



Image rights at School

INTRODUCTION

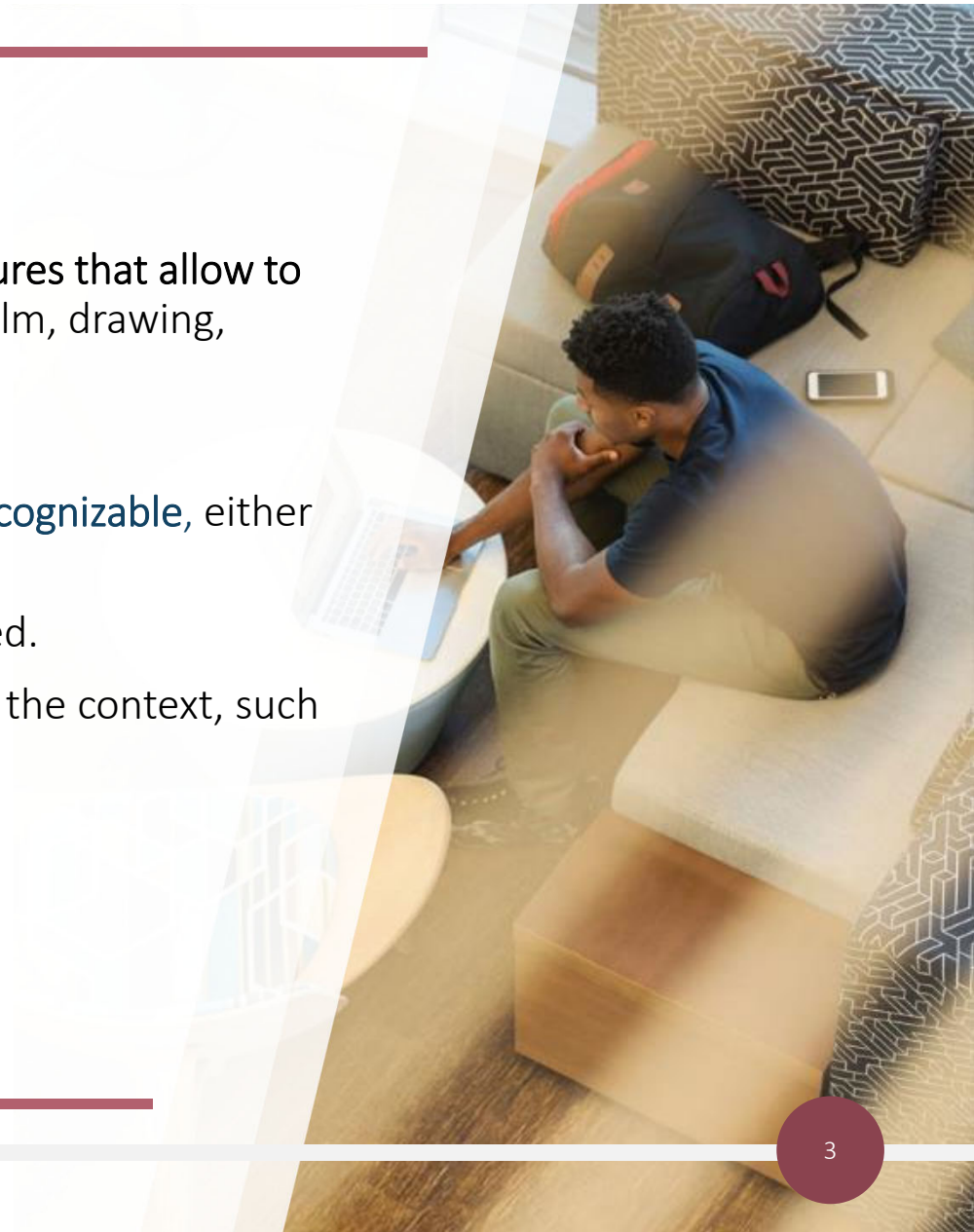
“Image rights” - Definition

Any individual has the right to control his image, i.e. the features that allow to identify him, whatever the medium or format used (photo, film, drawing, painting, sculpture, comics, video game, figurine, etc.).

To invoke that right, the main criteria is for a person to be **recognizable**, either by himself or his relatives.

The image of the body parts may, in some cases, be protected.

Sometimes the features of a person can be identifiable from the context, such as a picture's caption.





gwynethpaltrow • S'abonner

gwynethpaltrow 🍷🍷❤️

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heckman04 @taylah_paris 🤪 omg you're seriously hysterical.

jenniezein On Children
Kahlil Gibran

Your children are not your children.
They are the sons and daughters of Life's
longing for itself.
They come through you but not from you,
And though they are with you yet they
belong not to you.

