

ANR Administrative Handbook Section 215 PHOTOGRAPHIC, VIDEO, AND AUDIO RECORDINGS IN THE ANR ENVIRONMENT	Date: 05/15/09 Supersedes: N/A
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I. INTRODUCTION

- A. Taking and using photographic, video and audio recordings can be helpful in the execution of the mission of the University of California's (UC) division of Agriculture and Natural Resources. This section of the *ANR Administrative Handbook* provides information about taking and using such image and/or audio recordings.

- B. All references to “image and/or audio recordings” found within this section are understood to mean photographic, video and/or audio recordings.
- C. The information presented here is general, and cannot address all of the unique concerns that may arise regarding the use of image and/or audio recordings. Questions should be directed to the contacts shown above.
- D. This section applies unless the image and/or audio recording is taken, and intended to be used for, commercial, advertising or promotional purposes, in which case prior written consent based on disclosure of the intended use is required.

II. SUBJECT’S CONSENT TO THE TAKING OF THE IMAGE and/or AUDIO RECORDING

A. General Consent Requirements

Subject to specific limits further described below the law generally:

- 1. Does not prohibit the taking of image and/or audio recordings in public.
 - a. Nonetheless, ANR personnel will strictly comply if an individual asks that such a recording not be made of them.
- 2. Does not require that specific permission be obtained to take the image and/or audio recording, whether on public or private property.
- 3. Does not limit the publication of such an image and/or audio recording, provided it does not violate the privacy of the subject.

B. Consent in the ANR Environment

1. General Information

- a. Often there is a need to document a workshop, meeting or other ANR event for reporting or training purposes. As described above, the law does not generally require that permission be obtained to take another’s image and/or audio recording under such circumstances. ANR recognizes, however, that use of image and/or audio recordings of a recognizable individual may have the potential to reflect negatively on that person and/or invade their privacy. This may give an individual a legal claim against an intruder on their physical solitude or seclusion, as well as against those who publicly disclose private facts, particularly if revealing those private facts might embarrass the individual.

- b. Although not strictly required by law, ANR may request consent out of a sense of regard for its program participants, and to highlight for them that such image and/or audio recordings may be made.
- c. It is sometimes impractical to obtain a signed [Release](#) form from every attendee at an ANR event. In such cases, the attendees should be informed that that image and/or audio recordings will be taken. Those attendees who do not wish to have a likeness taken of them should then be given the opportunity to either avoid the view of the camera/recording device or to request that they be excluded from the recording.

2. California 4-H Youth Development Program

ANR is committed to the wellbeing of the California 4-H Youth Development Program. Accordingly – although not strictly required by law – all 4-H youth members and adult volunteers are required to sign [Release](#) forms once a year at the time of annual enrollment. (Reference the 4-H [Policy Handbook](#).)

3. UCCE Master Gardener and Other ANR Programs; UC Faculty, Staff and Students; and the General (Adult) Public

- a. Consent to image and/or audio recording is not required of UC affiliates (such as UCCE volunteers), students, faculty, and/or staff.
- b. In most cases, permission to use the image and/or audio recording of a UC affiliate and/or student, faculty and/or staff person was obtained at the time of employment or enrollment.
- c. It is not necessary to receive specific consent from members of the public before taking their image and/or audio recording.
- d. The above notwithstanding, as a sign of ANR's consideration, ANR may notify individuals when images and/or audio recordings are to be made, and may request completion of [Release](#) forms.

4. General Public – Children

- 1. Although not strictly required by law, ANR considers it a best practice to obtain consent for image and/or audio recordings of children.

2. When taking image and/or audio recordings in preschool or K-12 classrooms, the school administration should be consulted regarding the school's own photo policy records, which may provide permission. If not, a signed [Release](#) form must be obtained from each child's parent or guardian.

III. THE ANR RELEASE (CONSENT) FORM

- A. The ANR [Release](#) form (see also Appendix A below) is used to obtain consent to the taking of image and/or audio recordings. It states the purpose and date of the recording and informs the individual that UC will be authorized to copy, exhibit, publish, or distribute any and all such image and audio recordings of them (or in which they appear), including composite or artistic forms and media, for purposes of publicizing UC programs or for any other lawful purpose.
- B. The ANR unit taking the image and/or audio recording should retain the original of the signed [Release](#) form for as long as the photo or recordings may be used. Send a copy of the form to ANR Communication Services.
- C. If consent is required, it must be obtained from someone who can give it validly. Parents or guardians must give consent for their minor children.

