

VIDEOCONFERENCING AND RECORDING POLICY

Effective as of July 7, 2020

I. To Whom This Policy Applies

This policy applies to all employees of San Joaquin Valley College, Inc. ("SJVCi"), including its divisions and colleges, Carrington College, Ember Education, San Joaquin Valley College, and Santa Barbara Business College. If any employee is attending, hosting, or presenting a remote academic session involving students for any of SJVCi's colleges, then the Remote Academic Sessions and Recording Policy attached hereto as Exhibit A is applicable.

II. Recording Laws

Audio recording without consent is illegal pursuant to state and federal laws. While several states permit audio recording if at least one party to the conversation is aware of the recording, California's wiretapping law is a "two-party consent" law. California's law was drafted prior to the age of videoconferencing and was premised on in-person and telephone conversations. In the modern age of technology and with the use of video conferencing software tools, "two-party consent" laws are interpreted to require that all participants give their consent to be recorded before recording is permissible. Since SJVCi's principal place of business is in California, SJVCi requires that all faculty and students comply with California law.

Microsoft Teams provides the legal minimum compliance with California's audio recording laws in the following ways:

1. When a recording starts, Microsoft Teams shows a notification to all participants on the Microsoft Teams desktop, web, and mobile applications, as well as to people who join by telephone.
2. Guests cannot record meetings or calls.

III. Purpose of this Policy

The purpose of this policy is to provide additional protections for the privacy of SJVCi's employees and any outside participants. The directives provided herein contemplate the privacy and security issues that arise during videoconferencing and recording remote live meetings.

IV. Approved Software for Videoconferencing and Recording

1. Microsoft Teams is the approved remote software tool to conduct live business meetings and is the exclusive remote software tool to be used to record such meetings.
2. Microsoft Stream is the approved and exclusive software tool for saving and storing any record meetings.

V. Procedure for Recording Business and Department Meetings and Academic Training Sessions

1. Business or department meetings should generally not be recorded unless there is a compelling business reason to do so. Think before pressing the "record" button, "What is the purpose of recording the meeting?" Some types of meetings should never be recorded because it could impede the exchange of information and some meetings are categorically prohibited from recording due to the sensitive nature of such meetings.
2. Examples of meetings that may be appropriate for recording are academic training meetings, department meetings of significant importance when a participant cannot be present, or other training sessions.
3. If a meeting is to be recorded, each participant must be given advance written notice of the hosts intent to record by providing the following notice in the meeting invitation. While the host is not required to recite this notification verbatim, it should be followed closely.

NOTICE OF INTENT TO RECORD MEETING. *This [invitation/email/message] constitutes notice of my intention as the meeting host to record the meeting to be conducted over Microsoft Teams on [DATE] at [TIME]. The purpose of the recording is [STATE PURPOSE OF RECORDING]. No other participants are authorized to record this session through Microsoft Teams or by any other means. A link to Microsoft Stream where the recording of the meeting is saved will be available in Microsoft Teams in [NAME OF TEAM CHANNEL OR CHAT] at the conclusion of the meeting. If you do not wish to be recorded audibly or visually, then please turn off your video and mute your microphone during the recording as you may still actively participate in the meeting via the chat feature.*

4. Each participant at his or her discretion, may turn off his or her video and mute his or her microphone during a recorded meeting.

5. Prior to the host starting the recording at the time of the meeting, the host must give the following notice and receive confirmation of each active participant's consent to the meeting being recorded:

This meeting will be recorded for [STATE PURPOSE OF RECORDING]. If you do not wish to be recorded audibly or visually, please indicate that you are withholding such consent by turning off your video and muting your microphone at this time. You may still participate in this meeting by utilizing the chat feature. [PAUSE TO GIVE PARTICIPANTS TIME TO TURN OFF VIDEO AND MUTE MICROPHONE.] I will now begin the recording. [PRESS RECORD BUTTON.] By continuing to participate in this meeting audibly and/or visually, you are signifying your affirmative consent to the recording of this meeting.

6. The host of the meeting shall be the person recording the meeting. If the host leaves the meeting prior to the meeting ending, the host must stop the recording or designate another participant who is part of SJVCi to oversee the recording.