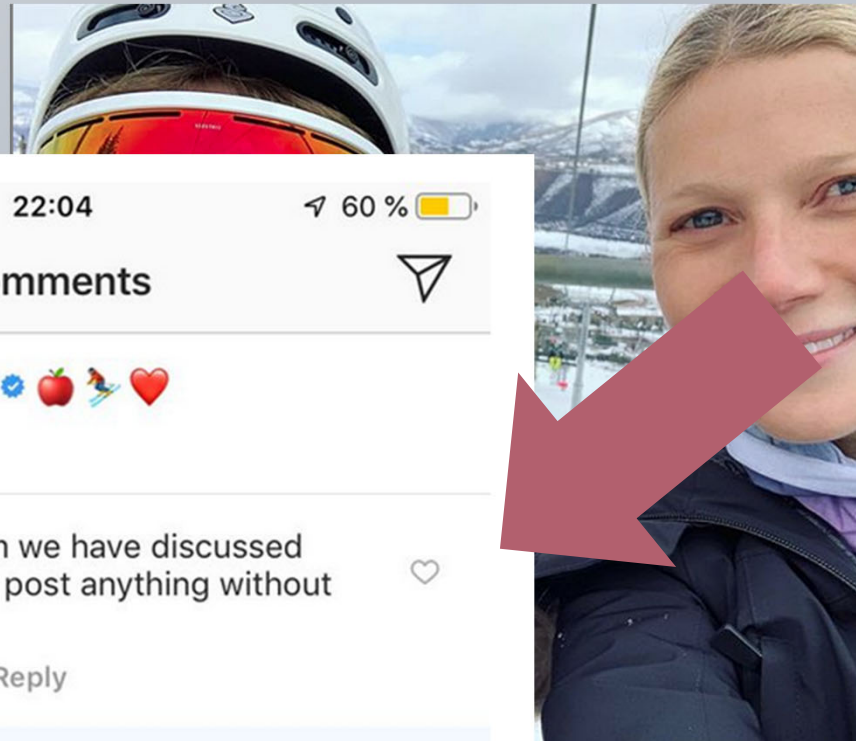
You may give them your love but not your



163 231 J'aime

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Verizon 22:04 60 %

Comments

gwynethpaltrow 7h

applemartin Mom we have discussed this. You may not post anything without my consent.
6h 1 166 likes Reply

gwynethpaltrow @applemartin You can't even see your face!
6h 965 likes Reply

INSTAGRAM

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gwynethpaltrow 🍎🥰❤️

Charger d'autres commentaires

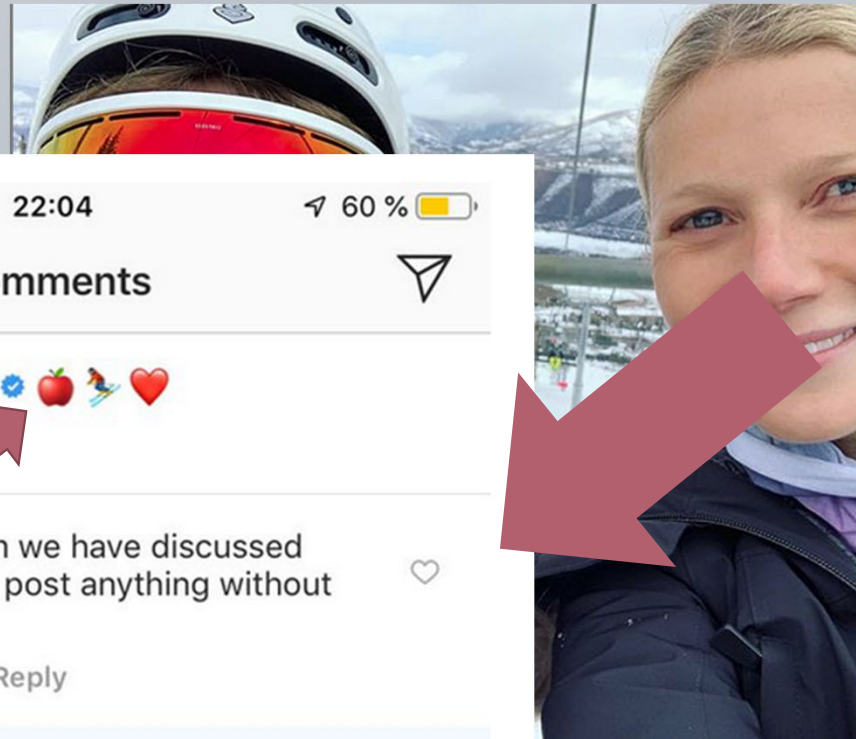
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When a person is identifiable, his/her **consent must be obtained beforehand** to:

- **Take his picture** : Before taking the picture of a person, it is necessary to obtain his consent.
- **Publish his picture** : The fact that a person has agreed to be photographed does not automatically imply his consent to the publication, dissemination or use of his image.

