

Agreement Pertaining to the Operation of Alamogordo Community College

This Agreement between Regents of New Mexico State University, on behalf of its Alamogordo Community College (“*Regents*”), and the branch community college board of Alamogordo Community College (“*Advisory Board*”) (each individually, a “*Party*” and collectively, the “*Parties*”), takes effect on the last date signed below (“*Effective Date*”).

Background

- Alamogordo Community College (“*Community College*”) is a component institution under the governing authority of the Regents.
- Advisory Board with respect to Community College is a nonfiduciary body whose purpose is to provide valuable input in support of the Regents’ governance over Community College.
- The Parties have maintained a longstanding and successful collaboration in coordinating concerning the operation of the Community College.
- This Agreement is adopted in accordance with the requirements of state law and founded on the desire of the Parties to provide quality educational services in accordance with the needs of the Community College service area.

Agreement

I. Advisory Board.

A. Definitions.

1. “*Advisory Committee*” means a committee that acts on Advisory Board’s behalf.
2. “*Chancellor*” means New Mexico State University’s Chancellor (or successor position designation).

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

C. Multiple School District Boards. If Community College is located in a county with more than one local school district, then Advisory Board may designate an Advisory Committee that comprises two representative board members from each local school board. Advisory Board may delegate to the Advisory Committee all functions and responsibilities of the Advisory Board, but has no authority to delegate its duty to certify any tax levy or election for a tax levy.

D. Duties. Under state law [N.M. Stat§ 21-14-2(B) (1978)], the duties of the Advisory Board are as follows:

1. enter into a written commitment 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.

E. Meetings.

1. *Purposes.* The Advisory Board must meet as necessary to:
 - a. certify to the board of county commissioners the tax levy; and
 - b. conduct the election for tax levies for the Community College.
2. *Annual Activity.*
 - a. Budget. In addition, the Advisory Board, or the Advisory Committee if one has been formed, must:
 - i. review the annual operating budget of Community College for recommendation to the Regents; and
 - ii. upon request of either Party, meet at least once a year with the Regents.
 - b. Coordination. The purpose of the joint meeting is to allow each Party to report to the other and make inquiry of the other on all matters relating to the conduct of the Community College.
3. *Additional Meetings.* The Regents, the Advisory Board, the Community College Director, or the Chancellor may request any additional meeting as needed.
4. *Open Meetings Compliance.* Each applicable Party must conduct according to the New Mexico Open Meetings Act [N.M. Stat§ 10-15-1 *et seq.* (1978)] any meeting that includes either the Regents or a quorum of any local school board.

II. **Community College Director.** Upon any applicable vacancy, Advisory Board and the Regents jointly must conduct a search for qualified candidates for Community College Director. Upon consultation with the Advisory Board, the Regents must then select a Community College Director. A Community College Director may oversee more than one campus.

III. **Regents Authority.** Unless this Agreement specifies otherwise, 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 Regents have discretion to delegate its full authority under this Agreement to the Chancellor.

IV. **Academic Matters.**

- A. Programs of Study. As provided by state statute [N.M. Stat § 21-14-2(D)(3) (1978)], the Parties must cause Community College to offer programs of study that have been approved by the Regents including:
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 must consider application of qualified local applicants before employing teachers from any local school system [N.M. Stat § 21-14-2(D)(5) (1978)].

V. **Financial Matters.**

- A. Management. The Regents are 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.
- B. Budget Recommendation. The Regents must cause the Community College Director each year to prepare and present to Advisory Board a proposed annual budget including a long range plan of the Community College and the status of each capital outlay project. The Advisory Board must review an annual budget for the Community College for recommendation to the Regents [N.M. Stat§ 21-14-2(B)(3) (1978)].
- C. Funding Sources.
1. *Types*. The Parties intend Community College to be financed by state appropriations, tuition and fees charged to students, grants, and gifts, and any other funds that are made available through additional tax levies under the College District Tax Act [N.M. Stat § 21-2A-1 (1978) *et seq.*].
 2. *Appropriation*. The Parties anticipate that 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)].
 3. *Bond Financing*.
 - a. *Real Property Improvements*. The Regents, on behalf of 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)].
 - b. *Taxes*. Any tax levied to pay for principal and interest on any general obligation bond of the Community College is in addition to any tax levied for operating, maintaining and providing facilities for the Community College under the College District Tax Act [N.M. Stat § 21-2A-1 (1978) *et seq.*].
 - c. *Repayment*. The Parties must cause any repayment of district general obligation bonds to be made in accordance with the College District Tax Act and to be the general obligation of the college district [N.M. Stat§ 21-2A-7 (1978) *et seq.*]. The Regents have no obligation to repay the bonds.
 4. *Tuition and Fees*. The Regents must:
 - a. set Community College's tuition and fees [N.M. Stat § 21-14-5 (1978)];
 - b. assess to any New Mexico resident residing outside of the Community College service area an out-of-district fee each semester;

- c. assess to any non-resident of New Mexico tuition and fees at a higher rate than residents.

VI. **Term; Termination.** “*Term*” means a period during which this Agreement has effect.

- A. **Duration.** The Term is indefinite, beginning on Effective Date, subject to termination as set forth below.
- B. **Termination.** If Community College has no general obligation or revenue bond then outstanding, then this Agreement may be terminated either immediately by the Parties’ mutual written consent or upon six months’ notice by either Party. If Community College has any outstanding general obligation or revenue bond, then neither Party has a right to terminate this Agreement until that outstanding bond is retired, unless provided by law otherwise [N.M. Stat§ 21-14-2(E) (1978); referencing N.M. Stat§ 21-13-24.1 (1978)].
- C. **Review.** This Agreement is made in order to fulfill the requirements of state law and is subject to biennial review by the Parties and the review and comment of the New Mexico Department of Higher Education [N.M. Stat§ 21-14-2(B)(1) (1978)].

VII. **Facilities.**

- A. **Acquisition of Property in Name of Regents.** The Parties must cause all property acquired by the Community College, including all property acquired from the proceeds of a bond issue, to 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:
 - 1. the Parties must cause Community College to share facilities in support of New Mexico State University’s bachelors and appropriate graduate programs; and
 - 2. the Parties must cause New Mexico State University to share facilities on the Las Cruces campus in support of the Community College’s programs [N.M. Stat§ 21-14-2(D)(4) (1978)].

VIII. **Entire Agreement.** This Agreement constitutes an entire understanding between the Parties concerning its subject matter and supersedes any prior commitment, representation or understanding, whether expressed or implied, spoken or written.

IX. **No Third Party Beneficiaries.** This Agreement is for the benefit of the Parties only. No right or benefit is conferred to any third party by or through this Agreement.

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 February 2, 2021 (date).

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

February 2, 2021
Date

[Signature]
Chair

Branch Community College Board

The branch community college board (Advisory Board) of the Alamogordo Community College duly approved this agreement at an official meeting on April 21, 2021 (date).

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

4-22-2021
Date

Angela M. Cochran-Rodriguez (sp)
Name

Board President
Title