

Administrative Procedures Manual	Administrative Procedure 149
	Electronic Messages
	APPROVED: April 17, 2015
Page 1 of 3	AMENDED/REVIEWED: September 2019, September 1, 2015
LEGAL REFERENCE:	Section 33, 196, 197, 222 Education Act Canadian Anti-Spam Legislation (CASL)

Definitions

Commercial activity: 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, other than any transaction, act or conduct that is carried out for the purposes of law enforcement, public safety, the protection of Canada, the conduct of international affairs or the defence of Canada.

Electronic address: an address used in connection with the transmission of an electronic message to

- (a) an electronic mail account;
- (b) an instant messaging account;
- (c) a telephone account; or
- (d) any similar account.

Electronic message: a message sent by any means of telecommunication, including a text, sound, voice or image message.

Express consent: valid consent given in writing or orally and is not time limited unless the recipient withdraws his or her consent

Implied consent: an individual has an existing business or non-business relationship with the sender and is typically time limited for a period of 2 years after the even that starts the relationship

Background

Effective July 1, 2014 school boards will no longer be able to send messages by any means of telecommunication, (including, but not limited to email messages, text messages, instant messages and direct messages to social networking accounts), where one or more purposes of the message is to encourage participation in commercial activity, whether or not there is any expectation of profit, unless the message meets the consent, form and content requirements of Canadian Advertising and Marketing Law (CASL).

This may affect school boards, schools, school councils and foundations when sending school-related electronic communications to current and prospective parents and students, service providers, stakeholders, volunteers or members of the public, where one or more of its purposes is to encourage the recipient to participate in commercial activity.

Section 6 of CASL prohibits the sending of a “commercial electronic message (“CEM”)” to an “electronic address” unless:

- (1) the person to whom the message is sent has consented to receiving it, whether the consent is express or implied; and the message

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- clearly identifies the sender, along with the sender’s contact information, and
- provides the recipient with a clear and simple mechanism that allows them to “unsubscribe” from receiving CEMs from the sender in the future.

(2) For the purposes of this Act, a commercial electronic message is an electronic message that, having regard to the content of the message, the hyperlinks in the message to content on a website or other database, or the contact information contained in the message, it would be reasonable to conclude has as its purpose, or one of its purposes, to encourage participation in a commercial activity, including an electronic message that

- (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 paragraph (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 any of paragraphs (a) to (c), or who intends to do so.

(3) An electronic message that contains a request for consent to send a message described in subsection (2) is also considered to be a commercial electronic message.

Procedures

1. Schools should only send messages to individuals that have completed [Form 149-1 Electronic Communications Consent](#) (anti-spam).
2. Schools will track parent CEM consent in PowerSchool for individual student.
3. The consent form, included in student registration packages, is effective until form is changed or the individual contacts GPPSD to remove consent.
4. Principals are responsible to make all staff aware of the legislation.
5. If staff are using individual contact lists to send out information they need to first check if consent has been given and within the body of the email must state:
 - “If you wish to no longer receive these messages please respond to this message requesting that you be removed from future correspondence.”
6. School principals will ensure that the subscription feature through the school SharePoint website is used to send school level correspondence such as newsletters as this program has an embedded “Unsubscribe” link within.

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Appendix

Examples of commercial activities that might arise in a school setting and result in the sending of “commercial electronic messages” might include:

- online school newsletters and publications containing offers to purchase goods, products and services, such as apparel, yearbooks, school photos, travel offers, pizza lunches, and advertisements for school activities, events and programs for which there is a fee
- electronic publications recruiting individuals in connection with school programs
- fundraising activities (Note: as indicated below in this document, there is a limited exception under CASL for CEMs sent by registered charities where the CEM has as its primary purpose raising funds for the charity)
- offers to purchase or sell land
- RFPs