

SCHOOL PROPERTY FUNDING

A consistent national interpretation on the
use of Attendance Dues
and Policy One Funding



NATIONAL INTERPRETATION OF THE USE OF POLICY ONE FUNDS

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Policy One Funding

Introduction

In 1998, APIS reached an agreement with the Ministry of Education to accept a payment to cover the cost of maintaining integrated buildings in state integrated schools. Up to that point, state integrated schools had used attendance dues and suspensory loan monies to cover these costs despite the Minister of Education's obligation, prescribed by the 1975 Private Schools Integration Act and in integration agreements, to maintain state integrated schools to a similar standard to an equivalent state school. The minister of the day, Wyatt Creech, set the rate of payment at the same level as for state schools. The rate was based on an annual depreciation rate on the value of the state education assets. At the time, the depreciation rate was 4%. Initially, a provision was made to review and adjust the rate of depreciation (up or down) every three years according to the depreciation rate used for state assets, however, the rate was fixed to 4% for state integrated schools in an agreement signed in 2005.

The purpose of Policy One funding is to meet the cyclic capital replacement and improvement of existing state integrated school property over the depreciated life of those assets. This work, called "capital maintenance", can include replacement of part or all of an asset's system and features over its life cycle including replacement of the asset at the end of its lifecycle. Examples of the use of this funding could include regular upgrading (refurbishment) of a building's interior, replacement of roofing and cladding and even the replacement of whole classrooms or blocks of classrooms at the end of their useful life.

Policy One Funding can be applied to the school generating that funding stream or, where a proprietor owns a number of schools, pooled between the generating schools to the benefit of

all the schools in that pool. The Ministry of Education expects that Policy One funding will be sufficient to meet the "capital maintenance" needs for state integrated schools during the life cycle of their assets as identified by regular condition assessments (*Brian Mitchell, MoE Group Manager, September 2020*). This process is applied to the management of the state school portfolio and "... should negate the need for proprietors to use other funding streams for the same purpose, such as attendance dues" (*Brian Mitchell, MoE Group Manager, September 2020*).

Background

The proprietor and the Minister of Education have signed an integration agreement (and in a large majority of cases a supplementary integration agreement) for each of our proprietors' schools. Each of these agreements lays out an obligation on the Minister to the proprietor to maintain the school's integrated premises in a state of repair as for a comparable State school. The Minister and the proprietor have agreed in signing the Supplementary Agreements for each school that this obligation will be discharged in two ways:

- By the Minister funding the Board of Trustees of the School through the operation grant to carry out a certain part of the maintenance of the school premises; and
- By the Minister paying a sum of money to the Proprietor for the Proprietor to carry out that part of the maintenance of the school premises not required to be undertaken by the Board of Trustees of the School. This fund as described and paid to the Proprietor is referred to as *Policy One funding*. (<http://www.education.govt.nz/school/funding-and-financials/funding/capital-funding-for-integrated-schools/policy-one-funding-for-capital-work/>)

The Proprietor, in signing and agreeing to the terms in the Supplementary Agreement, agrees to;

- Use the Policy One funding to undertake that part of the maintenance in the school premises that is not required to be carried out by the

Board of Trustees. This maintenance work be undertaken to the same standard to which the Crown maintains comparable state schools.

- If in carrying out the requirement to maintain school premises to the same standard as comparable state schools there is a balance of these funds remaining then the proprietor may apply these surplus funds in the following ways:
- To capital works or other purposes directly related to the school;
- To maintenance, capital works or other purposes directly related to any other integrated school.

(Reference [Association of Proprietors of Integrated Schools, Policy One Guidelines, Ministry of Education website](#))

It is considered acceptable practice by the Government and the Ministry of Education that Policy One funding may be pooled where a proprietor owns more than one school, or in the case of a Cooperative across multiple proprietors. Where this occurs, Proprietors must have clear and transparent Policy One capital development plans that are connected to the school's 10 Year Property Plan (10YPP) and accounting records need to reflect this. When pooling Policy One funds Proprietors acknowledge that schools will have different needs and the distribution of funding across schools will vary from year to year.

Maintenance Responsibility for the Board

Policy One Funding cannot be used for routine repair and maintenance which Boards of Trustees are funded for through their operating grant. In terms of differentiating what is routine maintenance and, therefore, the responsibility of the Board, the Ministry of Education uses a capitalisation threshold based on the scale or volume of the maintenance work. A few sheets of iron relaced on a roof would be routine

maintenance whereas a full roof replacement would be considered capital replacement. A capitalisation threshold of \$5,000 (<http://www.education.govt.nz/school/funding-and-financials/funding/capital-funding-for-integrated-schools/policy-one-funding-for-capital-work/>) is used to differentiate repair and maintenance (a board responsibility) from capital upgrade work (Proprietors responsibility using Policy One funds). As a result, it is vital that Proprietors and Boards of Trustees have long term property plans that coordinate maintenance spending by Boards with capital development spending by the Proprietor using Policy One funds. It is considered best practice for the Board of Trustees to prepare a rolling ten year property plan to assure the Proprietor that the Board of Trustees is meeting its maintenance obligations.

