

CHOICE AND AFFORDABILITY FUND AGREEMENT

2020 to 2029

TRUSTEES FOR CATHOLIC EDUCATION
OFFICE ARCHDIOCESE OF CANBERRA &
GOULBURN

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Choice and Affordability Fund Agreement

PRELIMINARIES

1. As part of the Australian Government's commitment to providing choice to Australian families, the Government announced the Choice and Affordability Fund. The Choice and Affordability Fund will provide an estimated \$1.2 billion over 10 years from 2020 to 2029 to address specific challenges in the non-government school sector. The Choice and Affordability Fund incorporates the National Adjustment Assistance Fund, which was established to provide transition funding support for non-systemic independent schools.
2. The Choice and Affordability Fund Guidelines (the Guidelines), published on the Department of Education, Skills and Employment website, outline the expectations for the fund through national priorities. The national priorities were developed in consultation with the national representative bodies and are:
 - Choice and affordability of schools
 - Transition assistance
 - Special circumstances funding
 - Strengthening outcomes for schools and educationally disadvantaged schools and students
 - Student wellbeing and support
 - Other priorities identified by the Minister from time to time.
3. Through the Choice and Affordability Fund Agreement (the Agreement), state and territory non-government representative bodies (NGRBs) agree to receive and use funding in line with these national priorities.
4. Funding is provided under section 70 of the *Australian Education Act 2013* (the Act) for an NGRB for the purpose of supporting school education at non-government schools. NGRBs are expected to provide all non-government schools they represent with the opportunity to apply for or be supported through the funding.
5. The NGRBs will report annually against the agreed arrangements, as set out in Part 4 – Reporting and Payment Schedule. Ongoing reporting remains a condition of funding under the Act and the Australian Education Regulation 2013 (the Regulation).
6. As the NGRB anticipates a consistent approach to delivery of activities over the period of this Agreement, the Agreement does not require the NGRB to submit work plans as provided for under Part D of the Guidelines. If the NGRB's approach to delivery alters so that additional priorities are to be addressed this Agreement will be amended to provide for submission of work plans.
7. This Agreement is the written arrangement entered into in relation to the Fund for the purposes of paragraphs 25B(1)(c), 31(1)(d) and 36(6)(c) of the Regulation for payments the Minister for Education (the Minister) is able to make under section 70 of the Act. It sets out matters that the Minister for Education must have regard to for the purposes of determining an amount(s) of Choice and Affordability funding payable under section 70 of the Act for the NGRB. It also specifies the requirements on an NGRB with respect to its expenditure of Choice and Affordability

funding paid under the Act and associated reporting requirements. This Agreement does not impact the expenditure by the NGRB, or associated reporting, relating to the Non-Government Reform Support Fund.

8. Any action taken under the Agreement is subject to, and must be consistent with, the Act and Regulation and all other applicable legislation. The terms and obligations contained in the Agreement are in addition to and not to be read as limiting anything in the Act or Regulation.
9. To avoid doubt, this Agreement is not intended to create legally binding obligations on the Commonwealth of Australia whether contractual or otherwise for any purpose other than that permitted in accordance with the Act or Regulation. In accordance with subsection 25B(1) of the Regulation, the Minister will have regard to this Agreement, for the purpose of determining under section 70 of the Act, the amount of financial assistance that is payable to a State or Territory for a year, for a NGRB for a non-government school.
10. The Regulation prescribes a range of matters for the purposes of the Act including ongoing requirements for approval of NGRBs; matters relevant to actions the Minister may take for failure to comply with the Act or the Regulations; requirements in relation to the acquittal of funding paid under the Act; and other miscellaneous matters.
11. The Guidelines set out the requirements under the Regulation in relation to the administration, use and reporting of the Choice and Affordability Fund.
12. A reference to the Minister or the Secretary in this Agreement and the Guidelines includes a reference to a delegate of the Minister or the Secretary, respectively, under the Act.

PART 1 – PARTIES AND OPERATION

Parties

13. The Parties to this Agreement (the Parties) are:

- a) the Secretary of the Department of Education, Skills and Employment, and
- b) the Trustees for Catholic Education Office Archdiocese of Canberra & Goulburn (ABN: 47 824 127 996).

Term

14. This Agreement shall take effect on and from the date when it is signed by the last party to do so.

15. Unless terminated earlier in accordance with paragraph 19, this Agreement will expire on the latter of the following events:

- a) 31 March 2030, or
- b) on completion of a final annual report to the Secretary's satisfaction.

