

May 2014

## Sample Consent Language 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.)

As a starting point, it is important to remember that under CASL **the basic rule, subject to a few exceptions, is that commercial electronic messages ("CEMs") cannot be sent unless both the consent and content requirements are met.** CASL requires every CEM to have certain content, namely: 1) **identification information**, being information about the sender (i.e., name, mailing address, and telephone number, email address or web address). Note that this information needs to be valid for a minimum of 60 days after the message is sent; and 2) an **unsubscribe mechanism** that allows the recipient to indicate, using the same electronic means by which the CEM was sent, that they no longer wish to receive CEMs from the sender. There also needs to be a link or an email address to which the recipient can send the unsubscribe request. The unsubscribe mechanism must be easy to use and free, and implemented without delay and in any event, within 10 business days. Please refer to the CASL Primer and the CASL Questions and Answers for more details. Each of the suggestions below would need to be customized for the specific College and the specific use. These are meant as examples only. The portions in square brackets are for consideration.

### 1. Request for Consent Prior to July 1, 2014

The following is an example of an email that could be sent prior to July 1, 2014 to obtain consent to send further CEMs.

"To comply with Canada's Anti-Spam Law (CASL), which comes into effect on July 1, 2014, the College is requesting express consent from all persons who wish to continue to receive electronic communications from the College. **If you wish to continue to receive electronic communications from the College — such as [insert any specific references] communications—please click on the consent button below to let us know that you would like to continue receiving electronic communications from the College. [Please provide your consent no later than [insert date], 2014.]**

If you have any questions, please feel free to contact [insert name and contact information.]

### YES, I AGREE [with hyperlink]

ABC College  
123 Main St.  
Toronto, Ontario  
www.abccollege.ca  
555-555-1234 info@abccollege.ca

You may withdraw your consent and unsubscribe from the College's electronic communications at any time, by clicking here [with hyperlink]. [I understand that by unsubscribing I may stop receiving informative and interesting information and that there are certain electronic messages I may continue to receive.]"

### 2. Request for Express Consent

The following is an example of language that could be used in hard copies of registration forms, applications, etc. to obtain express consent.

“[Un-checked checkbox] I consent to [name of College] sending me [program info, bulletins, newsletters, events, promotions] and other electronic messages (E-Communications)”.

ABC College  
123 Main St.  
Toronto, Ontario  
www.abccollege.ca  
555-555-1234 info@abccollege.ca

You may withdraw your consent and unsubscribe from the College’s E-Communications at any time, [by clicking on the link contained in the E-Communication or by contacting [insert contact information]]”

This language could be revised for use in commercial electronic messages sent after July 1, 2014 as well. For example, there may be situations where the College is relying on implied consent to send an electronic message. In that case the College may wish to seek express consent in the electronic message. That could be something like the following:

“[Un-checked checkbox] I consent to [name of College] sending me [program info, bulletins, newsletters, events, promotions] and other electronic messages (E-Communications).

ABC College  
123 Main St.  
Toronto, Ontario  
www.abccollege.ca  
555-555-1234 info@abccollege.ca

I AGREE TO RECEIVE E-COMMUNICATIONS  
[link]

I understand that I may withdraw my consent and unsubscribe from the College’s E-Communications at any time, by clicking on the link below. [I also understand that by unsubscribing I may stop receiving informative and interesting information and that there are certain electronic messages I may continue to receive.]”

It is important to adopt a policy around the use of consents and inclusion of the content required by CASL.

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