

Memorandum of Understanding (MOU) for the OOHC Education Pathways between NSW Department of Families and Community Services (FACS) and the Association of Independent Schools (AISNSW)

Organisation 1	NSW Department of Family and Community Services (FACS)	Type of Organisation	NSW Agency
Organisation 2	Association of Independent Schools (AISNSW)	Type of Organisation	Public company
Start Date	February 2015	End Date	

FACS Authorised Delegate	Maree Walk <i>Maree Walk</i>	Title	Deputy Secretary, Programs and Service Design
	Signature _____		Date 27/2/15
In the presence of (Witness)	<i>[Signature]</i>		Date 27/2/15

AISNSW Authorised Delegate	Dr Geoff Newcombe	Title	Executive Director
	Signature <i>[Signature]</i>		Date 11/3/15
In the presence of (Witness)	<i>[Signature]</i>		Date 11/3/15

FACS Contact officer	Lyn Manitta	Title	Director, OOHC Service Improvement Ph 02 9716 2222
AISNSW Contact officer	Robyn Yates	Title	Senior Director, Government Education Policy Ph 9299 2845

Parties

This MOU is made between the following organisations:

NSW Department of Family and Community Services (FACS)

ABN: 90 597 369 676

234 Sussex Street, Sydney NSW 2000

Association of Independent Schools of NSW (AISNSW)

ABN: 96 003 509 073

Level 12, 99 York Street, Sydney NSW 2000

Context of MOU

This MOU is made in the following context

- A. This MOU provides a framework for a coordinated approach between Department of Family and Community Services (FACS) and Association of Independent Schools of NSW (AISNSW) in relation to identifying, planning and responding to the educational needs of children and young people in statutory out-of-home care (OOHC) in Independent schools, including preschools.
- B. Children and young people covered by this MOU are those enrolled in or applying to enroll in a Independent school and who are currently in statutory OOHC and for whom the Minister for FACS has parental responsibility/shared responsibility relating to residence and or education and training.
- C. The Schedules attached to this MOU formalises the arrangements as required. Separate Schedules may be developed and agreed over the term of the MOU to reflect new arrangements.
- D. Both parties agree that the Memorandum of Understanding will be reviewed annually and amended as required.

Operational provisions

The parties to this MOU agree as follows:

1. Interpretation

1.1. Definitions

Unless the contrary intention appears, a term in bold type in the table below has these meanings in the MOU and attached Schedules:

Term	Meaning
AEDC (formerly AEDI)	Australian Early Development Census (formerly Index)

Authorised carer	A person who is authorised as an authorised carer by a designated agency in accordance with the Children and Young Persons (Care and Protection) Regulation 2012.
Non-government organisations (NGOs)	Agencies accredited as 'designated agencies' and funded by FACS to provide case management for children and young people in statutory OOHC.
Prescribed body	For the purposes of this MOU a prescribed body under Chapter 16(A) of the Children and Young Persons (Care and Protection) Act 1998 is: (a) a State regulated education and care service within the meaning of the Children (Education and Care Services) Supplementary Provisions Act 2011, (b) an education and care service within the meaning of the Children (Education and Care Services) National Law (NSW), (c) a designated agency, (d) a registered agency
Caseworker	The worker employed by the agency with case management responsibility to develop and implement a case plan to ensure that a child or young person in OOHC has their individual needs identified and met. Caseworkers can be employed by FACS or an NGO.
Case management	Case management is the process of assessment, planning, implementation, monitoring and review. Case management aims to strengthen outcomes for both families and children and young people through integrated and coordinated service delivery. Case management for a child or young person in OOHC can be delegated by the Minister while retaining parental responsibility for that child or young person.
Statutory care	OOHC that is provided in respect of a child or young person for a period of more than 14 days: (a) pursuant to a care order of the Children's Court, or (b) by virtue of the child or young person being a protected person. Children in statutory care are in the parental responsibility of the Minister for one or more aspects.
Supported care	OOHC in respect of a child or young person that is, as a result of the Secretary forming the opinion that the child or young person is in need of care and protection, arranged, provided or otherwise supported by the Secretary. Children in supported care are not in the parental responsibility of the Minister.
Guardianship care	Care that is provided as a result of an order of the NSW Children's Court allocating Guardianship of a child or young person to a specific person. A Guardianship allowance may be paid by FACS. These children are not in OOHC.