VI. Types of Meetings Categorically Prohibited from Recording

1. Meetings of any type that discuss employee performance or discipline.
2. Meetings of any type concerning complaints of any nature.

VII. Best Practices for Maintaining Privacy and Data Security During Videoconferencing

1. Meeting participants may use virtual backgrounds if they do not wish to have their surroundings visible during video conferencing. In certain circumstances, participants should use a virtual background to shield confidential information in their surroundings. This feature is accessed by clicking on the three (3) ellipses on the command bar after joining the video conference and selecting "Show Background Effects." A side menu will appear, and a background effect may be selected. A preview is available by clicking "Preview." The participant should click "Apply" once satisfied with the selected background effect.
2. Participants must be mindful of those around them to avoid the audio or video recording of a third person.
3. Before screen sharing, participants should close all applications, emails, and documents that they will not be using during their meeting or training session to avoid inadvertent sharing of sensitive information.
4. If active participation by participants is not required, then it is recommended to conduct a Microsoft Teams live event to record the meeting or academic training.

VIII. Storage and Maintenance of Recordings of Meetings and Academic Training Sessions

1. All video and audio recordings are property of SJVCi.
2. No person, including the host of the meeting or academic training session, is permitted to share any video and/or audio recording outside of SJVCi or otherwise use any audio and/or video recording for any purpose other than to conduct academic affairs or business of SJVCi.
3. No person shall upload or otherwise post any video and/or audio recording to any video- or audio-sharing platforms, cloud storage, or social media.
4. The recording of any meetings and academic training sessions should not be maintained for longer than necessary and should only be stored as provided for in this policy. All recordings may be subject to deletion after 90 days from the date of creation by administrators of SJVCi's Information Systems team unless a Legal Hold is in effect and is applicable to the host.
5. All recordings of meetings and academic training sessions must be stored in Microsoft Stream, which are available at <https://web.microsoftstream.com/>. In rare circumstances, a host may have a legitimate business reason for storing the recording elsewhere. The host must consult and obtain permission from the Ember Education Legal Department before doing so. Microsoft Teams will save the recordings by default to Microsoft Stream.
6. All recordings are viewable by administrators of SJVCi's Information Systems team.
7. The default setting is that the recording will be made available only to those who are invited to be participants of the meetings or academic training sessions. The host should not change this default setting for any recording unless the recording is of an academic training session that needs to be viewed by others. The host who recorded the meeting has the obligation to ensure that the recording is viewable only by those invited to attend the meeting.
8. Recordings shall not be downloaded from Microsoft Stream and uploaded to a new location.

EXHIBIT A

REMOTE ACADEMIC SESSIONS AND RECORDING POLICY

Effective as of July 7, 2020

I. To Whom This Policy Applies

This Remote Academic Sessions and Recording Policy applies to the faculty and students of Carrington College, San Joaquin Valley College, and Santa Barbara Business College. Each college is a part of the San Joaquin Valley College, Inc. ("SJVCi") organization.

II. Recording Laws

Audio recording without consent is illegal pursuant to state and federal laws. While several states permit audio recording if at least one party to the conversation is aware of the recording, California's wiretapping law is a "two-party consent" law. California's law was drafted prior to the age of videoconferencing and was premised on in-person and telephone conversations. In the modern age of technology and with the use of video conferencing software tools, "two-party consent" laws are interpreted to require that all participants give their consent to be recorded before recording is permissible. Since SJVCi's principal place of business is in California, SJVCi requires that all faculty and students comply with California law.

Microsoft Teams provides the legal minimum compliance with California's audio recording laws in the following ways:

- a. When a recording starts, Microsoft Teams shows a notification to all participants on the Microsoft Teams desktop, web, and mobile applications, as well as to people who join by telephone.
- b. Guests cannot record meetings or calls.

III. Purpose of this Policy

The purpose of this policy is to provide additional protections for the privacy of SJVCi's faculty and students and any outside participants. The directives provided herein contemplate the privacy and security issues that arise during remote academic sessions and recordings of the same.

