

APPENDIX 6: BILATERAL AGREEMENT BETWEEN THE AUSTRALIAN CAPITAL TERRITORY AND THE COMMONWEALTH ON QUALITY SCHOOLS REFORM

Preliminaries

1. This agreement satisfies the conditions of subsection 22(2)(b) of the *Australian Education Act 2013* (the Act) requiring each State and Territory to be party to an agreement with the Commonwealth relating to the implementation of school education reform.
2. This bilateral agreement will inform the priorities for the work plans for non-government representative bodies in the Australian Capital Territory (ACT) under the Australian Government's Non-Government Reform Support Fund.
3. This bilateral agreement between the Commonwealth and the ACT will commence on 1 January 2019 and expire on 31 December 2024. Although these agreements commence on 1 January 2019, a State-Territory share stipulated in a bilateral agreement for 2018 will apply to the 2018 calendar year.
4. In the event the Commonwealth offers terms to the agreement that are more favourable in bilateral agreements with jurisdictions, including but not limited to:
 - a. an adjustment to the measurement of state funding contribution included in another state or territory's bilateral agreement, or
 - b. any subsequent agreement the Commonwealth makes with any other state or territory, which favourably impacts on that state's financial contributions or risk sharing arrangements under the agreement,

then these terms will also be made available to the Australian Capital Territory and this agreement will be updated to take into account the adjustment or material change to circumstance. The agreement may also be updated through agreement with the Commonwealth if there is a material change in the territory's circumstances, beyond its reasonable control, which will affect the Australian Capital Territory's fiscal position the recognition of the state's funding contribution.

Reform context

5. Under previous arrangements, all Australian Capital Territory schooling sectors have honoured and actively progressed a number of nation-wide reforms including:
 - a. being at the forefront of implementation of NAPLAN online, with 94% of ACT students successfully participating online in 2018
 - b. early engagement with the Australian Curriculum, with focused implementation underway
 - c. embedding the Teacher Quality Institute as national best practice in teacher quality and registration through high quality initial teacher education and a comprehensive framework for continuous improvement in the quality and professionalism of the ACT's teaching workforce.

6. In addition, the government school system has undertaken:
 - a. systematic implementation of ACER's National School Improvement Tool
 - b. establishment of the ACT's Student Resource Allocation approach, transparently giving effect to needs-based funding in public schools.
7. Over the same timeframe the Catholic and Independent sectors have implemented significant reforms under the Non-Government Schools Reform Fund such as implementation of the Nationally Consistent Collection of Data for Students with Disability and strengthening governance and financial management.
8. Finally, the ACT Government is already funding all ACT schools and schooling sectors at or above the legislated share of the Schooling Resource Standard (SRS). This is an enduring commitment and provides a sound investment platform for local reform.
9. In August 2018 the ACT Government released The Future of Education: An ACT education strategy for the next ten years. The strategy was developed through broad and deep conversations with the ACT community over 18 months. The input from over 5000 ACT community members (over half of which were students) including over 700 teachers across all three sectors provided clear directions. These directions aligned strongly with the international evidence base and resulted in the following four foundations:
 - i. Students at the Centre
 - ii. Empowering Learning Professionals
 - iii. Strong Communities for Learning
 - iv. Systems Supporting Learning.
10. These foundations also strongly reflect the recommendations of the Review to Achieve Educational Excellence in Australian Schools (Gonski 2.0) and the national reform directions in this agreement.
11. A cross-sectoral implementation plan will underpin the Future of Education Strategy and explicitly attends to four principles of Equity; Student Agency; Access; and Inclusion. Actions and milestones will acknowledge and build upon the excellent practices in many ACT schools and seek to share, expand and refine practices in key areas of reform. Actions will be sector specific and in the case of the Independent sector, school-specific where appropriate and complement and build upon existing priorities.
12. The actions will be mapped over three phases: Years 1-2 (2019-2020); Years 3 - 5 (2021-2023); and Years 6-10 (2024-2028). The first two of these phases are relevant to the term of this bilateral agreement. The implementation plan, and monitoring against progress will be provided to the Australian Government to enrich the information available on cross-sectoral ACT schooling reform effort.
13. The activities listed above are provided for context and are not considered part of the Agreement for the purposes of subsections 22(2) (b) and (c) of the Act.
14. Building on these reform activities, this Agreement sets out additional activities to be undertaken during the term of this bilateral agreement.

