

OAPCE CASL COMPLIANCE POLICY: APPENDIX M

CASL was launched in 2014 and it stands for **Canada's Anti Spam Legislation**. It's an opt-in law put in place by the Canadian Radio-television & Telecommunications Commission (CRTC) to ensure that Canadians only receive electronic communication from organizations that they have asked for and agreed to.

CASL applies to most organizations in Canada, including OAPCE. However, CASL does not apply to the core activities of the Association. Accordingly, electronic messages concerning the core activities of OAPCE are not subject to CASL because such messages are not of a "commercial character". However, some electronic messages sent by OAPCE may be of a commercial character (e.g., emails encouraging people to purchase tickets or attend a 3rd party event) and would fall under CASL. In the case of messages that contain both non-commercial and commercial content, CASL does apply.

CASL applies to "Commercial Electronic Messages" (CEMs), which are defined as any "electronic messages" that encourage participation in a "commercial activity".

So, a CEM must be electronic and commercial. Where an "electronic message" is any message sent to an electronic account, e.g., an email, a text message, or a message using social media such as Facebook. And a "commercial activity" which is broadly defined as "any particular transaction, act or conduct or any regular course of conduct that is of a commercial character, whether or not the person who carries it out does so in the expectation of profit". Examples of commercial activities include purchasing, selling, bartering, or leasing products, goods or services, or land; providing a business, investment, or gaming opportunity; or advertising or promoting any of these activities.

Many of the messages sent by OAPCE are not subject to CASL. However, all emails that are subject to CASL **must** contain the following information:

- the name OAPCE unit sending the message;
- the mailing address, and a telephone number, email address or web address, or a link to a website containing this information);
- information about how to unsubscribe from future Commercial Electronic Messages from OAPCE

If it is not practicable to include all of the above information in the Email (CEM), then it must contain a clear and prominent link to a webpage that contains the information.

Consent Requirements

Secure Recipients' Consent to Send Them CEMs

As a rule, before sending a CEM, you must have the recipient's implied or express consent. However, consent is not required for a CEM that meets any of the following requirements:

- a. provides information that was previously requested by the recipient;
- b. facilitates, completes, or confirms a transaction that the recipient previously agreed to enter into;
- c. provides OAPCE information, meeting information or other information about events or activities that the recipient has used or volunteered for;
- d. provides factual information related to the recipient's membership, involvement, participation, or similar relationship with the sender;
- e. provides information directly related to a relationship or related activity in which the person to whom the message is sent is currently involved, is currently participating or is currently enrolled; or
- f. delivers information, survey, including updates, that the recipient is entitled to receive due to their previous engagement

IMPLIED CONSENT

Implied consent is where there is an existing business relationship with the last two years.

Relationship refers to a purchase, acceptance of a message regarding an opportunity, past involvement, inquiry or application, past volunteer, event participation, etc. They gave you a business card or published their business information on their website

Implied consent normally lasts for two years. For example, OAPCE has a relationship with its volunteers and parents which gives us their implied consent to send them CEMs for two years after their last interaction with us. If this is the case, you should send them a message asking for express consent before the two-year period expires.

EXPRESS CONSENT

Express consent is consent that has been provided orally or in writing. Once you have secured recipients' express consent, then you may continue to send them CEMs indefinitely unless they "unsubscribe" from further messages.

Obtaining Express Consent

It is preferable to obtain express consent in writing, as this makes it easier to verify that the consent was provided. You may request persons to provide their written consent in various ways, e.g. by signing a document, sending you an email, entering information into a web form, or clicking on a checkbox or an "I Accept" button on a web page.

Electronic messages requesting consent are deemed to be CEMs. Therefore, you can only use an electronic message to request a person's express consent if you already have their implied consent. Essentially, you are "converting" implied consent into express consent. For example, when a person attends a meeting/event for OAPCE, OAPCE has their implied consent to send the person CEMs for the next two years. You can "convert" this from implied to express consent by emailing the person a consent request.

