

APPENDIX I



INDEPENDENT PROCEDURE

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| Title | USE OF COMMERCIAL ELECTRONIC MESSAGES | Independent Procedure No. 9056 |
| Department | Director’s Services - Corporate Services | |
| Resources | Canada’s Anti-Spam Legislation (CASL) ¹ Compliance and Enforcement Information Bulletin CRTC, 2012-548 Compliance and Enforcement Information Bulletin CRTC, 2012-326 Regulation 81000-2-175 (SOR/DORS) | Effective Date 2014 December 16 |

1.0 Purpose

To provide guidance and leading practices for Thames Valley District School Board staff and Trustees regarding the use of Commercial Electronic Messages (CEMs), also commonly referred to as spam, and compliance with Canada’s Anti-Spam Legislation (CASL).

2.0 General

Commencing 2014 July 1, CASL (the Act) restricts Board employees from sending CEMs to others, unless the message is subject to an exemption under the Act, or includes the prescribed content and the sender has expressed or implied consent of the recipient.

3.0 Commercial Electronic Messages

Generally, a CEM is defined to mean an electronic message sent to an electronic address where it is reasonable to conclude the message’s purpose or one of its purposes is to encourage participation in a commercial activity. A message also is considered a CEM where it redirects the recipient to a website where there is

¹ CASL refers to *An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act*, S.C. 2010, c. 23.

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| Administered By | Director’s Services – Corporate Services |
| Date of Last Amendment | 2020 June 29 |

commercial content (e.g., an email sent redirecting the recipient to the Board or school website).

A commercial activity, simply defined, includes a transaction that is of a commercial nature whether or not there is an expectation of profit.

4.0 Definitions

“Commercial activity” means 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.

Exclusions under the Act include commercial activities for the purposes of: law enforcement, public safety, protection of Canada, the conduct of international affairs, the defense of Canada, soliciting contributions for a political party/organization/candidate, or fundraising by a registered Canadian charity.

Examples of commercial activity in schools are provided in Appendix A.

“Commercial electronic message” means an electronic message that has as its purpose or one of its purposes to encourage participation in a commercial activity, including:

- a. Offers to purchase sell, barter or lease a product, goods, a service, land or an interest or right in land;
- b. Offers to provide a business, investment or gaming opportunity;
- c. Advertises or promotes anything referred to in (a) or (b); or
- d. Promotes a person, including the public image of a person, as being a person who does anything referred to in (a) or (c), or intends to do so.

“Electronic address” is defined as being: an email account, a telephone account, an instant messaging account, or any other similar account.

Sending messages via email, SMS text message, or Instant messaging are examples.

It does not include: two-way voice communication, a fax, a telephone voice recording, blogs, micro-blogs, or posting on a Facebook wall page or website.

5.0 Sending Commercial Electronic Messages

- 5.1 Canada’s Anti-Spam Legislation sets out specific requirements for sending commercial electronic messages. Messages may not be sent without implied or expressed consent and messages must provide an ability for the receiver to unsubscribe.

Staff and Trustees sending out a CEM must identify themselves in the message by name and provide their full and current mailing address. The mailing address

may be that of the school, Leathorne Street, or the Education Centre as appropriate.

Should a staff member or trustee be forwarding the message on behalf of another person, they must ensure the sender's information (name and full and current mailing address) is included in the message before forwarding.

5.2 The two platforms that may be used generally by schools to send commercial electronic messages home to parents/guardians are:

- SchoolMessenger
- School Cash Online

Both platforms are compliant with the legislation in that parents must consent to the receipt of messages and may unsubscribe if they wish to do so.

See Appendix A: *School-to-Parent Electronic Communication: CASL Compliance Tool* for a list of commercial activities that require schools to use SchoolMessenger or School Cash Online to communicate with parents.

5.3 CASL only applies to commercial messages sent electronically (i.e., through email). Therefore, in addition to using SchoolMessenger and School Cash Online, staff and Trustees of TVDSB may also communicate information identified as 'commercial' using the following:

- Paper notices, posters, etc.
- Website posting
- Telephone message
- Facebook wall post
- Blog

6.0 Responsibilities

6.1 Staff and Trustees

It is the responsibility of all staff and Trustees of TVDSB to foster a culture of compliance within the organization, follow procedure, and to use the training tools provided. As part of fostering that culture staff are encouraged to consult their supervisor concerning compliance with CASL.

6.2 Principals and Supervisors

Principals and Supervisors are responsible to be familiar with the legislation and provide guidance to staff as it relates to their electronic communication with parents and other stakeholders.

6.3 Compliance Officer

The Corporate Services Department will act in the role of Compliance Officer and is responsible to:

- implement and develop training tools and guidelines;

- monitor any legislative or regulatory changes, and modify or update related training or procedures accordingly;
- communicate with TVDSB staff and Trustees regarding CASL;
- receive, respond to, and resolve complaints within a reasonable period of time;
- provide guidance and assistance to staff as required; and
- monitor adherence to CASL.

7.0 **Third Party Service Providers**

Staff will have written agreements with third party service providers assuring their compliance with CASL.

