

What is the Canadian Anti-Spam Legislation?

The Canadian Anti-Spam Legislation (CASL) prohibits the sending of a **Commercial Electronic Message** to an electronic address unless the sender complies with three requirements: (1) obtains the consent of the intended recipient(s), (2) provides prescribed identification of the sender and, (3) provides an unsubscribe mechanism.

Who does the legislation apply to?

The legislation came into effect July 1, 2014 and affects all school boards in Canada. The legislation applies to all individual employees of the Board and may also apply to officers, directors, agents or mandataries, such as school advisory councils, student councils, trustees and volunteers engaged in activities on behalf of a school or the school board.

What is a Commercial Electronic Message?

Generally, a Commercial Electronic Message or CEM is defined to mean an “electronic message” (sent by telecommunication such as an email or text message) sent to an “electronic address” (email, instant messaging, Facebook, LinkedIn etc.) where it is reasonable to conclude that the purpose of the message is to encourage participation in a commercial activity.

What types of electronic communication might contain a CEM?

In our Board, the methods of electronic communication that might contain a Commercial Electronic Message include: email messages, automated emails sent by Synrevoice/School Connects software, text messages and instant messaging using platforms such as FaceBook or LinkedIn where a recipient has **‘not subscribed’** to receive communication. *An example of this would be if a coach sent an instant message through Facebook to parents containing information on how to purchase a team uniform.*

What types of electronic communication are excluded from the legislation?

Automated voice messages sent by Synrevoice/School Connects software, faxes, voicemails and interactive two-way voice communications between individuals are excluded. Also excluded are text messages and instant messages using platforms such as FaceBook or LinkedIn where a recipient has **‘subscribed’** to receive communication. *An example of this would be if a coach created a team Facebook page, where parents who have ‘liked the page’ or ‘subscribed,’ and parents are sent an instant message through Facebook containing information on how to purchase a team uniform.*

What is a commercial activity?

A commercial activity includes 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. Commercial activity would include (a) an offer to purchase, sell, barter, or lease products, goods, services or land; or (b) an offer to provide a business or investment; or (c) an advertisement or promotion for (a) or (b).

How can I tell the difference between a Commercial Electronic Message and a non-Commercial Electronic Message?

If an electronic message simply asks for volunteers or invites people to a free community event, it is not considered a CEM and the Canadian Anti-Spam Legislation does not apply.

However, if electronic message recipients are asked to buy chocolate bars or pay to attend a fundraising event, then it may be considered a CEM and the Canadian Anti-Spam Legislation rules apply. Other examples of a CEM in the school board context would include the promotion, advertising and/or offering for sale of school pictures, field trips, year books, fundraising events etc...

Why comply with the Canadian Anti-Spam Legislation?

The penalties for violation are severe. Failure to comply may result in an administrative monetary penalty, per violation, for an individual of up to \$1 million and for a school board of up to \$10 million.

On or after July 1, 2017, persons affected by a contravention of the legislation will have a private right of action and may claim compensation of in an amount equal to the actual loss of damage suffered or expenses incurred by an application as a result of contravention of the legislation. A three-year statute of limitations applies to both administrative and private actions.

Our Board, like many others in the province, has taken an inclusive approach to compliance in order to mitigate the risk of any employee, officer, director, agent or mandataries, which may include school advisory councils, student councils, trustees and volunteers of violating the legislation. As such, the Board is working toward obtaining express written consent from everyone who receives an email from an @nearnorthschools.ca address.


How is consent obtained?

Consent can only be provided in writing. Consent cannot be provided verbally or by email.

Anyone who receives email from a Near North account will be asked to complete a consent form. Consent is valid until revoked, which means that means recipients only need to complete the consent form once.

Consent is not required when sending from a Near North email account to another Near North email account.

Parents can provide their consent in two ways: 1) by completing a consent form or 2) by completing a student registration form. The student registration form is currently under revision and will be published shortly. Until then, parents can complete a consent form.



ANY INDIVIDUAL WHO **DOES NOT**
WISH TO RECEIVE COMMERCIAL
ELECTRONIC MESSAGES FROM AN
@NEARNORTHSCHOOLS.CA
ACCOUNT WILL NOT RECEIVE ANY
EMAIL COMMUNICATION
INCLUDING EMAILS THAT ARE NOT
COMMERCIAL IN NATURE, SUCH AS
ATTENDANCE INFORMATION,
SCHOOL NEWSLETTERS,
INFORMATION ABOUT UPCOMING
EVENTS AND TEACHER
COMMUNICATION.

It is critical that parents provide consent before October 1, 2015. Anyone who does not provide consent after this date will no longer receive any email communication from an @nearnorthschools.ca address.

Where will parent consent forms be stored and for how long?

Parent consent forms and registration forms are stored in a student's OSR to be kept until 5 years after the student retires from school. In cases where a student leaves (demits) from the NNDSB, the demitting school will remove the consent form or registration form and store in a central file at the school for 4 years.

Parent consent will be recorded in Trillium.

How can an individual unsubscribe or revoke their consent?

Electronic messages provide an unsubscribe mechanism through which a recipient of a CEM may indicate that they no longer wish to receive such messages. Recipients can send an email from the email address they wish to unsubscribe to unsubscribe@nearnorthschools.ca and their request will be acted upon within 10 business days. *This is the only mechanism through which an individual can unsubscribe. For example, parents who may email, call or return consent forms to the school requesting to unsubscribe will need to be informed that they need to send an email to unsubscribe@nearnorthschools.ca from the email account they wish to unsubscribe.*

If someone chooses to unsubscribe, their email address will become blocked from all outgoing email from the @nearnorthschools.ca email system.

Anyone who sends an email to unsubscribe@nearnorthschools.ca will receive an auto-reply message to remind them that if they unsubscribe, they will no longer receive any email from any Near North District School Board account including their child's attendance information, school newsletters, information about upcoming events and teacher communication.

Where can I find more information?

More information can be found on the Near North District School Board website at www.nearnorthschools.ca or on the Government of Canada's Anti-Spam Legislation website at www.fightspam.gc.ca.