Part 1 — REFORMS

Reform activity

15. The reform activities agreed in this bilateral agreement align with the national reform directions of the National School Reform Agreement.
16. Bilateral reforms include activity to support improved outcomes for specific cohorts of students as appropriate, including Aboriginal and Torres Strait Islander students.
17. The Government, Catholic and Independent schooling sectors agree to work collaboratively in the implementation of the reforms outlined in this agreement as follows:
 - a. Quarterly cross-sectoral executive meetings to share progress and challenges.
 - b. Maintaining cross-sectoral reform-specific governance mechanisms such as NAPLAN Online Steering Group, Australian Curriculum Assessment working group.
18. The Commonwealth will not impose financial or other sanctions on States or Territories for a failure by the non-government school sector to cooperate with bilateral agreements, as per clause 50 of the Agreement. Nor will the Commonwealth impose sanctions on the non-government school sector for a failure of a State or Territory to cooperate with them in the implementation of this bilateral agreement.
19. In addition to the reforms listed below, both parties acknowledge the ACT has a keen interest in the national evidence institute. Decisions around the scope and establishment of the national evidence institute will be a matter for Education Ministers Meeting collective deliberation, and the ACT will be able to participate in this process through its membership of Education Ministers Meeting.

Table 1: ACT bilateral reform plan

Reform Direction	Actions	Sector(s)	Timing
Reform Direction A - Support students, student learning and achievement			
	Develop a cross-sectoral implementation plan to underpin the ACT Government's Future of Education Strategy.	All	2019
	Implement stage one of the cross-sectoral Future of Education implementation plan.	All	2020
	Establish a cross-sectoral reform forum to share progress and challenges.	All	2019
	Deliver professional learning on the Australian Curriculum General Capabilities.	All	2019
	Develop and implement academic reporting explicitly aligned to Australian Curriculum achievement standards.	Gov	2019 and ongoing
	Build upon existing ACT Australian Curriculum assessment reform effort to play a lead role in national efforts to refine ACARA's national learning progressions in literacy and numeracy.	All	2019
	Build upon existing ACT Australian Curriculum assessment reform effort to play a lead role in national efforts to develop the digital formative assessment proof of concept.	All	2019
	Build upon existing ACT Australian Curriculum assessment reform effort to play a lead role in the development of national learning progressions in general capabilities.	All	2020 and ongoing
	Play a lead role in the refinement of the digital formative assessment tool, and implement relevant aspects as they become available.	All	2020 and ongoing
	Conduct a cross-sectoral STEM educators forum (STEMEd ACT) in partnership with a range of professional teacher associations and the ACT Board of Senior Secondary Studies.	All	2019
	Implement the Cultural Integrity Continuum and Toolkit in all ACT Public Schools.	Gov	2018 onwards

Reform Direction	Actions	Sector(s)	Timing
	Implement the Aboriginal and Torres Strait Islander histories and cultures enriched elaborations for Science as part of cross-sectoral curriculum effort.	All	2019 and ongoing
	Meeting the learning needs of students through more and expanded schools for Canberra's growing suburbs.	Gov	2019 and ongoing
Reform Direction B – Support teaching, school leadership and school improvement			
	Actively contribute to the review of senior secondary education including, pathways to work, further education and training and prerequisites for university entry.	All (through the Board of Senior Secondary Studies)	2019
	Implement relevant findings of the review of senior secondary education.		2020 and ongoing
	Build off the lead role that the ACT Teacher Quality Institute has had in quality Initial Teacher Education regulation to actively contribute to quality assurance improvements in the national consistency and transparency of Initial Teacher Education regulation.	All (through the Teacher Quality Institute)	2019
	Develop cross-sectoral collaboration in school leadership.	All	2020 onwards
Reform Direction C – Enhancing the national evidence base			
	Build upon existing NCCD cross-sectoral moderation activities and strengthen consistency on a year by year basis.	All	2018 onwards
	Provide national leadership in NAPLAN online by maximising implementation in all ACT schools.	All	2018 onwards
	Contribute to the ongoing data collection for the Australian Teacher Workforce Data Strategy including amendment of legislation to allow for sharing of data held by the Teacher Quality Institute.	All (through the Teacher Quality Institute)	2019 onwards

Reform Direction	Actions	Sector(s)	Timing
	Build off the existing ACT cross-sectoral student identifier to actively contribute to the development and implementation of a national Unique Student Identifier.	All	2019 onwards
	Build upon recent ACT performance measures to actively contribute to the development of new measures of performance particularly student learning gain and general capabilities.	All	2018 onwards
	Implement new national measures of performance particularly student learning gain and general capabilities.	Gov	As available

