

Fundraiser and IEP Students

If a promotion focuses on raising funds for IEP initiatives, can the teachers who take part share pictures of their IEP students online? They are worried about highlighting the students who have a disability.

I would think that would be a gross violation of the kids' privacy if done without the parents' permission.

Scott I. Barer, California

I agree. Best to avoid any kid pics without permission but probably fine for the teacher to post herself or her classroom (no kids).

Elizabeth Cuccinello, New York

My kids' school always had us sign a publication release form at the beginning of the year which allowed parents to either approve or refuse pictures of their child used in publications. We had to sign one every single year since they started school (including in preschool). As we did this in 2 different states, I sort of assumed this was common practice. We even had to sign these types of forms for the YMCA summer camp each year.

If teachers are concerned, they can seek out additional permission (if they don't already have it) try to use pictures that would have both IEP and non-IEP students, or pictures that limit ability to identify the child (picture of the teacher teaching but you can only see the tops/backs of kid's heads etc)

Erin M. Schmidt, Ohio

There is a huge difference between the waiver I sign allowing my kids to be photographed/videotaped by the school district AND highlighting that a child has special needs. And, I don't care if the special need is something like a hearing aid that cannot be seen or a wheelchair that everyone knows.

You can opt your kid in or out (depending on your district) of regular pictures all you want. But a district cannot post anything that shows that a student is on an IEP or may highlight the students disability.

Jonathan Stein, California

Two issues that should be considered are:

1. Would such a use constitute a violation of the Family Educational Rights and Privacy Act (FERPA)?
2. Would such a use constitute an unauthorized use of the name, portrait, or picture of a living person for advertising purposes?

Bert Krages, Oregon

I have donated to a number of DonorsChoose campaigns. I think it's a great option for teachers. The pictures that accompany them range from pictures of students doing an activity (a quick search today brought up one with some students cooking) to pictures of the classroom without the teacher or students. I have also seen a number of them that use stickers to hide students' faces. I would hope that a teacher looking for donations to fund activity X or project Y would ask permission of the parents first before posting their image.

There is also a question of why the picture was taken in the first place.

Was it taken for yearbook purposes, but now it's being used in a social media campaign to get an initiative passed in the legislature? Maybe the parents don't like that particular initiative.

The pictures have never really affected whether I donate, because I'm looking at what they want and whether I think it's reasonable. And of course, whether it's something for my kiddo's particular classroom or just someone else in the community. I doubt the pictures are needed to tell the story. If they do want a picture, I'm sure they can buy a picture from a stock photo company to use.

Corrine Bielejeski, California

Requires express permission with disclosure to show the students. A regular school permission for use of photos would not suffice, to my view. One would need to structure and obtain permission for the specific fundraiser. I am less clear on what permissions would be required if pictures were

suitably blurred to obscure identity, but would be worried if the picture could be used to identify the student in any way.

Darrell G. Stewart, Texas

I would absolutely avoid it unless you have specific permission from the parent/guardian to post and use the pictures. This is not just about protecting the student's privacy, but it also relates to whether the parent/guardian wants the student to be associated with the promotion. That can be a larger issue to. Parents/guardians may like what the funds are being raised for, but may not like the organization or want to be associated with it.

Is the school/District part of the promotion? If not, you need to be careful about using pictures of the teachers in the classroom and will also need to be sure to review and contracts for provisions that may have limitations that are applicable as well.

If the school has a general waiver, be sure that it is broad enough to cover the use here.

Lots of things that need to be considered that are often overlooked.

Phil A. Taylor, Massachusetts