



# Public College-Private Partnerships: Minister's Binding Policy Directive

Colleges of Applied Arts and Technology  
Policy Framework

Ministry of Colleges and Universities

Issued: December 23, 2019

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# Purpose and Application

The *Ontario Colleges of Applied Arts and Technology Act, 2002* authorizes colleges to undertake a range of education-and training-related activities in carrying out their mandate to offer career-oriented, postsecondary education and training.

This Binding Policy Directive is issued pursuant to the authority in the *Ontario Colleges of Applied Arts and Technology Act 2002*, which gives the Minister of Colleges and Universities the authority to issue Binding Policy Directives in relation to the manner in which colleges carry out their objects or conduct their affairs.

The purpose of this Binding Policy Directive, which applies to all colleges, is to outline the requirements for public college-private partnerships. Requirements applicable to other college entrepreneurial activities are set out in the Entrepreneurial Activities Minister's Binding Policy Directive.

In addition to the requirements in this Binding Policy Directive, colleges must also comply with all other applicable Minister's Binding Policy Directives.

## Principles

The guiding principles of the public college-private partnerships policy are to:

1. Support public colleges in being financially competitive and in turn investing that economic benefit in their home campuses and local communities;
2. Strengthen communities by encouraging international students to study outside the Greater Toronto Area and potentially remain there after their studies; and
3. Protect and enhance Ontario's reputation as a postsecondary education leader and as a great place to live and work.

## Glossary

**Public college-private partnership:** a contractual arrangement between a public college of applied arts and technology in Ontario and a third party for the delivery, by the third party, of college programs leading to an Ontario College Credential.

**Third Party:** An independent legal entity other than a college of applied arts and technology, publicly-assisted university or Indigenous Institute prescribed under the *Indigenous Institutes Act, 2017*.

**Home campus international student enrolment:** Total number of international students enrolled full-time across all of a public college's non-partnership campuses located in Ontario.

**Partnership international student enrolment:** Total number of international students enrolled full-time across all of a public college's partnership campuses, including in other provinces and territories in Canada, but not including campuses outside Canada.

## Binding Policy Directive

- A. Colleges may enter into contractual arrangements with a third party for the delivery of college programs in Canada leading to an Ontario College Credential. The students enrolled in such programs are students of the college, and colleges are responsible for ensuring that partnership locations operate with the same student protections and standards of services, accountability, and quality assurance as college home campuses.
- B. Funds earned from public college-private partnerships are to be used by the college to support its core businesses in the local communities of its home campus(es) within the education and training mandate.
- C. Public college-private partnerships are contractual arrangements between a college and a third party. Colleges are responsible for seeking appropriate professional advice (e.g., tax, accounting, and legal advice) in structuring these activities and their partnership agreements, and for ensuring that appropriate strategies are in place to manage risks associated with these activities.
- D. New and renewal of existing public college-private partnership agreements require the approval of the college's Board of Governors. Starting in May 2020, colleges must also seek prior approval from the Minister of Colleges and Universities before establishing a new partnership or renewing an existing partnership arrangement. This approval is separate from approval requirements under the *Financial Administration Act*, addressed in clause G.
- E. Colleges are responsible for complying with all applicable legislative and Binding Policy Directive requirements in all activities related to public college-private partnerships. These requirements include, but are not limited to, those set out in the following sources:
  - The *Ministry of Training, Colleges and Universities Act*;

- The *Ontario Colleges of Applied Arts and Technology Act, 2002* (OCAAT Act), O. Reg. 34/03 established under the OCAAT Act;
  - Minister's Binding Policy Directives and operating procedures made under the OCAAT Act;
  - Federal legislation and policies governing international students and graduates; and
  - The terms and conditions of the Designation Agreements between the Ministry of Colleges and Universities and colleges under the International Student Program.
- F. Colleges with public college-private partnerships in another province or territory of Canada are responsible for ensuring compliance with this Binding Policy Directive and all applicable legislation in the location of the partnership.
- G. As Crown agencies, colleges are subject to the requirements of section 28 of the *Financial Administration Act*, and therefore must seek any necessary approvals from the Minister of Finance or the President of Treasury Board prior to entering into a partnership agreement.
- H. In accordance with the Admissions Criteria Minister's Binding Policy Directive, colleges are not to restrict access to postsecondary programs offered through public college-private partnerships for qualified individuals, including domestic students. Further, colleges are required by E (I) of the Admissions Criteria Minister's Binding Policy Directive to give priority to domestic students for admission into over-subscribed postsecondary programs. Any domestic students enrolled in postsecondary programs offered through public college-private partnerships are not counted as part of a college's partnership international enrolment for the purpose of determining compliance with the partnership enrolment limits in clause P.
- I. Colleges are responsible for the quality of programs delivered through partnership arrangements. As required under Section F of the Framework for Programs of Instruction Minister's Binding Policy Directive, colleges must have mechanisms for review in place to ensure the ongoing quality, relevancy, and currency of their programs and must make their policy on quality assurance publicly available. This includes programs offered through public college-private partnerships.
- J. As required under Section B (IV) of the Governance and Accountability Framework Minister's Binding Policy Directive, colleges must participate in the collection and publication of performance measures. Colleges are to actively facilitate the participation of partnership students in Key Performance Indicator surveys and submissions and the reporting of Key Performance Indicators, in accordance with processes established by the Ministry of Colleges and Universities. Colleges must also participate in the collection and publication of performance measures through their Strategic Mandate Agreements.

