

Anti-Spam (CASL) Policy

1 – Policy Overview

This policy is intended to ensure that United Way Greater Toronto (UWGT) sends commercial electronic messages to external parties in compliance with Canada's anti-spam legislation (CASL). The legislation makes it an offence to send a commercial electronic message (“CEM”) to a recipient located in Canada without receiving their advance consent or unless an exception to the consent requirement is available in the circumstances.

The legislation has implications for electronic messaging that is broader than what we commonly think of as “spam” and under certain situations, can apply to legitimate UWGT activities. This policy provides direction to identify where UWGT activities to which the legislation applies and establishes the principles and procedures to ensure UWGT is in CASL compliance.

2 – Scope

2.1 Senders

This policy applies to all commercial electronic messages (CEM) sent by Board Trustees, other volunteers, employees, and vendors from or on behalf of UWGT.

2.2 Recipients

This policy applies to all CEMs received by a recipient located in Canada, meaning an individual residing mainly in Canada.

2.3 Message Type

This policy applies to any communications to an electronic address, including emails, text messages, instant messaging messages, or social media messages. It does not apply to telephone calls, voice messages, faxes sent to a telephone number, or correspondence sent by regular mail or courier. Messages include those sent directly from an individual's email service as well as those sent in masse through UWGT's bulk email systems.

2.4 Message Purpose

This policy applies to CEMs which are electronic messages that have the purpose, or one of the purposes, to encourage participation in an activity that is commercial, regardless of whether it is for profit or not-for-profit. Any activity that offers or promotes the purchase, sale, barter or lease of product, goods, services, or land or offers or promotes a business, investment or gaming opportunity, is considered commercial.

A message sent by, or on behalf of, UWGT which has fundraising as its primary purpose and has no other commercial purpose is exempt from CASL. There will be at least some CEMs sent by, or on behalf of, UWGT which have a commercial purpose where CASL does apply.

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3 – Principles and Key Activities of CASL Adherence

Below are the principles and key activities for ensuring your CASL adherence when sending CEMs.

3.1 Determine if the intended communication is a CEM.

Before you send a communication, determine if it qualifies as a CEM. If the intended communication is:

- communications to an electronic address, including emails, text messages, instant messaging messages, or social media messages; or
- sent by Board Trustees, other volunteers, employees, and vendors from or on behalf of UWGT; or
- directed to a recipient located in Canada; or
- intended to have, in whole or in part, a commercial purpose, regardless of whether it is for profit or not-for-profit...

then it is considered a CEM.

If you are unsure, contact the **Privacy Officer** for help making that determination.

3.2 Determine if you can send recipient(s) the CEM under CASL.

If you determine that your intended communication is a CEM, you must then decide whether you are able to send the CEM to the intended recipient(s) under CASL.

In order to send a CEM in compliance with CASL, UWGT must be able to rely on:

- express consent from the recipient of the CEM; or
- implied consent from the recipient of the CEM; or
- an exception to the consent requirement in the circumstances.

Under CASL, there are two forms of consent that can be relied upon in order to send a CEM: express consent and implied consent. Express consent is obtained where an individual expressly indicates a willingness to receive CEMs from UWGT. Implied consent is obtained where certain conditions set out in CASL are satisfied by UWGT. Both express consent and implied consent are explained in greater detail in below. The various circumstances in which an exception to the consent requirement is available are also explained below.

3.2.1 Where UWGT has obtained express consent

Where UWGT has obtained express consent from an individual to send them CEMs, the individual's profile on UWGT's Constituent Relationship Management (CRM) system will indicate that express consent was given. In these circumstances, you may send that individual CEMs

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unless and until such time as the individual withdraws their consent, in which case their profile on UWGT's Constituent Relationship Management (CRM) system will indicate that consent was withdrawn. Express consent is not time-limited: once express consent is obtained you are able to send CEMs until the recipient notifies you that they no longer want to receive them.

3.2.2 Where UWGT has obtained implied consent

Under CASL, there are three forms of implied consent which may be available in order to send an individual CEMs if UWGT has not obtained express consent from that individual:

- a. Where the individual has personally disclosed their email address to someone at UWGT, such as by giving someone at UWGT a business card with their email address on it or sending someone at UWGT correspondence with their email address on it (including a reply to an email from someone at UWGT), without indicating that they do not wish to receive CEMs from UWGT;
- b. Where the individual has conspicuously published their email address, such as in a public directory or on a public website, without indicating they do not wish to receive unsolicited CEMs; or
- c. Where the person at UWGT who wishes to send the CEM has an "existing business relationship" with the individual.

An "existing business relationship" exists where:

- a. 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 UWGT;
- b. The acceptance by the person to whom the message is sent, within the period referred to in paragraph (a), of a business, investment or gaming opportunity offered by UWGT;
- c. The bartering of anything mentioned in paragraph (a) between the person to whom the message is sent and UWGT within the period referred to in that paragraph;
- d. A written contract entered into between the person to whom the message is sent and UWGT in respect of a matter not referred to in any of paragraphs (a) to (c), if the contract is currently in existence or expired within the period referred to in paragraph (a); or
- e. 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 UWGT, in respect of anything mentioned in any of paragraphs (a) to (c).