It must be recognised that in practice \$5,000 is not an absolute guideline for maintenance. For example, the cost of painting a block of classrooms could vary between \$10,000 and \$70,000 depending on the size of the facility and while this goes over the threshold, Boards of Trustees are required to make provision for painting of all school buildings on a regular cycle. In a small school which receives very little maintenance funding through its operational grant it may be necessary for the Proprietor to pay for works costing less than \$5,000 particularly when these works improve the capital value of the property. However, the threshold of \$5,000 is a very useful tool to enable Boards and Proprietors to navigate property maintenance responsibilities.

Policy One

Policy One funding is often referred to as either major maintenance or capital replacement funding. Policy One funding can be used to upgrade and modernise existing grounds, building and associated facilities that have been integrated. Similar to 5YA funds in the state education system, Policy One funds in the state integrated sector are prioritised to;

- I. address health and safety matters;
- II. maintain essential infrastructure; and
- III. provide modern learning environments.

Proprietors have the ability to hold Policy One funding and allocate it to a project in the future. There is no time limit on how long unspent Policy One funds can be carried forward to fund future projects, however “...the proprietors decisions on timing must be informed by the condition of each school’s assets and what needs to be done” ([Sarah Taylor, Senior Advisor, State Integrated Schools, Ministry of Education](#)). Any interest received on invested Policy One funds must be invested back into the capital maintenance that the funding has been accrued for.

Where a proprietor decides to take a loan against future policy one funds to carry out capital maintenance work only payments against the principal of the loan can be taken from Policy One funds – the proprietor must use their own funds to pay the interest costs (e.g. donations or attendance dues).

The following table outlines key aspects of the use of Policy One funding in order to clarify and develop a national and consistent interpretation for the application of Policy One funds across our Catholic state integrated schools in New Zealand.

Lawful Use of Policy One Funds	Purpose	Commentary, Examples, and Scenarios
Address Health & Safety	The first priority for the use of Policy One funds are for any unforeseen capital maintenance works that have to be completed urgently for health and safety reasons – integrated school property only. All capital maintenance works must be undertaken to the same standard to which the Crown maintains comparable state school.	The Proprietor must ensure that school buildings and facilities are safe for the school community to use and that they are not a risk to the health of staff, students and the community. Regular internal and external assessment of building condition and property issues is necessary to identify issues that need immediate remediation and/or replacement. Such work could be of a relatively small scale such as removing a line of trees that are considered a potential danger (where the threshold of \$5,000 is met) to much larger scale work such as the removal of black mould or asbestos in a classroom block. More major work under the health and safety category would include the reinstatement of facilities arising from a catastrophic loss, such as fire, flood and earthquake (but only where the cost of reinstatement is not covered by the proprietor's insurance) or where a classroom or block of classrooms is deemed unsafe to use as a result of a structural or building condition assessment. The use of Policy One funds can only be applied to footprint that is designated as integrated under a supplementary agreement. Examples of appropriate use of Policy One funds to address health and safety issues include; • Schools damaged by an earthquake, fire and flooding where insurance costs do not cover the full costs of repair and reinstatement; • The removal of asbestos from integrated school buildings where it is seen as an immediate risk to the health and safety of the users; • Structural strengthening and seismic work where buildings are assessed as being at risk due to not meeting current building and seismic standards or where a building is displaying signs of potential structural failure; • The discovery of black mould or water damage in an integrated school space such as gymnasium or classroom requiring the removal of existing wall or ceiling panels and remediation to an acceptable standard; • Installation of a new fire and security system where the existing system is no longer fit for purpose; • Urgent remediation of water and sewage reticulation where a failure occurs; <i>Policy One funding cannot be applied to health and safety issues connected to board owned assets such as playground equipment etc.</i> The above is not a definitive list, therefore, proprietors should discuss projects where there is uncertainty with NZCEO/APIS and the Ministry of Education