Teenage Education Payment	Teenage Education Payment (TEP) is a payment of \$1500 per term provided by FACS to authorised carers and guardians in receipt of an allowance from FACS. Carers/guardians of children aged 16 and 17 living in NSW may be eligible if the young person is engaged in education or training and the carer is eligible to receive Family Tax Benefit Part A from the Commonwealth Department of Human Services.
Confidential Information	Information that is any of the following: a. Required by law to be kept confidential, including any information for which there would be over-riding public interest against disclosure within the meaning of the Government Information (Public Access) Act 2009 (GIPA). b. designated in writing by the owner as confidential c. personal information under the NSW Privacy and Personal Information Act 1998 (the PPIP Act) unless consent is provided by the person.
Data	The datasets detailed in Schedules 2 and 3.

1.2. Legislative and policy context

- 1.2.1. The United Nations Convention on the Rights of the Child sets out the undertakings in relation to recognising children as independent persons with their own integrity and human rights.
- 1.2.2. There are statutory responsibilities of FACS and schools in the Children and Young Persons (Care and Protection) Act 1998 ("the Care Act") and the Education Act 1990.
- 1.2.3. AISNSW and FACS have responsibilities to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all people with disability (including children), and to promote respect for their inherent dignity, as set out in the United Nations Convention on the Rights of Persons with Disabilities.
- 1.2.4. AISNSW and FACS have responsibilities under The Disability Inclusion Act 2014 (NSW) in relation to ensuring the rights of people with disability are respected, and to ensure their inclusion and participation in the community. There is a particular focus on the needs of particular groups, including children with disability. AISNSW supports the principles outlined in Part 1 Division 2 Section 4 and 5 of the Act and outlined in the Schedule 5 of the MOU.
- 1.2.5. AISNSW and FACS also have responsibilities under a range of other legislation including the Work Health and Safety Act 2011 (NSW), Anti-Discrimination Act 1977 (NSW), and the Disability Discrimination Act 1992 (Commonwealth). AISNSW must also comply with the Commonwealth Disability Standards for Education.
- 1.2.6. This MOU will assist the parties to contribute to two key goals outlined in the NSW State Plan 2021:
Goal 13 - Better protect the most vulnerable members of our community and break the cycle of disadvantage. The plan provides a target of child wellbeing

measured by increased proportion of NSW children who are developmentally on track in AEDC (or AEDI) index domains ... (iv) language and cognitive skills (school-based)

Goal 15 - Improve education and learning outcomes for all students. The plan highlights two targets related to measuring performance of children and young people in OOHC:

- to improve student achievement in literacy and numeracy, and
- for more students to finish high school or equivalent.

1.3. Role of non-government organisations (NGOs)

1.3.1. Signatories to the MOU agree that the provisions of this MOU extend to NGOs funded by FACS to provide case management for children and young people in statutory OOHC.

1.3.2. Signatories to the MOU will recognise NGO stakeholders as having responsibility for case management of children and young people in statutory OOHC and to facilitate access to educational services in the same way as they would facilitate access to educational services for children and young people case managed by FACS.

1.3.3. *FACS Service Provision Guidelines OOHC* gives FACS and NGO service providers the core policy and operational framework and requirements for delivering OOHC services.

1.4. Role of the authorised carer

1.4.1. The authorised carer is responsible for day to day care of the child or young person including :

- school attendance and providing uniforms and supplies,
- participating in the development and implementation of the Education Plan and encouraging participation of the child or young person,
- supporting learning and observing and reporting any issues which may impact on a child or young person's ability to learn,
- being involved in the school community and getting to know the staff,
- encouraging participation in activities which support learning and connection to the school community.