Examples include situations where the recipient has made a donation, volunteered, been a UWGT member, or attended a meeting organized by UWGT within the two-year period before the day the message is sent.

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If your situation meets any of the categories of implied consent set out in CASL, then you can rely on implied consent to send CEMs. Whether you can rely on implied consent to send your CEM must be assessed by the person at UWGT who wishes to send the CEM and is only available where the individual to whom the CEM is to be sent has not unsubscribed from receiving CEMs from UWGT. Remember that implied consent can expire, and that you should be able to prove any consent you are relying on to send your CEMs. While the individual's profile on UWGT's Constituent Relationship Management (CRM) system will not track that implied consent was given, you will still need to keep records to prove implied consent.

If you are unsure if you can send your CEM relying on implied consent, or if you are unsure of what records to keep in order to evidence the implied consent, contact the **Privacy Officer** for help in making that determination.

3.2.3 Where UWGT does not have consent

In situations where UWGT has neither express nor implied CASL consent, you must not send that individual a CEM except where one of the following exceptions to the consent requirement is available:

- a. Where the individual is currently or was previously involved in an interaction with UWGT and the CEM specifically relates to that interaction;
- b. Where the individual is a former employee of UWGT and the CEM consists of information directly related to the ongoing administration of that relationship or to a benefit plan in which the individual is currently enrolled;
- c. Where the CEM is sent pursuant to a legal obligation or to enforce or provide notice of existing or pending legal rights or actions;
- d. Where the CEM consists of a quote or estimate for the supply of a service by UWGT, and that quote or estimate was requested by the individual;
- e. Where the person at UWGT sending the CEM and the individual to whom the CEM is to be sent have a "personal relationship" as that term is defined in CASL, such that they have previously had "direct, voluntary, two-way communication and it would be reasonable to conclude that they have a personal relationship taking into consideration any relevant factors such as the sharing of interests, experiences, opinions, the frequency of communication, the length of time since the last communication, and whether they have met in person";

Important Note: The exception to the consent requirement in (e) above should not be relied upon where the individual has unsubscribed from receiving CEMs from UWGT.

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- f. Where the person at UWGT sending the CEM and the individual to whom the CEM is to be sent have a “family relationship” as that term is defined in CASL, such that they are related to each other “through marriage, common law partnership or any legal parent-child relationship and those individuals have had direct, voluntary, two-way communication”;
- g. The CEM is sent to an individual engaged in commercial activity (whether in expectation of profit or not) and the CEM consists solely of an inquiry or application related to that commercial activity, such as where UWGT would like to offer someone the opportunity to sell us their products or services;
- h. The CEM is sent in response to a request, inquiry or complaint by an individual or where the CEM was otherwise solicited by the individual;
- i. The CEM is sent and received on an electronic messaging service, such as one provided through a social media platform (e.g., LinkedIn, Twitter, Facebook), in circumstances where the individual has chosen to receive messages from UWGT (e.g., is a “friend” or “follower” of UWGT) or has otherwise expressed a willingness to receive unsolicited messages;
- j. Where the CEM will be accessed by an individual located in a foreign country; or

Important Note: The exception to the consent requirement in (j) above should not be relied upon where the individual has unsubscribed from receiving CEMs from UWGT.

- k. Where the CEM is sent to an individual who has been referred to UWGT, provided that: (i) the person who provided UWGT with the referral is identified in the CEM and the CEM states that it is being sent as a result of a referral from that person; (ii) UWGT is satisfied that the person who provided the referral has an “existing business relationship”, “personal relationship” or “family relationship” (as each of those terms are defined in this policy above) with the individual to whom the CEM is being sent; and (iii) if the individual does not respond to the initial CEM sent by UWGT, no follow-up CEMs based on that referral are sent to the individual by UWGT.

Important Note: The exception to the consent requirement in (k) above should not be relied upon where the individual has unsubscribed from receiving CEMs from UWGT.

If your situation meets any one of the categories of exceptions to consent set out in CASL, then you can rely on that exception to consent to send CEMs. Whether you can rely on an exception to consent to send your CEM must be assessed by the person at UWGT who wishes to send the CEM.

You should be able to prove any type of consent you are relying on to send your CEMs. While the individual’s profile on UWGT’s Constituent Relationship Management (CRM) system will not track

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the exceptions to consent, you will still need to keep records to prove you qualify for the exception to consent for each CEM sent under an exception.

If you are unsure if you can send your CEM relying on the exception to consent, or if you are unsure of what records to keep in order to evidence the exception to consent, contact the **Privacy Officer** for help in making that determination.

3.3 Ensure you send your CEM in the prescribed format.

If one of the above conditions is met and you can send the CEM, the format of the message must comply with the following CASL requirements where the CEM:

- Clearly identifies the name of the person/organization sending the message and, if different, the name of the person/organization on whose behalf it is sent;
- Provides the mailing address and either a telephone number, email address, or any other electronic address that will enable the recipient to readily contact the sender; and
- Provides a means by which the receiver can unsubscribe, which includes withdrawing their consent, from receiving further CEMs. This may be done either through the same e-mail which they receive, or other electronic means such as redirection to the website, preferably with as few clicks as possible.

