

KNOW YOUR RIGHTS:

Cyberlaw & online publishing

The student press law center answers your most frequently asked questions about content published on the internet

Q Can our publication get sued for libelous comments that people post on reader comment boards?

A If the comments are placed by outsiders – not your own staffers – then the federal Communications Decency Act should shield you and your website (though the authors of such comments can and do get sued). You can retain CDA immunity even if you voluntarily screen profane or libelous comments – but if you start rewriting comments to “improve” them, then you may become responsible as a co-creator.

Q What if the comment isn’t libelous, but it includes someone else’s copyright-protected material?

A The federal Digital Millennium Copyright Act (DMCA) has a limited safe harbor allowing publishers to escape liability for copyright infringement if they promptly pull down infringing material posted by outside parties (not staffers) after getting notice of the infringement. To qualify for protection, the website operator must register with the federal copyright office and pay a fee.

Q What if a person criticized on a reader comment board wants the identity of the anonymous commenter?

A You’re not obligated to give that information out without a court order – and the courts have been relatively protective of anonymous speakers. Usually, a person who wants to track down the author of an online comment must prove he exhausted all other options before seeking disclosure from the media. Consult a lawyer at once if you’re subpoenaed to disclose the origin of a comment.

Q What do we do if an angry reader demands that an online story be pulled down from our archives?

A A story that was non-libelous when it originally aired or printed does not become libelous over time – and if several years have gone by, then any libel claim is probably untimely anyway. Be careful not to change the online version substantively from the originally printed version, or you may “republish” the libel and give the angry reader a new time-clock to file suit.

Q Are there different laws for publishing material online instead of in print?

A The Supreme Court has been clear that online publishing enjoys the same level of First Amendment protection as print. A couple of states – New Jersey, Maine – do prohibit K-12 schools from publishing the names or faces of minors on district websites without parental consent, and some school districts may also have such policies. This is one reason it’s advisable to have a news site hosted on a third-party server, not the school’s.

