

 Policies & Procedures Manual	# Pages: Page 1 of 14	Policy Number: AD-01-02
	Approved by: President's Council	
Section: ADMINISTRATION - General	Effective Date: May 10, 2021	
Title: Canadian Anti-Spam Legislation Policy	Replaces: New	

POLICY STATEMENT

Canada's Anti-Spam Legislation (CASL) came into force on July 1, 2014 and has set out certain requirements with respect to Commercial Electronic Messages sent and/or received in Canada.

PURPOSE OF POLICY

University College of the North (UCN) is committed to complying with CASL. UCN has developed an organization-wide policy intended to ensure, as far as reasonably practicable, that all Commercial Electronic Messages sent in the course of carrying on its business are sent in accordance with the principles and requirements of CASL. In particular, UCN is committed to ensuring that these messages contain the appropriate consent, content and unsubscribe mechanisms as required by CASL.

DEFINITIONS

The following definitions are to assist in the interpretation of this Policy and are subject to change given amendments to applicable legislation:

- a) **“Commercial Electronic Message”**, hereinafter referred to as "CEM", means a message which, 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:
 - i. offers to purchase, sell, barter or lease a product, goods, a service, land or an interest or right in land;
 - ii. offers to provide a business, investment or gaming opportunity;
 - iii. advertises or promotes anything referred to in paragraph (i) or (ii);
 - iv. promotes a person, including the public image of a person, as being a person who does anything referred to in any of paragraphs (i) to (iii), or who intends to do so.
- b) **“Existing Business Relationship”** means a business relationship between the person to whom the message is sent and any of the other persons referred to in that subsection — that is, any person who sent or caused or permitted to be sent the message arising from:

- i. the purchase or lease of a product, goods, a service, land or an interest or right in land, within the two-year period immediately before the day on which the message was sent, by the person to whom the message is sent from any of those other persons;
 - ii. the acceptance by the person to whom the message is sent, within the period referred to in paragraph (i), of a business, investment or gaming opportunity offered by any of those other persons;
 - iii. the bartering of anything mentioned in paragraph (i) between the person to whom the message is sent and any of those other persons within the period referred to in that paragraph;
 - iv. a written contract entered into between the person to whom the message is sent and any of those other persons in respect of a matter not referred to in any of paragraphs (i) to (iii), if the contract is currently in existence or expired within the period referred to in paragraph (i); or
 - v. an inquiry or application, within the six-month period immediately before the day on which the message was sent, made by the person to whom the message is sent to any of those other persons, in respect of anything mentioned in any of paragraphs (i) to (iii).
- c) **"Family Relationship"** means a relationship between an individual who sends a message and the individual to whom the message is sent if those individuals are related to one another through a marriage, common-law partnership or any legal parent child relationship and those individuals have had direct, voluntary, two-way communication.
- d) **"Personal Relationship"** means a relationship where it would be reasonable to conclude that there is a personal relationship, taking into consideration any relevant factors such as the sharing of interests, experiences, opinions and information evidenced in the communications, the frequency of communication, the length of time since the parties communicated or whether the parties have met in person.
- e) **"Implied Consent"** means you have not asked permission, but consent is implied if it is done under certain situations based on the type of relationship with the recipient.
- f) **"Express Consent"** means you have formally sought consent from an individual to verify the person has expressly indicated that they want to received messages.

PROCEDURES

1.0 IDENTIFICATION OF COMMERCIAL ELECTRONIC MESSAGES

UCN has undertaken an internal audit and determined:

- 1.1 There are a number of electronic messages sent by the business which are not CEMs in that they do not have, as one of their purposes, to encourage participation in commercial activity. The list of frequent communications falling under this category are attached hereto at Appendix "A". These communications do not fall under the scope of CASL and therefore the remainder of this policy is inapplicable to these communications.
- 1.2 There are electronic messages sent from time to time that UCN has identified as CEM, which are set out in Appendix "B" hereto. These communications would fall under the scope of CASL and UCN these messages must contain the appropriate consent, content and unsubscribe mechanism requirements.