3.4 Ensure unsubscribe requests take effect within 10 days.

In order to comply with CASL, all CEMs sent from a UWGT server should include an unsubscribe mechanism, whereby an individual can elect not to receive future CEMs from UWGT. Where an individual elects to unsubscribe (i.e., withdraw their consent) from receiving CEMs from UWGT, they may do so through any means – they may email you or call you or write you a letter. Whatever the means of communication of withdrawing consent, you must update the UWGT Constituent Relationship Management (CRM) system to indicate that the individual has withdrawn their consent and no longer permits you to send them CEMs.

Additionally, a request from an individual to no longer receive messages from the sender must be acted upon no later than 10 business days after the request has been sent. Failure by UWGT to promptly give effect to an unsubscribe request exposes UWGT to fines, lawsuits and reputational damage. Since an individual may unsubscribe from receiving CEMs from UWGT at any time, you must check an individual's profile on the UWGT Constituent Relationship Management system each time a CEM is being sent to that individual to know whether UWGT has express consent or has had consent withdrawn.

3.5 Ensure CASL compliance for CEMs sent by a third party on behalf of UWGT and by UWGT on behalf of a third party.

CASL contains provisions that apply to circumstances where UWGT sends CEMs on behalf of a third party or where a third party (such as a supplier or contractor) sends CEMs on behalf of UWGT. The requirements under CASL which must be satisfied in the above circumstances, are

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nuanced and complex. Accordingly, before UWGT personnel send a CEM on behalf of a third party or allow a CEM to be sent by a third party on behalf of UWGT, contact the **Privacy Officer** for help in ensuring CASL compliance.

For instance, it is the responsibility of any employee who supervises a volunteer or engages a vendor to provide services for UWGT to identify where the volunteer or vendor may be sending CEMs, and ensure that the volunteer or vendor complies with this policy.

3.6 Ensure CASL compliance when requesting express consent to send CEMs.

When considering express consent, implied consent, or an exception to consent under CASL, relying on express consent provides the most certainty and clarity that you can send the CEM under CASL and that you can evidence your reliance on consent. Implied consent can expire. Further implied consent and exceptions to consent are less easy to prove than express consent.

Therefore, seeking and tracking express consent is oftentimes beneficial, to an organization by creating more clarity and certainty. Note, however, that the only way to obtain express consent via email is if you have implied consent to send the message.

When seeking express consent, the consent request must comply with the following CASL requirements:

- State the purpose for which consent is being requested;
- Clearly identify the name of the organization requesting consent or if requesting on behalf of another organization, the name of that organization. If requesting on behalf of another, clearly state who is seeking consent and on behalf of whom;
- Mailing address and either a telephone number, email address, or any other electronic address of the requestor; and
- A statement indicating that the consent may be withdrawn.

4 – CASL Accountability and Enforcement

Accountability:

The **Privacy Officer** is accountable to:

- Socialize this policy so that all employees can understand and adhere to it;
- Provide training for employees and track completion;
- Execute periodic audits of consent records, CEM logs and unsubscribe processing times;
- Respond to questions or clarification requests from external constituents;
- Provide guidance on CASL questions employees raised to the **Privacy Officer**;
- Monitor CASL-related regulatory developments; and
- Review and update this policy periodically.

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Each Vice-President or Departmental Head is responsible to:

- Oversee CASL compliance within their own department;
- Ensure there are appropriate processes within their own departments to address CASL compliance;
- Escalate to the **Privacy Officer** any CASL-related issues arising from their department; and
- Support any CASL-related investigation the **Privacy Officer** conducts.

The Marketing lead is responsible to:

- Maintain UWGT's Constituent Relationship Management (CRM) system.

Each employee is responsible to:

- Comply with this policy;
- Complete CASL compliance training during onboarding and at least once every two years;
- Ensure they follow all CASL processes;
- Track all express consent and withdrawals of consent in UWGT's Constituent Relationship Management (CRM) system;
- Action any requests to change or remove consent within 10 business days
- Establish and retain evidence of implied consent and exceptions to consent; and
- Escalate to their manager or the **Privacy Officer** any CASL-related issue coming to their attention.

Enforcement: Breaches of this policy will be considered a serious matter and may be subject to disciplinary action up to and including termination.

For questions or clarification, contact privacy@uwgt.org.

5 – Related Policies

- Code of Conduct & Ethics Policy.
- Conflict of Interest Policy.
- Whistleblower Policy.
- Complaints Policy for Members of the Public.
- Policy on Complaints Regarding Member and Funded Agencies.
- Risk Management Policy.
- Privacy Policy.
- Information Security Policy Framework

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6 – Related Procedures

- Privacy Policy Refresher
- Privacy by Design Playbook
- Cybersecurity Playbook

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