Review

16. The Commonwealth will review the Choice and Affordability funding arrangements in 2027.

Variation

17. This Agreement may be amended at any time with the agreement in writing of the Parties.

18. The attachments to this Agreement may be varied or revoked, and new attachments may be added, at any time with the written agreement of the Parties.

Termination

19. A Party to this Agreement may terminate the Agreement at any time by notifying the other Party in writing. A Party intending to terminate, should provide a minimum of 12 months' notice.

Survival of obligations following expiry or termination

20. The following obligations survive the expiry or termination of this Agreement:

- a) The requirement to submit an annual report as specified in Paragraph 39 of this Agreement and Part D of the Guidelines;
- b) any requirements under the Guidelines, the Act and/or the Regulation that expressly or impliedly continue to survive, including but not limited to those relating to:
 - i. expenditure of Choice and Affordability fund amounts received by the NGRB;
 - ii. ongoing policy and funding requirements for approval;
 - iii. monitoring the NGRB's compliance with the Act;
 - iv. keeping and providing information and records;

- v. taking action with respect to non-compliance;
- vi. requiring amounts to be repaid.

21. The above obligations continue until the Choice and Affordability funding is either fully spent or returned.

Dispute Resolution

22. Any Party may give notice to the other Party of a dispute under this Agreement. The notice must set out the nature of the dispute.

23. Within 10 business days (or such other period agreed to by the Parties in writing), each party will nominate a representative to try and settle the dispute by direct negotiation, in good faith.

24. The existence of a dispute does not, of itself, constitute failure to implement the Agreement by either Party.

PART 2 – PRIORITIES

National priorities

25. The Guidelines specify the national priorities determined by the Minister. Through this Agreement, the Parties commit to contribute to the following national priorities.

a) *Choice and affordability of schools*

The Fund will provide funding for initiatives that facilitate parental choice and opportunity giving parents the ability to choose an affordable school that will best suit their individual child.

b) *Transition assistance*

The Fund incorporates the National Adjustment Assistance Fund, which was established to provide transition funding support for non-systemic independent schools. This means NGRBs will make financial and other transition support available for schools that would have met the criteria to have access to support through the National Adjustment Assistance Fund; that is, non-systemic independent schools which are expected to experience year-on-year reductions in per student funding due to changes in Commonwealth recurrent funding settings over 2020 to 2029. The Fund will also provide support for schools in general to transition to a new capacity to contribute model for recurrent funding.

c) *Special circumstances funding*

The Fund will support schools and students impacted by special circumstances or in priority areas such as rural, regional and remote locations and areas affected by drought or other natural disasters.

Special circumstances funding should be prioritised for schools requiring short term emergency assistance when unexpected circumstances or events cause severe and

temporary financial difficulty. Assistance should be provided for schools in situations that satisfy all of the following criteria:

- **unexpected**
 - Could not have been reasonably foreseen.
- **causing severe financial difficulty**
 - Where a school faces a real prospect of having to cease a large part of its educational activities or significantly lower its educational services.
- **short term**
 - Schools should be able to overcome their financial difficulty and resume operations and must provide a five-year business and recovery plan.
- **a special need**
 - Schools have exhausted all other options to remedy the financial situation of the school.

f) *Other priorities* identified by the Minister from time to time.

Where new priorities emerge, the Minister will consult with NGRBs to be progressed only by the agreement of both parties.

26. Transition assistance (priority b)) and special circumstances funding (priority c)) are compulsory inclusions for all NGRBs and, along with the regional transition assistance support provided under paragraph 38, these priorities should be prioritised over the other national priorities.
27. The Secretary will provide advance notice to NGRBs through Funding Estimation Tools (FETs) of their represented schools which must have access to financial support through transition assistance (priority b)). The department expects the activities outlined in paragraph 29 should result in a nationally consistent approach to support for these schools and will provide guidance on funding that should be set aside to meet the requirements of these schools. There is flexibility for NGRBs to extend this support, or provide alternative transition support, to other schools.
28. The implementation of national priorities outlined in paragraph 25 of this Agreement is a condition of Choice and Affordability funding to the NGRB. It is anticipated that the Parties may vary paragraph 25 of this Agreement in writing, over time as national priorities are further developed, considered and are the subject of consultation.

Overview of activities

29. The following is an overview of planned activities and description of what the NGRB seeks to achieve with the Choice and Affordability Fund over 2020-2029.

