



**Ontario Secondary School Teachers' Federation
60 Mobile Drive, Toronto, Ontario M4A 2P3**

Memorandum

Date: September 8, 2009 D/BU #8/2009-2010

To: District/Bargaining Unit Presidents

From: Pierre Côté
Associate General Secretary

Re: **OSSTF/FEESO Potential Liability for Website Postings**

For Action

In the age of Wikis, blogs, chat rooms and twitters, members have become increasingly concerned about the potential for libelous, defamatory material to be posted about them in such forums. Likewise, OSSTF/FEESO is concerned about its liability if and when such comments are posted. The issue of tort liability with respect to discriminatory, libelous and defamatory material on internet websites is in its infancy. That said, the law is well settled that all persons connected with the publishing of the material in cyberspace are jointly liable, including the persons who write, print/publish, and distribute the material, in a civil court action. Most important for our purposes, persons who have control over internet forums or chat rooms (internet locations where electronic discussions take place) are jointly liable as the “publisher.” Distributors of libel may be able to rely on the defense of “innocent dissemination,” where they are totally ignorant of the defamatory contents and have no reason to suspect it is libelous but prevention is probably the best strategy.

The OSSTF/FEESO is potentially liable in tort for all libelous material composed and posted by visitors/members on OSSTF/FEESO websites as the “publisher” and/or distributor of the materials. There is no legal way to shield the OSSTF/FEESO from being named in such actions save and except by completely restricting external users’ ability to post comments on OSSTF/FEESO sites. Absent this restriction, it is recommended that OSSTF/FEESO Districts who host websites and offer social forums, post a legal disclaimer and terms of use agreement (please see [Appendix A](#)) which spells out the rules required of users in these forums. The following recommendations are drafted to assist all Districts and Bargaining Units who host websites and offer social forums to protect OSSTF/FEESO against potential lawsuits.

RECOMMENDATIONS

- 1. OSSTF/FEESO District or Bargaining Units include a term of use agreement, consent form and disclaimer for websites where users can post comments.**

2. **The consent form should also include an “I Agree” button or blank field requiring the user to type “I Agree” before hitting the “Submit” button that will take them to the start page of the service they are accessing. (Jason Westmaas, the IT Manager at Provincial Office, can assist in establishing this feature and you should contact him directly if you require assistance.)**

3. **OSSTF/FEESO District or Bargaining Units post advisements on the bottom of all pages where members post comments which request that members immediately report all libelous and unlawful material to the relevant OSSTF/FEESO contact. The footer should read: “Any user who feels that a posted message is objectionable is encouraged to immediately do the following:
*e-mail _____ (*insert the OSSTF/FEESO contact person’s name here*)
*in the body of the e-mail, include the title of the thread where the post is found, the URL for the thread, and a copy of the post you are complaining about.**

APPENDIX A

Website Posting Terms of Use Agreement

PLEASE READ THESE TERMS OF USE CAREFULLY AS THEY CONTAIN IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS AND OBLIGATIONS.

You agree to be bound by the following terms and conditions (“Terms of Use”). OSSTF/FEESO is committed to protect human rights, promote mutual respect, foster inclusion and strengthen member solidarity. In furtherance of these goals, this application was created to ensure that readers/participants could explore any issues of interest and concern. Discussion which embraces these goals is encouraged and welcomed.

This service is NOT intended as a place where the basic and essential values of human rights, inclusion and member solidarity are to be debated and refought. Members who indicate intentions to challenge these values may be seen as disruptive and may be warned, have their access suspended, or be banned altogether. Continued participation in the application is at the sole discretion of the OSSTF/FEESO.

You agree, through your use of this service, that you will not post any comments that are knowingly false and/or defamatory. You understand that racist, sexist, homophobic and other excluding language is not appropriate on this site. You agree to avoid personal insults and attacks. You will not post comments that are abusive, hateful, harassing, intimidating, invasive of a person’s privacy, obscene, threatening, or otherwise in violation of any law.

You remain solely responsible for the content of your message(s), and you agree to indemnify and hold OSSTF/FEESO harmless with respect to any claim based upon transmission of your message(s) and use of this application.

You agree not to post any copyrighted work unless you own the right to the material.

While OSSTF/FEESO prohibits such conduct and content, you understand and agree that OSSTF/FEESO cannot be held responsible for the content posted and you nonetheless may be exposed to such materials and that you use the service at your own risk.

Any user who feels that a posted message is objectionable is encouraged to immediately do the following:

- *e-mail _____ (*put in OSSTF/FEESO contact person’s name here*)
- *in the body of the e-mail, include the title of the thread where the post is found, the URL for the thread, and a copy of the post you are complaining about.

Upon notification, the OSSTF/FEESO will remove offensive messages that it determines in its discretion violates OSSTF/FEESO policy or the law in a reasonable amount of time. This is a manual process, however, so please realize that we may not be able to remove particular messages immediately.

OSSTF/FEESO reserves the right to alter the Terms of Use at any time.