2.0 EXEMPTION FROM CASL

- 2.1 There are certain CEMs which are entirely exempt from the scope of CASL in that if sent by individuals in the organization the requirements of CASL do not apply. These messages are therefore sent without regard to the content and unsubscribe requirements of CASL and without regard to the requirements set out in this Policy.
- 2.2 The CEMs sent within the organization which fall in this category are set out in Appendix "C" hereto.

3.0 GENERAL REQUIREMENTS OF CASL

- 3.1 For all CEMs sent by UCN (which are not otherwise exempt from the scope of CASL as set out in Article 2.0), CASL requires three main elements for these CEMs:
 - a) Consent;
 - b) Content requirements as set out in Article 5.0; and
 - c) Unsubscribe requirements as set out in Article 5.0.
- 3.2 All employees and anyone acting on behalf of UCN must ensure these three requirements exist for all CEMs sent on behalf of UCN. If you are unsure, please contact the Compliance Officer as set out in Article 6.0.

4.0 CONSENT

(a) Exemptions from Consent

- 4.1 Certain CEMs sent by UCN are exempt from the requirement of consent. These CEMs are set out in Appendix "D" hereto.
- 4.2 These CEMs must still comply with the content and unsubscribe requirements set out in Article 5.0.

(b) Implied Consent

- 4.3 Certain CEMs sent by UCN have the implied consent of the recipient and therefore express consent is not required. These CEMs are set out in Appendix "E" hereto.
- 4.4 These CEMs must still comply with the content and unsubscribe requirements set out in Article 5.0.

(c) Express Consent

- 4.5 CEMs sent by UCN which require consent, and do not otherwise fall under subsections (a) and (b) above, can only be sent with **the express consent of the recipient**. These CEMs, and the manner in which express consent is to be obtained in each scenario, is set out in Appendix "F" hereto.
- 4.6 These CEMs must also comply with the content and unsubscribe requirements set out in Article 5.0.

5.0 CONTENT AND UNSUBSCRIBE

- 5.1 All CEMs sent by UCN, regardless as to how consent is obtained, must include the following content information:

- a) business and/or the business's operating name if different;
 - b) UCN contact information (including name, mailing address, email address and phone number) - which must be valid for a minimum of 60 days after the CEM is sent as well as contact information for sender (if applicable);
 - c) Purpose of the message
- 5.2 CASL requires that all CEMs sent must include an unsubscribe mechanism set out clearly in the CEM. This can be accomplished by asking the recipient to email or text with the 'STOP' or 'UNSUBSCRIBE' or having a link that will take the user to a webpage where they can unsubscribe.
- 5.3 When an individual has requested to unsubscribe from receiving future CEM, it is the responsibility of the sender to ensure the unsubscribe will be processed internally and completed within 10 days.

6.0 COMPLIANCE OFFICER, AUDIT AND RISK ASSESSMENT

- 6.1 UCN shall appoint the UCN Access and Privacy Officer as its Compliance Officer. The Compliance Officer is accountable for UCN's obligations at law and pursuant to this policy. Regular reports shall be provided to the President's Council concerning compliance issues, and in any event, no less than on an annual basis.
- 6.2 As part of the annual report the Compliance Officer shall conduct a risk assessment to determine which business activities are at risk for the commission of violations under this Policy and/or CASL. The results of this audit shall be recorded and provided to the President's Council. The Compliance Officer shall then develop and recommend policies and procedures to the President's Council in order mitigate these risks.
- 6.3 It is essential for UCN staff to keep record of consent to prove a recipient has consented to receive CEM.
- 6.4 The Compliance Officer is responsible for monitoring any legislative or regulatory changes, proposing modifications and/or updates to this Policy and the processes and training in place at UCN to ensure compliance with this Policy and CASL.
- 6.5 If there are any matters not addressed in this Policy, or if you have any questions or concerns, contact **the Compliance Officer**.