STEPS TO OBTAIN CONSENT FOR CEM EMAILS

1. Explain who you are.
 - The specific purpose for which you are seeking their consent (what you're offering your audience).
2. Include an opt-in checkbox and a disclaimer in your email sign up forms
 - Include an empty checkbox that asks for permission to send electronic email communication.
 - The name of your business.
 - The mailing address, and a telephone number, email address or web address, or a link to a website containing this information
 - A message stating that they have the option to unsubscribe at any time.
 - If it is not practicable to include all of the above information in the CEM, then it must contain a clear and prominent link to a webpage that contains the information.
3. Keep a record of all email addresses you collect and how they were collected
 - Putting a simple process in place will help you ensure that every new subscriber's email is collected with express consent.

- You can also set up an ipad station with a link to the form at your front desk or bring it to an event and have your visitors sign up for themselves. Just remember to always include the opt-in disclaimer and check box.
 - We recommend using an online form and placing it on your website. You can place it on the home page, your blog page, or any other page that receives a lot of traffic
 - You can also link to this email signup form from your social profiles — this is a great way to grow your list and be CASL compliant. You can also set up an ipad station with a link to the form at your front desk or bring it to an event and have your visitors sign up for themselves. Just remember to always include the opt-in disclaimer and check box.
4. Include business information and an unsubscribe mechanism in your emails
 - A mechanism to unsubscribe
 - This needs to be clearly visible in your email.
 - include a message stating that the recipient can unsubscribe at any time! The most common place to put an Unsubscribe link/message is in the footer of the email!
 5. If your region is small, you can use your email, but if it is large you may want to consider using a reputable email marketing provider, such as MailChimp or Constant contact. They have their own mechanisms in place to help you stay CASL compliant. There is a non-profit charge.
 6. Mail Chimp and Constant contact have the ability to create a signup form for the email subscribers list which holds a record of the date a subscriber signed up.
 7. Once you implement these things – it will be easy to track and be compliant.

FAQ's

1. **Q:** What is the Canadian Anti-Spam Legislation?
A: The Canadian Anti-Spam Legislation (CASL) is designed to more carefully control SPAM, those unsolicited annoying electronic messages which we all receive from time to

time. CASL also prohibits the installation of computer programs without consent. CASL came into force on July 1, 2014.

2. **Q:** What kind of electronic messages are regulated by CASL?

A: CASL applies to “Commercial Electronic Messages” (CEMs), which are defined as any “electronic messages” that encourage participation in a “commercial activity”.

Electronic Messages

An “electronic message” is any message sent to an electronic account, e.g. an email, a text message, or a message using social media such as Facebook.

Commercial Activity

A “commercial activity” is broadly defined as “any particular transaction, act or conduct or any regular course of conduct that is of a commercial character, whether or not the person who carries it out does so in the expectation of profit”. Examples of commercial activities include purchasing, selling, bartering or leasing products, goods or services, or land; providing a business, investment or gaming opportunity; or advertising or promoting any of these activities.

So, a CEM must meet both definitions of “electronic message” and “commercial activity” for CASL to apply.

3. **Q:** What is **EXPRESS Consent**?

A: The recipient clearly told you that they would like to receive your emails. By a “yes/agree to receive your email”. This is the type of consent that you want to gain from your audience because it is not time-limited.

4. **Q:** What is **Implied Consent**?

A: Is there an existing relationship there? If they attended an event, a meeting, workshop, info sessions (in person or virtually), or sent you an email- Yes there is. Can you prove that you have an existing relationship with the recipient? They have NOT actively told you that they agree to receive emails BUT their existing or past relationship/interaction with your Chapter/Association implies that it is okay as per the law. Implied consent is time-limited and it will expire. YOU are CASL COMPLIANT and you can continue to email them up until 2 years from the last interaction/transaction. Or when they ask you to stop or if they unsubscribe.

