

# Oregon Conference

## CHURCH NEWS PHOTO GUIDELINES

The Oregon Conference news photo guidelines summarize counsel from lawyers, communication professors and commercial news photographers. These rules are based on the United States Constitution's protection of free speech and a free and independent press, and upon long-established privacy guidelines.

The only photos of children (or adults) that require a signed consent form are photos used as design elements on video, websites, in print, etc. Photos used to tell a news story never require permission, written or otherwise.

There are no laws in the United States or in any individual state that require photos of children to be treated different from photos of adults, and there are no laws that limit the right of any organization or individual to publish any news, including photos, of anyone. Free speech is protected by the First Amendment to the United States Constitution, and photos are considered speech.

No photo consent form is needed for photos taken in a public place for the purpose of telling a news story. When taking photos of children at Pathfinder events or in other church activities, news photographers don't have to worry whether parents have signed consent forms, because they are gathering – news. Event organizers may gather consent forms so they can use photos for brochures or advertising, but photojournalists are reporting news which doesn't require permission.

That said, there are several circumstances under which photos cannot be legally used, and one under which they might legally be okay, but should still not be used.

### **ILLEGAL: What NOT to do ...**

1. Do not intrude into anyone's solitude, seclusion or private property without permission. This rule prohibits photos taken without permission in any place a person might reasonably expect privacy. So taking pictures of boys brushing their teeth in a community bathroom might stretch that limit. But pictures of people in public places at a youth camp, school, church, constituency meeting or camp meeting are not an invasion of privacy.
2. Do not publish (whether by photos or stories) private information without permission. Private information would include contact information, such as address, phone number or email address, plus other personal information not required for the story. So when publishing a story about a church-sponsored home for pregnant teen-age girls, make sure none of the individual girls are recognizable in the photos—without permission. And don't publish their first and last names—without permission. The fact that these particular girls are pregnant is private information.
3. Do not print any photo or story that presents the subject in a false light. Unlike the public media, church papers generally follow the rule of not publishing photos or

stories that present people in a negative light, even if the facts warrant such coverage.

4. Do not appropriate any photo of any person for any commercial use (such as advertisements, or even for illustrations months after the news event) without permission. For example, if you take a photo of a child's smiling face at the camp swimming pool in July, you might put that photo on the cover of the church newsletter, or even the local newspaper, in August or September –if it is related to a news story inside. But if you produce a brochure entitled, "Your Friends the Adventists," do not use that photo on the cover, or even inside, without permission. That would be a commercial use, even if you give all the brochures away for free.

But there are two exceptions to the commercial use principle. Sometimes you can use a person's picture in a brochure or advertisement without permission. First, assuming that the photo is from a newsworthy event (broadly defined) at a public place, if the individual is not highlighted, but is incidentally visible among a large group of people, it is permissible to use the photo. How many people constitute a large group? Six or eight people is getting toward large. A group of 25 is clearly large. Second, you can use the photo for commercial purposes if the person cannot be identified in the photo. So a back shot, or a portion of a person's body, would be permissible.

Most schools and summer camps incorporate a photo release in the enrollment application, and because parents and their children usually enjoy seeing their faces in print, most people sign it. This is not necessary for news photos, but by signing the statement the student, camper or parent agrees that the child's photo may be used for broader publicity purposes, including brochures, slide shows, Web sites, etc. This also gives the parent an opportunity to NOT grant such permission in case they do not want the child's location known for some reason.

### **WEBSITE rules ...**

The four rules listed above apply to websites as well as print media. Most church websites include both design elements and content. The content, which often includes news, changes frequently, but the design elements are permanent (until a redesign). If you incorporate the photo of any person into the design—for example in an upper corner in conjunction with a logo—you are probably using that person as a model and you must have a release. But news photos that appear with news stories; for example, photos from the most recent youth ski trip, you can put there without getting model releases.

On websites the context of the photo is important. If the photo accompanies a news story, the photo is OK without permission. But if the photo is used to promote the purchase of supplies for Vacation Bible School, then the person is being used as a model and must be asked for permission.