8.0 **Training**

CEMs in the context of TVDSB and under the scope of the legislation have been identified through school and departmental audits. See Appendix A: School-to-Parent/Guardian Electronic Communication: CASL Compliance Tool for a list of commercial activities that require schools to use SchoolMessenger or School Cash Online to communicate with parents.

9.0 **Record Keeping**

Records are to be kept as per the Board's Record Retention Schedule and include:

- records identifying potential non-compliance issues;
- investigations and responses to complaints;
- responses to questions about TVDSB practices and procedures;
- audits of CEMs sent by TVDSB; and
- evidence of expressed consent, where applicable.

10.0 **Monitoring Compliance**

10.1 **General**

As per Section 6.1, staff are expected to self-monitor compliance to CASL. Where the use of a CEM is deemed to be in contravention of the legislation, the Compliance Officer will contact the sender and/or their supervisor, as appropriate, to provide guidance and training in the proper use of the CEM.




10.2 **Complaints**

Concerns or complaints received by staff from parents or the public regarding the receipt of commercial electronic messages sent by TVDSB staff, Trustees, or School Council may be directed to the Supervisor-Corporate Services (x20218).

11.0 **Feedback and Questions**

Staff and Trustees are invited to contact the Supervisor-Corporate Services (x20218) to provide feedback or to ask questions concerning CASL and implications for TVDSB.

**School-to-Parent/Guardian Electronic Communication:
Canada's Anti-Spam Legislation (CASL) Compliance Tool**

| School-Centered Activities/Events/Information – Non Commercial | |
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| <p>EXAMPLES:</p> <ul style="list-style-type: none"> ▪ Meet the family night ▪ Graduation, Grad Awards ▪ Awards assemblies ▪ Athletic tournaments, Regionals, Club activities ▪ Program information ▪ Bus delays, school closures, special schedule days ▪ Requests for volunteers ▪ Meeting information ▪ Literacy/Numeracy nights ▪ First Nations events/activities ▪ Safety concerns ▪ Breakfast club ▪ Health Unit immunization, dental screening | <p style="text-align: center;"> Okay to send messages using any communication tool.</p> <p>CASL does not apply.</p> <p>Messages do not encourage participation in a commercial activity.</p> |
| School-Centered Activities/Events – Commercial | |
| <p>Applies to <u>fundraising</u> events and/or activities hosted by the school, school classroom(s)/team, or Home and School:</p> <p>EXAMPLES:</p> <ul style="list-style-type: none"> ▪ School play (ticket sales) ▪ Fun fair (ticket sales, raffles, purchase of food, etc.) ▪ Movie night (ticket sales, popcorn sales) ▪ Family fun night (ticket sales, etc.) ▪ Craft sales ▪ Pizza days/special lunch days, milk sales ▪ Magazine sales, Chocolate bar sales, etc. ▪ Spirit wear sales | <p style="text-align: center;"> Okay to send messages using any communication tool.</p> <p>Commercial Electronic Messages (CEMs) sent by or on behalf of a 'registered charity' as defined in s.248(1) of the Income Tax Act, are excluded from section 6 of CASL.</p> <p>TVDSB is a registered charity; the <u>primary purpose</u> of the CEM must be to raise funds for the school.</p> |
| Charity Events (ticket sales, raffles, donations, sponsorship, etc.) | |
| <p>Applies to <u>fundraising</u> events and/or activities at the school or in the community to support registered charities.</p> <p>EXAMPLES:</p> <ul style="list-style-type: none"> ▪ Toonie Tuesday (Thames Valley Education Foundation) ▪ Home and School Association ▪ United Way ▪ Terry Fox ▪ Jump Rope for Heart and Stroke ▪ Jesse's Journey ▪ Canadian Cancer Society | <p style="text-align: center;"> Okay to send messages using any communication tool.</p> <p>Commercial Electronic Messages (CEMs) sent by or on behalf of a 'registered charity' as defined in s.248(1) of the Income Tax Act, are excluded from section 6 of CASL.</p> <p>The <u>primary purpose</u> of the CEM must be to raise funds for the charity.</p> |

School-Centered Activities - Commercial (not fundraising)

Messages sent encouraging the participation in a commercial activity not otherwise deemed to be fundraising are under the scope of CASL.

EXAMPLES:

- Year book sales
- Art sale (where proceeds are returned to the student artist)
- Optional program enhancement offers/sales (i.e., art kits)
- Promoting Cashless Schools
- Field trips



Electronic messages only may be sent through School Cash Online or SchoolMessenger.

Alternative ways to communicate information to parents:

- Paper notice home to parent/guardian
- Website posting
- Automated telephone message
- Facebook wall post
- Blog

3rd Party Provider Events/Services – Commercial

Messages sent encouraging the participation in activities where there is a fee for participation are under the scope of CASL.

The most common examples are messages regarding 3rd party providers that may be contracted for an in-service or may be providing a before or after school program.

EXAMPLES:

- Much Music
- Mad Science
- Other educational or inspirational speakers/groups
- Organized trips (by tour companies)
- Before and after school child care
- School photographs
- Notices regarding making applications to College/University, or other special programming



Electronic messages only may be sent through School Cash Online or SchoolMessenger.

Alternative ways to communicate information to parents:

- Paper notice home to parent/guardian
- Website posting
- Automated telephone message
- Facebook wall post
- Blog