7.0 COMPLAINTS

Questions or complaints regarding UCN's CASL compliance should be sent to:

UCN's Access and Privacy Officer
University College of the North
P.O. Box 3000
The Pas, MB R9A 1M7
(204) 627-8561 ex.2
mbuchanan@ucn.ca

8.0 EMPLOYEE TRAINING AND NOTICE

- 8.1 This Policy is available on the UCN website at www.ucn.ca/policies and has been provided to employees through an all staff email. New employees will be provided with a copy of this Policy by Human Resources.
- 8.2 Training will be provided to staff.
- 8.3 Employees may be required to complete the acknowledgement form at Appendix "G" confirming their notification and/or training pursuant to this Policy. UCN will retain these acknowledgements in employee personnel files.
- 8.4 UCN takes violations of this policy and its internal procedures seriously. Failure to comply with this Policy may result in discipline up to and including termination.

9.0 THIRD PARTIES AND AGENTS

When UCN engages with a third-party agent or consultant who may send CEM on UCN's behalf, the third-party agent must ensure that they comply with CASL. Third party agents or consultants should seek advice and guidance from UCN's Compliance Officer before sending CEM.

10.0 OTHER CASL REQUIREMENTS

In addition to the requirements related to CEMs, CASL also regulates the following, in the course of a commercial activity:

- 10.1 **The installation of computer programs without consent:** A person must not, install a computer program on any other person's computer system or, having so installed, cause an electronic message to be sent from that computer system, without express consent of the sender and compliance requirements are met;
- 10.2 **Altering of transmission data:** CASL prohibits the alteration or cause to be altered the transmission data in an electronic message so that the message is delivered to a destination other than or in addition to that specified by the sender without express consent of the sender or the person to whom the message is sent and compliance requirements are met;
- 10.3 **Providing false or misleading information:** CASL prohibits false or misleading information in CEMs, including:
 - Any representation in the message that is false or misleading in material respect;
 - Any false or misleading representation made in a 'locator' (i.e. a name, URL, or other information used to identify the source of data in a computer system; and
 - Any false or misleading representation in the "From" or "Subject" line of a message;
- 10.4 **Harvesting of addresses:** CASL prohibits the use of programs that 'harvest' email addresses to create mailing lists;
- 10.5 **Unauthorized collection of personal information:** CASL prohibits the use of computer systems to collect personal information without authority.

11.0 MISCELLANEOUS

Please note that the appendices and treatment of messages as set out in this policy are subject to amendment from time to time based on the changing nature of the business, amendments to our business practices and/or changes to the legislation or directives interpreting the applicable legislation.

Appendix A
Non-CEM Messages

UCN is a public post-secondary institution, providing public service and is not a commercial entity. Therefore, CASL does not apply to messages that communicate, support or promote UCN's core purposes and powers.

UCN's purposes and powers as defined in section 3 and 4(1) of the UCN Act are as follows:

Purposes

3 The purposes of the university college are

- a) to serve the educational needs of Aboriginal and northern Manitobans; and
- b) to enhance the economic and social well-being of northern Manitoba; by providing a broad range of educational opportunities.

Powers

4(1) For its purposes, the university college may

- a) provide post-secondary instruction and training;
- b) facilitate the creation and sharing of knowledge in an atmosphere of open and critical thought;
- c) grant degrees, honorary degrees, certificates and diplomas;
- d) provide career counselling, basic education upgrading and literacy programs, as well as post-secondary transition and preparation programs for under-prepared students;
- e) develop and deliver joint academic programs in conjunction with a university, another university college, a college or another accredited post-secondary institution; and
- f) generally, promote and carry out the work of an educational institution in northern Manitoba.

Appendix B
CEMs sent by UNIVERSITY COLLEGE OF THE NORTH

Providing electronic communication about UCN's activities or facilities will most likely not be considered advertising or promoting a commercial activity. However, it is sometimes difficult to distinguish between the provision of general information and the promotion of commercial activities. Request advice from UCN's Compliance Officer if you are unsure whether an electronic message is subject to CASL.

