

Attachment 8 – Libel Checklist

Libel is the publication of a false statement that injures the reputation of another. The publisher of a libelous statement can be held liable for such statement because publishers exercise editorial control over content and are considered to "know" what they have published. With regard to possible claims of libel, one should be careful to check statements to determine whether such statements present libel concerns. The following checklist is intended to assist you in making this assessment.

Checklist:

Does the statement identify a person or entity (by name, or otherwise by likeness, description):

If not, then no libel.

If so, is the identified person dead, then generally no cause of action for libel. (Although under the laws of certain states, a deceased person's estate could bring a claim).

If material identifies a living person, is the person

- a private individual (then greater protection) or
- a public person (then unlikely to be considered libel without proof that the statement was made with actual malice)

If the subject is a private person, would the statement negatively influence a reasonable reader's opinion of the person or entity identified?

If the statement might reflect badly on the character and/or harm the reputation, would the harm be the result of:

- An explicit statement
- An insinuation
- A sarcastic statement
- A parody or cartoon
- An opinion that implies unstated defamatory facts

Does a defense to a claim of defamation apply to the statement?

- The statement is true
- The statement is a fair report of an official record or proceeding
- The statement is purely an expression of opinion and not an assertion of fact
- The statement is a comment or opinion on a matter of public concern
- No one could reasonably interpret the statement to be an assertion of actual fact about the person or entity
- The statement amounts to general words of abuse of the person without suggesting any specific charge
- The subject of the material consented to the use of the material.