

Special Regulatory Statutes in Place for Recording Telephone Mystery Shops

There are various statutes and laws that regulate if and when telephone mystery shop conversations can be recorded. These laws and statutes vary by state. Governing bodies include State statutes and laws, Federal statutes and laws, the FCC, and the PUC.

There are four primary areas to be aware:

1. Some states are “no consent required”
2. Some states are “one-party consent required”
 - a. “One-party consent” = Only one of the telephone conversation parties needs to “authorize” the recording / monitoring process
3. Some states are “dual-party consent required”
 - a. “Dual-party consent” = All parties of the telephone conversation must authorize the recording / monitoring process
 - b. In dual-party consent states, each individual being recorded or monitored has to authorize the recording / monitoring process – an Employer cannot “authorize” for the employee being recorded
4. There is debate and possible uncertainty as to which statutes and laws take precedent when one state, as an example, is “one-party” and the other is “dual-party.” The “safest” methodology is to use the state requirements of the more restrictive / stringent statutes and laws.

It is strongly advised that appropriate legal counsel be sought to ensure compliance with all recording laws and statutes.

Some general guidelines can be found:

<http://www.rcfp.org/taping>

<http://www.fcc.gov/cgb/consumerfacts/recordcalls.html>