a FERPA consent, their identity would need to be de-identified (e.g., blurring the student's image, altering voice recording, etc.)

**Q7: What can an instructor do if a student makes an inappropriate or insulting comment or presents an offensive image during a virtual class?**

**A:** Anything that would be a violation of the CSU Student Code of Conduct in a physical classroom would be a violation in the virtual classroom.

At the start of each virtual class, students should be reminded that just as in a physical classroom, the [CSU Student Code of Conduct](#) applies in the virtual classroom and that violations will be addressed in

accordance with the Code.

**Q8. Are there any settings in Zoom that allow an instructor to limit screen-sharing capabilities?**

**A:** Yes, the Zoom screen-sharing setting within the account is automatically defaulted to “Only Host.” This setting gives the host sole ability to share content within their class/meeting by default.

**Q9. Can I give my students the ability to share their screen when using Zoom and if yes, how?**

**A:** If you would like to give students screen-sharing permission when hosting your next class, click the arrow to the right of the Screen Sharing icon, select “Advanced Sharing Options” and select “All Participants.”

Should you have any technical questions about the use of any platform, please contact CSU’s IS&T at <https://www.csuohio.edu/ist-help-desk/ist-help-desk>.

**Q10: Is it a FERPA violation if a third party is listening in on an online course or class lecture?**

**A:** FERPA does not prohibit individuals from listening in on an online course or class lecture where no PII from a student education record is discussed and no education records are disclosed. Therefore, no student FERPA consent is necessary.

Whether to permit third parties to listen in is a policy decision.

**Q11: Is FERPA consent required in situations where professors, advisors, or counselors are interacting with students virtually and others are in the room listening and/or observing?**

**A:** If a professor, advisor, or counselor is having a conference with a student discussing grades or individual student work, a FERPA consent form is required. CSU’s FERPA Release Form is available here: [https://www.csuohio.edu/sites/default/files/media/registrar/documents/ferpa\\_release.pdf](https://www.csuohio.edu/sites/default/files/media/registrar/documents/ferpa_release.pdf)

Having a third party in the room is not sufficient implied consent to release FERPA protected information. Students should be advised if they have a third party in the room whom they want to hear information relating to the student’s education record that the student must sign a FERPA consent form, or alternatively, go in a different room than the other person.

**Q12: Who can I consult with if I have further questions about FERPA?**

**A:** Contact the Office of General Counsel at: [legal@csuohio.edu](mailto:legal@csuohio.edu) with any questions. Information is also available on the Office of General Counsel website at: <https://www.csuohio.edu/general-counsel> and the Registrar’s website at: <https://www.csuohio.edu/registrar/registrar>