5. **Q:** If someone gives me **Express consent**, does this mean I have to email them indefinitely?
A: No. express consent is to be CASL compliant, it does not obligate you to continue to send them irrelevant information or engage them if they are no longer active or their child graduated.
6. **Q:** I have a few parents, who did not opt-in, but they attended events regularly. The first time they attended events was almost 2 years ago, do I need to stop communicating with them?
A: NO, 2 years is from the last (most recent event). You are fully CASL compliant. This is an example of explicit consent. However, in your email communications, you should ask them to opt-in. It is a nice confirmation that these people want to be engaged and welcome your emails.
7. **Q:** I am part of an email conversation, not started by me, and I am not sure if I need to do anything to be CASL compliant.
A: No. CASL does not apply in this case.
8. **Q:** I am part of a volunteer group and I was asked to promote an event and I was given a list of past participants of a similar event held a few months earlier. Am I CASL compliant?
A: Yes. You have up to 2 years and are fully CASL compliant. This is an example of explicit consent. However, in your email communications, you should ask them to opt-in. It is a nice confirmation that these people want to be engaged and welcome your emails.
9. **Q:** I am an active voted member of a parent group at the local, regional or provincial level. Voted members send emails to each other. Do we need to be CASL compliant?
A: NO. CASL does not apply in this case.

10. **Q:** There were new parents that attended a virtual webinar/in-person event, can I email them? They did not sign up on our email list. We even had a form for everyone to fill out.

A: Yes. You have up to 2 years and you are fully CASL compliant. This is an example of explicit consent. However, in your email communications, you should ask them to opt-in. It is a nice confirmation that these people want to be engaged and welcome your emails.

11. **Q:** I am creating an email for parents attending a meeting I just hosted. Can I email them?

A: Yes, you have up to 2 years and you are fully CASL compliant. This is an example of explicit consent. However, in your email communications, you should ask them to opt-in. It is a nice confirmation that these people want to be engaged and welcome your emails.

12. **Q:** I want to tell people that my cousin is having a sale on cars. They all opted in and know me, and I consider them my friends. Can I email them?

A: No. They opted-in for information related to the chapter /association. They are expecting consistency and all information should be in line with your bylaws and in the spirit and scope of your mission/vision.

13. **Q:** I want to email parents about a few new presenters and speakers. They all opted in, can I email them?

A: Yes, as long as there is not a perceived conflict of interest and the parents ask for these types of updates. When in doubt ask the group before you share. When sharing any information make it clear you are not endorsing any of the services and tell them where you got that list from. For example, _ I saw all these speakers at XX event and the feedback from parents was very positive.

14. **Q:** If a parent gets upset and asks why they are getting that email, what should I say?

A: Simply respond by saying: You are getting this information because you attended XXX event/meeting etc and we thought you would be interested in hearing more about xxxx. We apologize for the misunderstanding and will opt you out of all our future communication. We are fully CASL compliant in all our electronic communication and you will not receive any future emails from us. Should you change your mind, please let

us know by sending an email to XXXX as it will require manual input to add you back to our email list.

15. Q: I want to be super sure everyone on the list has opted in and wants to continue to be opted in.

A: This is optional and not necessary, but you can

Optional: Create double opt-in signup forms

Optional: Create a re-confirmation campaign for implied consent

Each member is also expected to attend the CEM Compliance training yearly.

If you have any uncertainty regarding the content of this policy, you are required to consult with the Executive Director. This policy will be reviewed every year.

Policy Information:

First Approved Document: January 2017

Policy Revision:

June 2022

January 2022

March 2022

COMPLIANCE CHECKLIST

This list has been created to assist OAPCE to avoid sending unsolicited commercial electronic messages (CEMs) contrary to CASL.

- Analyze the messages you are sending to identify any that constitute CEMs.
- Review existing mailing lists to flag any addresses for which you do not have consent to send a CEM. If necessary, remove these addresses from the mailing lists. Alternatively, request express consent.
- Update mailing lists (whether these are electronic spreadsheets, databases, or relationship management systems) to include the following fields:
 - For all consents: Whether the consent was express or implied.
 - For express consents: The date the consent was given; and the documentation (e.g. signed form) that proves that the consent was granted.
 - For implied consents: The manner that the implied consent was granted (e.g. business relationship); your proof of consent (e.g. a contract signed by the individual for consulting work); the date the consent came into effect; and the expiry date of the consent.
- Put a system in place (preferably automated) to ensure that all future consents and unsubscribe requests are promptly recorded in your mailing lists and that these are effective to prevent you from sending unwanted CEMs.
- Ensure that all of your requests for consent contain the required “Identification and Unsubscribe”.
- Ensure that all of your CEMs contain the required “Purpose, Identification and Unsubscribe option”.
- Ensure all are aware CASL’s requirements and the processes in place to comply with those requirements.