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Lights, Camera, Teach?

Florida is poised to pass a bill allowing students to record classes for personal use -- and to complain about professors who violate students' free expression. Idaho's higher ed budget is also on hold over lawmakers' concerns about diversity programs.

By [Colleen Flaherty](#)



Torsten Dettlaff/Pexels.com

A bill allowing students to record class sessions for the purpose of lodging free speech and other complaints is likely to become law in Florida.

[The bill](#), which sailed through Florida's House of Representatives and Senate, says that a student may record video or audio of class lectures not only for their own personal educational use but also "in connection with a complaint to the

public institution of higher education where the recording was made, or as evidence in, or in preparation for, a criminal or civil proceeding.”

A recorded lecture may not be published without the consent of the lecturer, and these recordings must follow federal student privacy laws, the bill says. The possible penalty for publishing a recording without consent is \$200,000.

Cynically, the bill can be read as encouraging students to snitch on professors they disagree with politically. Numerous professors have faced [public scrutiny](#) over snippets of surreptitiously recorded classroom talks that have found their way online. Often, these clips are subsequently shown to be lacking context. But faculty members in Florida say they’re more concerned about the bill being an invitation to violate the sanctity of the learning space, given how easy it is to upload videos to the internet anonymously.

“Nobody will feel comfortable participating in class knowing that someone else may be making a permanent record of their words,” said Erin Ryan, Elizabeth C. and Clyde W. Atkinson Professor of Law at Florida State University and vice chair of the Faculty Senate there. “These records, especially if taken out of context, may come back to haunt speakers later when seeking employment, promotion, public office, or personally.”

Eric Chicken, professor of statistics at Florida State and chair of the Faculty Senate, said that faculty members want their students “to ask questions of us, to answer questions we pose and to participate in relevant discussions and debate.” But if students think there’s a chance, “even a small chance, that their class interactions could end up publicly shared, [they] will no longer be quick to actively participate in the learning process.”

The bill -- currently awaiting the signature of Republican governor Ron DeSantis -- “is not good for our students or their ability to get the most out of a classroom setting,” Chicken said.

Florida law requires that both parties in a conversation consent to having that interaction recorded. There is no current state law governing whether a student can record a class. Ryan said decisions about the latter recordings are typically made on an individual basis within specific classroom contexts.

That's how faculty members want it. They've said as much in numerous campus and university systemwide [resolutions](#), and directly to state legislators.

There are "lots of good reasons for some classes to be recorded, and many teachers allow it, especially as needed to accommodate students with disabilities," Ryan said. "But there are other educational contexts in which recording would undermine learning objectives by suppressing participation." Ultimately, "We think this is a decision that should remain between a student, their teacher and the university. It should not be a one-size-fits-all legislative mandate."

Ryan said she and other professors "tried very hard to communicate our concerns about these bills with legislators before they were passed, almost without debate."

The legislation in question is bigger than the language about recording professors, although faculty members find that aspect of the bill most concerning. The full bill combines several ideas that have kicked around the Florida Legislature for some time but found little traction, until now -- including that faculty members, staff and students should be regularly [surveyed](#) on whether they feel free to express themselves on campus. It seeks to protect what its largely Republican proponents describe as intellectual freedom and ideological diversity within public education. Yet faculty members believe that the recording provision will actually chill free expression in the classroom.

Ryan said that, among other suggestions, faculty members asked legislators to tweak the classroom recording provision to say students "may record in classrooms, except as prohibited by university policy, or exempted by deans or department heads for legitimate pedagogical or privacy-related reasons."

Joe Harrington, Pegasus Professor of Physics at the University of Central Florida and chair of its Faculty Senate, said he and his colleagues sought to at least "put some reasonable bounds on it, one of those bounds being that you could restrict recording in classes for which there was a specific pedagogical reason. And that reason would have been determined by somebody other than the faculty member teaching the class."

Harrington said, "I teach physics and astronomy, and I'm not having the sensitive discussions. I record my classes, and I make the recordings available to students so they can use them to study. But that's a choice I make that's appropriate for

my class. And if I were having some sensitive discussion, maybe I'd only record my own presentation and turn off the recording for the discussion or something like that."

Over all, he said, the lack of faculty consultation about the bill was disappointing. "I think any time you're going to regulate somebody, you should at least talk to them."

Ryan said she and her fellow faculty members "obviously did not succeed this year, but our plan is to try again next year to either repeal or amend these laws in order to better protect academic freedom, free speech and student learning in the absence of the culture of fear that the recording entitlement will create."

Harrington said he's still scratching his head as to why Florida legislators want to interfere with high-performing colleges and universities in this way.

His guess? "We're deep in the culture wars. And we don't want to be."

The House bill's sponsor, Republican Ray Rodrigues, has argued that the recording provision standardizes recording policies across the state. Regarding the survey, he [told](#) fellow legislators earlier this month that "if the results came back and showed that there was a lack of intellectual freedom, or lack of viewpoint diversity, my hope would be that the governing body of the institution would recognize and find that unacceptable, and announced what the plan is to address that."

The Foundation for Individual Rights in Education said in an [analysis](#) that the bill, at least as it's written, will do more harm than good.

"Although there are obviously some legitimate uses of classroom recordings, the consequences of giving a statutory green light to recordings and litigation around their use is fraught with the potential to wreak havoc with classroom instruction, chilling faculty and student speech," Joe Cohn, FIRE's legislative and policy director, wrote in the analysis. "The current social climate, in which video or audio recordings of unpopular or controversial student or faculty expression (often taken out of context) are routinely used to 'cancel' people of all political persuasions via social media mobbing, makes it more obvious than ever that getting the right answer to this question is of critical importance."

A number of [similar bills](#) have been proposed elsewhere.

In Idaho, for instance, higher education budget discussions are at a standstill over a proposal to [cut some \\$400,000 from Boise State University's](#) budget over Republican lawmakers' concerns about that campus having a social justice agenda. Last week, according to [IdEdNews.org](#), State Representative Ron Nate asked his fellow legislators to send the budget back to the Joint-Finance Appropriations Committee to cut even more from Boise State's budget and send an even bigger "message."

Nate spoke of giving universities the "opportunity to demonstrate that they're willing to make the changes needed to make us feel comfortable about funding higher education that matches Idaho values again," according to [IdEdNews.org](#).

Last month, Boise State [temporarily halted](#) a required diversity and ethics course over an unsubstantiated report that a white student was "degraded" for being white in one of the class sections. A local law firm is now investigating this and other reports about bias in the course.

While Florida institutions have generally stayed quiet about the classroom recording bill, University of Idaho president C. Scott Green recently spoke out against delays in passing his state's higher education budget.

"In an unprecedented action, special interests have been actively working against passage of the higher education funding bill in the Idaho Legislature," Green wrote in a letter to alumni and other groups, which was first [reported](#) by Idaho Public Television. "These interests represent a libertarian-based ideology, the principles of which generally do not believe that any public funding should be used for public education. The misinformation and half-truths spread are directly impacting higher education funding by the Idaho Legislature."

Such unspecified "interests" seek to "redefine issues of diversity, inclusion and social justice to create an illusion that higher education in Idaho is actively pushing a political agenda wrought with 'leftist' indoctrination," Green wrote. "This is a completely inaccurate description of our institution. Yet, with the help and financial support of interests inside and outside of our state, this narrative gained enough traction to lead our legislators to defeat the higher education funding bill."

