

ELECTRONIC COMMUNICATIONS PROCEDURE

Parent Policy

Electronic Communications Policy #300-2-13

Purpose

This Procedure provides:

- A means to identify commercial electronic messages (CEMs) at Bow Valley College (BVC), and compliance with Canada's Anti-Spam Legislation (CASL), including defining core and non-core business activities;
- A decision tree and checklists to segment electronic communications that have approval to be sent from those which are not allowed to be sent or have particular requirements before sending;
- The College format for electronic messages, including required signature format and College tagline;
- Consent requirements from potential recipients of electronic communications;
- College requirements for sending group/mass/bulk electronic communications, whether or not a CEM; and,
- The accountability structure for approving and sending electronic communications at the College, to comply with College and CASL requirements.

Scope

All members of the College community are covered by this procedure, unless specifically indicated by a collective agreement, contract, or elsewhere in the Policy or Procedure. The procedure impacts BVC employees, independent contractors and learners who use or approve the use of BVC electronic communications systems or messages (or, if applicable, third party electronic communications systems and messages) on behalf of, or while representing or appearing to represent the College.

Compliance

All College employees, independent contractors and learners are responsible for knowing, understanding and complying with BVC policies, procedures and other attached documentation that relate to their relationship with the College. Non-compliance may create risk for the College and will be addressed accordingly, including disciplinary measures considered in the Learner or Employee Code of Conduct Policies and Procedures (500-1-1 and 200-1-1).

Procedures

1. Process for Identifying Commercial Electronic Messages at BVC

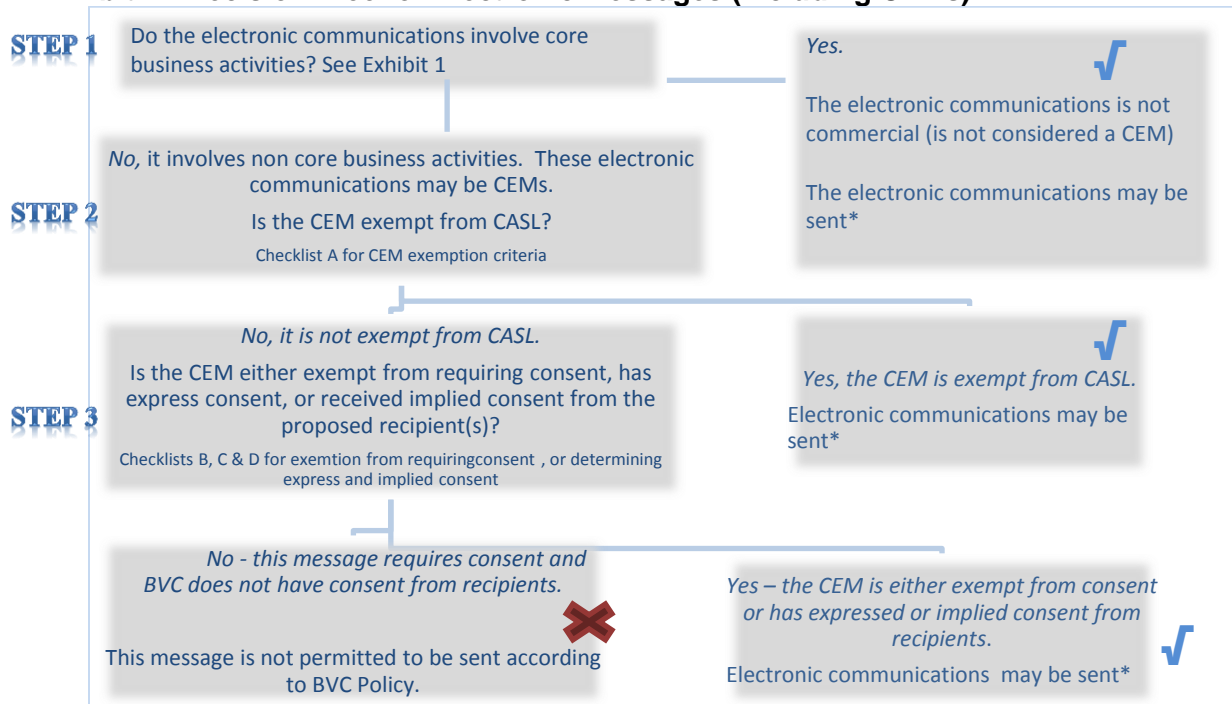
- 1.1. The College identifies electronic communications that encourage participation in commercial activities, regardless of whether there is an expectation of profit, as commercial electronic messages (CEM).
- 1.2. Canadian Anti-Spam Legislation (CASL) has requirements on CEMs related to: form (signature format); consent (express or implied); subscribe/unsubscribe mechanisms; record-keeping; and exemptions, and BVC CEMs sent to recipients shall follow these requirements. The format of these requirements are identified in the appendixes to this procedure.