It is therefore necessary to be vigilant since these two consents are separate and must be requested.

NB: In the case of minors, the consent of the legal guardians must be requested. Even if the minor is deemed to be capable of discernment (12-14 years old), the written and signed authorization of the child's legal representatives remains necessary for the dissemination of his picture, even in a School magazine.



Are there any exceptions ?



In certain circumstances, the consent of the person represented may be presumed.

This is the case when:

- There is a **crowd** (≠ group !):
 - School activities that gather the whole community, such as the SpringFest, do not require a prior individual consent. Parents and pupils are simply notified that by entering the premises, they agree to their image being taken.
- **Passers-by** in public places that are inadvertently included in a pictures (example, photo of the Eiffel Tower on which appear other tourists) ;

Are there any exceptions ?



In certain circumstances, the consent of the person represented may be presumed.

- **Public figures** taken in the exercise of their functions / activities (example, photo taken during a concert) ;
- For **personal and private use** (example, family photo);
- Under some circumstances, **journalists** are not required to ask for consent – **right to information** >< **right to privacy**.
 - This exception does not apply on School premises. Journalists must obtain the School management's prior approval to film within our walls. Parents' consent is moreover sought given that this activity is not covered by the SMS consent form.

PRACTICAL IMPLEMENTATION

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The use of pictures at School

1. How does the School obtain a valid consent from the parents ?
2. What rules apply to pictures taken by other parents during School events ?
3. Good practices implemented at School

CONSENT



I – Consent form available on SMS

Consents Year 2020-21

Consent	Status	Given by	On the
Yearbook	Given	[REDACTED]	06/10/2019 14:34:44
Newsletter/Gazette/Magazine	Given	[REDACTED]	06/10/2019 14:34:44
Website	Given	[REDACTED]	06/10/2019 14:34:44
Communication to parents/Class activities	Given	[REDACTED]	06/10/2019 14:34:44
Communication to parents and teachers/ Joint activities	Given	[REDACTED]	06/10/2019 14:34:44
Association of name	Given	[REDACTED]	06/10/2019 14:34:44

I – Consent

The consent form available on SMS namely authorize the School to:

- ✓ Take pictures during “**school activities**” - a generic term to allow teachers to photograph pupils in class and not only during school trips / shows ;
- ✓ **Share** them through **Office 365 accounts only** (SharePoint, OneDrive, etc.) – The School prohibits, in that regard, the use of social media (WhatsApp, Facebook, Twitter, Instagram, etc.);
- ✓ The retention period has been set to one year. All photos from the previous school year are be erased by **31 December at the latest.**
- ✓ The consent form is valid for the Cycle (Nursery, Primary or Secondary) and must be renewed for the next cycle (Primary or Secondary);

What rules apply
to pictures taken
by other parents
during School
events ?

II – Pictures taken by parents at School

- ✓ The **School hasn't banned parents from taking photos at School events**. This seemed indeed somewhat unreasonable as most parents take these kind of pictures for memory's sake and do not intend to post or publish them online.
- ✓ The taking of pictures at School activities, such as the Christmas carol concerts, plays, Springfest, etc., by parents is considered a “**household activity**” under GDPR, i.e. processing of personal data by a “natural person in the course of a purely personal or household activity” with no connection to a professional, business or commercial activity, that falls outside its scope.

II – Pictures taken by parents at School

- ✓ Recital 18 of GDPR specifies moreover that “*Personal or household activities could include (...) **social networking and online activity** undertaken within the context of such activities.*”.

In other words, a mother who captured the image of another child while snapping her own at a School event could publish that picture on her Facebook account (given that her account is private). This does not prohibit the parent of that other child, who would be uncomfortable with such publication, to ask said mother to remove the photo from her social account.

- ✓ **The School cannot intervene** in the data sharing of pictures taken by parents during School activities as it is not the “data controller”,

GOOD PRACTICES



III – Good practices | Taking / sharing pictures



✓ **Think before you take a picture:** Teachers are invited to ask themselves, **is this picture really necessary?** Does it really illustrate a pedagogical situation?

- ✓ **Changing of approach:** Teachers have been trained to focus more on the **learning activity itself** (*photos of the pupils' hands painting, for example*) rather than pupils. By changing their approach, they can also avoid the pitfalls of image rights (*double consent, erasure of photos after the retention period, etc.*) as the processing of large amounts of data can be time consuming;
- ✓ **Sort the photos:** Teachers have been asked to keep only the most **relevant ones** related to their educational mission and delete the others during “editing”.



Flea market





ANY QUESTIONS ?



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