2. Purpose of the MOU

The purpose of this MOU is to:

- 2.1. Provide a framework for meeting the educational needs of children and young people in statutory OOHC who are enrolled in or applying to enroll in a NSW Independent school, as a component of the child or young person's care planning.
- 2.2. Facilitate schools' support of the learning needs of children and young people in statutory OOHC through the implementation of education plans to improve their participation and performance in school.
- 2.3. Facilitate schools' support of children and young people in statutory OOHC to receive coordinated service delivery at key stages in their school life.
- 2.4. Work collaboratively to establish effective and efficient communication channels

and modes of working to improve the educational outcomes of children and young people in statutory OOHC who are enrolled in or applying to enroll in a NSW Independent schools.

- 2.5. Promote information sharing about each organisation's policies, programs, services and other resources, to facilitate better outcomes for children and young people in statutory OOHC.

3. Guiding Principles

The principles set out in the MOU will be implemented through joint protocols and guidelines as appropriate.

- 3.1 Parents and carers have the primary responsibility for the upbringing, protection and development of their children.
- 3.2 The safety, welfare and wellbeing of children and young people are the collective responsibility of the whole of government and the community and are delivered through a mix of non-government and state agencies.
- 3.3 FACS and AISNSW will work together to support Independent schools to achieve the best educational outcomes for children and young people in statutory OOHC.
- 3.4 Children and young people will be encouraged to participate, according to their age and development, in decision making in planning for their educational program and for support of their social and emotional wellbeing at school.
- 3.5 FACS and AISNSW will support Independent schools to be sensitive to the needs and requirements of children and young people from culturally and linguistically diverse backgrounds and their carers.
- 3.6 The personal identity, language, cultural and religious ties of children and young people in care will be maintained, and their relationships with family, significant others and their community recognised.
- 3.7 FACS and AISNSW will work together to support Independent schools to facilitate Aboriginal children, young people and their families participating with as much self-determination as is possible, and be active participants in the development of education plans.
- 3.8 The needs of the child or young person are the starting point for any joint work and decision making. Decision making in relation to the education of a child or young person in statutory OOHC should, where practicable, involve those people who are significant to the child or young person. The best interests of the child or young person are of key importance in any decisions
- 3.9 Intervening early to identify and respond to the educational needs of children and young people provides the best opportunity to support the educational participation and performance of children and young people in statutory OOHC.

4 Collaboration

This includes services provided directly by FACS and/or NGO stakeholders and/or through other government, non-government and/or other agencies.

4.1 FACS and AISNSW will endeavor to support Independent schools in:

- 4.1.1 Implementing the MOU at a state, regional and local level using agreed protocols, communication, monitoring and review processes
- 4.1.2 Promoting communication and dissemination of information including face to face briefings and joint training opportunities, where appropriate, which may also involve non-government funded organisations.
- 4.1.3 Supporting coordinated approaches to:
 - educational planning to respond to the identified needs and wellbeing of the child or young person
 - the timely transfer of information
 - identified enrolment, engagement or attendance issues
 - suspension, expulsion, placement and transition procedures.

4.2 It is noted that the School Principal is the contact officer for Independent schools. These officers provide a first point of contact for information, collaboration and assistance, if required, for the other department or organisation.

5 Governance

- 5.1 This MOU will be activated once it is signed by Deputy Secretary of the NSW Department of FACS Programs and Service Design and the Executive Director of the Association of Independent Schools of NSW.
- 5.2 A cross agency working group will support the operational requirements of the MOU. It will determine reporting requirements and advise on a review or evaluation of the MOU that may be needed and its timing.
- 5.3 Either party may seek variation of this MOU by notifying the other.

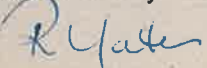
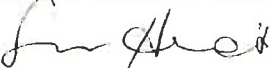
6 Variation

6.1 Variations

- 6.1.1 The MOU is ongoing between the two parties, with the content and Schedules subject to review as required.
 - 6.1.1.1 Changes to the purpose will be negotiated as a variation to this MOU, requiring agreement of both parties. Any such variation must be signed and dated by each organisation.
- 6.1.2 Developments of new Schedules or amendments to existing schedules can be negotiated and signed by the delegated officers.

