PLAN #2

RESOLUTION
RESOLUTION OF THE BOARD OF NEW MEXICO JUNIOR COLLEGE REGARDING THE NEW MEXICO JUNIOR COLLEGE SUPPLEMENTAL RETIREMENT PLAN

WHEREAS, New Mexico Junior College (hereinafter “the Employer”), sponsors the New Mexico Junior College Supplemental Retirement Plan, (“Plan”); and,

WHEREAS, the Employer desires to amend the Plan to comply with the requirements of certain provisions of the Internal Revenue Code of 1986 as amended (the “Code”) and the final Treasury of Regulations promulgated under sections 403(b) and 415 of the Code (“Final Regulations”); and,

WHEREAS, a document titled “Final 403(b) and 415 Regulations Amendment” (“Amendment”) has been presented for adoption to the Board of New Mexico Junior College (“Board”) to amend the Plan to comply with the Final Regulations and to comply with certain provisions of the Code; and,

NOW THEREFORE, IT IS HEREBY RESOLVED, that the Amendment is hereby approved and adopted to be effective December 18, 2008, except as otherwise provided in the Amendment.

BE IT FURTHER RESOLVED, that the President and other officers of the Employer are authorized and directed to execute the Amendment and to deliver to the Administrator of the Plan one or more counterparts of the Amendment.

BE IT FURTHER RESOLVED, that the proper officers of the Employer shall act as soon as possible to notify employees of the adoption of the Amendment by delivering a copy of the Summary of Material Modifications presented to this meeting, which form is approved.
PLAN #2
FINAL 403(b) AND 415 REGULATIONS AMENDMENT

ARTICLE I
PREAMBLE

1.1 Adoption and effective date of amendment. This amendment of the plan is adopted to reflect certain provisions of the Internal Revenue Code of 1986, as amended (the "Code") and the final Treasury Regulations promulgated under Sections 403(b) and 415 of the Code, respectively (cumulatively, the "Regulations"). This amendment is intended to comply with the requirements of such final regulations and should be construed in accordance therewith. Except as otherwise provided, this amendment shall be effective as of January 1, 2009. The provisions relating to transfers and exchanges under the Plan are effective as of September 25, 2007, unless otherwise provided in the plan documentation and consistent with applicable law. The provisions in Sections 2.7 and 2.8 of this amendment are effective January 1, 2008, unless otherwise provided in the plan documentation and consistent with applicable law. The provisions relating to certain excluded Employees as specified in section 2.5 below shall become effective as indicated herein, but not later than January 1, 2010.

1.2 Supersession of inconsistent provisions. This amendment shall supersede the provisions of the plan to the extent those provisions are inconsistent with the provisions of this amendment.

1.3 Construction. Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment, and is not a reference to the Plan or any other amendment to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section or other numbering designations.

1.4 Effect of restatement of Plan. If the Employer restates the Plan, then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are included in such restatement or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates the requirements of the final Treasury Regulations under Code sections 403(b) and 415).

1.5 Application of provisions. Certain provisions of this Amendment relate to the requirements of Title I of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). If the Plan to which this Amendment relates is a plan that is exempt from the requirements of ERISA as provided by Section 4 of such statute, then such ERISA provisions shall not apply.

ARTICLE II
ELECTIVE PROVISIONS

2.1 Hardship withdrawals: If hardship withdrawals are permitted under the terms of the Plan, hardship distributions will be subject to Section 1.401(k)-1(d)(3) of the Regulations. Accordingly, hardship distributions will be processed as indicated below [check either safe harbor or general event test. If the plan does not permit hardship withdrawals, please so indicate by choosing the final option.]

☐ Safe Harbor event test: Hardship withdrawals, if permitted, are limited to the applicable safe harbor events under Treas. Reg. §1.401(k)-1(d)(3)(iii)(B).

☐ General event test: Hardship withdrawals, if permitted, may follow any requirements established under a contract or account selected by the Participant, subject to applicable provisions governing hardship withdrawals under 401(k) plans.

☐ Hardship withdrawals are not permitted.
In the event no options are selected, and the plan currently permits hardship distributions, the safe harbor events test is deemed to have been selected.

