

## **Procedure III.3006.A.a, Use of Recording Devices by Employees and Students**

### **Associated Policy**

Policy III.3006.A, Use of Recording Devices by Employees and Students

### **Procedures**

#### **1. Introduction**

The purpose of this procedure is to describe restrictions on the use of recording devices in College facilities and during College-related activities and working hours. Recording devices include any software, application, or service used in the recording of voice and/or video, storage, broadcast, or sharing of recordings. This definition is intended to be inclusive of all possible media that can electronically affix sound, images, or video using any means. The inappropriate or unauthorized use of recording devices may impair harmonious working or academic relationships, constitute a violation of privacy or applicable statutes, and lead to copyright violations. The misuse of such devices may also violate criminal law. Because the recording of individuals without their knowledge promotes distrust and is incompatible with a collegial and harmonious campus environment, the College prohibits recordings by employees and students (including those acting on their behalf), except as set forth below. While the law permits recording telephone calls and in-person conversations with the consent of at least one of the parties, the College has the right to restrict the use of recording devices on College property. Meetings or conversations may not be recorded unless all parties provide their consent. If all parties are not in agreement, recording is prohibited. This procedure is intended to be interpreted with and subject to applicable federal and state laws.

The following restrictions apply to cell phones, cameras, audio/tape recorders, video recorders, electronic tablets, and any other electronic or mechanical devices/systems that are capable of recording audio, human voices, images, or any devices or systems capable of recording audio or video images.

Students and employees who are found to have violated these procedures are subject to discipline, up to and including termination, dismissal, or expulsion. Visitors who take photos or make recordings in unauthorized areas may be asked to leave the premises and could be subject to a criminal trespass warning or criminal prosecution.

#### **2. Restrictions - Protection of Confidential Information**

Employees and students, including student workers, are prohibited from using recording devices to duplicate confidential information, including but not limited to student records, personnel records, and medical records. This section does not apply to the use of College-owned recording devices for purposes that are explicitly authorized by College policy or procedure (e.g., a College-owned photocopier that is used to make copies for a legitimate College purpose).

#### **3. Restrictions on Use of Recording Devices – General Prohibitions**

Except as permitted by this procedure, employees, and students (including those acting on their behalf) are prohibited from using recording devices at any College facility or during the scope of one's employment or enrollment to record another person's voice or image. Recording, broadcasting, and live streaming are prohibited regardless of whether these are done secretly or

openly. Additionally, employees and students should be aware that it is a crime under Texas law to record a conversation to which one is not a party. The College reserves the right to discipline or terminate/expel an employee or student found to violate this procedure. Furthermore, employees understand that a work-related recording created by an employee may be subject to the Texas Public Information Act (TPIA) and/or other applicable federal and state laws or College policies on data retention. If the employee is unsure of the applicability of the TPIA or other law/policy, the employee should check with the office of the Vice Chancellor of Marketing, Public Relations, and Governmental Affairs.

When use of recording devices is permitted by these procedures, the act of recording must be conducted openly and in a manner that does not disturb or interfere with the academic programs or administrative or business activities of San Jacinto College or any program or activity that is conducted by or authorized by the College. Additionally, recordings shall not:

- interfere with the free entry to or exit from a building, structure, or facility
- interfere with the flow of pedestrians or vehicular traffic on sidewalks or streets or at places of ingress and egress to and from property, buildings, or facilities
- deny the use of offices or other facilities to the students, faculty, staff, or guests of the College
- threaten or endanger the safety of any person on a campus
- engage in conduct that is likely to result in damage to or destruction of College property or to cause disruption in utilities
- create a sustained or repeated noise disturbance that substantially interferes with a speaker's ability to communicate with others and/or the rights of others to listen
- attempt to prevent a College event or other lawful assembly by the threat or use of force or violence

#### **4. Restrictions - Restrooms and Other Private Locations**

Employees, students, and visitors are prohibited from using the recording components of devices in restrooms, locker rooms, dressing rooms, and other similar locations where individuals have a reasonable expectation of privacy. To prevent any misunderstanding, employees, students, and visitors are encouraged to store such devices in purses, backpacks, briefcases, or pockets while in these locations.

#### **5. Restrictions - Classrooms and Other Instructional Locations**

- (a) Student-Initiated Recording: With the exception of recordings permitted as a reasonable accommodation (see section 10 of these procedures), the use of technologies for audio or video recording of lectures and other instructional activities is allowed only with the express permission of the instructor. Instructors may impose reasonable, viewpoint-neutral restrictions on students regarding use of recording devices in classrooms, laboratories, faculty offices, or other locations where instruction or testing occurs. Instructors shall notify students in writing of any restrictions on the use of recording devices, such as on a syllabus. An instructor may choose to allow recording of one portion of a class while disallowing recording of other portions, such as portions in which other students discuss

personal information or in which a guest speaker is speaking.