Funding distribution

The Catholic Education Archdiocese of Canberra and Goulburn (CECG) estimates the following expenditure under the Choice and Affordability Fund for the ACT Catholic schools it represents, noting timing of expenditure may vary following completion of CECG’s strategy for the transition period 2020-2029 and as circumstances in the sector change. CECG’s strategy for the transition period will be included in an amended Agreement once completed.

Table: Estimated timing of expenditure

| | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 |
|---|------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Allocation | 11,395,760 | 1,005,718 | 1,039,912 | 1,075,270 | 1,111,828 | 1,149,632 | 1,188,716 | 1,229,134 | 1,270,926 | 1,314,138 |
| Expenditure | | | | | | | | | | |
| Priority a) Choice and Affordability (\$) | 0 | 0 | 1,000,000 | 1,100,000 | 1,200,000 | 1,300,000 | 1,400,000 | 1,500,000 | 1,600,000 | 1,577,593 |
| Priority b) Transition (\$) | 36,468 | 37,708 | 1,038,990 | 1,140,316 | 1,241,686 | 1,343,104 | 1,444,568 | 1,546,084 | 1,647,652 | 1,626,865 |
| Priority c) Special circumstances (\$) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Expenditure | 36,468 | 37,708 | 2,068,990 | 2,240,316 | 2,441,686 | 2,643,104 | 2,844,568 | 3,046,084 | 3,247,652 | 3,204,458 |

Funding for non-systemic schools will be quarantined and distributed on the basis of which the funding will be received.

Table: Estimated timing of distribution to non-systemic school

| | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 |
|--------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Marist College Canberra | 36,468 | 37,708 | 38,990 | 40,316 | 41,686 | 43,104 | 44,568 | 46,084 | 47,652 | 49,272 |

Priority a) Choice and Affordability of schools

Funding will be distributed to support schools to continue to provide an affordable alternative for parents in the non-government sector. Estimated timing is provided in the above table, noting that the timing of expenditure may vary following completion of the CECG strategy for the transition period 2020-2029 and as circumstances in the sector change.

Priority b) Transition assistance

CECG does not represent schools eligible for quarantined regional transition assistance as specified at paragraph 38, or that would have met the criteria to have access to transition support as schools eligible for the former National Adjustment Assistance Fund.

Funding will be provided to support schools to transition to the Direct Measure of Income funding arrangements. Estimated timing is provided in the above table, noting that the timing of payments may vary following completion of the CECG strategy for the transition period 2020-2029 and as circumstances in the sector change.

Priority c) Special circumstances

In the event of special circumstances (as described at paragraph 25.c)), the funding distribution for other priorities will be adjusted to make funds available to address schools' requirements.

Priority Objectives

CECG will implement a strategy for the transition period 2020–2029 that determines the best transition path to the new funding arrangements while ensuring quality student outcomes and the financial viability of Catholic ACT schools.

Intended Outcomes

The intended outcome from the Choice and Affordability funding is to ensure the continued viability of the ACT Catholic schools represented by CECG during the transition to the Direct Measure of Income funding arrangements. The funding will allow CECG to implement initiatives to provide schools with an appropriate level of funds to provide an affordable choice for schooling to parents and quality education to students while ensuring financial viability during the funding transition.

Priority:

- a) Choice and Affordability of schools
 - Parents have opportunity to choose an affordable school that will best suit their child.
- b) Transition assistance
 - Schools are supported to transition to the DMI funding arrangements by 2029.
- c) Special circumstances
 - Schools adversely affected by special circumstances are supported in accordance with paragraph 25.c).

PART 3 – FUNDING ARRANGEMENTS

Payment amount

30. Commonwealth funding for the Fund is provided through Part 5 of the Act. Section 70 of the Act provides that the Minister may determine an amount of financial assistance that is payable for a year to a non-government representative body for a non-government school.

31. Payments will be paid through state and territory treasuries to pass to the NGRB. Funding will be administered by the NGRB to its represented non-government schools, in accordance with this Agreement.
32. The following table describes the estimated funding amount for 2020. Payment amounts for 2020-2029 are subject to annual appropriation, ministerial determination for the purposes of section 70 of the Act, and the Schooling Resource Standard (SRS) indexation factor applied to amounts from 2021 to 2029 as set out in paragraph 25B(2)(b) of the Regulation and section 11A of the Act.

| | 2020 |
|--|------------|
| Choice and Affordability Fund funding (\$) | 11,395,760 |