In addition, the distribution will be deemed necessary (under Treas. Reg. 1.401(k)-1(d)(3)(iv)(E)) if the Employee has obtained all other currently available distributions and non-taxable loans under the Plan and all other plans maintained by the Employer, and the Employee is prohibited from making Elective Deferrals under the Plan or any other plan of the Employer for a period of 6 months after receipt of the hardship distribution.

2.2 Exchanges Within the Plan: Unless you elect otherwise below, Exchanges are permitted to any approved provider authorized to receive new contributions.

Choose any options below that apply:

☐ No Exchanges permitted

☐ Exchanges also permitted to providers included in the Plan but not authorized to receive new contributions.

☒ Exchanges also permitted to providers outside of the Plan that have entered into an information sharing agreement with the Plan Sponsor.

2.3 Transfers Into the Plan: The Plan will ☒ or will not ☐ accept qualifying Plan-to-Plan Transfers from another 403(b) plan.

(Default: If no election is made, the Plan will accept qualifying Plan-to-Plan Transfers from another 403(b) plan)

2.4 Transfers From the Plan: The Plan will ☒ or will not ☐ permit qualifying Plan-to-Plan Transfers from the Plan to another 403(b) plan, if requested by a Participant that meets the requirements under the Regulations to direct such a transfer.

(Default: If no election is made, the Plan will permit qualifying Plan-to-Plan Transfers from the Plan to another 403(b) plan willing to accept the transfer.)

2.5 Excluded Employees for Elective Contributions/Deferrals:

(a) General Rules for Elective Deferrals. Unless exclusions are selected under this section 2.5 or pursuant to Article III, all Employees shall be immediately eligible to make Elective Deferrals with the Employer under the Plan. (Note: The inclusion of all common law employees will prevent an inadvertent violation of the universal availability requirements of Section 403(b)(12)(A)(ii).)

Subject to and in accordance with the requirements of the Regulations, the following category(ies) of employees shall not be eligible to participate in the plan:

☐ Employees who are eligible to participate in one or more plans described under Section 403(b)(12)(A) of the Code (e.g., a 401(k) plan, 457(b) plan or another 403(b) plan of the employer) during the calendar year.

☒ Employees who are students and regularly attending classes at the Employer institution during the calendar year (limited to Employers that are educational institutions).

☒/ Employees who normally work fewer than 20 hours per week (must be 20 or less. Refer to Section 3.2, below)

☒ Employees who are nonresident aliens and perform no services in the U.S. during the calendar year.

(b) Special rules effective on or after January 1, 2010: Notwithstanding the above, employees in the classes selected below are excluded for taxable years beginning prior to 49128.P002  - 2 -
January 1, 2010, but shall be eligible for participation under the plan for taxable years beginning on or after January 1, 2010:

☐ Employees who make a one-time election to participate in a governmental plan as described in Code section 414(d) instead of a 403(b) plan

☐ Professors who are providing services on a temporary basis to another school for up to one year and for whom section 403(b) contributions are being made at a rate no greater than the rate each such professor would receive under the section 403(b) plan of the original school

☐ Employees who are affiliated with a religious order and who have taken a vow of poverty where the religious order provides for the support of such employees in their retirement

(c) Eligibility Exclusions for Employees subject to a collective bargaining agreement:
Notwithstanding the above, if on July 26, 2007, the Plan excluded from eligibility employees who are covered by a collective bargaining agreement, then such Employees, unless included in a category of employees otherwise permissibly excluded from participation in accordance with the Regulations, shall be eligible for participation in the plan on the later of (i) the first day of the first taxable year that begins after December 31, 2008; or (ii) the earlier of (A) the date on which the related collective bargaining agreement terminates (determined without regard to any extension thereof after July 26, 2007); or (B) July 26, 2010.

2.6 Excluded Employees for Employer Contributions:

General Rules for Employer Contributions: Unless exclusions are selected in this section 2.6 or pursuant to Article III, all Employees shall be eligible for Employer Contributions. (Note: Excluding employees from becoming eligible to receive Employer Contributions may require additional non-discrimination testing in accordance with Section 1.403(b)-5 of the Regulations including, but not limited to, the requirements of Code Section 410(b).)

