

# USE OF PHOTOGRAPHY

## FEDERAL AND STATE LAW AND UNIVERSITY POLICIES

Federal and state law, and University policy, govern the University's use of photography that includes students. The federal law is the Family Educational Rights and Privacy Act (FERPA), the state law is Washington State's publicity rights statute, and the University policy is this Use of Photography policy together with the University Photography Release.

## FERPA: FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT\*

The federal law known as FERPA protects the confidentiality of certain information and records pertaining to students that the University maintains. Unless the student consents (or a FERPA exception applies), the University is prohibited from disclosing to third parties information from a student's education records. FERPA permits the University to define several types of student information as "directory information," which the University may disclose to third parties without the student's consent unless the student has requested in writing that the University NOT disclose directory information about that student. Seattle University defines "directory information" as:

- Student name, campus address, campus phone, and SU e-mail address
- Major field of study
- Dates of attendance
- Degrees and awards received
- Grade level
- Enrollment status
- Name of the most recent previous educational institution attended
- Participation in official activities or sports
- The weight and height of members of athletic teams
- Photographs (for University\* use only)

Therefore, if a student has not requested that the University maintain the confidentiality of the student's directory information, the University is not prohibited by FERPA from using and publishing photographs of the student solely for University purposes. The University's use of the photographs, however, must comply with Washington publicity rights statute (RCW 63.60.010-080). The Washington law declares that every natural person has property rights in the use of his or her name, voice, image or other specified indicia of his or her unique persona that can be infringed if used without permission to advertise tangible products or services or for fund-raising or solicitation of donations. Therefore, without additional consent of the students, the University cannot distribute or publish students' identifiable images, whether in print or electronic form, to organizations outside the University.

[\*Note: (1) The School of Law independently manages FERPA for law students' information. The School of Law's definition of directory information does not include photographs. (2) The Athletics Department independently manages the photography of student-athletes pursuant to FERPA and NCAA regulations.]

## **UNIVERSITY PHOTOGRAPHY RELEASE**

This University Use of Photography policy includes the University Photography Release. The Photography Release is used with subjects, such as staff, faculty, and alumni, who are not covered by FERPA. The Photography Release should also be used with students who are covered by FERPA but who the University will be using or promoting in a significant way in either a print or electronic medium (for example, on the Internet or in slide shows or videos). The Photography Release clarifies the rights and responsibilities of both the student and the University.

## **GENERAL CAMPUS AND EVENT PHOTOGRAPHY**

As a general rule, it is not necessary to obtain a release for any individual or group photographed in a public venue or while attending a public event. This includes all public spaces across campus from exterior walkways, entry ways, atriums, sports fields and classrooms. Individuals have a very limited scope of privacy rights when they are in public spaces. Basically, persons can be photographed without their consent except when they have secluded themselves in places where they have a reasonable expectation of privacy (for example, in dressing rooms, restrooms, medical facilities, homes and dorm rooms).

If, however, an individual is photographed while in a public space and is recognizable in the photograph, a Photography Release should be obtained if the photograph will be distributed or published to organizations outside the University or posted on the Internet. It is important to obtain a Photography Release for any photograph that will become the centerpiece of a marketing or advertising initiative.

Please note that the University's policy is to restrict the use of any photograph to the representation, marketing, or promotion of University activities only. The University also commits to honor, to the extent practicable, any request to cease in the use of a photograph.

This policy is intended to address the typical circumstances in which a question arises about the use of photography. The policy does not contain a thorough explanation of the impact on the University's activities of the Washington state publicity rights law. Please direct any questions to the Office of University Counsel (206-296-2043).