Lawful Use of Policy One Funds	Purpose	Commentary, Examples, and Scenarios
Maintain essential infrastructure	The second priority for Policy One funds is for major maintenance work to ensure that the buildings continue to be fit for purpose and the asset is maintained over its useful life including replacement at the end of its lifecycle. All capital maintenance works must be undertaken to the same standard to which the Crown maintains comparable state schools. If a building or facility such as a classroom, hall or gymnasium is being replaced due to the old facility reaching the end of its useful life it is important to note that; • Upon completion the old building should be de-integrated and the new facility integrated to either its actual size or to a size commensurate with the schools overall property guide (code) entitlement; • Only the schools integrated space generates on-going maintenance funding (Operational Grant & Policy one funding). If the area of the new facility exceeds the code entitlement threshold then the proprietor and the board will need to share the responsibility for the on-going maintenance of that part of the facility that exceeds the code threshold.	The Proprietor must ensure that the integrated buildings in a state integrated school are maintained in a state of repair that is comparable to a state school. As a result of this expectation, regular property condition assessments need to be undertaken and fed into updated 10 Year Property Plans which identify and prioritise property maintenance across the school and/or pool of schools. Again, Policy One funds can only be applied to footprint that is designated as integrated under a supplementary agreement. It is recommended that if a building is created that pushes the school footprint over SPG entitlement then this portion of the building should be funded from money raised by the community. Examples of Policy One expenditure that would focus on maintaining essential infrastructure might include; • Replacement, to State Property Guidelines (SPG), of buildings and associated facilities that have reached the end of their useful life; • Replacement of parts of buildings and services including roofing, plumbing, exterior and interior cladding, and heating systems; • Replacement of a boiler; • Major maintenance work (including fire doors and disabled access) needed to comply with the building Act, the Health & Safety in Employment Act etc. • Altering the shape or area of any building by adding, moving or removing any structures (e.g. interior or exterior wall, partition, ceiling, floor, staircase, lift-well etc.); • Altering the shape or topography of the grounds; • Reparation and/or replacement of windows, doors and frames where water damage is occurring and where the cost of repair/replacement crosses the threshold of \$5,000; • Replacement and or remediation of sewage and water reticulation systems; • Modifications required for a special needs student enrolled at a school as a result of a Confirmatory Report from the Ministry of Education Special Education Group (not to be confused with general access for a disabled student with is an integral part of a new building project);

Provide Flexible Modern Learning Environments

The third priority for using Policy One funding is to support the creation of modern learning environments within the state integrated school sector. This work has been encouraged and supported by the Ministry of Education as modern flexible learning spaces are a response to research into the way the physical environment can best support deep learning. Far from being simply a benign container for learning, the physical environment can directly impact on student learning for better or for worse. Giving teachers the best possible environment to do their job as well as they possibly can is a vital step in the path towards creating great learning opportunities for all young people.

- Upgrading and replacement of site features in a school such as fencing, carparking and hard court areas;
- Upgrading toilet and shower facilities to meet changing needs;
- Re-building a tennis court or removing a swimming pool;

Once all health and safety and major capital maintenance items have been attended to remaining Policy One funds can be applied to work to upgrade existing learning spaces to reflect the design principles of a modern, flexible learning environment. A project looking to develop modern, flexible learning spaces and other discretionary projects must be informed by the property plans held by the proprietor for that school. As for priority one and two, Policy One funding applied to modernise learning environments can only be applied to integrated school spaces. Current spending of Policy One funds across the Catholic school network highlights a significant percentage of funds being allocated in this area.

Examples of Policy One Expenditure that reflect expenditure focused on providing modern learning environments include;

- Older classroom spaces which need refurbishment have Policy One funds applied to modernise these facilities as part of the refurbishment;
- As part of a programme of major structural remediation of existing classroom blocks classroom spaces are redeveloped as part of this work to reflect more modern and flexible learning spaces;

Professional Fees	To engage external professionals to complete design work, costings, and associated work in preparation for a project as well as monitoring and supervision over the course of the project.	Current advice from the Ministry of Education is that the costs of engaging architects and Quantity Surveyors is a cost that can be capitalised as part of a Policy One project. However, if a Proprietor engages a consultant to complete design work for a project which subsequently does not go ahead then this cannot be funded through Policy One funds. The argument here is that no asset has been created for planning costs to be capitalised against and, therefore cannot be charged against Policy One funds. However, this situation is not a common one and may not be a common concern. <i>It would seem prudent to consider recovering the costs of the proprietor's project director costs given their role and accountability in managing and supervising each Policy one project.</i>
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Using Policy one Funds

Miscellaneous Questions & Scenarios

If we are completing underground services work that would benefit both integrated and non-integrated areas of a building (eg: classrooms on a lower level and boarding rooms on upper levels) how is this accounted for?

- *Where buildings are partly integrated the Ministry expects that any costs relating to the whole building, such as a new roof or underground services, would be apportioned to the ratio of the integrated area. For example, if a building is 60% integrated (classrooms etc.) and 40% non-integrated (boarding rooms) then a project to replace the roof costing \$220,000 would show as \$132,000 being paid from Policy One and \$88,000 from the proprietors own funds (not Policy One or Attendance Dues)*

When a building is integrated and requires work on special features, e.g. exterior carved panels, can this be funded from Policy One?

- *No, we would expect a higher specification such as this to be funded from other, proprietor sourced funding (not Policy One or Attendance Dues).*

If a proprietor buys an old relocatable classroom which needs upgrading to be brought up to Ministry state non-integrated standards, can it be funded from Policy One?

- *No, because the Ministry cannot integrate the building until it meets minimum standards and Policy One cannot be used for non-integrated area.*

If a proprietor moves some school departments into a relocatable (temporary) building because the school does not have enough space, can Policy One be used for repurposing such space other than providing new (additional) space for roll growth?