The following category(ies) of employees shall not be eligible to receive employer contributions other than elective deferrals under the Plan:

☐ Employees who are students and regularly attending classes at the Employer institution during the calendar year (limited to Employers that are educational institutions).

☐ Employees who normally work fewer than 20 hours per week. (Note: If the requisite number of hours per week exceeds 20 hours, such exclusion may affect non-discrimination testing under the Plan.)

☐ Employees who are nonresident aliens and perform no services in the U.S. during the calendar year.

☐ Employees covered by a collective bargaining agreement (unless the terms of the collective bargaining agreement provide for participation in the Plan).

Note that the election of the following exclusions from eligibility for employer contributions other than elective deferrals may adversely effect required non-discrimination testing under the Plan.

☐ Employees who are eligible to participate in one or more plans described under Section 403(b)(12)(A) of the Code (e.g., a 401(k) plan, 457(b) plan or another 403(b) plan of the employer) during the calendar year.

☐ Employees who make a one-time election to participate in a governmental plan described in Code section 414(d) instead of a 403(b) plan.

☐ Professors who are providing services on a temporary basis to another school for up to one year and for whom section 403(b) contributions are being made at a rate no greater than the rate each such professor would receive under the section 403(b) plan of the original school.
Employees who are affiliated with a religious order and who have taken a vow of poverty where the religious order provides for the support of such employees in their retirement.

Other (Please identify the category(ies) of employees to be excluded from receiving Employer contributions other than elective deferrals.)

2.7 Compensation From which Elective Deferrals May be Made:

(a) Unless you elect otherwise below, Participants shall be allowed to make Elective Deferrals with respect to all compensation that is paid prior to severance from employment with the Employer.

Compensation shall exclude:

☐ Overtime
☐ Bonuses
☐ Commissions
☐ Other (specify):

(b) Participants shall be allowed to make Elective Deferrals with respect to compensation that is paid after severance from employment with the Employer, if such compensation is either (i) compensation for pay periods beginning prior to severance from employment (i.e., the last paycheck), or (ii) "regular" pay, such as overtime, shift differential, commissions, bonuses, or other similar payments (that would have been paid prior to severance if the Participant had continued in employment) that is paid by the later of 2 1/2 months after severance from employment or the last day of the limitation year that includes the date of severance.

(c) Unless you elect otherwise below, Participants shall not be allowed to make Elective Deferrals with respect to Compensation (other than regular compensation as described in 2.7(b) above) that is paid after severance from employment (check all that apply):

Participants may make Elective Deferrals from the following types of post-severance compensation (check all that apply):

☐ Payments for unused accrued sick, vacation or other leave (that could have been used by the Participant had he/she continued in employment) that is paid by the later of 2 1/2 months after severance from employment or the last day of the limitation year that includes the date of severance

☐ Amounts payable to the Participant under a nonqualified unfunded deferred compensation plan (if the payment would have been made at the same time if the Participant had continued in employment) that are paid by the later of 2 1/2 months after severance from employment or the last day of the limitation year that includes the date of severance

☐ Salary continuation payments to disabled Participants (as described in Treas. Reg. Section 1.415(c)-2(e)(4))
2.8 Compensation for Purposes of Employer Contributions:

The following elections shall apply for determining the amount of, or the allocation of, Employer contributions under the Plan. Regardless of the elections below, the amount of Compensation taken into account under the Plan for any year shall not exceed the maximum amount permitted under Section 401(a)(17) for such year.

In the event that no options are selected, Compensation shall mean Section 415 "safe harbor" compensation for the Plan Year, less pre-entry date compensation.

(a) Compensation shall mean (check one):

☒ W-2 wages (wages, tips and other compensation reported in Box 1 of Form W-2), increased by Elective Contributions

☐ Section 3401(a) wages (wages for federal income tax withholding purposes), increased by Elective Contributions

☐ Section 415 "safe harbor" compensation, as defined in Treas. Reg. Section 1.415(o)-2(d)(2), including Elective Contributions

☐ Other (specify):

Note: Allocating Employer contributions on the basis of a definition of Compensation other than the first three alternatives above (as adjusted by the permissible exclusions elected below) may subject the Plan to additional nondiscrimination tests, including the Section 414(s) nondiscriminatory compensation test and (if the definition of Compensation does not satisfy the 414(s) test) the general nondiscrimination test under Section 401(a)(4).

