

AGREEMENT
PERTAINING TO THE OPERATION OF THE
DOÑA ANA COMMUNITY COLLEGE

BETWEEN

THE REGENTS OF NEW MEXICO STATE UNIVERSITY

AND

THE ADVISORY BOARD OF
DOÑA ANA COMMUNITY COLLEGE

**AGREEMENT
PERTAINING TO THE OPERATION OF THE
DOÑA ANA COMMUNITY COLLEGE**

The Regents of New Mexico State University (Regents), the parent university of Doña Ana Community College (the Community College), and the branch community college board (Advisory Board) hereby enter into the following agreement concerning the operation of the Community College (the Operating Agreement).

This Operating Agreement is adopted in accordance with the requirements of state law and founded on the desire of the parties to provide quality educational services must be provided in accordance with the needs of the Community College service area.

**ARTICLE 1
ADVISORY BOARD**

A. Advisory Board Defined

The Advisory Board consists of the local school board, or the combined local school boards, acting as a single board, situated within the local taxing district which supports the Community College. [N.M. Stat § 21-14-2(A) (1978)]

B. Multiple School District Boards

For Community Colleges located in counties with more than one local school district, the Advisory Board may designate a committee to act on its behalf (Advisory Committee). The Advisory Committee will consist of two representative board members from each local school board. The Advisory Board may delegate to the Advisory Committee all functions and responsibilities of the Advisory Board, except that the Advisory Board may not delegate its duty to certify tax levies or elections for tax levies.

C. Duties of the Advisory Board

Pursuant to state law, the duties of the Advisory Board are as follows:

1. Enter into a written agreement with the Regents, subject to biennial review by the parties and to the review and commentary of the commission on higher education;
2. Act in an advisory capacity to the Regents in all matters relating to the conduct of the Community College;
3. Approve the annual operating budget of Community College for recommendation to the Regents;
4. Certify to the board of county commissioners the tax levy; and
5. Conduct the election for tax levies for the Community College.

[N.M. Stat § 21-14-2(B) (1978)]

D. Advisory Board Meetings

The Advisory Board will meet as necessary to: (2) certify to the board of county commissioners the tax levy; and (3) conduct the election for tax levies for the Community College.

In addition, the Advisory Board, or the Advisory Committee if one has been formed, will review the annual operating budget of Community College for recommendation to the Regents, and, upon request of either party, will meet, at least once a year, with the Regents. The purpose of the joint meeting is to allow each of the parties to report to the other and make inquiry of the other on all matters relating to the conduct of the Community College.

The Regents, the Advisory Board, the Community College President, or the Chancellor of the NMSU System may request additional meetings as needed.

All meetings which include either the Regents or a quorum of any local school board will be conducted in accordance with the New Mexico Open Meetings Act. [N.M. Stat § 10-15-1 *et seq.* (1978)]

E. Selection of Community College President

In the event of a vacancy, the Regents and the Advisory Board will jointly conduct a search for qualified candidates for President of the Community College. The Regents, after consultation with the Advisory Board, will select a president for the Community College. [N.M. Stat § 21-14-2(C) (1978)]

ARTICLE 2 THE REGENTS

Except as otherwise provided in this Operating Agreement, the Regents have full authority and responsibility over all aspects of the Community College, including but not limited to academic matters. [N.M. Stat § 21-14-2(D)(1) (1978)] The full authority of the Regents, under this Agreement may be delegated at the discretion of the Regents, to the Chancellor of the NMSU System.

ARTICLE 3 ACADEMIC MATTERS

A. Programs of Study

As provided by state statute, the Community College will offer programs of study which have been approved by NMSU. [N.M. Stat § 21-14-2(D)(3) (1978)] Such programs will provide:

1. The first two years of college education; or
2. Vocational and technical curricula of not more than two years' duration designed to fit individuals for employment in recognized occupations. [N.M. Stat § 21-14-1(A)(1978)]

B. Employment of Faculty

The Regents agree to consider application of qualified local applicants before employing teachers from the local school system(s). [N.M. Stat § 21-14-2(D)(5) (1978)]

ARTICLE 4 FINANCIAL MATTERS

C. Financial Management

The Regents will be responsible for the financial management of the Community College. The Advisory Board may review all procedures, reports and all other matters related to the financial management of the Community College.