- *Policy One funds can be used to repurpose any integrated area, for example converting a staffroom to a teaching space. If the project necessitates the need to hire temporary accommodation for the duration of the project then the cost of this should be included in the overall cost of the project. Similarly, any demolition costs incurred when replacing part or complete integrated areas can also be included.*

Allocating Policy One Funding

Are we able to distribute the money at our other schools within our own discretion?

- *Individual long term property plans should be developed for each of the schools in a proprietor's portfolio. Proprietors and Boards of Trustees should work together on the property plans and agree on its content, priority and timeframes. Proprietors are able to pool their Policy One funds to ensure that all schools in the portfolio meet the minimum standards. Once all schools meet health and safety and essential infrastructure requirements individual schools can progress with plans for modern learning spaces and other discretionary projects informed by the property plans for those schools. Again, with projects costing more than a schools Policy One allocation, funds can be pooled.*

Can we allocate Policy One funding to a project in the future? Is there a time limit for holding on to (saving up) Policy One funds?

- *There is no limit on how long unspent funds can be carried forward to fund future projects but the proprietors decisions on timing should be informed by the condition of each school's assets and what needs to be done. In this respect the premise of Policy One is to improve the portfolio and not provide investment income. Any interest received on invested funds must be invested back into the capital works that the funding has been accrued for.*

Can you loan some of your surplus Policy One funding to the Board of Trustees and they pay it back?

- *No. Policy One funding is intended for capital expenditure which is the responsibility of the proprietor, not the school board. The proprietor may wish to loan non-Ministry funding to the board to cover operational expenditure. In this situation the loan would need to be approved by the Ministry's Financial Advisor who would need to confirm that all repayments could be met by the Board from their Operations grant.*

Use of Policy One funding

Can we use Policy One funding for:

Carpeting

- *This would need assessing to establish the volume or extent of the work required. If a small area of carpet needs replacing, then this would be considered routine maintenance and funded through the Property Maintenance Grant. However, if most of the carpet needs replacing (so that, in effect, the whole building(s) requires carpeting), this would be considered as capital maintenance and funded through Policy One.*

Interior Painting

- *This would need assessing to establish the volume or extent of the work required. If a small area of paintwork needs touching up, then this would be considered routine maintenance and funded through the Property Maintenance Grant. However, if the room is undergoing major refurbishment then this would most likely be considered as capital maintenance and funded through Policy One.*

Exterior Painting

- *No, because, school boards receive an annual grant for painting the exterior of their buildings. The schools cyclical maintenance schedule should include an entry every 10-12 years for each block that requires the roof or exterior walls to be painted. If the building has wooden window/door frames then these should also be included.*

Upgrade of sewerage/drainage

- *Yes, this is considered essential infrastructure*

Upgrade to water irrigation instead of bore

- *Yes, this is considered essential infrastructure*

Water-blasting concrete

No, this would be funded from the schools Property Maintenance Grant

Replace leaking windows

- *A repair to a leaking window would be funded from the schools Property Maintenance Grant but a complete replacement would be considered a capital cost and therefore funded from Policy One.*

Using Policy One Reserves

Can 'excess' Policy One funds built up in a proprietors' Policy One reserves be used to pay for a new growth building?

- *No. The Ministry's position is that Policy One funding can only be used for integrated school property. Under subclauses 4.2.1 and 4.2.2 in the supplementary agreement, surplus funds can only be used for maintenance of integrated property at the school or other schools owned by the proprietor or for capital works e.g. such as building a new building that is in direct replacement for existing integrated property at the school that is not fit for purposes and can no longer be repaired or maintained.*
- *If the building is not a direct replacement for an existing integrated building, it is not integrated property and, therefore, Policy One funding cannot be used.*

Building maintenance becomes more expensive as the building ages and APIS would encourage proprietors to make sure they put at least 20% of Policy One funds into reserves to ensure there is sufficient funds available to modernize or replace the classroom at the end of its useful life.

Can interest generated from investment of Policy One funds be used for other purposes other than property maintenance?

- *No. Policy One funds are Crown funds for the purpose of fulfilling the Crown's obligation to maintain state integrated school premises. Interest earned from these funds should be used for the purposes that the funds were provided for under subclauses 4.2.1 & 4.2.2.*

Replacing Older Classrooms Where the Code Change Requires Larger Classrooms

In some cases, older classrooms are smaller than the current SPG classroom size, so if the proprietor is replacing these classrooms, they would need to be larger to meet the new code.

Where the increased size of the replacement classroom is approximately 10-20sqm more than the original classroom, is it acceptable to fund the increased footprint of the larger new classroom from Policy One funds?

