Student Photographs and Privacy

Do Schools need to comply?

Yes under the provisions of the Privacy Act 1988 (Cth).

Conditions of compliance:

The Privacy Act 1988 (Cth) covers the use of personal information, i.e. information that identifies a person. A photograph or digital image of a student is personal information about that student. Therefore a school should handle the use of student photographs with regard to the privacy of the student and their family.

If you have to comply, what do you have to do?

The Privacy Act 1988 (Cth) aims to strike a balance between the free flow of information and the individual’s right to privacy. Information privacy gives an individual the right to control how their ‘personal information’ is collected and used and to limit who gets to know of this information.

For schools this means that, in some circumstances, students and parents have the right to consent to the disclosure of student images. In general student images are used to:

   a. Record student participation at school and in school events
   b. Celebrate student effort and achievement
   c. Promote the school and events held by the school.

These uses are a vital part of a school environment and the Privacy Act 1988 (Cth) does not dramatically change these activities. However, given the different modes of recording and delivery and increased concern over the widespread availability of student images, schools are encouraged to:

   1. **Notify parents and students of the current practices when using student images.**

      Inform parents and students of the school's usual approach to taking and using student photographs and give them an opportunity to request limitations on how photographs of their child or themselves may be used.

   2. **Develop a policy on the use of student images that recognizes good practice with regard to child protection.**

      Such a policy should:

      - be developed in consultation with parents
      - apply to all images, including postings on the Internet, films and video recordings
      - be based on the consent of the student and/or parent

   3. **Develop a standard approach to notification of, and consent to, the usual uses of student photographs.**
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- Allow for separate consent for sensitive uses of student images, i.e. for publication on a website or in the press.
- Negotiate an agreement with the local press that student photographs will not be put on a newspaper website.
- Consent for the use of student photographs can be sought at the time of enrolment but not be ‘bundled’ with consent for other activities. It should be a separate consent as part of the general form or as a separate form.
- The consent form should not seek ‘blanket’ consent, i.e. asking for permission to use student photos however the school see fit.
- A general consent to the usual uses followed by specific consent to intranet/internet use of student images is advised.
- Separate consent will still be required when using student-created work to obtain release from copyright obligations.

What are the consequences if you don’t comply?

You may be in breach of the Privacy Act 1988 (Cth).

See also:

Privacy Compliance Manual for Schools

Useful links:

Office of the Australian Information Commissioner