(b) Compensation shall be based on the following determination period (check one):

☐ the Plan Year;

☒ the calendar year coinciding with or ending within the Plan Year;

(c) Compensation shall exclude (check all that apply):

☐ No exclusions

☒ Elective Contributions: amounts excludible from the Participant's taxable income by reason of the Participant's election to defer under Code Sections 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b)

☒ Pre-Entry Date Compensation: compensation earned prior to the date the Participant is first eligible for Employer contributions

☐ Expense reimbursements/expense allowances, fringe benefits, moving expenses, deferred compensation and welfare benefits

☐ Overtime
Bonuses

Commissions

Other (specify)

Note: Allocating Employer contributions on the basis of a definition of Compensation that excludes items of compensation other than the first three alternatives above may subject the Plan to additional nondiscrimination tests, including the Section 414(s) nondiscriminatory compensation test and (if the definition of Compensation does not satisfy the 414(s) test) the general nondiscrimination test under Section 401(e)(4).

(d) Unless otherwise excluded above, Compensation shall include post-severance "regular pay" (i.e., base pay, overtime, shift differential, commissions, bonuses or similar payments) that is paid by the later of (i) 2 1/2 months after severance from employment, or (ii) the last day of the limitation year that includes the date of severance, so long as such amounts would have been paid to the Participant prior to severance if the Participant had continued in employment. This would include, for example, the Participant's final paycheck, if paid to the Participant after severance from employment.

(e) Unless otherwise elected below, Compensation shall exclude all other compensation that is paid after severance from employment.

Compensation shall include the following types of post-severance compensation:

☐ Payments for unused accrued sick, vacation or other leave (that could have been used by the Participant had he/she continued in employment) that is paid by the later of 2 1/2 months after severance from employment or the last day of the limitation year that includes the date of severance

☐ Amounts payable to the Participant under a nonqualified unfunded deferred compensation plan (if the payment would have been made at the same time if the Participant had continued in employment) that are paid by the later of 2 1/2 months after severance from employment or the last day of the limitation year that includes the date of severance

☐ Salary continuation payments to disabled Participants (as described in Treas. Reg. Section 1.415(c)-2(e)(4))

☐ Salary continuation payments to Participants who are not currently providing services by reason of qualified military service (as described in Treas. Reg. Sections 1.415(c)-2(e)(4), 1.415(c)-2(g)(4) or -1.415(c)-2(g)(7)).

ARTICLE III
ELIGIBILITY AND ELIGIBLE EMPLOYEES

3.1 General rule for eligibility: Subject to Sections 2.5 and 2.6 above, each Employee shall become eligible to participate in the Plan and elect to have Elective Contributions/Deferrals made on his or her behalf hereunder immediately upon employment with the Employer.

3.2 Determination of Employees who normally work less than 20 hours per week: If the plan excludes from participation those employees who normally work 20 hours per week or less, in
accordance with the Regulations, an Employee normally will be deemed to work fewer than 20 hours per week if for the 12-month period beginning on the date of hire the Employer reasonably expects the Employee to work fewer than 1,000 hours and, for each subsequent plan year ending after this initial employment year, the Employee worked fewer than 1,000 hours in the preceding 12-month period.

3.3 Provisions relating to IRS Notice 89-23: Any class of Employees that have been excluded from eligibility in the Plan in accordance with IRS Notice 89-23 that are not otherwise included in a category of Employees which may be excluded from eligibility under the Plan and in accordance with applicable law, shall be eligible to participate in the Plan.

(Note that the exclusions permitted under IRS Notice 89-23 include, but are not limited to, employees who are covered by a collective bargaining agreement, employees who make a one-time election to participate in a governmental plan described in Code Section 414(d) instead of a 403(b) plan, professors who are providing services on a temporary basis to another public school for up to one year and for whom section 403(b) contributions are being made at a rate no greater than the rate each such professor would receive under the section 403(b) plan of the original public school, and employees who are affiliated with a religious order and who have taken a vow of poverty where the religious order provides for the support of such employees in their retirement."