- Yes. Brian Mitchell (MoE, May 2026) confirmed for APIS that it is acceptable to use Policy One funds when replacing classrooms where the increased footprint due to the new code is approximately 10-20sqm more than the original classroom which was built under a previous code. However, Brian Mitchell points out that proprietors must also consider when planning for this scenario that:
 - A standard classroom as defined by the SPG is 78 square metres net (the classroom space itself) or 101 square metres gross based on a net to gross ratio of 1:1.3. The gross size is intended to include such building features as circulation (foyer) area, toilet facilities, or lift and stairwell spaces in a multi-storey building. The net 78 square metres aligns on average to the Ministry's staffing ratios.
 - A state integrated school's integrated space must align to SPG entitlement on a whole of school basis. Therefore, in planning new accommodation a proprietor needs to keep in mind the school's total area relative to SPG entitlement. Planning several large classrooms may on an aggregate basis result in the school exceeding the SPG envelope. If this were to happen, the new building could only be partially integrated, or some compensatory space elsewhere in the school de-integrated when the site plan in the Integration Agreement is updated.

Where there is an entire block of undersized classrooms to be replaced with the same number of larger classrooms, the incremental footprint per classroom might be 10-20sqm, but the entire block may be 100sqm larger. Can this project be funded by Policy One.

- Yes, as the same rationale would be applied to the replacement of a new block of classrooms as it would be for a single classroom where the existing classrooms are under size in terms of the new code.
- However, Brian Mitchell again advises proprietors to consider the same two points that were made in the previous example to ensure that the proprietor does not go over the existing SPG entitlement leading to a building that can only be partially integrated.

NATIONAL INTERPRETATION OF THE USE OF ATTENDANCE DUES

National Interpretation of the Use of Attendance Dues

Attendance Dues have a number of lawful uses associated with the integration agreement between the proprietor and the Minister of Education. Attendance Dues can be collected to fund property additions to bring the state integrated school up to the required School Property Guideline (SPG or state school standard as defined by the Secretary of Education). The original intention of the Private Schools Conditional Integration Act 1975 was that as the debt incurred in bringing each state integrated school up to state school standard was retired the school proprietor could manage their debt down to gradually reduce the need for attendance dues. Students would then receive a “free” education that was equivalent to a state school. [While that is a very worthy goal, in practice there will always be a need for attendance dues to cover insurance, compliance costs and leases].

APIS has been involved in developing official guidance (supported by the Ministry of Education) on the interpretation of the rules regarding how the funds from attendance dues can, and cannot, be used. This document sets out to provide a guide to proprietors to develop a consistent understanding and application of attendance dues across the state integrated sector in New Zealand.

Proprietors in the state integrated network have a responsibility to provide a special character education for children of families in areas of need and growth. Therefore, proprietors continue to sign new integration agreements in consultation with the Minister to build new schools and build new classrooms in existing schools to service this need. This requires proprietors to take on more debt which is serviced by charging Attendance Dues – therefore, an acceptable use of Attendance Dues is to fund new state integrated schools (or new footprint within SPG entitlement) that adds to the overall education network.

Attendance dues cannot be applied to non

integrated school land or buildings nor can it be used to provide or improve integrated school buildings to a standard higher than for a comparable State school. This is particularly important as the Minister has the power (*Clause 31 (1) Schedule 6 Education & Training Act 2020*) to withdraw the right for a Proprietor to charge attendance dues if it is found that a proprietor has used attendance dues for any purpose other than the one permitted by clause 30 of the Act.

The following schedule has collected information from a range of sources including the Ministry of Education website, historical papers shared between the Ministry of Education and APIS/ NZCEO, judicial decisions, legal interpretations and the collective wisdom of those within the state integrated network who engage with attendance dues funding on a regular basis. The intention of the schedule below is to clarify the lawful use of attendance dues and promote a consistent national interpretation and application of this important funding stream.

<u>Attendance Dues Lawful Use Categories</u>	<u>Definitions</u>	<u>Commentary</u>
Construction Projects including principal and interest on debt incurred in respect of these construction projects	Improvements to integrated school buildings and associated facilities required by the integration agreement. (Schedule 3 of Integration Agreements)	Clause 30 Schedule 6 Education & Training Act 2020 stipulates that revenue received by the proprietor from attendance dues can be used (for a school or group of schools) for improvements to the state integrated school (or schools) buildings and associated facilities that are required of the Proprietor by the Minister of Education to bring the school up to the required state standard (SPG). Clause 30(4) Schedule 6 Education & Training Act 2020 stipulates, however, that no attendance dues can be used to improve the school buildings and associated facilities to a standard higher than that approved by the Secretary of Education as appropriate for a comparable state school (SPG & new build standards). Under the original Private Schools Conditional Integration Act 1975 maintenance costs were able to be funded by attendance dues but the agreement with the Government in 1998 which introduced Policy One funding effectively made this unlawful - except in the situation of a significant emergency and with the Crown's approval as outlined in the category in this paper on Exceptional Circumstances. Policy One funding (often referred to as major maintenance or capital replacement funding) was negotiated to discharge the Crown's responsibility to the Proprietor to maintain the school's integrated buildings in a state of repair as for a comparable state school (APIS/Ministry of Education Policy One Guidelines, 2010 – signed by Patrick J. Lynch (APIS) & Paul Burke (MoE)). It is comparable to the funds state schools receive through 5YA. As a result, the use of attendance dues to fund major capital maintenance is unlawful in that it would provide an unfair advantage to state integrated schools over the state education system. Using attendance dues to accelerate funding that would otherwise be provided by the state in accordance with a payment schedule i.e. Policy One funding would be in breach of the Act (Opinion – scope for integrated schools to charge attendance dues for capital maintenance of school facilities – Frank McLaughlin Chapman Tripp Lawyers). Some construction projects may include both a capital maintenance and a new capital build component. The capital maintenance component should be funded by Policy One. The new capital build component would relate to an identified SPG deficiency [this may have been carried historically since integration such as not having a school hall] and could be funded through attendance dues.

