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CASL Checklist
Prepared for Colleges Ontario

Canada's new anti-spam legislation (known as "**CASL**") will be in effect in large part on July 1, 2014. It will affect the email practices of almost every person in Canada, including Colleges. CASL should cause Colleges to think differently about the emails and other electronic messages sent to students, prospective students, parents of students or prospective students, alumni, donors, governmental bodies, vendors and suppliers, members of the general public, and others. Since CASL is a federal law, it will apply to all Colleges within Canada. In this document we set out some key items Colleges need to consider as they get ready for CASL. (Please refer to the CASL Primer circulated in April for general background and information about CASL and the CASL Questions and Answers document for specific responses to questions posed by the Colleges. We have also prepared a Sample Consent Language document.)

This list is not exhaustive. Every College has its own distinct electronic communications practice and internal and departmental structure, and thus not every item listed below may be applicable to every College. For some Colleges, there may be additional steps needed to ensure compliance with CASL.

1. Create a CASL Team

   - Identify those people at the College who need to be involved. These include: admissions, registrar, alumni association, marketing, IT, career services, the College's Foundation and others.

   - Assign responsibility for the review and implementation of the CASL project to the members of your team. It would be helpful to have a point person in each relevant department.

   - Assign someone overall responsibility.

2. Audit the kinds of electronic messages that the College sends and to whom they are sent.

   - Remember that the term "electronic messages" includes email and text messages.

   - It is helpful to organize the messages sent in as many categories as possible, and to identify who sends them and to whom. For example, emails about open houses or College fairs may be sent by the admissions and marketing departments to guidance counselors in secondary schools, potential students, or applicants to the College.

   - Consider interviewing key individuals to get a good understanding of current practices as well as what is possible within the existing infrastructure.

   - Consider relevant database(s), who has control of them and how the information is integrated (or is not integrated). Is it possible that a single individual's name would appear on more than one list at the College? If so, how will a withdrawal of consent be handled?

   - Do not forget the tools used for bulk email sending, such as third party email services or CRM tools that have built-in and granular opt-out processes.

3. Identify the policies and protocols, if any, that the College already has regarding the sending of electronic messages.

   - Has valid express consent been obtained in the past? If so, was it recorded and can that be verified? How are new contacts added onto distribution lists? How are requests to unsubscribe handled?

   - How much information is known about any particular contact? For example, is the status included, when last contact was made? As an example, was the individual a student? When did s/he graduate?

4. Determine which electronic messages could be characterized as commercial electronic messages (or CEMs).

    - Remember that CEMs are defined very broadly and include any email that has, as one of its purposes, encouraging participation in a commercial activity (regardless of whether there is a cost involved, or whether there is an expectation of profit).

    - If there is any doubt, the prudent approach is to consider the electronic message as a CEM.

5. Determine whether to obtain express consent from any recipients via email before July 1, 2014.

    - Remember that you may send an email to request consent before July 1, but after July 1, subject to limited exceptions, you may not be able to do so because that email would itself be a commercial electronic message that is subject to CASL. See the CASL Questions and Answers for more details.

    - Since express consent is the "gold standard", it is recommended that the College obtain express consent wherever possible.

    - While it may not be feasible to email all contacts, there are likely some subsets of contacts that the College should reach out to because the origin of the relationship or the status of consent is unknown.

    - We can assist in providing language for the email (see the Sample Consent Language document for examples).

6. If the College will be relying on exemptions under CASL in order to send CEMs without meeting the consent and/or content requirements, analyze which CASL exemptions the College will use and document the ways in which the College will keep track of such exemptions.

    - For example, will real-time changes occur in the database(s) when the status of a particular contact changes?

7. Establish ways to obtain express consent on a go-forward basis.

    - For example, the College should add a request for consent to its website, registration forms, student policies, and other documents. Keep in mind that the consent cannot be buried in terms and conditions and that you will need the student to take a proactive step to consent.

8. Ensure that you have the resources/IT systems in place to record information about consent and unsubscribe requests.

    - For example, is it possible to track information regarding the initial contact/relationship, the last contact, the type of communication?

    - Record the date/time that consent was given, how it was given, and whether it was limited to certain kinds of CEMs (e.g., alumni newsletters but not invitations to events).

9. Develop templates that meet consent requirements under CASL

    - The required content consists of: A) the College's legal name (and the name it uses to carry on business, if different from its legal name), mailing address, and telephone number, email address or web address, and B) an unsubscribe mechanism.

    - Establish policies about which emails the auto-signature should be included on. It may be useful to have a consistent approach to the use of the auto-signature. Consider what your technology permits.

10. Create unsubscribe mechanism and protocols for handling unsubscribe requests.

    - CASL requires that a request to unsubscribe be implemented without delay, and in any event within 10 business

days. Test and monitor that unsubscribe requests are handled within this time frame.

- Consider creating a preference page so that when a recipient requests unsubscribe, they are directed to a webpage for example, where they can indicate their preference for the kinds of emails they wish to receive from the College (e.g., continuing education, alumni emails, events/info sessions).

11. Draft CASL compliant policies for the College with respect to electronic communications.

    - There should be an internal policy (for use by College staff), as well as a policy for students' use of the email addresses given to them by the College.

    - Consider how the policies and procedures will be made available.

12. Training and education

    - Put together a plan to train College staff about CASL, the College's new email communication policies and procedures, and what to do if they receive questions or complaints regarding CASL.

    - Every employee should be trained and educated.

    - Training and education may occur in the following manners: live presentation, webinar, memorandum, frequently asked questions and tip sheets.

13. Review contracts with service providers involved with electronic communications.

    - If the College uses the services of any third parties in relation to its email communications, for example an email marketing company, the College should review contracts and ensure they comply with CASL.

    - Discuss CASL with service providers to determine whether you are comfortable that your service provider understands the CASL requirements.

14. Establish procedures on how the College will audit and record CASL compliance going forward.

    - Regularly monitor whether the then-current policies and procedures remain effective in complying with CASL.

15. Consider relevant changes to the website (internal and external)

    - Update intranets and website with contact information of applicable CASL personnel, such as a CASL officer who can handle questions or complaints.

    - Post updated policies and procedures on intranets for easy access.

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