

Proceeds from Sale or Encumbrance of College Property

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Purpose and Application

Colleges of applied arts and technology are responsible and accountable to the Minister of Training, Colleges and Universities for high-quality service to the public, excellence in management, and prudent use of funds. The Government of Ontario is ultimately responsible and accountable for the management of public money and therefore has placed certain limitations on the placement of these funds.

The board of governors of a college, as a non-share corporation, has the incidental powers set out in the [Corporations Act](#) including the power "to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the company in the ordinary course of its business" (Section 23 (1) (n) of the [Corporations Act](#)). The [Ontario Colleges of Applied Arts and Technology Act, 2002](#) provides that the powers that may be exercised by a college under the [Corporations Act](#) may be limited by regulation. The Act also authorizes the Minister to issue policy directives, which are binding on colleges, in relation to the manner in which colleges carry out their objects or conduct their affairs.

This binding policy directive, regarding the need for Minister's approval for the use of proceeds from the sale, encumbrance, or lease of college property acquired with provincial support, applies to every college.

For further information regarding this binding policy directive, click on the Contact link to consult with the appropriate [ministry contact](#), listed in the Contacts section on the web site.

Principles

Public funds have been provided in the past to provide public access to postsecondary education. The proceeds from the sale or encumbrance of publicly acquired assets must be reinvested in other capital assets for future public benefit.

Binding Policy Directive

- A. The utilization of the proceeds from the sale, encumbrance, or lease of college-owned property that was:**
- I. acquired from the government through the transfer of title for a nominal amount; or**
 - II. purchased with direct funding support provided by the provincial government of the day for that purpose;**

requires the approval of the Minister of Training, Colleges and Universities.

- B. The utilization of the proceeds from the sale, encumbrance, or lease of property that is partially owned by the college requires the approval of the Minister of Training, Colleges and Universities when the government's prorated share of the proceeds is \$100,000 or more.
- C. Proceeds from the sale, encumbrance, or lease of real property acquired with government support, as defined in Section A, are to be directed towards new capital initiatives, and to be generally limited to facilities with a high academic component rather than those that primarily support administrative or ancillary enterprises.
- D. Proceeds from the sale, encumbrance, or lease of real property are to be held in a segregated account so that all interest earned can also be utilized for capital works.
- E. Colleges require approval in writing from the Minister of Training, Colleges and Universities to utilize the proceeds from the property sale or lease for specific capital initiatives.
- F. Every request for the Minister's approval is to include a copy of the agreement of purchase and sale or the lease or mortgage agreement to verify the property and amounts involved in the transaction, along with a copy of the board of governors' resolution approving the transaction.

Summary of Responsibilities

Colleges of Applied Arts and Technology

The college is responsible for:

- Exercising prudent management in the care and control of the college's physical assets including attaining fair market value in the sale or encumbrance of assets.
- Approving all property and/or facility sales and encumbrances by means of a formal board of governors' resolution.
- Seeking the Minister's approval to utilize the proceeds from the sale or encumbrance of any college-owned property acquired from the provincial government through the transfer of title for a nominal amount or purchased with direct funding support from the provincial government of the day for that purpose.

Ministry of Training, Colleges and Universities

The ministry is responsible for:

- Reviewing and responding to the request for ministerial approval in a timely manner.