



UNIVERSITY
OF MANITOBA

Office of Legal Counsel

CANADA'S ANTI-SPAM LEGISLATION DO YOU HAVE CONSENT to Send that COMMERCIAL MESSAGE? HOW DO I GET CONSENT?

CASL prohibits organizations from sending commercial electronic messages unless the recipient has given express consent or the message falls into one of the closed categories where consent is implied.

EXPRESS CONSENT

The best way to ensure you have consent to send a commercial electronic message is if you can identify that you have received Express consent. Ideally, the University would like messages to be sent only to those individuals who have expressly indicated they want to receive our messages. Under the legislation, the onus is on the University to prove it has valid consent, if a complaint is made.

Express consent is consent in writing or by a person actively consenting on a website. Individuals may provide their consent in various ways. Such as: by signing a document, sending you an email saying they want you to email them, or entering information on a web page after being informed that we will use their address to email, or checking a box indicating they are proving consent or clicking an "I Consent" button on a web page .

Once you have someone's express consent, then you may continue to send them CEMs indefinitely unless the individual "unsubscribes" from further messages.

OBTAINING EXPRESS CONSENT WHEN YOU ARE ASKING FOR SOMEONE'S EMAIL ADDRESS

Whenever you are asking for somebody's contact email address and would like to use that contact information in the future, you need to obtain their consent.

An example would be a conference registration form.

What is needed in my message or form when requesting Express Consent?

To obtain somebody's express consent, your message must include:

1. the specific purpose(s) for which you're seeking their consent
2. the name of the University's unit, faculty, association, group etc. seeking consent
3. the following contact information for the specific unit seeking consent (or a link to a website containing this information):
4. mailing address
5. telephone number and/or email address and/or web address
6. a statement indicating that the person whose consent is sought can withdraw their consent at any time
7. A privacy statement

EXAMPLE:

“ I agree to allow the University of Manitoba to contact me by email regarding academic programs, scholarships, awards, admission requirements, student services, news and events. I may withdraw my consent at any time by contacting Enrolment Services (204-474-8808), 424 University Centre, University of Manitoba, Winnipeg, MB. R3T 2Y4, www.umanitoba.ca/admissions”

This personal information is being collected under the authority of The University of Manitoba Act. It will be used to enter you in a draw to win various prizes and send you information about program and activities offered by the University. It will not be used or disclosed for other purposes, unless permitted by The Freedom of Information and Protection of Privacy Act (FIPPA). If you have any questions about the collection of your personal information, contact the Access & Privacy Office (tel. 204-474-9462), 233 Elizabeth Dafoe Library, University of Manitoba, Winnipeg, MB, R3T 2N2.

The Office of Legal Counsel has other examples of language for obtaining consent and is available upon request.

SENDING AN EMAIL TO CONFIRM EXPRESS – if you already have the person in your database as somebody you email.

If you have somebody's email address in your database / or email list and you would like to continue sending that person commercial electronic messages after July 1, 2014, you should send an email asking them whether they would like to continue receiving messages from you.

You would still need to have the Unit's contact information, a statement indicating that they may withdraw their consent at any time and a privacy statement.

Example language for a confirmation email should include:

Canada's New Anti-Spam Legislation is coming into force on July 1, 2014 and this may affect our ability to communicate with you. You are receiving this email because we had you on our list as some who wanted to receive communications from us. [CLICK HERE](#) If you would

like to continue receiving communications from (enter Unit / department faculty) about our (ex... news, sales, programs, activities, events, and special opportunities). . You may unsubscribe at any time (have a click function for unsubscribe). For more information please contact (give contact information).

(Link to a privacy statement or include the following :) If you have any questions about the collection of your personal information, contact the Access & Privacy Office (tel. 204-474-9462), 233 Elizabeth Dafoe Library, University of Manitoba, Winnipeg, MB, R3T 2N2

IMPLIED CONSENT

Implied consent means that you have not asked permission to send the CEM, but consent is implied based on the type of relationship the University has with the recipient or you can infer consent based on how the recipient posted their email.

The University has implied consent in the following circumstances:

1. when there is an 'existing business relationship' or an 'existing non-business relationship'; or
2. when the recipient has "conspicuously published" the electronic address without a statement that the person does not wish to receive unsolicited CEMs **AND** the message is relevant to the person's business, role, functions or duties in a business or official capacity; or
3. when the recipient has disclosed, to the person who sends the message, the electronic address 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 (example: handing out of business card with and email address).

The University has implied consent to send commercial messages to individuals in the following groups (until they unsubscribe):

1. Alumni - based on an existing non- business relationship which is based on membership in the Alumni Association and consent is ongoing and continues until they unsubscribe)
2. Students - based on an existing business relationship (consent is valid for two years after they cease to be students – although they may become alumni)
3. Members of the public who have attended course/ conferences and events sponsored by the University - based on an existing business relationship (consent is valid for two years)

4. Members of the public who enquire about University Services (consent is valid for 6 months)
5. Sponsors or persons who have donated - based on an existing non- business relationship (consent is valid for two years)
6. Members of the public/ industries who have provided business cards with email address and the email we are sending is relevant to their business. (Consent is valid for two years from receipt)

If you cannot determine whether you have consent, do not send the commercial email and the individual (or email address) should be removed from your list or database.