

Avoiding Trouble: A Checklist for Authors

Even if you are writing a work of fiction, it's very important that you understand and respect the rights of other people who may be identifiable in your manuscript. If you communicate statements that may harm the reputation of an individual, that person has the right to commence legal action against you for **defamation of character**. When the statement appears in print form, such as a book, the defamation is more specifically called **libel**. Libel means to communicate, to a third party, false statements of fact about an identifiable living individual, a company or an institution where those statements damage the reputation of that person or party.

If you communicate statements that may cause emotional distress to an identifiable living individual, that person may have the right to sue you for **invasion of privacy**. You can invade an individual's privacy by making statements about the person that: 1) reveal embarrassing private facts, 2) portray the person in a false light, 3) intrude into the person's private affairs, or 4) misappropriate the person's name for publicity purposes.

Because all publisher agreements include Warranties and Indemnities clauses (see [Your Legal Obligations](#)), it is your responsibility to ensure that your manuscript is free from libelous statements or content and that you have not violated the privacy rights of another person or party. It is also your responsibility to ensure that you have properly credited all third party sources, obtained permission where necessary, and properly used and sourced trademarks.

So that you can better identify and fix areas of your manuscript that may put you and iUniverse at legal risk, we have prepared this checklist. For your convenience, we have included some specific examples of subjects that could be of legal concern.

If you answer *yes* to any of these questions, you should seek the advice of a publishing attorney before proceeding with publication. If you have already submitted your manuscript to iUniverse, we recommend that you notify your Publishing Services Associate, who will put your manuscript on hold while you seek legal counsel.

Please note: This checklist may not identify each potential legal issue presented by your manuscript, and your response to the checklist will not alter or affect any of the representations, warranties and indemnities contained in your publishing agreement.

CHECKLIST

1. Has your manuscript ever been rejected by another publisher because of its content?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Does your manuscript refer to identifiable ¹ living persons, companies or other entities?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If you answered <i>no</i> to question 2, skip to question 9.	

¹ Living persons, companies and entities could be identifiable even if real names are not used; if your work is labeled as fiction, you are at risk if a reasonable reader would understand that your manuscript is referring to those persons, companies or entities. For example, an unnamed person may be identifiable because that person is the sole person having a specific job at a specific point in time. Persons may also be identifiable because of their connections to you as the author or because a person mentioned in your manuscript has a similar gender, physical description, education and career background as a real person who may complain that references in your work are about him or her.

3. Does your manuscript contain factual ² statements that could harm the reputation of any identifiable living persons, companies or other entities?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If you answered <i>no</i> to question 3, skip to question 9.	
4. Does your manuscript state either as a fact or by implication ³ that an identifiable living person (other than yourself):	
a. Committed a crime (e.g. murder, rape, robbery, embezzlement, fraud, prostitution)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b. Was convicted of committing a crime?	<input type="checkbox"/> Yes <input type="checkbox"/> No
c. Engaged in unethical conduct (e.g. corruption, dishonesty)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
d. Engaged in immoral sexual conduct (e.g. adultery, sexual harassment)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
e. Associated with unsavory people (e.g. members of organized crime, traitors, terrorists)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
f. Demonstrated professional incompetence (e.g. disbarment of a lawyer, loss of license to practice medicine)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
g. Demonstrated financial irresponsibility or unreliability (e.g. bankruptcy, poor credit rating)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
h. Acted disgracefully (e.g. alcoholism, plagiarism, drug addiction)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
i. Suffered from a mental disease or disorder?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Does your manuscript state as a fact or by implication that a named or identifiable company or other entity:	
a. Engaged in criminal conduct (e.g. price-fixing, racketeering, fraud, cover-ups)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b. Engaged in unethical conduct (e.g. eavesdropping)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
c. Was bankrupt?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6. Does your manuscript contain any truthful but embarrassing private facts about any identifiable living persons (e.g. drug abuse, child abuse, sexual abuse, graphic descriptions of the person's sex life, references to medical conditions such as HIV, AIDS or venereal disease)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7. Does your manuscript contain any statements about an identifiable living person that would lead that person to have hurt feelings because:	
a. Certain thoughts and feelings are attributed to that person?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b. The person is put in a false light?	<input type="checkbox"/> Yes <input type="checkbox"/> No

² One of the requirements for a statement to be libelous is that it must be an assertion of fact that is false. A statement expressing the author's opinion is generally not libelous because it cannot be verifiably proven to be false; however, determining in context whether a statement is an assertion of fact or of opinion is often a difficult question for courts to decide. Therefore, if you recognize that a statement in your manuscript may be harmful to someone's reputation, you should answer yes to question 3.

³ Even if the words are true and innocent on their face, in context they may contain a defamatory meaning which damages the reputation of the person who is the subject of the story. For example, if you state that a man and woman who are married, but not to each other, spent a night together in a hotel room, it can be construed to mean that they committed adultery although the text does not say so.

8. Does your manuscript contain any references to an identifiable living child ⁴ that state as fact or by implication that the child was:	
a. Sexually abused?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b. Otherwise physically abused?	<input type="checkbox"/> Yes <input type="checkbox"/> No
c. The victim of a crime?	<input type="checkbox"/> Yes <input type="checkbox"/> No
d. Adopted?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If you answered <i>yes</i> to any part of questions 1, 3, 4, 5, 6, 7 or 8, for your protection, as well as for iUniverse, you will need to retain the services of an attorney to conduct a legal review of your manuscript. If you have already submitted your manuscript, notify your Publishing Services Associate immediately so that we can put your title on hold while you pursue a legal review.	
9. Does your manuscript quote or closely paraphrase from a copyrighted work more than:	
a. 250 words from any full-length work?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b. Two lines from a poem or song?	<input type="checkbox"/> Yes <input type="checkbox"/> No
c. 10 percent of an e-mail, diary, letter or other unpublished written work?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If you answered <i>yes</i> to any part of question 9, you should obtain written permission to reproduce the material you wish to quote. For more information on obtaining permission and for a sample permission letter see our Editorial Guidelines.	
10. Does the title of your work include a trademark, service mark or a trade name ⁵ ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If you answered <i>yes</i> to question 10, you should either delete the trademark, service mark or trade name or obtain written permission from the owner of the mark or name to use it in the title.	

⁴ A child is a minor until the child is of legal age. In most states, this age is 18 years, but in others it is 21 years. Since neither you nor iUniverse can control the state in which someone chooses to sue, the most prudent course is to assume that someone is a child if he or she is under the age of 21.

⁵ A trademark is a word, name or symbol or any combination of them used by a manufacturer or merchant to identify its goods (e.g. McDonald's, Kodak, Coca Cola, Jell-O). A service mark is a word, name, or symbol or any combination of them used by a person to identify that person's services (e.g. Blockbuster, Amazon.com, FedEx logo). A trade name is a name used to identify a company or business as opposed to trademarks used to identify goods and service marks used to identify services (e.g. MetLife, Pepsico, Exxon Mobil).