Capital works required by the Minister (post integration).

Clause 30(3)(b) of the Education & Training Act 2020 stipulates that attendance dues can be used by the Proprietor to meet the costs of any capital works that may be required by the Minister from time to time under clause 39(2)(d) of the Act. This situation is related to where the Minister of Education may bring in a new education policy that requires state integrated schools to build new classrooms and facilities. One historical example was the policy initiated by the Minister of Education to reduce class sizes resulting in some schools needing to build new classrooms to ensure these schools were compliant with this policy. Subsequent to this decision, Cabinet agreed that any future changes made to staffing that have property implications will be funded on a similar basis as for state schools e.g. learning support coordinators offices were funded by the Minister at 85% of the actual cost to a maximum limit. Depending on the quality and design of the build the actual costs could equate to more than 15% for a proprietor so this needs to be considered.

Construction of new state integrated schools where the Minister of Education and the Proprietor have signed off a negotiated integration agreement.

The cost associated with proprietors of state integrated schools constructing new schools (and new classrooms in the case of roll growth) is a legitimate use of attendance dues. Each new state integrated school that the Minister of Education grants an integration agreement for will have the standard clauses for integration as outlined in *Schedule 6 of the Education & Training Act 2020*.

The building project for a new state integrated school will need to be within School Property Guidelines (SPG) and the state new build standard to meet the requirement for applying attendance dues funds. Where building spaces go beyond SPG and the state new build standard, other funding streams (e.g. donations) must be used for the above code work.

The Minister of Education has the discretion to provide Policy Two funds where a new state integrated school, or an existing school with roll growth, is adding value to the state education network. The Minister of Education can use this discretion to provide 85% of the funding provided for classrooms in state integrated schools under this funding stream. This is regardless of whether the proprietor is building a new school or expanding an existing school. The remaining 15% of funding required to complete the build can be met from attendance dues. A few schools in the Catholic state integrated network have been funded by Policy Two funds in the last decade but since 2018 Policy Two funding has been very limited. Policy Two funding is always an important first avenue to explore with the Minister when considering the development of a new

		school for the state integrated sector. The Criteria to be met to be eligible for Policy Two funding are: A new school build (a) Projected demand will go beyond the education network's current capacity within 10 years (b) A new state school is likely to be needed within 10 years if the integrated school is not built Classroom only assistance (c) The application defines the local school network (using the boundaries set out in the area report) (d) Current demand for enrolment in that network is over 85% of its capacity (e) Projected demand will go beyond the network's current capacity within 10 years
Construction Projects including principal and interest on debt incurred in respect of these construction projects	Project support costs associated with construction and property policy/governance (from the three categories above) including: ➤ Resource Management Act costs ➤ Architectural services ➤ Project management services ➤ Legal services ➤ Project administration ➤ Property inspection ➤ Related share of salaries and overheads of staff whom oversee project work to which attendance dues are applied ➤ Territorial Authority Consents e.g building consents, EAPs etc.) ➤ QS's	It has long been accepted that project support costs associated with construction of new footprint can be recovered by the proprietor through the application of attendance dues. The current act which subsumes the original Act in whole <i>Schedule 6 Clause 30(3)(c) of the Education & Training Bill 2020</i> states that Attendance Dues can be applied to "meeting debts, mortgages, liens or other charges associated with the land and buildings that constitute the premises of the State integrated school or schools". These other charges outlined in the adjacent definitions column are legitimate costs associated with a project in constructing new footprint. These project support costs can be funded by attendance dues and can be applied to project staff employed by the proprietor or to a third party contracted by the proprietor to perform these functions.

