

Subject: Use of Photographs

Effective: March 2011

Revised:

1.0 PURPOSE

This policy sets standards for:

- taking photographs (including video) of people and events held by New Brunswick Public Library Service (NBPLS);
- the subsequent use of those photographs ; and
- the copying of unpublished photographs held in NBPLS collections.

2.0 APPLICATION

This policy applies to all NBPLS staff, volunteers, and trustees.

3.0 DEFINITIONS

An **identifiable image of a person** displays the person's individual characteristics such as hair, eye, or skin color; gender; or ethnic origin so that the identity of the person is obvious.

NBPLS, for the purpose of this policy, refers to all New Brunswick Public Library Service offices, libraries, bookmobiles, staff, volunteer, and trustees.

Photograph or photo is defined as an image of a person, place, or thing and may be the product of still photography or video recording.

4.0 LEGAL AUTHORITY

[Copyright Act.](#)

[New Brunswick Public Libraries Act.](#)

[Right to Information and Protection of Privacy Act.](#)

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5.0 GOALS / PRINCIPLES

- Use of photographs is a valuable tool in research, in the promotion of NBPLS services, and the documentation of history.
- Photographs featuring images of people of any age are understood to disclose personal information whenever they are viewed or displayed.
- NBPLS makes every effort to ensure that no photograph of a person or persons is ever used without first obtaining consent (as described in this policy) from each identifiable person in the photograph.
- Copying of unpublished photographs is done in compliance with the Copyright Act.

6.0 REQUIREMENTS / STANDARDS

6.1 PHOTOGRAPHING NBPLS EVENTS

6.1.1 OBTAINING CONSENT – NBPLS staff are to obtain consent from individuals whose images are to be photographed, or whose images are identifiable in existing photographs, before those photographs are used for any public purpose. Consent, for the purposes of this policy, is indicated by a release form containing the following information:

- the printed name of each individual appearing, or to appear, in the photograph;
- the signature of each individual appearing, or to appear, in a photograph (or a person with legal authority to act on the individual's behalf);
- the name, date, and location of the event at which the photograph is to be (or was) taken;
- the purpose for taking the image/ intended use of the image (e.g., publication in a local newspaper, press release, or a library's newsletter, blog, social networking site, or website; inclusion in a library scrapbook or display);
- a statement giving consent for each person's image, as it appears in photographs taken during the indicated event, to be used for the indicated purpose(s);

- a statement indicating whether the person's name will or will not be used to identify his or her image; and
- a note explaining that, during the time the photograph is held by NBPLS, a person whose image appears in the photograph, may request access to the photograph, and NBPLS will make every reasonable effort to comply with that request.

6.1.2 Consent prior to photography – In general, consent is to be obtained from all participants in NBPLS events or activities before photographs are taken by NBPLS staff, board members, volunteers, or photographers acting on behalf of NBPLS, except when the person is:

- A member of the NBPLS staff (in which case, he or she may be informed, as a courtesy, that photographs will be taken); or
- A politician or dignitary attending the event in his or her official capacity (in which case, a mention that photographs will be taken will be included, as a courtesy, in any invitation).

6.1.3 Consent as part of registration – Consent can be obtained as part of the registration process for programs. In such instances, the authorization is limited to photographs taken during the program and the purposes identified on the release form.

6.1.4 Multiple signatures release forms containing all the information required for consent as identified above and including spaces for multiple names and signatures may be used. In such instances, information required for consent must appear on each page in which a signature also appears.

6.1.5 Consent for photographs already in existence – In the case of existing photographs for which prior consent was not given, or in instances when the intended use of the photograph is not the same as that for which consent was given, consent must be obtained from individuals whose images are identifiable in the photograph before the photograph is used. The same elements as defined in section 6.1.1 above are required, with the following exceptions:

- If the date on which the photograph was taken is not available, the photograph may be indicated by a title or general description (e.g., "Photo of Campobello Public Library on a summer's day").
- If the photograph is being kept solely for historical purposes, for example, in a library file that is not intended for public viewing, it is not necessary to obtain a release in order to keep the photo.

