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Legal recommendations for online teaching

The pandemic and subsequent transition to online teaching have given rise to many questions related to the processing of personal data. The Legal Affairs Unit is aware of these questions, and of the conflicting information that can be found on the web. This is why we have compiled these recommendations for different situations that may arise in connection with online teaching.

Starting points

A good starting point is that online teaching should be delivered using tools provided by the university, such as Zoom. Do not use free, online services.

Also, remember that not all services offer the same security. It is important to use the right kind of service for the type of information you will be processing. For example, Zoom must not be used for processing sensitive personal data¹ or for confidential data as defined by the Public Access to Information and Secrecy Act.

Many of the questions concern recording video talks in various situations. The rule of thumb here is that if you did not record something prior to the pandemic, you should not be recording it now. The main reason for this is that all video files, chat logs, etc. that are saved become official documents². Official documents are covered by the principle of public access to official documents, which means anyone, in Sweden or abroad, can request a copy of them. Recorded video from online classes must be saved for at least 2 years. For this reason, we must not record students during teaching unless it is absolutely necessary, in particular if it means the student would be recorded in their own home.

Students may find it unpleasant that a video of them that would not have existed a few weeks ago can now be disclosed to anyone requesting it. Saving video and chat logs can also mean that students who are a bit shyer hesitate in taking an active part in teaching for fear that their 'stupid questions' will be preserved forever in a recording. For these reasons, recording should only take place when necessary.

¹You can find a definition of personal data and sensitive personal data at <https://internt.slu.se/en/support-services/administrative-support/legal-affairs-data-protection-info-management/data-protection/terms-and-concepts/>.

² For more information about the principle of public access to official documents, see <https://internt.slu.se/en/support-services/administrative-support/legal-affairs-data-protection-info-management/legal-affairs/>.

Before processing the students' personal data through recording or streaming, you must assess whether there are other solutions that do not require the processing of personal data. If that is the case, the processing is not necessary, and you should opt for the solution that does not require that you process personal data.

Informing the students

Regardless of how we process personal data when teaching online, the students must be informed of what will happen to their personal data. The Legal Affairs Unit has, together with the Division of Learning, Media and Digitalisation, drafted such information for students. It is available on the [student web](#).

Before you record a class delivered online, you must inform the students of the processing that will take place. You need to provide the following information:

- Why you are recording the session
- If it will be possible to see or hear students in the recording
- How long you will be saving the recording
 - If the recording is of a task that will be assessed, the recording must be saved for 2 years³.
 - Recordings of lectures should be saved for 2 years after the course instance.

Personal data must only be shared with those who need them

Personal data must not be distributed to more people or organisations than necessary. There is a risk of this happening for instance during ID checks, or in video group talks. Asking for IDs in a way that means students show them so they are visible to everyone else is not allowed. This means you cannot ask a group of students to show their ID cards or other information that the rest of the group does not need to have access to. If you need a group of students to prove their identity, you have to find another way of doing this.

If you need to do an ID check during a class, do that before you start the recording.

Disposal

When it is time to dispose of the recording (e.g. 2 years after an exam), you must normally delete it as keeping it longer than the prescribed period is not allowed.

Integrity at lectures (non-assessed components)

At lectures, it is important to provide options for asking questions so students can ask without it being obvious from the recording who asked a particular question.

³ If a student requests a reassessment of a grade, the recording should be saved for 2 years after the reassessment has been concluded.

One way of doing this is telling students that they can use the Zoom chat to ask you (rather than the whole group) a question, and you then repeat the question to the group without saying who posed it to begin with.

Students must also be allowed to take part with their camera and microphone off.

Teachers' integrity

A student does not have the right to record a class without your consent. Recording without consent is illegal.

Online teaching

Lecture

Streaming allowed. Recording yourself teaching is allowed. Do not record students.

Seminar with only non-assessed components

Streaming allowed. Do not record.

Online supervision

Streaming allowed. Do not record.

Online ID check, regardless of context

Streaming between student and teacher allowed. ID checks where other students can see the person identifying themselves are not allowed. Do not record ID checks.

Practical components

Streaming allowed. Do not record.

Practical components with participants who are not teachers or students

Streaming allowed. Do not record.

Oral examinations

Oral exams may be recorded to facilitate documentation. In such cases, students must be informed in advance, and a justification for the recording must be documented in writing. Recordings must be saved for 2 years.

Examination whereby a student submits a recording of a practical component

Allowed. Recordings must be saved for 2 years.

Take-home examination (i.e. same format as before the transition to online teaching)

Do not record. Live streaming should not be necessary.

Online examination

Online exams should, in principle, not be recorded. Live streaming is allowed, e.g. for invigilators. Recording written exams can only be done if it is required to ensure fairness and a justification must be documented. Students must be informed in advance. Recordings must be saved for 2 years.