

**OPERATING AGREEMENT**

**BETWEEN**

**THE BOARD OF REGENTS OF NEW MEXICO STATE UNIVERSITY**

**AND**

**THE ADVISORY BOARD OF DOÑA ANA COUNTY COMMUNITY COLLEGE**

*Draft as of March 15, 2013*

**Received NMSU4/10**

**Revised 9/25**

**Revised at DACC Advisory Board Meeting on 9/26/13**

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

The Board of Regents of New Mexico State University (hereafter called the Regents), Las Cruces, New Mexico, and the Advisory Board of Doña Ana Community College (hereafter called the Advisory Board) With the latter comprised of two members of each of the Local School Boards of the Gadsden Independent School District, the Hatch Valley Public Schools, and the Las Cruces Public Schools, hereby enter into the following agreement concerning the operation of the Doña Ana Community College of New Mexico State University (hereafter referred to as DACC) located in Las Cruces, New Mexico.

This operating agreement between the Regents and the Advisory Board is founded on the belief that quality educational services shall be provided in accordance with the needs of the service area through a cooperative and coordinated effort of New Mexico State University and DACC.

In accordance with Chapter 21, Article 14, Branch Community Colleges, New Mexico Statutes Annotated (hereafter referred to as NMSA) 1978 the duties and responsibilities of the Advisory Board in relation to DACC are as follows:

1. To enter into a written agreement with the Regents, subject to biennial review, in accordance with the laws of the State of New Mexico.
2. Act in an advisory capacity to the Regents in all matters pertaining to the conduct of DACC, including administrative, financial and academic matters, policies affecting DACC, and the relationship of DACC with NMSU.
3. Act with the Regents to jointly conduct a search for qualified candidates for the position of DACC President, and consult with and advise the Regents regarding the conduct, discipline and or dismissal of the DACC President.
4. Approve the annual operating budget of DACC for recommendation to the Regents.
5. Certify to the Doña Ana County Commissioners the tax levy.
6. Conduct the election for tax levies for DACC.

7. Approve the statement of mission and purpose for DACC for recommendation to the Regents for approval.

Pursuant to Chapter 21, Article 14, Branch Community Colleges, NMSA 1978, the DACC education program shall include the first two years of college education and organized vocational and technical curricula of not more than two years' of duration designed to fit individuals for employment in recognized occupations. The full-time-equivalent student population shall include students enrolled in college-level courses and students enrolled in vocational technical courses taught by DACC.

The Doña Ana County Local School Boards shall designate an advisory board consisting of two board members from each school board to act on their behalf. This representative advisory board will hold scheduled meetings with the administrative staff of DACC and be responsible for approving an annual operating budget for DACC for recommendation to the Regents, providing advice to the DACC President concerning policy, administrative, programming, and financial matters, and keeping their respective school boards advised of the programs and progress of DACC. The Advisory Board must act as a single board, inclusive of all local school board members, to certify the tax levy and conduct elections for tax levies of DACC.

The Regents, through appropriate university representatives, shall have full authority and responsibility in relation to all academic and administrative matters of DACC. New Mexico State University (hereafter referred to as NMSU), will serve in a supportive capacity to the community college in its operation.

#### **ADMINISTRATIVE MATTERS:**

1. The primary service area of DACC will be consistent with the geographic boundaries of the branch community college taxing district of the Local School Boards.
2. As part of the NMSU system, DACC will support the overall vision, mission, and strategies of NMSU.
3. The NMSU Board of Regents and the DACC Advisory Board shall meet no less than once annually in open session. . Additional meetings may be held as may be required and/or requested by either party. In addition, the NMSU Board of Regents and the DACC Advisory Board agree to jointly form an Operations Committee consisting of 2 regents and 3 advisory board members to meet as often as needed but not less than once annually

to discuss issues of mutual importance. The Chair of the Operations Committee shall be elected by its members and will alternate annually between a regent and an advisory board member.