- If the person in the photograph is known to be a current or former member of the NBPLS staff, the person may be informed of the intention to use the photograph as a courtesy, but consent is not required.
- If the person in the photograph is a politician or dignitary acting in his or her official capacity, the person may be informed of the intention to use the photograph as a courtesy, but consent is not required.

6.2 RECORDS MANAGEMENT OF PHOTOS AND RELEASE FORMS

- 6.2.1** Photos and release forms are confidential and should be treated as such as long as they are kept.
- 6.2.2** In accordance with NBPLS Policy 1060 – Confidentiality of Personal Information about Patrons, release forms are to be retained with the photograph as long as the photograph is kept.
- 6.2.3** A person may request access to view a photograph and/or corresponding release form held by NBPLS which contains his or her information or image.
- NBPLS staff are to make every reasonable effort to provide the person with access to the release form and/or photograph containing his or her image as long as the photograph is held by NBPLS.

6.3 COPYING UNPUBLISHED PHOTOGRAPHS HELD IN LIBRARIES

- 6.3.1** NBPLS may have unpublished community-based photographs (in addition to activity, event, and program photographs) that have been given to a library by an organization or a member of the public. These photographs cannot be copied unless:
- permission to do so has been obtained from copyright holder (typically the owner of the film/ camera used);
 - the copy is to be used solely for research or private study. (See [section 29 of the Copyright Act](#));
 - the copy is to be used for criticism or reporting and appropriate attribution (as defined in [section 29.1 or 29.2 of the Copyright Act](#)) is included; or
 - the term of copyright has ended, and the photograph is in the public domain,

- when copyright is held by an organization, rather than a person, the term ends 50 years after the date of the photograph;
- when the copyright is held by an individual, the term ends 50 years after the death of the individual. (See [section 6 of the Copyright Act](#)).

6.3.2 It is not an infringement of copyright for NBPLS staff, volunteers, or any other persons acting on behalf of NBPLS, to copy a photograph on behalf of a patron, if the patron could do so personally under the Copyright Act. (See [section 30.2\(1\) of the Copyright Act](#)).

6.3.3 It is not an infringement of copyright for NBPLS staff, volunteers, or any other person acting on behalf of NBPLS, to make a copy of a photograph for maintenance or management of the NBPLS permanent collection:

- if the original is rare or unpublished and is deteriorating, damaged, or at risk of becoming damaged or lost;
- for the purposes of on-site consultation, if the original is too fragile to be handled or requires particular atmospheric conditions;
- if alternative formats of the original are in an obsolete format or the technology required to view the original is unavailable; or
- for internal record keeping, insurance, or restoration purposes.

However, the above reasons do not apply where an appropriate copy is commercially available in a medium and of a quality that is appropriate for the purposes. (See [section 30.1 of the Copyright Act](#)).

6.4 STAFF RESPONSIBILITIES

6.4.1 It is the responsibility of NBPLS staff to ensure that:

- Release forms are created and signed whenever photos are taken on behalf of NBPLS;
- Release forms are filed and managed in a confidential manner;

- Photographs are used according to the condition of the release form;
- Photographs are retained only as long as they are needed;
- Unpublished photographs are copied only as allowed under section 6.3.

7.0 GUIDELINES / RECOMMENDATIONS

It is recommended that all NBPLS service points (libraries, bookmobiles, and provincial and regional offices) develop and document local practices for retaining photographs.

8.0 REGIONAL GUIDELINES AND PROCEDURES

In consultation with the Provincial Office, Regional Directors may develop additional guidelines and procedures consistent with and necessary to support this policy.

9.0 REFERENCES

Copyright Act. (<http://laws.justice.gc.ca/en/C-42/index.html>).

New Brunswick Public Libraries Act. (<http://www.gnb.ca/0062/acts/acts-e.asp>).

Right to Information and Protection of Privacy Act. (<http://www.gnb.ca/0062/acts/acts-e.asp>).

Related NBPLS Policies:

New Brunswick Public Library Service. Policy 1060 – Confidentiality of Personal Information.

10.0 CONTACTS FOR MORE INFORMATION

NBPLS Provincial Office, (506) 453-2354

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