

USE OF PHOTOGRAPHS AND VIDEO RECORDINGS OF PATRONS

Librarians often like to take photographs or videotapes of patrons using the library and participating in library programs. Over the years, our library clients have raised questions and concerns regarding taking such photographs and using them on a website or in promotional materials for the library, such as a newsletter. This update is intended to address some of the issues related to using such photographs and videotapes.

In general, people only have a right to privacy in a place where there is an expectation of privacy. There is no expectation of privacy in public places, such as library buildings. Therefore, if photographs or videotapes are taken in a public part of a library, they usually do not violate a patron's privacy rights and photographs and videotapes may be taken by library employees.

People, especially parents, however, often have safety concerns regarding the use of a photograph identifying a minor child. In addition, parents are used to providing consent for the use of a child's photograph or image by a public school due to state statutes governing Illinois school districts. To address these concerns, we recommend that you obtain consent prior to using a photograph or video that contains an image of a library patron. We recommend that you obtain consent regardless of whether the photo or video identifies the patron by name.

There are two ways to obtain consent. First, you can adopt a policy that governs use of photos of patrons and advises patrons that if they participate in your programs and services, they automatically provide consent for the use of photographs. The policy should notify patrons that photos or videos of patrons participating in library programs and activities may be used in future library publications or promotions. The policy should also provide patrons with an opportunity to "opt out" of the use of a photograph



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of themselves or their children. You may also provide that patrons may not take photos or videotape library programs without the consent of the library and patrons participating in the program.

The second way is to obtain a signed consent form before using a patron's photograph. You should obtain consent to use the photograph and to identify the person by name, if you intend to identify the person. Parents may be more likely to allow for the use of a photograph of their child if the child is not identified by name. The consent form also waives any claims against the library as a result of the use of the photograph or image.

Even if consent is provided, the library should not use a photograph if it casts the person in a false light. For example, a photograph of a patron holding a book with the headline, "Library patrons often deface books" is not acceptable.

In summary, we recommend that libraries obtain consent prior to using any photograph or other image of a patron, whether the patron is identified by name or not. Your library may want to consider adopting a policy in addition to obtaining written permission whenever a patron is identified by name in a library publication or on the library's website.

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