UCN considers the following to be commercial activities and therefore subject to CASL:

- Promotion and sale of products at the UCN Bookstore that are not connected to educational programming and/or student life;
- Promotion and sale of publications;
- Events where tickets are sold (i.e. speaking series)
- UCN Food Services;
- Student recruitment;
- Recreational services and activities;
- Student housing services;
- Promotion of non UCN or co-sponsored conferences, workshops, events and activities;
- Promotion of UCN sponsored events or services that are not related to UCN's core activities;
- Promotion of new courses, academic programs or opportunities to prospective students and the general public;
- Solicitation for sponsorship.

Appendix C

Exemption from CASL

Messages that are exempt from CASL can be sent without regard to the content and unsubscribe requirements of CASL and without regard to the requirements set out in this Policy.

The following are the CEMs sent within an organization which fall under an exemption in the Act:

- **Charity Exception** - Sent by or on behalf of a registered charity and the message has as its primary purpose raising funds for the charity;
- **Electronic Messaging Services** – sent on an electronic message service where consent is received and information and unsubscribe mechanisms are provided;
- **Employee emails** - sent by an employee, representative, consultant or franchisee of an organization to an employee, representative, consultant or franchisee of another organization if the organizations have a relationship and the message concerns the activities of the organization to which the message is sent;
- **Employees** - Emails sent within the organization between employees regarding the activities of the organization;
- **Foreign State Communications** - Sent to a foreign state as referenced in the Act and it complies with the state's laws;
- **Inquiry/application** – electronic communication sent to a person who is engaged in a commercial activity and consists solely of an inquiry or application related to that activity;
- **Legal obligation**- sent to satisfy/provide notice of a legal or juridical obligation, or to enforce a right arising under a law of Canada;
- **Personal/Family Relationship** - emails sent and received by employees from individuals with whom they are in a Personal Relationship and/or Family Relationship;
- **Response** - sent in response to a request, inquiry or complaint or is otherwise solicited by the person to whom the message is sent;
- **Social Media** – general posts on UCN Social Media outlets (i.e. Facebook, Instagram)

Appendix D

Exemptions from Consent

Certain CEM sent by UCN are exempt from the consent requirement under CASL but still require the content and unsubscribe requirements set out in Article 7.0 to be included in the CEM. The following CEMs sent by UCN are exempt from the consent requirement:

- **Quote or estimate** - provides a quote/estimate for the supply of a product, goods, a service, land or an interest or right in land, if requested by the person to whom it is sent.
- **Transaction completion** - facilitates, completes or confirms a commercial transaction that the person to whom the message is sent previously agreed to enter into with the person who sent the message.
- **Warranty Information** - Provides warranty information, product recall information or safety or security information about a product, goods or a service that the person to whom the message is sent uses, has used or has purchased.
- **Factual Information Notice** - provides notification of factual information about:
 - (a) the ongoing use or ongoing purchase by the person to whom the message is sent of a product, goods or a service offered under a subscription, membership, account, loan or similar relationship by the person who sent the message, or
 - (b) the ongoing subscription, membership, account, loan or similar relationship of the person to whom the message is sent.
- **Employment Relationship/Benefit Plan** - information about employment relationship or related benefit plan.
- **Delivery of product, good or service** - delivers a product, goods or a service including updates or upgrades that the person is entitled to receive under the terms of a transaction that they have previously entered into with the person who sent the message.
- **Referral** – the first CEM sent following a referral by an individual who has an Existing Business Relationship, Family Relationship and/or a Personal Relationship with the person who send the message as well as one of these relationships with the recipient.

Appendix E

Implied Consent

Where the following CEMs are sent by UCN we have the implied consent of the recipient to send them CEMs, however these CEMs must still comply with the content and unsubscribe requirements set out in Article 5.0:

1. **Existing Business Relationship** – where UCN has an Existing Business Relationship as defined in Article 2.0, including the following:
 - Alumni – based on membership in UCN Alumni. ‘Membership’ means the status of having been accepted as a member of a club, association or voluntary organization in accordance with its membership requirements. Consent is ongoing until they unsubscribe;
 - Students - consent is valid for two years after they cease to be students;
 - Members of the public who have attended UCN sponsored courses, conferences or events. Consent is valid for two years;
 - Members of the public who enquire about UCN services. Consent is valid for two years.
 - Members of the public, businesses and industries who have provided business cards with an email address and the email being sent is relevant to their business. Consent is valid for two years from receipt.