IV. LIMITATIONS ON TAKING AND USING IMAGE AND/OR AUDIO RECORDINGS

- A. As referenced above, the taking and publication of image and/or audio recordings is generally allowable. However, certain specific limits apply. Settings and circumstances under which audio and/or image recordings should not be taken include (but are not necessarily limited to) the following.
 1. *Certain locations and government facilities:* For example, airport checkpoints, military installations, nuclear power plants, and other facilities housing similarly sensitive operations.
 2. *Homes:* Consent to enter a home does not imply consent to make an image and/or audio recording of anything or anyone in it. Before making such recordings in a home written consent should be obtained with the [Release](#) form.
 3. *Places to which entry fees are charged:* Amusement parks, museums, ballparks and other such venues may prohibit the taking and publication of image and/or audio recordings. (This is based on the concept that the image gives away for free what individuals are charged to see.) Such restrictions are typically printed on the ticket or posted at the gate. Before making such recordings at this kind of venue, written consent should be obtained with the [Release](#) form.

4. *Medical settings:* An individual's health is a private matter and information about it is protected by law from non-consensual disclosure. Before making such recordings in a medical setting written consent should be obtained with the [Release](#) form.
5. *Trespassing on private property:* Image and/or audio recordings may be made in places where the public is allowed such as shopping malls, office building lobbies, parks, and so on. When planning to make such recordings, one should identify oneself and explain that they will be used for educational or other UC purposes. While one cannot be prohibited from taking photos in such settings, one can be asked to leave the premises or risk charges of trespassing.
6. *Invading another's privacy:* Although the taking of image and/or audio recordings may be allowed in many settings and under many circumstances, ANR personnel may not take such recordings if:
 - a. The setting is one in which the subject would have a reasonable expectation of privacy (e.g., a restroom, a dressing room, a hospital room, and/or inside their home).
 - b. Private facts are revealed when the subject has a reasonable expectation of privacy (e.g., photographing a medicine label clearly enough to identify a prescription being taken by an individual).

V. USE OF IMAGES AND/OR AUDIO RECORDINGS OBTAINED FROM NON-UC SOURCES

- A. ANR is committed to full compliance with the [UC Policy on Copyright Ownership](#). The burden of determining the copyright status of an image and/or audio recording – and thus whether or not UC may use it – rests with UC.

B. Image and/or Audio Recording Not Protected by Copyright

In some cases, images and/or audio recordings are not protected by copyright. Works created by federal, state, and local government employees, as part of their official duties, often are not protected and may be used.

- C. Unless ANR personnel are certain that written consent has been obtained from the copyright owner, they should proceed as though it had not. Consult ANR Communication Services for further information (contact information appears above on page 1).

D. Fair Use of Copyrighted Materials

Traditionally “fair use” has provided limited exceptions for the use of copyrighted works. Those exceptions include educational, research, news reporting, criticism, or public interest. Recently, the scope of fair use has been more fully and precisely defined and has become a much more complicated determination. Each instance must be evaluated on its merits. Questions should be referred to the contact persons named above.

VI. USING PRE-EXISTING MATERIAL OWNED BY UC

- A. Works owned by UC may be used by ANR personnel to fulfill ANR’s mission. Such images and/or audio recordings may be used for ANR publications, websites and other communication outlets without the need to seek permission for reproduction. However, as a professional courtesy, the author of such material should be notified, especially if it will ultimately be used in printed form. Additionally, photo credit should be provided whenever possible. Consult ANR Communication Services for further information (contact information appears above on page 1).
- B. If you are providing the material for use outside UC (news media, periodical, journal, etc.) permission for its use must be provided in writing by the ANR Copyright Officer ([Communications Services Director Robert W. Sams](#)) or his/her delegate (Michael L. Poe, contact information on page 1 above).

ADDITIONAL RESOURCES:

- [UC Copyright Education](#) Website
- California Civil Code Section [1708.8](#), Invasion of Privacy – Visual Images or Sound Recordings
- California Civil Code Section [3344](#), Use of Another’s Photograph or Likeness Without Prior Consent