<u>Attendance Dues Lawful Use Categories</u>	<u>Definitions</u>	<u>Commentary</u>
Attendance Dues Administration	Costs incurred in administering the collection of Attendance Dues including: ➤ Collection Agency fees ➤ Outsourcing service fees ➤ Credit card/Eftpos fees ➤ Computer system licence fees and maintenance ➤ Stationery ➤ Information sheets ➤ Salaries and overheads of staff employed to process and oversee the administration of the collection of attendance dues ➤ Salaries and overheads related to the servicing of debt including training costs ➤ Accounting costs ➤ Audit costs ➤ Costs of engaging a third party to carry out any of the tasks listed above on behalf of the proprietor	In 2012, NZCEO on behalf of the 24 Proprietors of Catholic schools and 68 other Proprietors of state integrated schools in New Zealand sought a judicial review regarding whether state integrated schools could lawfully recover, as part of the attendance dues, the cost of charging, recovering, and accounting for those attendance dues (<i>NEW ZEALAND CATHOLIC EDUCATION OFFICE LIMITED VS THE ATTORNEY-GENERAL HC WN CIV-2011-485-1747 [27 April 2012]</i>). The Judge (Dobson J) found in favour of NZCEO finding that “charges associated with the land and buildings that constitute the premises of the school or schools in s 36(3) of the Act (<i>Private Schools Conditional Integration Act 1975 which has been subsumed wholly into the 2020 Education & Training Act</i>) includes the costs incurred in collecting and administering attendance dues.” In this judgement, Dobson did argue that the various forms of expense incurred in recovering the attendance dues should be reviewable by the Ministry of Education through accurate annual accounting that identifies the components of the costs incurred in the recovery of attendance dues. The list of definitions provided under Attendance Dues Administration are as stipulated through the <i>Ministry of Educations website and its associated information sheets</i> regarding the lawful expenditure items that can be claimed against attendance dues.

<u>Attendance Dues Lawful Use Categories</u>	<u>Definitions</u>	<u>Commentary</u>
Other Charges	Other charges that can be legally applied to Attendance Dues include: ➤ Lease and rental payments ➤ Insurance	<i>Schedule 6 Clause 30(3)(c) of the Education & Training Bill 2020</i> states that Attendance Dues can be applied to “meeting debts, mortgages, liens or other charges associated with the land and buildings that constitute the premises of the State integrated school or schools”. Some AIS proprietors have schools which are leased to proprietors from nominated Trust Boards. Attendance Dues in this case can be used to service the lease costs of the land and building from the Trust. There are a number of state integrated schools who are sited on leasehold land and thus the proprietor pays a lease cost to the lessor. Insurance costs including valuation costs for integrated buildings are a legitimate cost that can be charged against Attendance Dues.
Compliance Costs	Building warrant of fitness costs Fire inspection services Cost of engaging a third party to manage or undertake any of these support tasks on behalf of the proprietor.	The Ministry of Education have outlined in their advice regarding the use of attendance dues that fire service inspections and building warrant of fitness costs and any costs of engaging a third party to undertake these tasks are a lawful use of attendance dues. These are considered compliance costs which should not be charged against policy one maintenance funds.
Debt Servicing against Policy One	Interest charged on principal for debt against future Policy One funds	Where a proprietor is completing capital maintenance work and borrows funds against future Policy One funding, any interest payments on the loan cannot be met from Policy One funds. In this situation, the proprietors’ own funds such as donations or attendance dues can be used to pay the interest component of any repayment. Principal payments on the loan can be lawfully paid by Policy One funds.

<u>Attendance Dues Lawful Use Categories</u>	<u>Definitions</u>	<u>Commentary</u>
Exceptional Circumstances	Where a major capital intervention is required by a proprietor to meet an extraordinary/catastrophic event that might unexpectedly arise in the life cycle of an asset	This is considered an exceptional use of Attendance Dues funds and is for a situation where there is a need for a significant replacement of buildings due to reasons such as structural risk, land destabilisation and significant building defects. These types of extraordinary capital costs would in whole or part be reasonably expected to be an unfair burden on the Policy One pool (<i>Brian Mitchell, Group manager, Infrastructure Advisory Services, Ministry of Education, Sept 2020</i>). The use of Attendance Dues in these circumstances is based on a significant issue of health and safety to the staff and students at the school such that they would be in imminent and immediate danger if the facilities were to continue to be used in their current state.

Points of Clarification

The practice of de-integrating existing buildings and then building new facilities using attendance dues needs careful consideration. The MoE consider this a legal practice and feel there is an onus of honesty on the proprietor in using this strategy. We know of some integrated schools that use this to build new facilities while continuing to use the de-integrated facility which is still fit for purpose. This practice can also be used to upgrade facilities past state standard while saving the use of policy one funds thereby almost double dipping. There are situations where this is entirely appropriate, but the MoE does not appear to have any policy to ensure this practice is used as it was intended and is looking to develop a stronger process around this practice. The MoE suggest, and NZCEO agrees, that having a little grey space is better than having a tight policy with no room to move.

There is a significant danger in the practice of de-integrating spaces but continuing to use these buildings to deliver a full school programme. In this case, the proprietor ends up with the responsibility of maintaining a growing number of non-integrated spaces in the school requiring an increasing proportion of proprietor funds to carry out a full programme of capital maintenance in the school.

