



THE UNIVERSITY OF
TENNESSEE
KNOXVILLE

Photo & Video Permissions Guide & Release Form

Updated July 14, 2021

Images are essential for our storytelling efforts. We use them in our social media posts, in emails, on websites, and in publications. Before using a photo or video, it's best to stop and ask whether you need the permission of those in the photo to use their likeness.

Unless you're selling a product or making a direct fundraising appeal, the university is unlikely to be at legal risk for using someone's likeness in a photo or video. Following the best practices outlined below, however, will minimize potential issues with the awesome images you capture.

The core principle: *Whenever possible let the photo or video subject know you are taking a photo or recording video and how you plan to use that photo or video.*

NOTE: This guidance is about seeking permission from individuals shown in photos or videos to use their likeness, not about seeking copyright permission for using the work of others. If you did not personally capture an image, download it from the university's digital asset management system, or receive it from a source with the express permission to use it to promote the university, you are at risk of copyright infringement and should seek further guidance. Always provide proper credit, or attribution, to the source of any copyrighted images used with permission.

Seeking Permission

Whenever possible, seek permission to take pictures or shoot videos of students, faculty, and staff on campus or engaged in university activities.

A few notes on getting permission:

- Consent does not have to be in writing. If you ask someone if it's OK to take their photograph and tell them what you will use it for and then they say yes, that is sufficient. If you're shooting video, you can record their consent if you'd like.
- If possible, it is best to have the person sign a release form for use of their image. You can save a scan or copy of the completed form in your project files. A sample release form is included below.
- In some situations, common sense can tell you there's implied consent—for example, at a university event where the speaker knows we will feature the event on our website and university photographers are obviously taking pictures of the person. That said, it's better to raise the issue with the person than to rely on implied consent.
- If the person is a minor, they cannot give consent. A parent or guardian will need to give consent, and it's best if they can sign a release form.

Responding to Concerns

If someone pictured in one of your communications objects to their image being used, you should take the photo or video down from wherever it's posted and stop using it, regardless of how the photo is used and what kind of permission you have. If you received the image in question from the university's digital asset management system and someone requests that it no longer be used, please inform the Office of Communications and Marketing immediately.

Fundraising

It's particularly important to be careful about using people's likenesses on webpages and in publications when the purpose is soliciting donations. In those cases, you should obtain specific permission from subjects for your intended use and use those images only for that purpose.

Sometimes you may need photos or videos in communications that are connected to raising money but aren't directly making a fundraising appeal—for example, using a photo of a student on a website that provides information about a university program and also has a page devoted to soliciting donations. As long as a person's photograph is not directly connected with the solicitation (that is, on the same web page as the solicitation), the additional guidance about fundraising uses does not apply.

FERPA Consent

Be especially mindful about the [Federal Educational Rights and Privacy Act](#), or FERPA, which protects information connected to students' education. Be sure to obtain a signed permission form when capturing photos or videos of a student in a classroom or classroom-like setting such as a lab or studio. This is especially true for photos and videos that focus specifically on a student's educational process, such as a student making a presentation to the class as part of their coursework. The photo and video release form below includes a FERPA release.

Crowd Shots

It's OK to use crowd shots that are truly shots of a crowd in a public place without the express permission of those in the photo. Generally a crowd is defined as having at least three to five people in the photo, but the more the better. A photo featuring an individual who happens to be surrounded by other people is not considered a crowd shot.

Questions?

[Contact the Office of Communications and Marketing](#) for guidance, clarification, or questions regarding photo and video permissions.

Additional Legal Background

The Tennessee Personal Rights Protection Act of 1984 (TPRPA) codified at Tenn. Code Ann. §§ 47-25-1101–1108 has a basic provision that says:

“Any person who knowingly uses or infringes upon the use of another individual’s name, photograph or likeness in any medium, in any manner directed to any person other than such individual, as an item of commerce for purposes of advertising products, merchandise, goods, or services, or for purposes of fund raising, solicitation of donations, purchases of products, merchandise, goods, or services, without such individual’s prior consent, or, in the case of a minor, the prior consent of such minor’s parent or legal guardian, or in the case of a deceased individual, the consent of the executor, administrator, or heirs, or devisees of such deceased individual, shall be liable in a civil action.” Tenn. Code Ann. § 47-25-1105(a).

This statute *does not prohibit all uses* of someone’s photograph. As the courts have interpreted this statute, it’s largely limited to making money off someone else’s name or likeness. Even then, it’s typically only seen as prohibiting use if the person featured is famous in some way. In a recent Tennessee court decision, involving a person who was upset because a photograph taken of him decades earlier when he was a child was being used to advertise Moon Pies, the Court explained that “Celebrity or average Joe, the key is that to assert the right of publicity, a plaintiff must demonstrate that there is value in associating an item of commerce with his identity.” *Wells v. Chattanooga Bakery, Inc.*, 448 S.W.3d 381, 390 (Tenn. Ct. App. 2014) (internal quotation marks omitted). The court dismissed the case because the person who was suing was “neither a model nor a celebrity and there are no facts indicating that his identity is commercially valuable.”

Statutory Fair Use

The TPRPA says, “It is deemed a fair use and no violation of an individual’s rights shall be found, for purposes of this part, if the use of a name, photograph, or likeness is in connection with any news, public affairs, or sports broadcast or account.” Tenn. Code Ann. § 47-25-1107(a).

Crowd shots

The TPRPA says, “It is no defense to the unauthorized use defined in subsection (a) that the photograph includes more than one (1) individual so identifiable; provided, that the individual or individuals complaining of the use shall be represented as individuals per se rather than solely as members of a definable group represented in the photograph.” Tenn. Code Ann. § 47-25-1105(c).

Students in classroom settings

The Department of Education’s [guidance on FERPA and photos of students](#) gives examples of the kinds of student photos that could be an education record, including “The person or entity taking the photo or video intends to make a specific student the focus of the photo or video (e.g., ID photos or a recording of a student presentation).”

They go on to say that a photo should *not* be considered an education record “if the student’s image is incidental or captured only as part of the background, or if a student is shown

participating in school activities that are open to the public and without a specific focus on any individual.”

They also note that “schools often designate photos or videos of students participating in public events (e.g., sporting events, concerts, theater performances, etc.) as directory information.” UT has done that in defining directory information as including “participation in school activities and sports and photographs of such.”



THE UNIVERSITY OF
TENNESSEE
KNOXVILLE

Photo/Video Release Form

Updated July 14, 2021

I, (print name) _____, hereby give my consent for photographing, filming, audio and video recording, reproducing, distributing, streaming, and/or transmitting signals of my image and voice, and release to the University of Tennessee all rights of any kind to the materials in which I appear, including to the extent they constitute an educational record under the Family Educational Rights and Privacy Act (FERPA).

This is a full release of all claims whatsoever I or my heirs, executors, administrators or assigns now or hereafter have against the University of Tennessee, or its employees, as regards to any use that may be made by them of said photographs, reproductions, films, audio and video recordings, streams, or transmissions. Further, I acknowledge that my name and biographical material, portrait, picture, likeness, or voice may be used for purposes consistent with the University of Tennessee's mission of teaching, research, and service, including the promotion and publicizing of the materials in which my image and/or voice appear. Such uses as may be made will not constitute a direct endorsement by me of any product or service. I have read this entire document, understand the contents, and I have willingly agreed to the above conditions.

Date: _____

Name (print): _____

Address: _____

Signature: _____

Name of Parent/Guardian (if under 18): _____

Signature of Parent/Guardian (if under 18): _____