- 1.3. The College's Electronic Communications Policy and Procedure has extended some of the CASL requirements to the sending of all College electronic communications, whether or not they are CEMs. In part, this is intended to help ensure that CASL requirements are met in the event a CEM is inadvertently sent. The legislated penalties for non-compliance with CASL (for the College and individuals) are significant, thus due diligence is integral.

2. **Decision Process for Electronic Communications (including CEMs)**

- 2.1. Employees, independent contractors, learners and approved users shall follow this procedure, where applicable to the level of access control over electronic communications provided to them by the College, for their electronic communications.
 - 2.1.1. Since learners are not provided with access to College electronic communications systems for the purpose conducting business on behalf of the College, requirements related to conducting College business in this Policy and Procedure do not apply to learners sending electronic communications from the College's electronic communication systems (e.g., myBVC email).
- 2.2. **Exhibit 1** provides the decision tree to be followed before sending electronic communications. This decision tree identifies three steps, which are:
 - 2.2.1. **Step 1:** *involves identifying if the proposed electronic communications involve core business activities or non-core activities*, thereby identifying messages which are CEMs (a small minority of electronic communications at BVC). CASL does not apply to electronic communications that solely pertain to the core activities or core business of BVC, meaning the messages may be sent. CASL may apply to non-core business activities. Core activities incorporate the mandate of institutions of higher learning, as defined by the Post-Secondary Learning Act of Alberta. Examples of commercial and of non-commercial activities are listed in the **Appendix 1** to this procedure. If the electronic communications involve non-core business activities then the message may be a CEM. In this instance, senders of proposed electronic communications should proceed to Step 2.
 - 2.2.2. **Step 2:** *involves identifying if the CEM is exempt from CASL legally*. Certain electronic communications may be commercial in nature but may be exempt from CASL requirements (e.g. in cases where there is a personal or familial relationship with the recipient). Senders of electronic communications may consult checklist A within the **Appendix 2** to identify if a CEM is exempt from CASL requirements. If the CEM is not exempt, senders should proceed to Step 3.
 - 2.2.3. **Step 3:** *involves identifying if the CEM, which must be compliant with CASL requirements, has the appropriate types of consent to receive electronic communications from the sender*. CEMs that fall under CASL legislation can only be sent to recipients who are either exempt from consent being required, or who have provided express or implied consent to receive CEMs from BVC. Remember that commercial messages are allowed to be sent in paper (e.g., by mail) as an alternative to electronic commercial messages. Senders of electronic communications may consult three additional checklists within **Appendix 2** to assist in determining consent required for CEMs based on CASL. These additional checklists include:
 - 2.2.3.1. What CEMS are exempt from needing consent (Consent B)
 - 2.2.3.2. What constitutes express consent (Checklist C); and,
 - 2.2.3.3. What constitutes implied consent(Checklist D).

Exhibit 1 - Decision Tree for Electronic Messages (including CEMs)



3. Requirements for Electronically Obtaining Consent to Send CEMs

- 3.1. Consent for receiving CEMs, implied or expressed, is required under CASL (except where exempted) before electronic communications are sent to recipients.
- 3.2. An electronic communication requesting expressed consent to receive CEMs may be considered to be a CEM in and of itself. This may apply when it is a non-core business request, it is not part of core business of the College, there is not an exemption under CASL, or where there isn't implied consent through a pre-existing relationship.
- 3.3. While electronic communications sent for core business purposes are not considered to be CEMs, electronic communications (including electronic requests for consent) for non-core business purposes may be considered CEMs, if they are commercial in nature under CASL. Remember that commercial messages, including requests to receive consent, can be sent in the mail as this does not require CASL compliance. Phone calls are also allowed as an alternative (although use of an electronic voice message may not be allowed under CASL).
- 3.4. Regardless of whether it is a CEM, any College electronic communications seeking express consent to receive electronic communications should include the following:
 - 3.4.1. The purpose for which consent is being sought;
 - 3.4.2. The name of the BVC department and sender seeking the consent;
 - 3.4.3. The required fonts and layout as identified in BVC Visual Identity Manual (Appendix F);
 - 3.4.4. The mailing address of the sender and the individual sender's electronic communications address (Appendix C);
 - 3.4.5. The College approved signature/visual identity format, and tagline statement that includes a weblink to the approved CASL landing page (which will enable the receiver to unsubscribe from future CEMs) (Appendix D & E)); and,

3.4.6.A privacy statement related to FOIP (see Attachment on BVC Use of Personal Information Statement) (Appendix G), where applicable.

3.5. In the case of electronic communications seeking express consent to receive CEMs specifically, the above shall be included in the electronic communication. In addition, the consent shall be “opt-in”, not “opt-out”, and there shall not be a “pre-checked” box for opting-in or subscribing.

4. College Format and Other Requirements for All Electronic Communications

4.1. Users are required to use the College’s approved signature form/format and other College requirements when sending electronic communications that represent the College. This includes, but is not limited to: the sender’s name and title; BVC contact information and the BVC web address, visual identity; and, tagline.