6.2 Dispute resolution


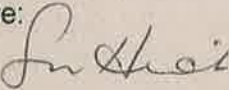
- 6.2.1 No child or young person is to be left without adequate support while interagency issues are being resolved.
- 6.2.2 Any dispute about the responsibility of either FACS or a Independent school in relation to a service delivery requirement should, wherever possible, be resolved at the local level within two weeks by the local manager and the School Principal.
- 6.2.3 In situations where there is dispute, the local manager will advise AISNSW who will support the Principal in working together with the local manager to develop an action plan that addresses the issues of conflict and Identifies strategies to resolve the conflict, timeframes and review dates.
- 6.2.4 When attempts to resolve the issues at the local level have been unsuccessful, a dispute matter may be referred to the relevant FACS Director Community Services.

Schedule 1 Title	AISNSW supports schools to implement the following OOHC Education Pathways operational processes
1. Developing education plans	<p>1.1. FACS trigger the planning process by providing a Notice to a school of a child's or young person's placement in statutory OOHC to the AISNSW relevant school principal when a child or young person enters OOHC, or enrolls in a school.</p> <p>1.2. The school convenes an education planning meeting within 30 days. The child or young person (where appropriate), school, carer, caseworker, and other relevant professionals develop an education plan to enhance strengths and address needs. Planning incorporates known education or health information.</p> <p>1.3. The school provides a copy of the plan to the child or young person (if appropriate), the carer and the caseworker.</p>
2. Implementation of education plans	<p>2.1 The school implements school based actions.</p> <p>2.2 The carer and caseworker implement actions assigned to them during the planning meeting.</p>
3. Review of education plans	<p>3.1 The school arranges a review of the plan annually or after any significant change in the child or young person's life.</p> <p>3.2 The caseworker and carer communicate with the school to advise of any significant changes.</p> <p>3.3 The revised education plan is distributed as per the original plan.</p> <p>3.4 The caseworker sends a "Change of detail advice for a child or young person in OOHC" to the school principal when a child or young person changes school or exits OOHC.</p>
4. Privacy of information shared during the development of Education Plans.	<p>4.1 Section 245F of the Care Act provides that, unless required or permitted by any law, FACS and Independent schools must not use or disclose the information exchanged under this MOU for any purpose that is not associated with the safety, welfare or well-being of children and young people to whom the information relates.</p>
Approval of Schedule 1 AISNSW	<p>Delegated Officer: Robyn Yates Signature:  Position: Senior Director, Government Education Policy Date: 11.3.15</p>
Approval of Schedule 1 FACS	<p>Delegated Officer: Sandra Heriot Signature:  Position: A/Executive Director, Child Safety and Permanency Date: 10-2-2015</p>

Schedule 2 Title	Data sharing and collection for the purpose of improving educational outcomes for children in statutory OOHC.
1. Data	<p>1.1 This MOU acknowledges that FACS will access NAPLAN results held by the Board of Studies Teaching and Educational Standards (BOSTES) in relation to children in Independent schools to identify, plan for and respond to the education and training needs of children and young people in OOHC.</p> <p>1.2 Data collected under point 1.1 will also be used to report on the Outcome Indicator 3(a) Proportion of NSW students in years 3, 5, 7 and 9 at or above the national minimum standard for reading and numeracy.</p>
2. Target group	2.1 Children of school age in statutory OOHC are the target group for data collection as described in 1.1.
3. Relevant legislation	<p>3.1 Information exchanged under this protocol is in accordance with Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998 (the Care Act).</p> <p>3.2 Section 245C of the Act allows a prescribed body to provide information to another prescribed body if it is reasonably believed that the provision of the information would assist the recipient:</p> <ul style="list-style-type: none"> • To make any decision, assessment or plan or to initiate or conduct any investigation, or to provide any service, relating to the safety, welfare or wellbeing of the child or young person or any class of children or young persons, or • To manage any risk to the child or young person (or class of children or young people) that might arise in the recipient's capacity as an employer or designated agency. <p>3.3 Information exchanged under this schedule is in relation to the safety, welfare or wellbeing of a class of children and young people in OOHC as it will assist to identify, plan for and respond to their education and training needs.</p> <p>3.4 Section 245G of the Act provides protection from liability for any person who, acting in good faith, provides any information in accordance with Chapter 16A.</p> <p>3.5 Section 245F of the Act provides that, unless required or permitted by any law, FACS and Independent schools must not use or disclose the information exchanged under this schedule for any purpose that is not associated with the safety, welfare or well-being of children and young people to whom the information relates.</p>
4. Reporting	4.1 Reporting of data to external agencies will be aggregated and non-identifiable without breakdown of name of school or sector of school attended.