UCN is responsible for recording/maintaining a list of implied consent exemptions, and the time limits in the exemption, to prove that the recipient has consented to receive CEM sent on behalf of UCN. If you are unsure your CEM is under the implied consent exemption, follow up with UCN’s Compliance Offer is required to ensure appropriate internal due diligence in this category.

2. **Conspicuous publication** – where the recipient of the CEM has conspicuously published the electronic address to which the CEM, is sent and there is no statement that the person does not wish to receive unsolicited CEMs to this address, and the message is relevant to the person’s business, role, functions or duties in a business or official capacity, consent is implied. This provision is applicable in the following scenarios

In order to rely on this exception, in every case, it must be confirmed:

- (a) that the email address remains conspicuously published;
- (b) where it is published there is not a request for CEMs/solicitations not to be sent; and
- (c) the email sent is relevant to the person's business, role, functions or duties in a business or official capacity.

Employees are responsible for ensuring appropriate internal due diligence in this category and must record evidence of the conspicuous publication (i.e. print the web page).

3. **Disclosure of Email Address** – where the recipient of the CEM has disclosed the electronic address to which the message is sent, without indicating a wish not to receive unsolicited CEMs, and the message is relevant to the person's business, role, functions or duties in a business or official capacity. This provision is applicable in the following scenarios:

In order to rely on this exception, in every case, it must be confirmed:

- (a) that the email address was voluntarily provided;
- (b) it was provided without a request for CEMs/solicitations not to be sent; and
- (c) the email sent is relevant to the person's business, role, functions or duties in a business or official capacity.

Employees are responsible for ensuring appropriate internal due diligence in this category and must record evidence of the disclosure of an email address (i.e. retain a business card provided)

Appendix F

Express Consent

Express consent must be formally sought from an individual to verify the person has expressly indicated that they want to receive messages. These CEMs must also comply with the content and unsubscribe requirements set out in Article 5.0.

The following are examples of how express consent is to be obtained prior to sending CEM:

- An individual has signed a document expressing their consent;
- An individual has sent an email indicating they want to receive CEM;
- An individual entering information on a webform/webpage and checking box 'I consent'

CASL requires all requests for consent include:

- a) state clearly and simply the purpose or purposes for which the consent is being sought;
- b) the name by which the person seeking consent carries on business, if different from their name, if not, the name of the person seeking consent;
- c) if the consent is sought on behalf of another person, the name by which the person on whose behalf consent is sought carries on business, if different from their name, if not, the name of the person on whose behalf consent is sought;
- d) if consent is sought on behalf of another person, a statement indicating which person is seeking consent and which person on whose behalf consent is sought;
- e) the mailing address, and either a telephone number providing access to an agent or a voice messaging system, an email address or a web address of the person seeking consent or, if different, the person on whose behalf consent is sought; and
- f) state that consent can be withdrawn at any time.

Appendix G

Acknowledgment Form

I have been given a copy of the CASL (Anti-Spam) Compliance Policy (the "Policy") of UNIVERSITY COLLEGE OF THE NORTH (UCN). I understand that the Policy reflects the principles as set out in CASL addressing Commercial Electronic Messages.

I HAVE READ THE POLICY and I acknowledge that I am aware of and understand the Policy as it relates to the sending of CEMs by and on behalf of UCN and agree to comply with this Policy.

If I have any questions as to how to implement or interpret the policy, I will seek clarification from the Compliance Officer immediately.

I understand my obligations concerning the sending of Commercial Electronic Messages on behalf of UCN.

I also understand that unauthorized sending of Commercial Electronic Messages may result in disciplinary action being taken against me by UCN, up to and including the termination of my employment, the imposition of fines pursuant to CASL and a report to my professional regulatory body, if applicable.

DATE SIGNED

Signature of individual making pledge

Name of Individual Making Pledge
(Please print)

DATE SIGNED

Signature of individual administering pledge
I have given the above named individual a copy of the Policy and discussed the Policy and the consequences of breaching the Policy with him/her