

CHOICE AND AFFORDABILITY FUND AGREEMENT

2020 to 2029

Independent Schools Victoria

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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 Fund). The 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 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, as well as local priorities agreed by the Australian Government and state and territory level NGRBs in accordance with paragraph 28 of this Agreement.
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. Working collaboratively with non-government schools, the NGRBs will create work plans, updated as required, to help achieve priority outcomes. The NGRBs will report annually against the agreed work plan, as set out in Part 4 – Work Plans, Reporting and the Payment Schedule. Ongoing reporting remains a condition of funding under the Act and the Australian Education Regulation 2013 (the Regulation).
6. 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 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.

7. 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.
 8. 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.
 9. 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.
 10. The Guidelines set out the requirements under the Regulation in relation to the administration, use and reporting of the Fund.
 11. 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.
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PART 1 – PARTIES AND OPERATION

Parties

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

- a) the Secretary of the Department of Education, Skills and Employment, and
- b) Independent Schools Victoria Incorporated (44 711 074 857).

Term

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

14. Unless terminated earlier in accordance with paragraph 18, 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

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

Variation

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

17. 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

18. 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

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

- a) The requirement to submit an annual report as specified in Paragraph 46 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 the 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.

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

Dispute Resolution

21. 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.

22. 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.

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

PART 2 – PRIORITIES

National priorities

24. 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 Choice and Affordability 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.

d) *Strengthening outcomes for schools and educationally disadvantaged schools and students*

The Fund will support initiatives that strengthen outcomes for schools such as helping underperforming schools improve outcomes, including through school industry partnerships, and supporting educationally disadvantaged schools and students.

e) *Student wellbeing and support*

Student wellbeing is essential for both academic and social development. The Fund will support schools that require additional assistance to ensure safe, supportive and respectful learning environments.

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.

25. 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 39, these priorities should be prioritised over the other national priorities.

26. 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 0 below and the work plans 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.

27. The implementation of national priorities outlined in paragraph 24 of this Agreement is a condition of funding to the NGRB. It is anticipated that the Parties may vary paragraph 24 of this Agreement in writing, over time as national priorities are further developed, considered and are the subject of consultation.

Local priorities

28. Local priorities are to be outlined in the NGRB's Choice and Affordability Fund work plan.

29. The implementation of local priorities outlined in the Choice and Affordability Fund work plan (Attachment A) is a condition of funding to the NGRB. It is anticipated that the relevant NGRB may

formulate proposals to vary the work plan over time as local priorities are further developed and considered.

30. If the relevant NGRB proposes new local priorities, these will be agreed to by the Parties via an updated work plan.

Overview of activities

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

Funding distribution

Choice and Affordability funds will be expended to best meet the needs of independent schools transitioning to the Direct Measure of Income (DMI) Capacity to Contribute model. ISV's estimated 10 year profile is as follows:

	2020	2021	2022	2023
Funding from Previous	\$0	\$6,512,325	\$12,130,004	\$14,935,610
Annual allocation	\$8,496,313	\$8,785,188	\$9,083,884	\$9,392,736
Expended	\$1,983,988	\$3,167,509	\$6,278,278	\$8,327,108
Carried Forward	\$6,512,325	\$12,130,004	\$14,935,610	\$16,001,238
	2024	2025	2026	2027
Funding from Previous	\$16,001,238	\$15,956,834	\$15,241,472	\$13,443,413
Annual allocation	\$9,712,090	\$10,042,300	\$10,383,738	\$10,736,786
Expended	\$9,756,494	\$10,757,662	\$12,181,797	\$14,019,109
Carried Forward	\$15,956,834	\$15,241,472	\$13,443,413	\$10,161,090
	2028	2029		
Funding from Previous	\$10,161,090	\$5,015,603		
Annual allocation	\$11,101,836	\$11,479,298		
Expended	\$16,247,323	\$16,494,901		
Carried Forward	\$5,015,603	\$0		

Priority Objectives

Independent Schools Victoria (ISV) will use the Choice and Affordability Fund to address the national priorities as follows:

1. Relevant national/local priority: (a) Choice and affordability of schools

Helping schools understand what really matters to their community

ISV will develop a tool that helps principals in independent schools determine what really matters to families when enrolling in the school. This tool will enable principals to have the right conversations with families when they enrol and to assist them to make the correct choice in relation to their decision. The methodology used will result in a school's philosophy being aligned with the needs and wants of existing and prospective parents.