4.2. The College requirements for signature, visual identity, taglines and landing page are listed in the Addendum to this Procedure.

4.3. Marketing & Communications administer the visual identity requirements in the signature form/format.

4.4. Information Technology Services administers the automatic tagline (as approved in this Procedure) on all electronic communications (internally and externally) sent by all approved users conducting College business. The tagline shall include a weblink to the approved BVC CASL Information Page. The tagline, with the weblink, is to be included on all electronic communications, regardless of whether or not the electronic communications are “commercial” (CEMs). Specifically, the tagline shall be on all electronic communications from College devices, (computers, tablets, smart phones, etc.). Where impracticable to do so, or where the technology is not readily compatible on certain forms of electronic communications, the Vice President, Learner & College Services may approve otherwise.

4.5. Users are also required to utilize the Colleges approved software (e.g. mail chimp) to send group/mass/bulk electronic communications, except where approved otherwise or impracticable. This is specifically required for sending newsletters, unless authorized as a newsletter from which the recipient cannot unsubscribe (e.g., learner e-news letter from Director, Learner Success Services). The College requires the ability to communicate with current learners about core College business, including through the use of electronic communications; thus, learners cannot unsubscribe from core business electronic communications (except where specified in the Policy or Procedure).

4.6. Users are expected to ensure they have the appropriate level of authority in sending any electronic communications, including group/mass/bulk electronic communications (e.g., newsletters). Users are also expected to seek clarification/approval through the appropriate supervisory and accountability levels, where necessary.

4.7. Exceptions to these requirements must be approved by the Vice President, Learner & College Services. Additionally, the Vice President, Learner & College Services may approve new or additional software for group/mass/bulk electronic communications.

4.8. The requirement to use a common software for group/mass/bulk electronic communications is designed to ensure appropriate electronic mechanisms to unsubscribe and to maintain records of

consent, particularly in the event that a CEM is included in the electronic communications where required by CASL.

5. Reporting Structure to Send Electronic Messages

- 5.1. Conducting the College's business requires that approved users are provided with access to use the College's electronic communications systems, within the scope and authority of their positions or approved contract requirements.
- 5.2. Deans, Directors and higher (Levels 1 - 4 as defined by the Delegated Signing Authority Policy 100-2-5) shall ensure that contracts under their authority are compliant with this Procedure.
- 5.3. If Users are uncertain about their authority to send or authorize electronic communications, whether it is a CEM, or the required format/consent, etc., they are expected to consult through their supervisor to the relevant Director, Dean or Executive.
- 5.4. With regard to commercial electronic messages (CEMs) that are non-core business, in order to ensure compliance with CASL, Deans/Directors and Executive should consult (prior to sending the CEM) with the Vice President, Learner & College Services to ensure CASL requirements are met, and/or whether legal clarification is required.

Definitions

Definitions of terms can be found in Electronic Communications Policy

DATA SHEET

Accountable Officer

Vice President, Learner & College Services, CFO

Responsible Officers

Director - Information Technology Services
 Director - Marketing and Communications
 Director - Human Resources
 All Deans, Directors, and Vice Presidents

Approval

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| Effective | June 24, 2015 |
| Next Review | June 2018 |
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| Modification History | |

Associated Policy(ies)

Electronic Communications Policy (300-2-13)
 Agresso User Access Policy (300-2-5)
 Computers and Networks (300-2-4)
 Copyright Policy (500-1-3)
 Delegated Signing Authority (100-2-5)
 Employee Code of Conduct (200-1-1)
 Ethical Business Practice (200-1-5)
 Fraud Policy (200-1-4)

Information Management (300-2-9)
 Information Security (300-2-11)
 Learner Code of Conduct (500-1-1)
 Learner Records and Information – Collection, Access and Waivers (500-1-16)
 Privacy and Access (300-2-10)
 Records Management (200-1-8)
 Violence in the Workplace Policy (200-2-5)

Directly Related Procedures

Employee Code of Conduct Procedure (200-1-1)
 Ethical Business Practice Procedure (200-1-5)

Learner Code of Conduct Procedure (500-1-1)

Related Legislation

[Canada’s Anti-Spam Legislation \(Canada\)](#)
[Copyright Act \(Canada\)](#)
[Defamation Act \(Alberta\)](#)
[Electronic Transactions Act \(Alberta\)](#)
[Evidence Act \(Alberta\)](#)
[Freedom of Information and Protection of Privacy Act \(Alberta\)](#)

[Human Rights, Multiculturalism and Citizenship Act \(Alberta\)](#)
[Personal Information Protection Act \(Alberta\)](#)
[Personal Information Protection and Electronic Documents Act \(Canada\)](#)
[Trade-marks Act \(Canada\)](#)

Attachments

Electronic Communications Appendix
 BVC Approved Mandate
 Approved Electronic Signature/Visual Identity

Approved College Tagline
 Approved College Landing Page
 BVC Visual Identity Manual