D. Budget Recommendation

The President of the Community College will prepare and present to the Advisory Board a proposed annual budget including the long range plan of the college and the status of all capital outlay projects. The Advisory Board will review an annual budget for the Community College for recommendation to the Regents. [N.M. Stat § 21-14-2(B)(3) (1978)]

E. Funding Sources

The Community College will be financed by state appropriations, tuition and fees charged to students, grants, and gifts, and such other funds as may be made available through additional tax levies pursuant to the College District Tax Act. [N.M. Stat § 21-2A-1 (1978) *et seq.*]

The New Mexico Higher Education Department will recommend an appropriation for the Community College based on its financial requirements. [N.M. Stat § 21-14-9 (1978)]

The Community College may borrow money, through college district general obligation bonds, for the purpose of constructing and equipping buildings and to make other real property improvements. [N.M. Stat § 21-2A-6(A) (1978)] All taxes levied to pay for principal and interest on the general obligation bonds of the Community College shall be in addition to the taxes levied for operating, maintaining and providing facilities for the Community College pursuant to the College District Tax Act. [N.M. Stat § 21-2A-1 (1978) *et seq.*] The repayment of district general obligation bonds will be made in accordance with the College District Tax Act and is the general obligation of the college district. [N.M. Stat § 21-2A-7 (1978) *et seq.*] The Regents will not have any obligation to repay the bonds.

The Community College's tuition and fees will be set by the Regents. [N.M. Stat § 21-14-5 (1978)] New Mexico residents, residing outside of the Community College service area, will be assessed an out-of-district fee each semester. Non-residents of New Mexico will be assessed tuition and fees at a higher rate than residents.

ARTICLE 5 FACILITIES

A. Acquisition of Property in Name of Regents

All property acquired by the Community College, including all property acquired from the proceeds of a bond issue shall be taken in the name of the Regents. [N.M. Stat § 21-14-14 (1978)]

B. Cooperative Use of Physical Facilities

Subject to space and other resource constraints, the Community College will share facilities in support of NMSU's bachelors and appropriate graduate programs, and the NMSU University will share facilities on the Las Cruces campus in support of the Community College's programs. [N.M. Stat § 21-14-2(D)(4) (1978)]

ARTICLE 6 ADDITIONAL TERMS

A. Entire Agreement

This Agreement is made pursuant to fulfill the requirements of state law and is subject to biennial review by all parties and the review and comment of the New Mexico Department of Higher Education. [N.M. Stat § 21-14-2(B)(1) (1978)] This Agreement constitutes the entire agreement between the Advisory Board and the Regents and supersedes any prior agreements, contracts or understandings, expressed or implied, oral or written.

B. Termination

This Agreement may be terminated by mutual consent or by either the Advisory Board or the Regents, upon six months' notice, provided there are no outstanding general obligations or revenue bonds. If the Community College has outstanding general obligation or revenue bonds, then neither the Advisory Board nor the Regents may terminate this Agreement until the outstanding bonds are retired, except as otherwise provided by law. [N.M. Stat § 21-14-2(E) (1978); referencing N.M. Stat § 21-13-24.1 (1978)]

C. No Third Party Beneficiaries

This Agreement is for the benefit of the Parties only. No rights or benefits are conferred to any third-party by or through this Agreement.

D. Effective Date

This Agreement will be effective and binding upon the Advisory Board and the Regents of NMSU from the date on which both of these entities have approved the Agreement as indicated by the attestation and signatures of the duly authorized representatives below.

APPROVAL AND ATTESTATION

Regents of New Mexico State University

The Regents of New Mexico State University duly approved this Agreement at an official meeting on December 9, 2021 (date).

As the duly authorized representative, I hereby attest to the truth of the foregoing statement.

Date: 12/9/2021

Ar Deven Thali
NMSU Board of Regents, Chair

Branch Community College Board

The branch community college board (Advisory Board) of Doña Ana Community College duly approved this agreement at an official meeting on November 4, 2021 (date).

As the duly authorized representative, I hereby attest to the truth of the foregoing statement.

Date: 11/4/2021

[Signature]
Name
Title: DACC Advisory Board President