All this assumes, of course, that you have permission from the photographer or other owner of the image to use the photo itself. If photographer Jones takes a picture of a child at a school fair, that image belongs to Jones and is automatically protected by copyright laws. If he submits the photo to you with a news story, you can publish it on a website and in print. But if anyone else wishes to use that photo, in print or on a website, they must obtain permission from Jones.

But aren't there laws prohibiting putting photos of minor children on websites? The answer is no. There are laws about children and websites, but none prohibit putting news photos of

children on websites. The laws most often suspected of prohibiting pictures of children are the Federal Educational Rights and Privacy Act (FERPA, 1974) and the Children's Online Privacy Protection Act (COPPA, 1998 & 2001).

COPPA says "the operator" of a commercial website cannot gather personal information directly from children under the age of 13 for marketing purposes without the knowledge and permission of the parents. COPPA does not prohibit anything on the web. It only says that whatever you are doing, if it involves using the web to gather information from children, you must plainly state what you are doing and you must obtain permission of the parents.

FERPA gives parents of minor students who attend federally funded schools the right to inspect the "educational records" of their minor children and requires that those "educational records" not be disclosed to anyone else. "Educational records" is defined as grades, GPAs, test scores, religion, citizenship and several other items. But this same law also specifies that schools may disclose, without consent, "directory information" such as a student's name, address, telephone number, date and place of birth, honors and awards and dates of attendance. Photographs are not "educational records," and can be published without permission unless the parent has submitted in writing a request that the school not publish their minor student's photo.

However, schools (that receive federal funding under certain programs) must develop privacy policies related to publishing "directory information," and those policies must be communicated to parents at least annually. Parents then have the right to request that some or all directory information for their child not be made public, and the school must honor that request. If a photographer comes onto the campus to develop a news story, it is the responsibility of school officials to let them know what the school privacy policies are, and make sure they are followed.

So, there are no laws prohibiting photos of anyone in print or on the Internet if those photos do not violate the four privacy rules. But to paraphrase the apostle Paul, "Not everything that is legal is wise." Schools, summer camps, youth clubs and churches are probably wise to develop policies that balance the freedom of the press with the protection of children and the comfort of parents. Your church or other organization may have the right to publish photos of members or their children, but those members and guests also have a right to stop attending a church if the church does not respect their wishes regarding privacy.

### **COURTESY: Photos we could use but shouldn't ...**

We photojournalists may have the legal right to publish news photos of anyone we see, but those people also have the right to ask us not to, and sometimes to prevent us from taking their picture. The Mona Lisa was painted and published long before 1923, so it is not protected by copyright. If we take a photo of the Mona Lisa, we can make any number of copies and sell them for any price we want. BUT, the museum that owns the original Mona Lisa has a right to tell us that we cannot bring a camera into their museum. Likewise, schools have the right to tell us we cannot take pictures of their students, and parents have the right to tell us we can't take pictures of their kids. But they have to tell us that in advance; they can't sue us afterward for taking their picture in a public place and printing it as news.

When people tell us they don't want us to take their picture or to publish their picture, we don't. But that rarely happens. If someone walks up to you while you are taking pictures and

says, “Oh, please don’t print that picture because of a custody battle” (or any other reason), it is appropriate and advisable for you to agree to protect that requested privacy.

### **PUBLISHED REQUESTS ...**

If another reputable organization asks to reprint an article, including photos, from Oregon Conference publications, the permission to do this is entirely within the domain of the Oregon Conference.

If anyone requests that a photo or article which has already been published online be removed, the Oregon Conference will consider each request on a case-by-case basis. Typically the Oregon Conference will not agree to such requests because of the nature of news photography described above. But if there is a sensitive personal issue such as domestic abuse or custody case, we will try to accommodate those needs.

*NOTE: Content used in the creation of this document used with permission from the February 15, 2012 GLEANER Church New Photo Guidelines.*