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To: Provosts and Senior Student Affairs Officers

From: Tomas L. Stafford  
Senior System Legal Counsel

Date: March 23, 2020

Re: Questions re student privacy and on-line course instruction

Advice has been requested on privacy concerns raised by students regarding University faculty use of the Respondus Monitor tool to proctor on-line exams, as well as expectations on the part of some faculty that students keep their computer webcams on during on-line classroom activities.

We do not see any privacy or other legal concerns with faculty proctoring an on-line exam via the Respondus Monitor/Lockdown Browser tool that we understand is integrated in Canvas. While recognizing and respecting student privacy, the proctoring of exams, including on-line exams, in many cases is essential to protecting the integrity of the University's courses and assigned grades.

The Respondus Monitor tool uses a proctoring method whereby the student records himself or herself with a webcam and microphone during an online exam. The recording and other data from the exam session are processed automatically, and summary information is provided to the instructor, such as if the student left the video frame during the exam session. An overall value is provided to the instructor to help determine if exam violations have occurred. Any recordings or other information provided to faculty by Respondus are FERPA covered and owed the same privacy protection as grades, assignments, etc.

Students need to be notified that they are being recorded as they take the exam. We have been informed that the tool displays a camera icon and text which says "recording." However, to ensure students have appropriate notice, we highly recommend that instructors who intend to use this tool send an all-class communication to their students stating that the tool will be used in the course going forward in light of the move to an on-line course format. The communication should use words to the effect of "we will be using this tool to monitor your online exam testing, and you will know it's recording based on the camera icon accompanied by the text 'recording.'" Instructors also could include a link to the Respondus privacy statement (<https://web.respondus.com/privacy/privacy-additional-monitor/>) in that communication.

Similarly, we are not aware of any legal concerns with faculty requesting students to turn on their webcams during on-line class discussions. Students obviously are visible to their fellow students and to the faculty instructor during face-to-face class discussions, and we do not see the on-line environment as being any different. There may be considerable pedagogical value for a

faculty member and other students to be able to see and more easily identify the student asking or answering a question, as opposed to relying solely on voice recognition.

Finally, sample language has been requested that faculty could use to respond to a student or parent with questions about on-line examination proctoring. The following statement could be used:

The Respondus Monitor tool is being used in this course to proctor on-line examinations and ensure the integrity of those examinations and student grades. The Respondus Privacy Statement can be found at <https://web.respondus.com/privacy/privacy-additional-monitor/> Please contact me at \_\_\_\_\_ if you have additional questions about the procedure for taking on-line examinations in this course.

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