<p>Approval of Schedule 2 5. AISNSW</p>	<p>Delegated Officer: Robyn Yates Signature: <i>R Yates</i> Position: Senior Director: Government Education Policy Date: <i>11.3.15</i></p>
<p>Approval of Schedule 2 6. FACS</p>	<p>Delegated Officer: Sandra Heriot Signature: <i>S Heriot</i> Position: A/Executive Director, Child Safety and Permanency Date: <i>10.02.2015</i></p>

Schedule 3 Title	Data sharing and collection for the purpose of administrating and evaluating the Teenage Education Payment
1. Data	1.1 This MOU facilitates the provision of information by Independent schools to FACS in relation to enrolment, attendance, education planning and attainment data of children and young people in OOHC for the purposes of monitoring the Teenage Education Payment (TEP).
2. Target Group	2.1 Children and young people aged 15 and over in statutory and supported OOHC and Guardianship arrangements are the target group for data collection in relation to Teenage Education Payment as described in 1.1.
3. Relevant legislation	<p>3.1 Information exchanged under this protocol is in accordance with Chapter 16A of the Children and Young Person's (Care and Protection) Act 1998 (the Care Act).</p> <p>3.2 Section 245C of the Care Act allows a prescribed body to provide information to another prescribed body if it is reasonably believed that the provision of the information would assist the recipient:</p> <ul style="list-style-type: none"> • To make any decision, assessment or plan or to initiate or conduct any investigation, or to provide any service, relating to the safety, welfare or wellbeing of the child or young person or any class of children or young persons, or • To manage any risk to the child or young person (or class of children or young people) that might arise in the recipient's capacity as an employer or designated agency. <p>3.3 Sections 245B and 248(6) provide that government schools, non-government schools and TAFE establishments are prescribed bodies for the purposes of Chapter 16A of the Care Act.</p> <p>3.4 Information exchanged under this protocol is in relation to the safety, welfare or wellbeing of a class of children and young people in OOHC as it will assist to identify, plan for and respond to their education and training needs.</p> <p>3.5 Section 245G of the Care Act provides protection from liability for any person who, acting in good faith, provides any information in accordance with Chapter 16A.</p> <p>3.6 Section 245F of the Care Act provides that, unless required or permitted by any law, FACS and Independent schools must not use or disclose the information exchanged under this protocol for any purpose that is not associated with the safety, welfare or wellbeing of children and young people to whom the information relates.</p>
4 Transfer, storage	4.1 Information provided under this protocol in relation to a child or young person's OOHC status and enrolment, attendance and attainment data is confidential and will be securely transferred

	<p>between FACS and the school.</p> <p>4.2 The transfer of bulk data will be done in accordance with a secure file transfer mechanism.</p> <p>4.3 Information received under this protocol is confidential and will be stored FACS and Independent schools in secure folders and clients systems which are accessed by authorised personnel only.</p>
5 Reporting	<p>5.1 Reporting of data will be aggregated and non-identifiable without breakdown of name of school or sector of school attended.</p> <p>5.2 Information exchanged under this protocol should only be used to assist FACS and the agency to identify, plan for and respond to the education and training needs of children and young people in OOHC.</p>
Approval of Schedule 3 AISNSW	<p>Delegated Officer: Robyn Yates Signature: </p> <p>Position: Senior Director: Government Education Policy</p> <p>Date: 11.3.15</p>
Approval of Schedule 3 FACS	<p>Delegated Officer: Sandra Heriot Signature: </p> <p>Position: A/Executive Director Child Safety and Permanency</p> <p>Date: 10-02-2015</p>

