Personnel Policies Council (PPC) Recommendations and Interpretation of Recordings of Meetings and Conversations. This is an interpretation only, and not meant to serve as official Oswego policy.

New York State Open Meetings & One-Party Consent Legislation

It is the understanding of PPC that meetings at SUNY Oswego can be recorded except when personnel deliberations are underway, or in cases where FERPA is an issue; in these instances, an executive session is generally called.

This is PPC's interpretation of relevant NYS law. As an institution, we recommend a conversation through the shared governance structure, and under advisement of SUNY counsel.

Our interpretation is based on two laws of New York State, §103 (Open Meeting Law) and §250.00 (One-Party Consent).

§103.
1. Any meeting of a public body that is open to the public shall be open to being photographed, broadcast, webcast, or otherwise recorded and/or transmitted by audio or video means. As used herein the term “broadcast” shall also include the transmission of signals by cable.

§250.00.
The following definitions are applicable to this article:
1. “Wiretapping” means the intentional overhearing or recording of a telephonic or telegraphic communication by a person other than a sender or receiver thereof, without the consent of either the sender or receiver, by means of any instrument, device or equipment. The normal operation of a telephone or telegraph corporation and the normal use of the services and facilities furnished by such a corporation pursuant to its tariffs or necessary to protect the rights or property of said corporation shall not be deemed “wiretapping.”
2. “Mechanical overhearing of a conversation” means the intentional overhearing or recording of a conversation or discussion, without the consent of at least one party thereto, by a person not present thereat, by means of any instrument, device or equipment.

Given the diverse nature of “meetings” on our campus, through our shared governance structure, we recommend the following guidelines, based on our interpretation of the intent of this law:

1. Student and Faculty Interactions in the Classroom:
   Prior guidance from administration suggests that students and faculty are allowed to record classes. However it is unclear whether the classroom can be considered a public meeting. There are classes where confidential information about individuals, agencies, schools and districts is discussed as students are given authentic experience relevant to their future employment, certification or licensure. We need clarity as to whether course instructors, in these instances, can prevent, under college policy, recordings of any type from being made.
2. **Student and Faculty Interactions outside of Class:**
Under New York's one-party consent laws (N.Y. Penal Law §§ 250.00, 250.05) it is allowable to record a conversation or phone call if you are a party to the conversation or you get permission from one party to the conversation in advance. For faculty, recordings containing FERPA-protected information need the same care as other sensitive academic information.

3. **Formal Department, Council & Committee Meetings with Agendas:**
Meeting agendas need to keep personnel deliberations separate from other issues of business. Personnel issues should not be interspersed to prevent meeting recordings. We need clarity about whether departments, council or committee meetings are permitted to place conditions on recording.

4. **Faculty Interactions with Administration (HR, Dean, etc.):**
These meetings may include personnel issues and such information must be safeguarded. These are not open meetings, but in the absence of a clear policy at Oswego the one-party consent laws of New York still apply. In the spirit of collegiality, it is the expectation of PPC that all parties will be transparent about the use of recording devices.

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