If an instructor allows student-initiated recording in the classroom or other assigned teaching area without restrictions, the instructor will include this provision in the syllabus for the course. If allowed, the student may use the recording only for personal use, which is use for studying or completing course assignments. The recording (or transcript of the recording) may not be shared with other students, persons, organizations, or companies without the written consent of the instructor. The recording may not be reproduced, broadcast, live-streamed, uploaded, or distributed. This prohibition extends to posting the material or recording on any website or the internet, and it expressly prohibits distribution for commercial purposes, compensation, or personal gain.

When an instructor grants permission for students to record a classroom lecture, any copyright in the material remains with the instructor and/or San Jacinto College. The copyright is not transferred to the student. A student's distribution of the material may constitute copyright infringement and may result in discipline.

A student who has made an authorized recording must destroy it at the end of the semester in which the recording was made.

When a student has been authorized to record a classroom lecture as a reasonable accommodation under Section 10 of these procedures, the faculty member shall not single out or identify the student who sought the accommodation.

- (b) Faculty-Initiated Recording: A faculty member who is responsible for a course may record the classroom lecture for professional development or curriculum development purposes. The syllabus for the course shall notify students that the faculty member reserves the right to record the class for professional development or curriculum development purposes. If the faculty member's recording records the voices or images of students, the faculty member may not distribute, publish, broadcast, or upload the recording to a website without the written consent of each student on the recording. The College shall have a non-exclusive, royalty-free right and license to obtain, archive, and use the faculty member's recordings for internal use.
- (c) College-Initiated Recording: The College administration may record a classroom lecture for curriculum development purposes, faculty development purposes, promotional purposes, or other College operation or service. The administration shall notify the faculty member at least two working days in advance of the recording.

## **6. Recordings or Photography Allowed Without Permission**

- (a) Employees may audio record a grievance meeting as defined in Board Policy IV-I or a termination or nonrenewal hearing or meeting. Students may record a student disciplinary appellate hearing or grade appeal hearing. The employee or student must provide 24 hours' notice (one working day) of the intent to record to the individual in charge of the hearing or meeting. The recording must take place openly, where all parties are made aware of the

recording. If an employee or student elects to record a hearing or meeting, the College administration may elect to make its own recording.

- (b) Recording and photography is permitted at official public functions such as award banquets and graduation ceremonies; the recording must take place openly. No prior notice is required.
- (c) Employees and other citizens may record the proceedings at a publicly held meeting of the Board of Trustees but must comply with any Board policies pertaining to the time, place, and manner of such recordings. The recording must take place openly. No prior notice is required.
- (d) Non-commercial photography and filming are allowed in common areas that are freely open for people to congregate, such as cafeterias, outdoor patios, athletic competition facilities, parking lots, and open lobby areas. The photography must take place openly from a lawful vantage point. No prior notice is required; however, the individual taking photos must refrain from engaging in photography that a reasonable person would view as disruptive, harassing, or intrusive under the circumstances.
- (e) As used in this procedure, “common areas that are freely open for people to congregate” does not include classrooms, lecture halls, conference rooms, libraries, or offices.

## **7. Restrictions – Student Clubs and Organizations**

Except as permitted by this procedure, students are prohibited from using recording devices to record, broadcast, or live-stream another person’s voice or image at a meeting sponsored by a student club or student organization. Recording is prohibited regardless of whether the recording is done secretly or openly. Such recordings may inhibit open and robust discussion and participation in the activity. The prohibition on recording does not apply to public events in common areas that are freely open for people to congregate.

The current members of a student club or student organization may choose to permit the use of recording devices at its meetings by voting to amend the club or organization’s bylaws or constitution. The club or organization shall follow its own procedures for amending its bylaws or constitution.

## **8. Obtaining Permission to Record**

Recording a meeting: In some situations, employees and leaders may mutually agree that it would be beneficial to make an audio recording of a particular work-related meeting or presentation. Recording is permissible in such instances, but all participants must agree, and the recording must be done openly. If not agreed to by all parties, the conversation should not be recorded. Recordings of work-related meetings and presentations shall be retained for the length of time required by law as specified in the Records Management Policy III.3001.J and Procedure III.300I.J.a. Virtual recordings created by web conferencing tools should be retained for 60 days via the cloud and for the required retention time by the custodian of record. Recordings can be downloaded by the custodian of record and retained for longer periods of time as needed for reference. Recording

downloads must be saved in a secure site location and not on individual computer machines. Recordings are for internal use only and will not be shared or distributed with the public or anyone outside of the college unless approved through a dispensation process (such as accreditation requirements or subpoena requests), or with the exception of an employee's external participation in third-party professional organizations, such as committees, councils, or advisory boards where recording and recording sharing is considered an expectation of that external role. Recordings should only be shared internally with individuals on a need-to-know basis. Exceptions for official business are addressed in Section 11 of this procedure.