IV. Approved Software for Remote Academic Sessions and Recording

- a. Microsoft Teams is the approved and exclusive remote software tool that is to be used to conduct live and recorded academic sessions. (At this time, the software tools Respondus Monitor and BigBlueButton are not subject to this policy as such tools are under review and further guidance is to be provided.)
- b. Microsoft Stream is the approved and exclusive software tool for saving and storing any record meetings and academic sessions.

V. Conducting Remote Academic Sessions and Recording

1. Video and audio recording of an academic session by an instructor is permitted, but only if the following requirements are met:
 - i. Each participant must be given advance notice and the opportunity to opt out of video and/or audio participation by including notification language in the meeting invitation and by oral notice before the recording starts;
 - ii. The recording is for instructional purposes only; and
 - iii. The instructor is the one recording the lecture.
2. The following is sample language an instructor may use for the notification. While the instructor is not required to recite this notification verbatim, it should be followed closely.

This [class/meeting] is being conducted over Teams. As the host, I will be recording this session. No other participants are authorized to record this session through Teams or by any other means. At the conclusion of the [class/meeting], a link to this recording will be posted on the [learning management system]. If you have privacy concerns and do not wish to appear on the recording, please turn off your video and mute your microphone. If you would like to ask a question, you may do so in the chat feature of this session, or you may do so privately by sending me a chat message outside of this session.

3. Only the instructor may conduct screen sharing during a remote live academic session and/or recording. If a student is given permission to screen share for his or her presentation, then any recording shall be stopped while the student is presenting.
4. An academic session shall not be recorded while students are giving presentations or leading the class.

5. Students or other meeting participants, except for the instructor, are prohibited from recording the lecture by any means.
6. Neither the instructor nor the students may photograph, screen capture, or use any other method of capturing a lecture and/or its participants.
7. Microsoft Teams contains a chat function that permits participants to ask questions and engage in dialogue with the class. Faculty and students are not permitted to record, photograph, screen capture, or use any other method of copying or capturing the chat exchanges.
8. At the conclusion of the recording, a link to the recording in Microsoft Stream will appear in the Team Channel. The instructor may use the link to share the recording only through Microsoft Stream and may post the link to the applicable college's learning management system ("LMS").
9. Faculty and students are not permitted to download any recording from Microsoft Stream and then upload it to the LMS as this causes the data to be saved in two places unnecessarily.

VI. Types of Meetings Categorically Prohibited from Recording

1. Student hosted meetings.
2. Meetings of any type concerning student advisement, performance, or discipline.
3. Meetings of any type concerning complaints of any nature.

VII. Best Practices for Maintaining Privacy and Data Security During Remote Academic Sessions

1. Faculty and students may use virtual backgrounds if they do not wish to have their surroundings visible during remote academic sessions. In certain circumstances, faculty and students should use a virtual background to shield confidential information in their surroundings. This feature is accessed by clicking on the three (3) ellipses on the command bar after joining the video conference and selecting "Show Background Effects." A side menu will appear, and one of the background effects can be selected. A preview is available by clicking "Preview." Once satisfied with the selected background effect, click "Apply."
2. Faculty and students should be mindful of those around them to avoid the audio or video recording of a third person.
3. Faculty and students should close all applications, emails, and documents that will not be using during an academic session to avoid inadvertent sharing of sensitive information.
4. If active participation by students is not required, then it is recommended that the instructor ask students to mute their audio and turn off their video.

VIII. Storage and Maintenance of Recordings of Remote Academic Sessions

1. All video and audio recordings are property of SJVCi.
2. No person, including the instructor of a remote academic session, is permitted to share any video and/or audio recording outside of SJVCi or otherwise use any audio and/or video recording for any purpose other than to conduct academic affairs or business of SJVCi.
3. No person shall upload or otherwise post any video and/or audio recording to any video- or audio-sharing platforms, cloud storage, or social media.
4. The recording of any meetings and academic sessions should not be maintained for longer than necessary and should only be stored as provided for in this policy. All recordings may be subject to deletion after 90 days from the date of creation by administrators of SJVCi's Information Systems team unless a Legal Hold is in effect and is applicable to the host.
5. The default setting is that the recording will be made available only to those who are invited to be participants of the remote academic sessions. This default setting should not be changed for any recording.
6. Recordings shall not be downloaded from Microsoft Stream and uploaded to a new location.