Part 2 — STATE AND TERRITORY FUNDING CONTRIBUTIONS

Required funding contributions

20. Under section 22A of the Act, the state must meet its funding contributions for the government and non-government sectors as a condition of receiving Commonwealth funding.
21. The funding contributions for the government and non-government sectors in 2017 (also known as the 2017 starting share) will be set out in the Regulation and will determine the default requirement if this bilateral agreement is terminated by either party.
22. The 2017 starting shares for the ACT are:
 - a. 92.11 per cent for the government sector
 - b. 36.97 per cent for the non-government sector
23. The minimum required funding contributions for the government and non-government sectors agreed in this bilateral agreement are outlined in Table 2 below for each year from 2018 to 2024. The minimum funding contributions are expressed as a percentage of the SRS as defined in Part 3 of the Act. The National School Resourcing Board (the Board) will assess ACT's funding contribution against these shares.

Table 2

Sector	2018	2019	2020	2021	2022	2023	2024
Government	80.00%	80.00%	80.00%	80.00%	80.00%	80.00%	80.00%
Non-government	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%

24. However, Table 3 below outlines the ACT Government's intended funding contributions for the government and non-government sectors from 2018 to 2024 and is based on the following rationale:
 - a. ACT Government funding for all ACT schools and sectors is above the minimum required share under Commonwealth legislation.
 - b. The ACT Government has made a commitment to implement the findings of the Board's Socio-Economic Status (SES) score review as soon as the settings for the new direct measure of capacity to contribute from 2020 have been finalised by the Commonwealth. On this basis, percentage shares of the SRS have been identified for 2018 and 2019 and preliminary shares have been identified for 2020 and beyond (Note 2 refers).
 - c. Although the aggregated non-government and government shares are stated above, each approved authority will be transitioned appropriate to the ACT Government's starting share of their SRS.

Table 3

Sector	2018	2019	2020	2021	2022	2023	2024
Government	92.11 %	90.09 % ¹	88.07% ¹	86.06% ¹	84.04% ¹	80.00% ¹	80.00% ¹
Non-government	36.97 %	33.58 %	24.68% ²	23.12% ²	21.71% ²	20.00% ²	20.00% ²

¹ The funding shares for government schools represents a transition to the required minimum share under Commonwealth legislation. In practice the actual share will be impacted by funding decisions and may vary from the transition represented above.

² These shares have been estimated using preliminary settings and data for the new direct measure of capacity to contribute from 2020 and may be adjusted in accordance with clause 26 once the Commonwealth finalises the new direct measure. They will not be adjusted on the basis of demographic changes in non-government schools.

25. If the reported contribution for a state or territory for a year falls short of meeting the required contribution for a sector by an immaterial amount, this will not be considered non-compliant with section 22A of the Act. An immaterial amount is less than or equal to 0.6 per cent of the total SRS for the sector, or another immaterial amount agreed by the Commonwealth Minister for Education for a year, which accounts for the timing constraint of state budget processes being finalised in advance of the year and the required contribution for the year being finalised at the end of the year following the annual School Census.
26. In addition to the requirement to identify the percentage shares of the SRS by government and non-government sectors, the ACT Government has specified the intended shares for Catholic and Independent sectors in Table 4 below, noting that the legislative minimum requirements relate to the total government and non-government shares. Refer to Note 2 above (clause 24) for explanation of shares for 2020 onwards.

Table 4

Sector	2018	2019	2020	2021	2022	2023	2024
Catholic	37.55 %	34.18 %	24.70% ²	23.13% ²	21.61% ²	20.00% ²	20.00% ²
Independent	36.27 %	32.70 %	24.65% ²	23.16% ²	21.84% ²	20.00% ²	20.00% ²

27. Consistent with clause 61 of the National School Reform Agreement and in the event of a change to the SRS that has a consequential impact on state contribution requirements, the Parties can agree to amend the contribution shares set out in clause 23 above, to ensure that the state contribution amount is not impacted. The amended amount should represent the funding calculated as if the SRS settings are applied that were in operation at the time the agreement commenced.
28. In 2019, in addition to the identified proportion of the SRS, the ACT Government has committed to additional assistance funding for the updating of SES scores to 2016 Census data. This is estimated at \$2.1 million for the Catholic system and \$1.5 million for the Independent sector.

Measurement of required funding contributions

29. Consistent with the calculation of the SRS, the funding contributions will be measured according to ACT funding consistent with the Australian Curriculum, Assessment and Reporting Authority (ACARA) financial data reporting methodology for state Net Recurrent Income Per Student (NRIPS) for school years Year 1 minus 1 to Year 12, excluding funding for full fee-paying overseas students.