- K. Students enrolled in programs offered through public college-private partnerships are entitled to all the rights and privileges afforded to other students of the college. As partnership students are students of the college, colleges will be held accountable for ensuring access to appropriate range of student supports, either on the partnership campus, in the community, or through the college's main campus. Additionally, the college must ensure that partnership students have access to housing. The appropriateness of student supports and housing will be evaluated within the college's application for Minister's approval required by clause D.
- L. As required under Section D (VI) of the Framework for Programs of Instruction Minister's Binding Policy Directive, colleges must have publicly-available protocols in place for students in programs offered through public college-private partnerships regarding grading, academic advancement, and dispute resolution.
- M. Advertising and marketing of programs offered through public college-private partnerships must be transparent, accurate, and comply with the guidelines set out in Appendix D of the Framework for Programs of Instruction Minister's Binding Policy Directive. These guidelines apply to all marketing and advertising activities related to partnership programs undertaken directly by colleges or their partners, or agents working on behalf of colleges and/or their partners. It is the responsibility of colleges to ensure that advertising and marketing done by partners or agents comply with these guidelines. Advertising cannot make any promise of future eligibility to remain in Canada.
- N. It is the responsibility of the college to manage risks associated with the termination of partnership agreements or the failure of a partner to deliver services to students. Colleges must provide appropriate accommodations for students who are affected in these circumstances. Colleges are required to provide the following to the Ministry of Colleges and Universities prior to establishing new partnerships or renewing existing partnerships:
- Copies of their contracts with private partners; and
  - A Contingency Plan with provisions for student protection, such as student financial compensation and/or guarantees that students be able to complete their programs.
- O. Colleges may only enter into partnership agreements with third parties that are independently designated under the International Student Program. Colleges are required to amend their Designation Agreements with the ministry to include their partnership campuses.
- P. Enrolment in a public college-private partnership is subject to the following limits:
- A college's partnership international enrolment (across all partnership campuses in Canada) must not exceed twice its international student enrolment at its home campus(es).

- Growth of partnership international enrolment must be accompanied by growth of home campus international enrolment such that partnership international enrolment does not exceed twice home campus international enrolment.
- Colleges with existing partnerships will be able to choose their highest total partnership enrolment level in 2018 or 2019 and be grandfathered at that ratio.
- If the highest enrolment level chosen results in the college's partnership international enrolment exceeding twice their home campus international enrolment, the college is not required to reduce partnership international enrolment to no more than twice its home campus international enrolment. However, these colleges are not permitted to grow their partnership international enrolment above the chosen 2018 or 2019 enrolment until home campus international enrolment is increased such that partnership international enrolment is no more than twice home campus international enrolment.
- In addition, those colleges and their private partners will have to submit a plan to the ministry with a timeline by which the 1:2 ratio will be achieved. The ministry will evaluate the colleges' progress to meet the timeline as part of the policy review in Fall 2021.

Compliance with the enrolment management requirements will be assessed annually based on fall enrolment, starting in Fall 2020. Assessment will be based on enrolment reported through the College Statistical Enrolment Report and in accordance with reporting procedures described in the Enrolment Reporting and Audit Procedure.

- Q. Colleges shall report the respective revenue and expenses related to the public college-private partnership as part of its annual submission of financial information to the ministry.
- R. The ministry will consider compliance measures for colleges and private providers to ensure that requirements of the policy are met and update the Binding Policy Directive as required.
- S. The Minister will undertake a review of this Binding Policy Directive two (2) years after its implementation, or at any time as determined by the Minister. Adjustments to the enrolment management strategy based on factors such as the size of international enrolment will be considered.

Colleges shall take care to ensure that partnership agreements include appropriate flexibility to respond to changes in the applicable legal and policy framework, including amendments to legislation and Binding Policy Directives.

# Summary of Responsibilities

## Colleges of Applied Arts and Technology

The college is responsible for:

- Ensuring that public college-private partnerships are consistent with the statutory objects, mandate, and strategic goals of the college.
- Entering into agreements or contracts consistent with its authority under the *Ontario Colleges of Applied Arts and Technology Act, 2002* and the *Corporations Act*, and with all other applicable legislation and government policy.
- Ensuring that funds earned from public college-private partnerships are used by the college to support its core businesses in its local community within the education and training mandate.
- Obtaining professional advice before entering into public college-private partnerships.
- Ensuring that risks associated with public college-private partnerships have been identified and that appropriate strategies are in place to manage risks so that core businesses of the college and public funds are protected.
- Seeking Minister's approval of new and renewal of existing partnership agreements and submitting copies of partnership contracts and contingency plans to the ministry.
- Overseeing partnership recruitment and admissions to ensure compliance with the enrolment management criteria.
- Reporting enrolment and outcomes of partnership students through existing reporting processes (i.e., College Enrolment Statistical Reporting system, College Financial Information System, Key Performance Survey and Strategic Mandate Agreement reporting processes).

## Ministry of Colleges and Universities

The ministry is responsible for:

- Establishing clear expectations for colleges regarding parameters for public college-private partnership activities that do not unduly hinder the colleges in finding alternative resources to support their education and training mandate.



- Responding in a timely manner to colleges seeking approval to establish public college-private partnerships or other inquiries with respect to partnership activities.
- Monitor both public colleges and private providers – on an ongoing basis – to ensure compliance with the proposed policy.