2. Relevant national/local priority: (b) Transition assistance

A transition plan for schools to the Direct Measure of Income funding arrangements in the wake of and COVID-19

ISV will develop a 'Transition Plan' for schools to consider their viability and business model into the future. The outcome will be the creation of sustainability plans for schools and support from ISV to deliver the transition process.

The initial focus will be on schools that are eligible to be considered for Regional Transition Assistance and the National Adjustment Assistance Fund but any school that can demonstrate significant financial challenges as a result of COVID-19 and the new Direct Measure of Income funding arrangements method of distributing funding will be able to access funding to develop a sustainability plan.

ISV will use the following assessment process:

1. ISV to identify those schools that will lose income (government and private) and/or enrolments as their Capacity to Contribute score changes as a result of the introduction of the Direct Measure of Income funding arrangements and changes to their client group due to special circumstances (such as the impact of COVID-19 and the recent bushfires).
2. A proportion of the Choice and Affordability Fund will be allocated to schools dependent on the school developing and actioning a transition plan in collaboration with ISV.
3. At the end of the process, schools will have a sustainability plan and financial support to move forward.

ISV will provide assistance to schools eligible under the former National Adjustment Assistance Fund (NAAF). While these schools will have access to funding, the amount of financial assistance directed to NAAF schools under the CAF would be considered on a case-by-case basis.

3. Relevant national/local priority: (c) Special circumstances funding

ISV will use funding to support schools affected by special circumstances or in priority areas such as rural, regional and remote locations or areas affected by drought or other natural disasters.

4. Relevant national/local priority: (e) Student wellbeing and support

How can we have a positive impact on student wellbeing and equip students to creatively face the challenges of the future?

We want to move away from the catch all tag of 'wellbeing' and address the broader factors that contribute to the social development of students and their engagement with the community and society as a whole. This initiative will develop a program for students to complete that focuses on student wellbeing, engagement, agency and skill development for the future. The program will step students through a process of self-discovery and equip them for the future in the community. We will look to run this initiative predominately in educationally disadvantaged communities and regional settings.

Intended Outcomes

1. Relevant national/local priority: (a) Choice and affordability of schools

- Methodology to align the school's philosophy with the needs and wants of existing and prospective parents
- Develop and deliver values initiative to define and align school's values to strategy within 2 years
- Design a framework to help parents choose a school that is right for their student
- Develop characteristics and desires of prospective parents as a critical component to the framework
- Refine digital tool for prospective parents

2. Relevant national/local priority: (b) Transition assistance

- Schools are assisted to transition to the Direct Measure of Income arrangements by 2029
- Sustainability plan for the school
- Support to deliver the transition process, particularly to schools that are eligible to be considered for Regional Transition Assistance
- A financial viability assessment for schools
- An organisational health check tool for school leaders
- Training materials in key areas of reform (i.e. governance, compliance and employment relations)
- Increased strategic planning capabilities for school leaders

3. Relevant national/local priority: (c) Special circumstances funding

- Support for schools affected by special circumstances or in priority areas such as rural, regional and remote locations or areas affected by drought or other natural disasters.

4. Relevant national/local priority: (e) Student wellbeing and support

- A program for schools and communities that works to the core of wellbeing issues in students.

PART 3 – FUNDING ARRANGEMENTS

Payment amount

31. 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.
32. Payments will be paid through state and territory treasuries to pass to the NGRB. Funding will be administered by the NGRB for its represented non-government schools, in accordance with this Agreement and approved Choice and Affordability Fund work plans.
33. The following table describes the payment amount for 2020. Payment amounts for 2020 to 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.

