

PHOTOGRAPHY/MEDIA CONSENT AND RELEASE FORM PROCEDURE

This procedure is governed by its parent policy. Questions regarding this procedure are to be directed to the identified Procedure Administrator.

Functional Category:	Operations
Parent Policy:	College Marketing Policy
Approval Date:	May 1, 2018
Effective Date:	May 1, 2018
Procedure Owner:	Vice President, External Affairs and Brand
Procedure Administrator:	Manager, Storytelling

Overview:

NorQuest College (college) staff and contractors respect individuals' right of privacy and the right of publicity when planning or engaged in college-related image capture for editorial, commercial, or educational use. This procedure governs obtaining, managing, and archiving individuals' consent for the use of photography/media personal information in a consistent manner to:

- protect the privacy and publicity rights of the individual under the *Freedom of Information and Protection of Privacy (FOIP) Act*,
- protect the freedom of expression rights of the college under the *Canadian Charter of Rights and Freedoms*, and
- ensure the college fulfills its privacy responsibilities under FOIP.

Authority to establish this procedure is derived from the [NorQuest College Board of Governor's Policy No. 5](#), which delegates authority to the President and CEO to establish policies and procedures for the college's management and operation.

Procedures:

General Considerations

- Photographers/videographers do not need permission from individuals to take their picture if they are in public or attending a public event.
- Attendees at college public events will be advised by event signage and/or notices in printed materials that photographs, videos, recordings, etc. may be taken during the event and used and disclosed for NorQuest promotional purposes, which may include incorporation in *educational materials, publications, and media*. Attendees may or may not be required to sign a Consent and Release form, as per these Procedures.
- Under all circumstances, college photographers/videographers or contracted photographers/videographers will immediately stop photographing or recording a subject if asked to do so.
- Images of a subject taken without a signed Consent and Release Form will be removed from the college's Internet properties (including publicly-accessible: websites, official social media sites, and online directories) if the subject makes it known to NorQuest that he or she objects to the image being disclosed.
- Images of a subject taken without a signed Consent and Release Form and used in print will not be reprinted without removing the image if the subject makes it known to the college that he or she objects to the image being disclosed.

Consent and Release Form Use

A Consent and Release form IS required:

- when the individual(s) is/are the subject of the photograph, image, or recording and are easily identifiable and

- if a photo, image, recording, etc. is to be disclosed and used externally or commercially (i.e. outside of the college, to market or promote the college, in paid media, in curriculum available outside of the college, etc.).
- Consent form must include the purpose for which the photo, image, recording, etc. will be used.

For subjects under 18 years of age, a parent or guardian must sign a Consent and Release Form.

A Consent and Release form is NOT required:

- If the photograph, image, or recording is made at a public place where signage is posted indicating recording/photography will be taken and used publicly.
- If the individual(s) in the photograph, image, or recording is/are not easily identifiable (i.e. faces are obscured, out of focus, or not visible).
- If the images will not be disclosed or made accessible outside of the college in paid media.

Consent and Release Form Management

- A signed [Consent and Release Form](#) will be obtained as noted above and the following information documented for future reference.
- The physical signed Consent and Release Forms will be kept on file in External Affairs & Brand or with the college area who has taken/contracted the images, along with the following information:
 - original name of project/event
 - subject's/subjects' name(s)
 - photo/image/recording file number(s) and location of the electronic files and/or hard media containing the electronic file
 - date
 - photographer/videographer name
- A digital image of the Consent and Release Form will be made and filed along with the information above in the centralized electronic file system.
- Photographs, recordings, and images folders will also be marked as RELEASED to indicate Consent and Release Forms have been obtained and filed for the images.
- Photographs, recordings, and images that have not been properly released will be deleted or stored in folders in the centralized folder marked as FOR INTERNAL USE ONLY.

Removal of an image:

If a student or employee of the college wants to make it known to NorQuest that he or she objects to an image of himself or herself being disclosed, he or she can contact External Affairs & Brand at Consent.Recording@norquest.ca or the Compliance Office at FOIPinquiries@norquest.ca.

Additional Considerations

- It is preferable to advise individual(s) prior to capturing the images that they will be photographed/recorded.

- It is preferable to have the consent and release form signed after the photography/recording session to avoid later claims by the individual that he or she did not know the extent of the images captured.
- In the event the individual(s) will not sign a release form, that image will be deleted and/or marked as not available for use externally to the college at the time the image is taken, and managed as described in these Procedures.

Definitions:

Commercial use/paid media: images and recordings used commercially (i.e. in advertising purposes designed to generate commercial demand or gain) should have consent for those purposes from the individuals depicted except as noted in other legislation such as FOIP. Examples of commercial use/paid media include brochures, advertisements, posters, and billboards, both in print and electronic forms.

Editorial use: uses photography/digital image/recordings to convey information and tell a story. Journalism and artistic purposes have more latitude to use images than commercial purposes due to freedom of expression. Editorial photos/images/recordings can be published as part of a magazine story, newsletters, or Internet articles, etc. The main legal restriction concerning editorial use comes from defamation laws. Ethical considerations (i.e. publishing images of distress or suffering) should be respected.

Freedom of Expression: one of the Fundamental Freedoms protected by the Canadian Charter of Rights and Freedoms. Section 2(b) of the Charter protects "freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication."

Image: includes photographs, digital images, digital recording, recording, or other image capture.

Public event or activity¹: "For the purposes of the Act's exception for personal privacy, a *public event or activity related to a public body* means something of importance that happens or takes place, a particular occupation or pursuit that is staged in public or is of a public nature, and is connected with the public body's mandate and functions and organized or sponsored by the public body.

An event or activity would be considered public if it was open to the public in general, or to a section of the public. The event or activity may be completely open and accessible to the public without charge, or access may be restricted because of the nature of the event or activity, for example, through ticket sales.

The fact that an event or activity that took place on the premises of a public body was observable by a member of the public does not make it a public event or activity."

Public place: means any property, whether publicly or privately owned, to which members of the public have access as a right or by express or implied invitation.

¹ As defined in the FOIP Guidelines and Practices document published by Service Alberta.

Related NorQuest College Information:
Related External Information:
Next Review Date:
Revision History:

Right of Privacy: places certain restrictions on the publication of photographs, videos and films, preventing other people from seeing a person’s image unless he or she wants it to be seen.

Right of Publicity: gives a person certain controls over his public image by granting the individual the right to exploit his own image, create a public persona, or to earn income from appearances.

- [Consent and Release Form](#)
- [Protection of Privacy Procedure](#)
- [Canadian Charter of Rights and Freedoms](#)
- [FOIP Guidelines and Practices \(2009\), Appendix 1: Definitions](#)
- [Freedom of Information and Protection of Privacy Act](#)

February 2022

March 2014: new
 November 2014: update for document standards
 April 2018: update for names, adjust notification, consent form usage criteria.
 August 2019: Compliance Office template & reorganization update