33. The Government has committed to review the SRS indexation factor by 2023.
34. For the purposes of making a section 70 determination, in addition to the matters listed in subsection 25B(1) of the Regulation, the Minister may have regard to advice from NGRBs or the national representative body for a sector on their preferred state and territory level distribution of funding for 2020 or any subsequent year. Advice to vary the distribution for 2020 must be provided before Agreements are finalised. Advice to vary the distribution for 2021 or a subsequent year must be provided at least by the end of August of the year prior to the variation unless otherwise agreed with the Secretary.
35. The department will confirm the payment amounts to NGRBs by October each year for the following year (e.g. confirmation by October 2020 for the payment amounts for 2021), once the SRS indexation factor for the year is known and the Minister has considered any advice from the national representative body or NGRB to vary the state and territory level distribution provided in accordance with paragraph 34.
36. The department will publish annually on its website the final distribution of funding at a state and territory level, based on the amounts the Minister has determined are payable for an NGRB for each year by 30 June the following year.

Use of funding

37. NGRBs and non-government schools are to use funding in line with the Guidelines. NGRBs must require non-government schools to provide assurance through the annual reporting and financial statement arrangements that distributed funding has been used for the purposes it was provided.
38. To ensure support for regional schools during transition to the Direct Measure of Income for capacity to contribute, and in accordance with paragraph 23 of the Guidelines, the NGRB must ensure that funding as specified in the following table is provided for regional assistance. Note, the figures in this table will be revised annually to reflect final SRS indexation factors and distribution variations provided in accordance with paragraph 34.

| | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 |
|-------------------------------------|------|------|------|------|------|------|------|------|------|------|
| Regional transition assistance (\$) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

39. Subject to the requirements contained in section 31 of the Regulation and in the Guidelines which must be complied with, as well as the compulsory requirement to provide the regional assistance specified in paragraph 38 above, transition assistance (priority b)) and special circumstances funding (priority c)), NGRBs have discretion to spend Choice and Affordability funding over the period 2020 to 2029 in order to best achieve the priorities of the Fund according to their own circumstances. For avoidance of doubt, expenditure of some or all of the funds received may be spent in later years, in order to best achieve the priorities of the Fund.
40. Any interest earned on the financial assistance must be spent, or committed to be spent, in the same way as the financial assistance.

PART 4 – REPORTING AND THE PAYMENT SCHEDULE

Annual reports

41. The NGRB will submit an annual report in accordance with the Guidelines and the template at Attachment B.

Payment schedule

42. For 2020, 85 per cent of the 2020 allocation for the NGRB will be paid following signing of the Agreement. The balance of 15 per cent of the 2020 allocation is expected to be paid in late 2020, subject to appropriation.
43. For 2021 to 2029, payments will be made in January and August, each payment being approximately 50 per cent of the year's annual allocation. An additional payment will be made before 30 June for the purposes of making adjustment payments, including for indexation for the previous year if required. In accordance with paragraph 35 above, NGRBs will be advised of payments in October for the following year. Timing of the payment scheduled for January 2021 is subject to appropriation.
44. The NGRB agrees to and accepts the reporting and payment schedule at Table 1. Unless otherwise agreed to by the Secretary in writing, the NGRB will submit documentation according to the reporting and payment schedule of the Fund below.

Table 1. Reporting and expected payment schedule of the Choice and Affordability Fund

| Report | Submission date | Payment date ¹ |
|--|-----------------|--------------------------------|
| 2020-2029 Agreement | | Following signing of Agreement |
| - | | Late 2020 |
| - | | January 2021 |
| 2020 Annual Report | By 30 June 2021 | August 2021 |
| <i>Reporting and payment schedule continues in the same pattern until October 2029</i> | | |
| 2029 Annual Report | By 30 June 2030 | - |

- indicates no reporting requirement or payment applicable

1. Payment dates reflect the department's process timeframes and are indicative only and may be subject to change and do not factor in state or territory government payment processes.

Note: From 2021, an additional payment may be scheduled prior to 30 June if required. NGRBs will be advised of payment timing and amounts in October for the following year in accordance with paragraph 35.

PART 5 – SIGNATURES

Signed for and on behalf of the Secretary of the Department of Education, Skills and Employment by:

Signed for and on behalf of the TRUSTEES FOR CATHOLIC EDUCATION OFFICE ARCHDIOCESE OF CANBERRA & GOULBURN by:



Mark Sawade
First Assistant Secretary
Funding and Data Collection Group

Date of signature:

3/11/2020



Mr Ross Fox, Director

Date of signature:

28/10/20