

Queen's University

Guide to the Canadian Anti-Spam Legislation (“CASL”)

GENERAL INFORMATION

Purpose	The purpose of CASL is to more carefully control the use of spam (i.e., unwanted Commercial Electronic Messages or CEMs) in electronic messaging.
Effective Date	CASL came into effect on July 1, 2014
Application	CASL applies to the majority of organizations in Canada, including Queen's University. All faculty and staff are expected to comply with CASL. Guidance in complying with CASL is provided in the Queen's CASL Toolkit and is also available from the contact listed below.
Penalties for Non-Compliance	The penalties for failing to comply with CASL are significant: <ul style="list-style-type: none">• up to \$10 million for an organization• up to \$1 million for an individual

COMMERCIAL ELECTRONIC MESSAGES (“CEM”)

Basic Rule	The principal CASL rule is that, subject to certain exemptions, a CEM cannot be sent to an electronic address unless: <ol style="list-style-type: none">1. the sender has obtained consent from the recipient of the message; and2. the message contains the sender's contact information and an unsubscribe mechanism.
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What is a CEM?	To fit the definition of a CEM, and be subject to CASL, a message <u>must</u> : <ul style="list-style-type: none">• be in the form of an email, text message or instant message• be sent from a computer system in Canada or accessed by a computer system in Canada• relate to a transaction, act or conduct that has a commercial character such as:<ol style="list-style-type: none">a. purchasing, selling, bartering or leasing products, goods, services or land;b. providing a business, investment or gaming opportunity; orc. advertising or promoting any of these activities.• not relate to any University charitable fundraising activities• not relate to Queen's University's “core activities” which are, in general, the academic, research and related administrative activities which are central to Queen's University's operations as a University (a full definition of Queen's University's “core activities” can be found in the <i>Queen's University Royal Charter of 1841, as amended</i>).
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Messages that mix a commercial purpose with a non-commercial purpose are also considered to be CEMs.

Exemptions	CASL does not apply to the following: <ul style="list-style-type: none">• messages between Queen's employees relating to core activities• responses to a request, inquiry, complaint or application• communications relating to a legal obligation or to enforce a legal right• organization to organization communications related to their core activities
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The following communications do not require consent but should include the name, contact and unsubscribe information noted below under “Content Requirements”:

- messages which facilitate, complete or confirm a commercial transaction
- warranty or product safety communications
- messages providing information about ongoing:

- purchases
- loans
- subscriptions
- memberships (e.g. Queen's University Alumni Association)
- accounts
- employment relations
- employee benefit plans
- product updates

TAKING ACTION FOR COMPLIANCE

Content Requirements

CASL requires that all CEMs contain the following information:

- a. the name of the Queen's unit sending the message;
- b. the mailing address, telephone number, email or web address for the Queen's unit sending the message; and
- c. information about how to unsubscribe from future CEMs.

The unsubscribe mechanism should be present at the bottom of all CEMs using language such as:

"You may unsubscribe from the Queen's University [insert name of list] distribution list at any time by emailing [insert email address] or calling 613-533-6000 [insert extension]."

If a request to unsubscribe is received, the recipient must be removed from the distribution list within 10 business days of the request.

The following statement should also be included in CEMs sent to internal recipients:

"You are receiving this message because you are a member of a subject specific internal email list generated by Queen's University and/or you are in a pre-existing business relationship with Queen's University. In either case, if you believe that you should not be a recipient, you may withdraw your consent to receive these messages at any time, in accordance with Canadian Anti-Spam Legislation (CASL) and subject to Queen's University policy, by contacting the sender of this message.

Please be aware that messages to Queen's University employees and students, sent for the purpose of conducting regular non-commercial University business, are not governed by CASL."

Consent Requirements

Prior to sending a CEM, a sender must have received the consent of the recipient. Consent may be express or implied.

- Express Consent occurs where the recipient has provided oral or written consent to receive electronic messages and remains in effect until the recipient unsubscribes from future messages
- Implied Consent occurs where the recipient has:
 - an existing business relationship with Queen's in the preceding two years;
 - an existing non-business relationship (i.e., donors, alumni, volunteers) with Queen's in the preceding 2 years; or
 - conspicuously published their business contact information **AND** the recipient has not indicated a wish not to receive unsolicited CEMs; and your message is relevant to the recipient's business, role, functions or duties in a business or official capacity

Tracking Consent & Unsubcriptions

Compliance with CASL includes implementing systems to track recipient consents and giving effect to requests to unsubscribe. Tracking systems can be as simple as a spreadsheet or as complex as an integrated database. Regardless of the system, the sender must be able to document addresses which have provided express consent and those which have unsubscribed.

Where a sender is relying on implied consent to send CEMs, the tracking system

must be able to track the “expiry” dates of the implied consent categories. Implied consent normally lasts for two years so, to take advantage, Queen’s entities planning on relying on implied consent to send CEMs should seek express consent as soon as possible.

How to Obtain Express Consent

Electronic messages requesting express consent under CASL are also considered to be CEMs. Unless the proposed CEM fits into one of the exemptions discussed above, the CEM should not be sent or the information should be delivered in an alternate format (such as by direct mail or a telephone campaign). However, requests for express consent can be sent where the recipient has provided their implied consent (as outlined above). Through this process, implied consent is “converted” into express consent.

Requests for express consent must contain the following information:

- a. The specific purpose for which express consent is requested;
- b. The name of the Queen’s unit seeking consent;
- c. The mailing address and telephone number, email address or web address for the Queen’s unit seeking consent (or a link to a website containing this information); and
- d. A statement indicating that consent can be withdrawn at any time.

If you are collecting personal information (such as an individual’s name, address and telephone number), the request for consent must also include a privacy statement containing the following information:

- a. The reason that the information is being collected;
- b. The legal authority for collecting the information;
- c. The contact number for a Queen’s employee.

A sample privacy statement is provided below:

“Personal information is collected under the authority of the *Queen’s University Royal Charter, 1841, as amended*, and will be used for educational, administrative and statistical purposes. Questions regarding the collection or use of this personal information should be directed to [Title, Address, Telephone Number, (Email)].”

Who to Contact

If you have any questions regarding the application of CASL to your activities at Queen’s please contact the following:

Lisa Newton
University Counsel
lisa.newton@queensu.ca
613-533-6000, x.74024