4. The authority of the Regents in this Agreement is hereby delegated to the President of NMSU, who, in turn, may delegate such authority as appropriate.
5. The President of DACC will report to the President of NMSU or such other person as may be delegated by the President of NMSU
6. The President of DACC, the President of NMSU, and/or the Regents will provide timely and accurate information to the Advisory Board regarding any and all issues that affect or could affect, whether positively or negatively, the operation, administration and reputation of DACC, and will as appropriate, request counsel and advice of the Advisory Board regarding decisions and actions to be made concerning these issues.
7. The Regents' representative to the Advisory Board shall be the President of DACC who, for the purposes of carrying out the provisions of this Agreement, shall request that the President of the Advisory Board convene a separate meeting of the Advisory Board at least twice annually and more frequently, if requested by either party, to review matters pertaining to the operation and administration of DACC.
8. The President of DACC will be responsible for the coordination of any authorized and approved elections, subject to the advice and consent of the Advisory Board. All expenses necessary for the conduct of such elections shall be the responsibility of DACC.
9. Individuals employed by DACC shall be selected by the community college administration and approved for hiring in accordance with the policies of NMSU.
10. Administrative processes, including budgeting, procurement, hiring, and/or contracting of personnel and professional services will be carried out by DACC in accordance with policies and procedures established by NMSU.

#### **ACADEMIC MATTERS:**

1. DACC will be operated in accordance with the standards of the Higher Learning Commission of the North Central Association for the Accreditation of Colleges and Schools.

2. The program offerings of DACC are those common to community colleges and include:
  - a. Providing the lower division credit courses necessary for the completion of selected certificates and associate degrees in academic, technical and occupational fields with courses applicable to baccalaureate degree completion programs at other colleges and universities.
  - b. Providing non-credit, continuing education courses and opportunities for social, recreational, cultural, vocational and personal enrichment.
  - c. Providing developmental and adult basic education programs.
  - d. Providing other educational services appropriate to the mission of a community college including the establishment of linkages with other organizations.
3. DACC will endorse the open-door admission concept and will admit, to the limit of its physical and financial resources, new students who wish to attend and who have a high school diploma, its equivalent, or as otherwise provided by law.
4. The course of study of DACC shall be designed to accomplish its stated purposes but shall remain consistent in its lower division academic courses to those of comparable courses at NMSU and shall be implemented in accordance with the academic policies of NMSU, with the exception of those courses that fulfill basic requirements and qualify as pre-requisites under degreed programs offered at NMSU, and shall be implemented in accordance with academic policies of NMSU.
5. Pursuant to State law, all credits earned by DACC students will be honored as though they were earned on the NMSU parent campus and will be deemed acceptable and transferable under degreed programs at NMSU provided they meet the requirements of the degreed program. NMSU and DACC will strive to maximize the number and range of courses that are articulated with degreed programs at NMSU.
6. In accordance with State law, agreements may be entered into between DACC and a local public school district for the provision of dual credit, vocational and academic programs for high school students. These courses may carry credit toward high school graduation and be used also in meeting the requirements for earning a certificate or associate degree

at DACC.

7. DACC shall have the authority subject to financial resources and receipt of all appropriate approvals to develop new certificate and associate degree programs based on needs assessments of the community as well as the authority to offer course work for all NMSU associate degrees. Associate degrees and certificates are awarded to students who fulfill the requirements of the program.

**FINANCIAL MATTERS:**

1. DACC will be financed by a State appropriation, local tax levies, tuition and fees, grants, and gifts. Additional tax levies can be used to generate revenues pursuant to the College District Tax Act, Chapter 21, Article 2A, NMSA (1978) or Chapter 21, Article 14, NMSA 1978.
2. DACC may borrow money, through college district general obligation bonds, for the purpose of constructing and equipping buildings and to make other real property improvements pursuant to Chapter 21, Article 2A, NMSA (1978). The repayment of district general obligation bonds shall solely be made from bonds received from duly authorized levies and taxes and are the obligation of the District. The Regents shall not have any obligation to repay the bonds.
3. DACC tuition and fees shall be set by the Regents. New Mexico residents, residing outside of Doña Ana County, will be assessed an out-of-district fee each semester they enroll. Non-residents of New Mexico will be assessed tuition and fees at a higher rate than residents.
4. The Regents may establish and grant gratis scholarships (three-percent state scholarships) to students of DACC who are residents of New Mexico in accordance with Section 21-14-5, NMSA (1978).
5. In accordance with Section 21-14-9 NMSA (1978), the New Mexico Higher Education Department shall recommend an appropriation for DACC based on the college's financial requirements.
6. No funds of NMSU shall be allocated for the support of DACC although indirect administrative costs may be borne by NMSU. No funds of DACC shall be diverted to the parent campus or to any other branch campus except for the payment of a budgeted