Acknowledgement of broader contributions

30. Parties have agreed investments in education that sit outside the SRS and are not counted when measuring contributions but are acknowledged as part of the ACT Government's broader contribution to funding within government and non-government sectors.
31. The following investments above and beyond the minimum funding contributions under this agreement are also acknowledged at the ACT's full discretion:
 - a. Annual investment in preschool funding and depreciation charges.
 - b. All regulatory funding for the government and/or non-government sector for the purpose of:
 - i. The ACT Board of Senior Secondary Studies
 - ii. The ACT Teacher Quality Institute
 - c. All funding for the reform measures outlined in Part 1 of this bilateral reform agreement and the national policy initiatives outlined in the National School Reform Agreement (with the exception of any capital funding).

Requirements for annual reporting to the Commonwealth

32. The following clauses set out the annual reporting arrangements for the ACT for a year (Year T).
33. The Commonwealth will provide all states and territories with a Funding Estimation Tool (FET) in January Year T+1 prior to the state or territory's annual report with the final SRS data for Year T for the purpose of the Board's review of section 22A of the Act.
34. The Director General or equivalent of the education portfolio for the state or territory must provide an annual report to the Secretary of the Department of Education and Training for each year of the agreement.
35. The annual report must be provided no later than 31 October Year T+1 (i.e. 31 October of the following year).
36. The annual report must set out the following:
 - a. the total amount of funding provided by the territory for government schools in the ACT for Year T as measured in line with clause 29 above
 - b. the total amount of funding provided by the state or territory for non-government schools in the state or territory for Year T as measured in line with clause 29 above

- c. total full time equivalent enrolments for Year T relating to the funding amounts above.
- 37. The annual report must also specify the amount for each funding type set out in clause 28 of this bilateral agreement as well as the amount of funding consistent with the specified NRIPS methodology.
- 38. Each amount included in the report must have been:
 - a. spent by the state or territory government for schools (including centralised funds expended by the department for schools and funds allocated for schools that are not spent within Year T but are spent within remainder of the financial year or subsequent years by schools) or approved authorities, or
 - b. spent by schools or approved authorities for Year T, and
 - c. not counted towards another reporting year for the purposes of this agreement.

Note this does not prevent a state or territory also including budgeted amounts in its report.

- 39. Each amount included in the report for a sector must have been allocated or provided for that sector. Note this means a state or territory cannot count funding provided for one sector towards the contribution requirement for the other sector.
- 40. Each amount included in the report must be net of any Australian Government funding.
- 41. For each amount, except items listed in clause 42 below, the report must include evidence that the amount has been certified and is consistent with the agreed methodology in clause 29 of this bilateral agreement by one of the following:
 - a. the Auditor-General of the state or territory or
 - b. an independent qualified accountant or
 - c. an independent qualified accountant engaged by ACARA for NRIPS funding; or
 - d. the Director General or equivalent of the education portfolio for the state or territory, but only up to 0.1 per cent of the SRS for the state or territory for all reported funding.
- 42. For the items listed below, the amounts must be certified in accordance with clause 41 above however it is agreed that evidence of certification will be provided after the annual report but no later than 31 January Year T+2:
 - a. This clause relates to items where the Australian Capital Territory has provided evidence the amount does not typically have a material change once audited – i.e. NRIPS data and will be enacted as required.
- 43. The annual report may also provide an explanation and supporting evidence for the Board's consideration of any shortfall between the total amount reported for Year T and the agreed funding contributions for Year T in clause 23 of this bilateral agreement.

44. The Commonwealth will provide the state or territory's annual report to the Board for assessment of the state or territory's compliance for Year T with section 22A of the Act, including any funding requirements specified in this bilateral agreement.
45. The Commonwealth may request additional information from the state or territory on behalf of the Board, to be provided within 21 days. If the state or territory does not provide information or advice in this timeframe, the Board will make an assessment based on the information and evidence available.
46. The state or territory will have an opportunity to provide further information for the Board's consideration following their receipt of the Board's draft findings.

SIGNATURES

Signed for and on behalf of the Commonwealth of Australia by



The Honourable Jason Clare MP
Minister for Education

Date: 16/11/23.

Signed for and on behalf of the Australian Capital Territory by



Yvette Berry MLA
Minister for Early Childhood Development
Minister for Education and Youth Affairs

Date: 30/11/23