<p>Schedule 4 Title</p>	<p>Principles of the Disability Inclusion Act (NSW) 2014 – Part 1 Division 2</p>
<p>Section 4</p>	<p>General principles</p> <p>(1) For the purposes of this Act, the disability principles relating to people with disability are the general principles set out in this section.</p> <p>(2) People with disability have an inherent right to respect for their worth and dignity as individuals.</p> <p>(3) People with disability have the right to participate in and contribute to social and economic life and should be supported to develop and enhance their skills and experience.</p> <p>(4) People with disability have the right to realise their physical, social, sexual, reproductive, emotional and intellectual capacities.</p> <p>(5) People with disability have the same rights as other members of the community to make decisions that affect their lives (including decisions involving risk) to the full extent of their capacity to do so and to be supported in making those decisions if they want or require support.</p> <p>(6) People with disability have the right to respect for their cultural or linguistic diversity, age, gender, sexual orientation and religious beliefs.</p> <p>(7) The right to privacy and confidentiality for people with disability is to be respected.</p> <p>Note. This principle does not affect the operation of Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998. The disability principles are principles that certain entities have regard to under this Act (see section 6).</p> <p>(8) People with disability have the right to live free from neglect, abuse and exploitation.</p> <p>(9) People with disability have the right to access information in a way that is appropriate for their disability and cultural background, and enables them to make informed choices.</p> <p>(10) People with disability have the same right as other members of the community to pursue complaints.</p> <p>(11) The crucial role of families, carers and other significant persons in the lives of people with disability, and the importance of preserving relationships with families, carers and other significant persons, is to be acknowledged and respected.</p> <p>Note. The NSW Carers Charter under the Carers (Recognition) Act 2010 recognises the role and contribution of carers to our community and to the people they care for.</p> <p>(12) The needs of children with disability as they mature, and their rights as equal members of the community, are to be respected.</p> <p>(13) The changing abilities, strengths, goals and needs of people with disability as they age are to be respected.</p>
<p>Section 5</p>	<p>Principles recognising the needs of particular groups</p> <p>(1) For the purposes of this Act, the disability principles relating to people with disability also include the principles set out in this section.</p> <p>(2) Supports and services provided to Aboriginal and Torres Strait Islander people with disability are to be provided in a way that:</p>

- (a) recognises that Aboriginal and Torres Strait Islander people have a right to respect and acknowledgment as the first peoples of Australia and for their unique history, culture and kinship relationships and connection to their traditional land and waters, and
 - (b) recognises that many Aboriginal and Torres Strait Islander people with disability may face multiple disadvantage, and
 - (c) addresses that disadvantage and the needs of Aboriginal and Torres Strait Islander people with disability, and
 - (d) is informed by working in partnership with Aboriginal and Torres Strait Islander people with disability to enhance their lives.
- (3) Supports and services provided to people with disability from culturally and linguistically diverse backgrounds are to be provided in a way that:
- (a) recognises that cultural, language and other differences may create barriers to providing the supports and services, and
 - (b) addresses those barriers and the needs of those people with disability, and
 - (c) is informed by consultation with their communities.
- (4) Supports and services provided to women with disability are to be provided in way that:
- (a) recognises that women with disability may face multiple disadvantage and are potentially more vulnerable to risk of abuse or exploitation, and
 - (b) addresses that disadvantage and risk, and the needs of women with disability, and
 - (c) is informed by consultation with women with disability.
- (5) Supports and services provided to children with disability are to be provided in a way that:
- (a) recognises that a child with disability has the right to a full life in conditions that ensure the child's dignity, promote self-reliance and facilitate the child's active and full participation in family, cultural and social life, and
 - (b) recognises that children are more vulnerable to risk of abuse or exploitation, and
 - (c) addresses that right and risk, and ensures the best interests of the child is the primary concern in making decisions affecting the child while also respecting the responsibilities, rights and duties of a parent or other person legally responsible for the child in relation to giving appropriate direction and guidance for the child's welfare, and
 - (d) respects the views of the child with disability (having regard to the child's age and maturity).
- (6) This section does not impose an obligation on anyone to provide supports and services.