Taking a photo: Before taking a photograph of employees or students in common areas that are not freely open for people to congregate, such as an internal office area, the individual shall obtain permission from the people to be photographed.

Employee inquiries about the recording of meetings and events not specifically addressed in this procedure should be directed in writing to the Director of Employee Relations. Student inquiries about the recording of meetings and events not specifically addressed in this procedure should be directed in writing to the relevant Club Advisor, the Student Engagement and Activities Coordinator, or designee. Decisions regarding a request to record shall be made within three working days. The decision-maker shall consider whether the request is consistent with these procedures; whether granting the request is likely to be disruptive; whether the request impacts the intellectual property rights of others; whether the request impacts the privacy rights of others; whether recording will adversely impact, alter, or interfere with the intended purpose of the activity or event; and whether other means are available to document the event, such as note-taking or still photography in lieu of a request for video recording. If the requester is dissatisfied with the decision, he or she may seek further review from the Vice President of Human Resources (if an employee) or the Dean of Student Development (if a student) who shall render a written decision within three working days.

For additional information regarding audio or video recording, please consult the Student Organization Handbook and/or Code of Student Conduct.

The individual who is seeking approval to record must obtain the signed permissions. The permissions will be maintained by this individual in accordance with the Records Management Policy III.3001.J and Procedure III.3001.J.a.

## **9. Voyeurism**

Camera phones and other recording devices shall not be used to take a photo or video of a person from a vantage point that a reasonable person would view as an invasion of personal privacy.

## **10. Exception under the Americans with Disabilities Act**

In some situations, an employee or student with a disability may need to use a recording device as a reasonable accommodation in a location where recording is not typically allowed. Employees desiring such accommodations should contact the Human Resources Benefits Office. Students desiring such accommodations should contact the Accessibility Services Counselor at their respective campus.

The recipient of an accommodation will be required to sign a written agreement acknowledging the terms and conditions related to the permission to record.

### **11. Exception for Official Business**

Nothing in this procedure is intended to restrict the College in the use of recording devices or other technology for conducting official business in investigations, surveillance, construction and facilities project documentation, or archival purposes. Requests for recording for use in investigations or surveillance must be pre- approved by the respective Strategic Leadership Team member(s) and coordinated with the College Police Department.

Employees are prohibited from recording or photographing unless it is done in good faith to document conduct reasonably believed to be a violation of law.

Some employees performing official business on behalf of the College may be required to use recording devices for legitimate work-related purposes, including meeting minutes purposes, investigatory or law enforcement purposes, archival purposes, educational purposes, training or reference purposes (such as recording a presentation for future viewing by staff or students or for quality assurance in the Contact Center), journalism purposes (such as photography for an official publication), and web conferencing tools for training or reference purposes. Legitimate work-related purposes would include duties in an employee's job description or an activity their leader has directed or authorized. Leaders shall appropriately monitor the use of recording devices to ensure that they are being used only for legitimate business. Employees with questions about recording devices should direct questions to their leader or to Human Resources.

A department that engages a commercial photographer, vendor, or other third-party to photograph or record an event must ensure that the written agreement with the photographer, vendor, or third-party identifies all pertinent restrictions and terms of use. Additionally, the agreement shall specify that San Jacinto College owns the copyright in all works prepared for the College with College funds. For additional information, please consult the office of the Vice Chancellor of Marketing, Public Relations, and Governmental Affairs.

Recordings made for official business shall be maintained for the period of time required by state or federal law as specified in the Records Management Policy III.3001.J and Procedure III.3001.J.a.

For additional information regarding filming and photography on campus, refer to Policy VII.7001.A, Public Relations.

### **Definitions**

**Recording Device:** A storage **device** on which information (sounds or images) can be recorded. This also includes any software, application, or service used in the recording of voice and/or video, storage, broadcast, or sharing of recordings. This definition is intended to be inclusive of all possible media that can electronically affix sound, images, or video using any means.

**Broadcast or Live-Stream:** The transmission of programs, information (sounds or images) or

live events by radio, television, internet, app (application software), web conferencing tools, or any other medium including postings to any social media platform.

**Custodian of Record:** The owner or creator of a record responsible for maintaining the record.

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Primary Owners	Vice Chancellor, Human Resources Deputy Chancellor & President
Secondary Owners	Vice President, Human Resources Associate Vice Chancellor, Student Services

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