State Standard – the MoE is unable to provide a precise definition of ‘state standard’ although the Ministry of Education does provide clear design guidelines to inform design and compliance with NZ Building Code (available from the Ministry of Education website). A practical and useful view is to focus on the state standard in terms of what is allowed regarding building and classroom size in terms of m² and the types of buildings allowed within SPG but not necessarily the quality of the build. The quality of the build is addressed by the New Zealand Building Code, and the Ministry of Education design guidelines.

Clarifying The Use of Attendance Dues

Frequently Asked Questions & Scenarios

How do I establish the SPG entitlement for a school?

- *The Ministry of Education Property Portal, accessed from the Ministry of Education website, provides an SPG calculator which is populated for each existing state or state-integrated school. The SPG calculator references 1 July roll date for a school to determine the square metre entitlement by each space type. A forecast function is available to forecast to the schools approved maximum roll. This provides the full entitlement to integrated space for a school and can be used to determine new square metres which can be funded by Attendance Dues.*

A school doesn't have a hall. Can attendance dues money be used to fund a project to build one?

- *The SPG calculator will calculate the entitlement to a hall for each school. Attendance dues funds can be used to plan and construct a hall so long as the hall can be fully integrated within the SPG entitlements.*
- *If the school wish the hall to be bigger in size than the SPG entitlement, assuming all other entitlements are fully utilised, the school would need to fundraise or access alternate funding in order to 'top up' the attendance dues funding. The additional square metres would not be integrated and would remain the school/ proprietor responsibility for maintenance and future replacement.*

A school needs more classrooms to achieve its existing maximum roll. Does attendance dues funding respond?

- *Yes, attendance dues funding can be used to provide additional classrooms to enable the school to achieve its maximum roll, to the extent that SPG entitlement is available.*

A school has 4 small classrooms which are 'end-of-life' and wants to replace them with 4 larger fit-for-purpose classrooms, still within SPG entitlement. Is this funded by Policy One or attendance dues?

- *Funding can be used from both Policy One and attendance dues. Policy One will be required to respond with funding for the replacement square metres of the 4 small classroom. Attendance dues funding will be required for the new or additional square metres to increase the size of the classrooms. An apportionment of both construction costs and associated costs such*

as architects, engineers, etc will be required.

- *Alternatively, it is also perfectly acceptable practice to replace existing under code classrooms to the new flexible teaching space standard and increase new m² using only policy one funds. This is a practice that the ministry of Education allows state schools under their 5YA process. However, if using this strategy, a proprietor will need to have approval through the MoE and be able to demonstrate that capital maintenance in the school is up top date.*
- *Deciding which of the two alternatives to use is a balance between whether there is additional Policy One or AD available to the proprietor. Both approaches are acceptable with larger proprietors with greater levels of pooled Policy One funds preferring to use Policy One funds where the project is effectively funded by the government. Smaller proprietors who may have more limited Policy One funds may want to use the mixed approach involving both Attendance Dues and Policy One.*

Staff at a school have complained that there are inadequate staff spaces such as offices, staff workrooms, etc. Do attendance dues respond to spaces other than classrooms or student spaces?

- *Yes, as long as the space is within the SPG entitlement, and the space is 'new' square metres, attendance dues will respond. Care should be taken to ensure that the categories of space entitlement are complied with to the extent possible (ie. the administrative SPG entitlement should be used to deliver administrative space and classroom SPG entitlement should be used to deliver classroom space. Small variations between categories are to be expected but large variations should be avoided to ensure a school has an appropriate allocation of each type of space.*

Is there a difference between new classrooms to reach an existing maximum roll and new classrooms for an increase in the maximum roll or does attendance dues funding respond to both?

- *There is no difference in this scenario. Both are considered 'growth' classrooms with the addition of new square metres which can be integrated. As long as the new classrooms remain within SPG entitlement attendance dues funding can be used in either scenario.*

There is an SPG entitlement for 3 new roll growth classrooms but the proprietor wants to build 4 new classrooms. Can attendance dues be used to debt service the cost of all 4 classrooms?

- *A proprietor may only use attendance dues funds for growth building projects within SPG entitlement. In this situation, the proprietor could use attendance dues funds for the 3 new roll growth classrooms but would have to fund the remaining new classroom from the proprietor's own funds which could include funds raised through proprietor donations and fundraising. The 4th classroom built from the proprietor's own funds would be considered a non-integrated space and policy one funds would not be able to be used for capital maintenance. These decisions require careful consideration by the proprietor as the ongoing maintenance work and capital replacement of the classroom space that is above SPG may become a liability for the proprietor in terms of the ongoing capital maintenance costs that they will need to fund over the life cycle of the building.*

A proprietor wants to build at a higher specification than MoE design guidelines (over code).

- *Proprietors can use attendance dues for growth based on national regional building rates and Ministry of Education new build standards. If a proprietor chooses to build to a higher specification than MoE guidelines, then the proprietor will need to fund the extra costs from their own funds.*