Independent Schools Victoria

2020

Choice and Affordability Fund funding (\$)

\$8,496,313

34. The Government has committed to review the SRS indexation factor by 2023.
35. 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.
36. 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 35.
37. 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

38. 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.
39. 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 35.

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Regional transition assistance (\$)	\$3,244,734	\$3,355,054	\$3,469,126	\$3,587,076	\$3,709,038	\$3,835,144	\$3,965,540	\$4,100,368	\$4,239,780	\$4,383,932

40. 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 requirements to provide the regional assistance specified in paragraph 39 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.

41. 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 – WORK PLANS, REPORTING AND THE PAYMENT SCHEDULE

Work plans

42. The NGRB must submit a work plan for the Secretary's approval in accordance with the Guidelines. The NGRB must submit a two-year work plan for 2020 to 2021. Four-year work plans for 2022 to 2025 and 2026 to 2029 must be submitted in line with timing set out in Table 1.
43. The Parties agree to include the Fund work plan as Attachment A of this Agreement and understand that, once approved, the work plan is part of this Agreement.
44. The work plans are expected to be a flexible document that may be varied over time to accommodate changed circumstances. Except where paragraph 45 is applicable, any variations to an approved Fund work plan, including the inclusion of additional activities, must be agreed by both Parties in writing in accordance with paragraphs 16 to 17 of this Agreement.
45. The NGRB may transfer funding between categories of activities or initiatives within the work plan Budget (the Budget), without the written consent of the Secretary, provided that such transfer:
- a) does not exceed 20 per cent of the relevant item specified in the Budget for a year from which the amount of funds is being transferred, and
 - b) requirements to provide transition assistance (priority b)), special circumstances funding (priority c)) and regional assistance set out in paragraph 39 are still met each year.

The NGRB may also vary funding allocated for an activity without the written consent of the Secretary in response to increased demand for transition assistance (priority b)) and special circumstances funding (priority c)) as well as in response to variation to the final total amount payable for a year in accordance with paragraph 40.

Annual reports

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

Payment schedule

47. 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 is expected to be paid in late 2020 subject to appropriation.
48. Subject to paragraph 49 below, 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 36 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.

49. For 2022 and 2026 only, the January payment referred to in paragraph 49 will be paid following receipt of a work plan to the Secretary's satisfaction for 2022 to 2025 and 2026 to 2029 respectively.

50. 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.

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

Report	Submission date	Payment date ¹
2020-2021 work plan	By 1 June 2020	Following signing of the Agreement
-	-	Late 2020
-	-	January 2021
2020 Annual Report	By 30 June 2021	August 2021
2022-2025 work plan	By 31 October 2021	January 2022
2021 Annual Report	By 30 June 2022	August 2022
-	-	January 2023
2022 Annual Report	By 30 June 2023	August 2023
-	-	January 2024
2023 Annual Report	By 30 June 2024	August 2024
-	-	January 2025
2024 Annual Report	By 30 June 2025	August 2025
2026-2029 work plan	By 31 October 2025	January 2026
2025 Annual Report	By 30 June 2026	August 2026
-	-	January 2027
2026 Annual Report	By 30 June 2027	August 2027
-	-	January 2028
2027 Annual Report	By 30 June 2028	August 2028
-	-	January 2029
2028 Annual Report	By 30 June 2029	August 2029
2029 Annual Report	By 30 June 2030	

- indicates no reporting requirement or payment applicable

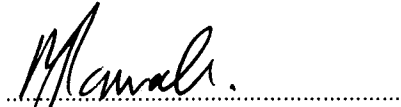
1. Payment dates reflect the department's process timeframes and are indicative only and may be subject to change and do not factor in state or territory government payment processes.

Note: From 2021, an additional payment may be schedule 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 36.

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 Independent
Schools Victoria Incorporated by:



Mark Sawade
First Assistant Secretary
Funding and Data Collection Group



Michelle Green
Chief Executive

Date of signature:

3/8/2020

Date of signature: 29 July 2020