

## Council on Post-Secondary Education (COPSE)

### POLICY RELATING TO COPSE'S DELEGATED AUTHORITY TO APPROVE THE ACQUISITION AND DISPOSAL OF PROPERTY BY COLLEGES UNDER SUBSECTION 18(1) OF *THE COLLEGES ACT*

Reference(s): *The Colleges Act*, C.C.S.M. c.C150.1, Section 6 and Subsection 18(1)  
*The Council on Post-Secondary Education Act*, C.C.S.M. c.C235, Clause 11(g)  
Minister's Letter of Delegation to COPSE, 16 January 1998 (Attachment 1)

Point of Contact: Manager, Policy Development & Analysis

Original Policy Approval: 08 September 1998

Amended: n/a

#### I. Statement of Purpose

The purpose of this document is to

- a. describe the authority delegated to the Council on Post-Secondary Education (COPSE) by the Minister responsible for the administration of *The Colleges Act* under Section 6 of *The Colleges Act*, as it relates to Subsection 18(1) of that Act;
- b. describe the general approval COPSE has given to college boards of governors under Subsection 18(1) of *The Colleges Act* to acquire and dispose of personal property that meets specified conditions; and
- c. describe the process by which COPSE will consider requests for specific approval under Subsection 18(1) of *The Colleges Act* for the acquisition and disposal of property by college boards of governors that does not meet the conditions for general approval.

#### II. Description of Delegated Authority

##### A. Delegation of Authority

Under Section 6 of *The Colleges Act*, the Minister "may delegate to any person or body of persons any of the powers, duties and functions conferred or imposed on the minister under this Act." Further, Clause 11(g) of *The Council on Post-Secondary Education Act* states that COPSE shall "exercise the powers and duties delegated to [it] by the minister under Section 6 of *The Colleges Act*."

By letter dated January 16, 1998 to the Chairperson of COPSE, the Minister of Education and Training delegated all the powers, duties and functions conferred or imposed on the Minister under *The Colleges Act* to COPSE.

The authority delegated to COPSE includes the Minister's power to approve the acquisition and disposal of real and personal property under Subsection 18(1) of *The Colleges Act*.

## B. Duration of Delegation

The delegation is effective from the date it was made to the date the Minister responsible for administration of *The Colleges Act* revokes the delegation to COPSE, regardless of whether the government changes or regardless of whether a new Minister is appointed.

## C. No Sub-delegation

Neither *The Colleges Act* nor *The Council on Post-Secondary Education Act* authorizes COPSE to sub-delegate its delegated authority. Therefore, COPSE's Council of appointed members must make the decision delegated to it at a properly constituted meeting of the Council. The Council cannot sub-delegate the delegated authority to the chairperson, vice-chairperson, or any other individual Council member, any sub-committee of COPSE or any officer or staff member of COPSE.

## **III. COPSE'S PROCESS FOR APPROVING COLLEGES' ACQUISITION AND DISPOSAL OF PROPERTY UNDER SUBSECTION 18(1) OF *THE COLLEGES ACT***

Subsection 18(1) of *The Colleges Act* provides the following authority to a board of governors of a college to acquire and dispose of property:

### **Powers of board respecting property**

**18(1)** Subject to the approval of the minister, the board may

- (a) purchase, lease or receive as a gift or otherwise any real or personal property that it considers necessary for the efficient operation of the college; and
- (b) sell, lease or otherwise dispose of any of its property that it considers to be no longer necessary for its purposes.

As noted above, the Minister has delegated to COPSE the Minister's authority to approve colleges' acquisition and disposal of real and personal property under this Subsection.

## A. General Approval

By letters dated on or around September 8, 1998, COPSE provided its general approval under Subsection 18(1) of *The Colleges Act* to the boards of governors of Red River College and Assiniboine Community College to acquire and dispose of personal property, subject to the following conditions:

- a. the value of the personal property must be \$300,000 or less;
- b. the annualized value of a lease must be \$150,000 or less; and
- c. the funds to cover the total cost of owning, operating and maintaining any acquisitions must be available in the college's budget.

College boards of governors that have received this general approval need not seek further approval from COPSE to acquire or dispose of personal property that meets these conditions.

## B. Specific Approval Process

A college board of governors must obtain specific approval from COPSE under Subsection 18(1) of *The Colleges Act* to acquire or dispose of personal property that does not meet the conditions for general approval.

A college board of governors must also obtain specific approval from COPSE under Subsection 18(1) to acquire or dispose of real property.

COPSE will consider and respond to requests for specific approval on a case by case basis and will involve Government of Manitoba departments and agencies as appropriate.

## C. History

This document sets out in writing the policy that has been in place since 1998, at which time it was communicated by letter to the boards of governors of Red River College and Assiniboine Community College.

## **Attachments**

Attachment 1: Minister's Letter of Delegation to COPSE, January 16, 1998

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January 16, 1998

Mr. Richard Dawson  
Chair  
Council on Post-Secondary Education  
418-185 Carlton Street  
Winnipeg, Manitoba R3C 3J1

Dear Mr. Dawson:

Since the creation of the Council on Post-Secondary Education, the community colleges have continued to bring to my attention issues which, in the normal course of business, should now be directed to and dealt with by the Council. This is understandable given that the authority for the colleges is clearly identified in The Colleges Act to belong to the Minister of Education and Training. However, I feel that it would be appropriate for the Council to assume responsibility for the administration of The Colleges Act.

Section 6 of The Colleges Act states: "The minister may delegate to any person or body of persons any of the powers, duties and functions conferred or imposed on the minister under this Act."

Section 11(g) of The Council on Post-Secondary Education Act states that the Council shall "exercise the powers and duties delegated to the council by the minister under section 6 of The Colleges Act."

Therefore, in accordance with section 6 of The Colleges Act, I hereby formally delegate all the powers, duties and functions conferred or imposed on the minister under this Act to the Council on Post-Secondary Education. This will facilitate the operations of the Council in the performance of its duties and provide the colleges with greater clarity as to the locus of authority.

Yours sincerely,

<<ORIGINAL SIGNED BY>>  
Honourable Linda G. McIntosh (Mrs.)

- c. Dr. Emőke Szathmáry
- Dr. Marsha Hanen
- Dr. Dennis Anderson
- Dr. Paul Ruest
- Mr. Don Knight
- Mr. Gerald Bashforth
- Ms Jacqueline Ann Thachuk
- Mr. Tom Carson