institutional support fee assessed annually by NMSU, not to exceed 4% of actual Instruction & General Revenue, or for other appropriate purchases of goods and services.

7. Services provided to DACC by NMSU shall include general administrative and computing services, legal, architectural, library and student services and others as needed to the extent that no direct transfer of funds is required.
8. As part of NMSU, DACC shall have available liability insurance under the public liability fund administered by the New Mexico State Risk Management Division. Any liability of the community college will be governed by the New Mexico Tort Claims Act, Section 41-4-1 et seq., NMSA 1978.
9. The Regents shall be responsible through their appointed representatives for the financial management of DACC. The DACC Advisory Board may review all procedures, reports and all other matters related to the financial management of DACC. The President of DACC shall conduct a budget work session with 3 advisory board members, with preference for representation from each public school district, prior to presentation of the annual budget.
10. The President of DACC shall prepare and present to the representative advisory board an annual budget including the long range plan of the college and the status of all capital outlay projects.

#### **FACILITY AND FACULTY MATTERS:**

1. Limited to the availability of space, scheduling and other resources; DACC shall share facilities at satellite locations in support of bachelors completion and appropriate graduate programs, and NMSU shall share facilities on the main campus in support of articulated programs.
2. DACC agrees to provide developmental courses, or other agreed upon general education courses, to NMSU students located on the main campus or such other locations within Doña Ana County as legally authorized in support of the freshman experience given the following considerations:
  - a. Limited to the availability of DACC financial resources and NMSU main campus facilities.

- b. Faculty salaries will be paid by DACC.
  - c. Courses will be offered consistent with the NMSU main campus schedule.
  - d. The courses will be submitted for funding through the New Mexico Higher Education Department formula as DACC courses.
  - e. Students will be charged DACC tuition and fees for the courses, with the option to include NMSU fees to cover the NMSU activity fee. DACC will receive DACC tuition and fee revenue, and NMSU main campus will receive the activity fee revenue.
3. All property, other than any loaned to DACC by the main campus or leased by DACC with the approval of the Regents, shall be held in the name of the Regents during the period of this agreement.
4. Facilities of DACC may be made available for limited use by the community in accordance with the policies of the Regents.

**TERMS:**

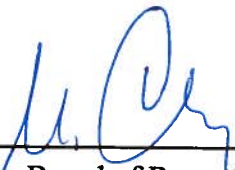
This Agreement constitutes the entire agreement between the parties and supersedes any prior agreements, contracts or understandings, expressed or implied, oral or written.

This Agreement may be terminated by mutual consent or by either the Advisory Board or the Regents upon six months' notice unless there are outstanding general obligations or revenue bonds. Any outstanding bonds must be retired or otherwise provided for in accordance with Section 21-13-24.1 NMSA 1978, prior to the termination of this Agreement.

This Agreement shall be subject to biennial review or upon the request of participating parties; and, may be modified in writing at any time by mutual agreement of the parties.

This Agreement shall be effective on date of signature of the parties, and shall be binding upon the Local School Boards and the Board of Regents of NMSU pursuant to Chapter 21, Article 14, Branch Community Colleges, NMSA 1978.



  
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Chair, Board of Regents  
New Mexico State University

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Date

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President, Gadsden Independent School District Board

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Date

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President, Hatch Valley Public School Board

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Date

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President, Las Cruces Public School Board

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Date