ARTICLE IV
ROLLOVERS, TRANSFERS AND EXCHANGES

(Note that the Regulations include significant changes to the availability of rollovers, transfers and exchanges under and between plans, including the repeal of IRS Revenue Ruling 90-24 which became effective September 25, 2007.)

4.1 Eligible Rollover Contributions to the Plan.

(a) Eligible Rollover Contributions. To the extent provided in the investment arrangements and the Plan, including Article II above, an Employee who is a Participant who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan. Such rollover contributions shall be made in the form of cash only. The provider may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of section 402(c)(8)(B) of the Code. However, unless Roth 403(b) Contributions are authorized under the Plan, in no event does the Plan accept a rollover contribution from a Roth elective deferral account under an applicable retirement plan described in section 402A(e)(1) of the Code.

(b) Eligible Rollover Distribution. For purposes of Section 4.1(a), an eligible rollover distribution means any distribution of all or any portion of a Participant’s benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of 10 years or more, (2) any distribution made as a result of an unforeseeable emergency or upon hardship of the employee, (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) of the Code, or corrective distribution of excess amounts in accordance with the Plan. In addition, an eligible retirement plan means an individual retirement account described in section 408(a) and 408A of the Code, an individual retirement annuity described in section 408(b) and 408A of the Code, a qualified trust described in section 401(a) of the Code, a plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution.
(c) Separate Accounts. Unless otherwise provided by the terms of applicable investment arrangements, providers shall provide separate accounting for any eligible rollover distribution paid to the Plan.

4.2 Plan-to-Plan Transfers to the Plan.

(a) To the extent provided in the investment arrangements and the Plan, including Article II above, the Administrator may permit a transfer of assets to the Plan as provided in this section. Such a transfer is permitted only if the other plan provides for the direct transfer of each person's entire interest therein to the Plan and the person is an Employee or former Employee of the Employer. The Administrator and any provider accepting such transferred amounts may require that the transfer be in cash or other property acceptable to it. The Administrator or any provider accepting such transferred amounts may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Treas. Reg. § 1.403(b)-10(b)(3) and to confirm that the other plan is a plan that satisfies section 403(b) of the Code.

(b) The amount so transferred shall be credited to the Participant's Account, so that the Participant or Beneficiary whose assets are being transferred has an accumulated benefit immediately after the transfer at least equal to the accumulated benefit with respect to that Participant or Beneficiary immediately before the transfer.

(c) To the extent provided in the investment arrangements holding such transferred amounts, the amount transferred shall be held, accounted for, administered and otherwise treated in the same manner as an Elective Deferral or, if applicable, Roth 403(b) Contribution by the Participant under the Plan, except that (1) the investment arrangement which holds any amount transferred to the Plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the investment arrangement must impose restrictions on distributions to the Participant or Beneficiary whose assets are being transferred that are not less stringent than those imposed under the transferor plan, and (2) the transferred amount shall not be considered an Elective Deferral under the Plan in determining the maximum deferral under the Plan.

4.3 Plan-to-Plan Transfers from the Plan.

(a) To the extent provided in the investment arrangements and the Plan, including Article II above, Participants and Beneficiaries may elect to have all or any portion of their Account transferred to another plan that satisfies section 403(b) of the Code in accordance with Treas. Reg. § 1.403(b)-10(b)(3). A transfer is permitted under this Section 4.3(a) only if the Participants or Beneficiaries are Employees or former Employees of the Employer under the receiving plan and the receiving plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the receiving plan immediately after the transfer at least equal to the amount transferred.

(b) The receiving 403(b) plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the other plan shall impose 403(b) restrictions on distributions to the Participant or Beneficiary whose assets are transferred that are not less stringent than those imposed under the Plan. In addition, if the transfer does not constitute a complete transfer of the Participant's or Beneficiary's interest in the Plan, the receiving plan shall treat the amount transferred as a continuation of a pro rata portion of the Participant's or Beneficiary's interest in the transferor plan (e.g., a pro rata portion of the Participant's or Beneficiary's interest in any after-tax employee contributions).

(c) Upon the transfer of assets under this Section 4.3, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 4.3 (for
example, to confirm that the receiving plan satisfies section 403(b) of the Code and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to Treas. Reg. § 1.403(b)-10(b)(3).

4.4 Contract and Custodial Account Exchanges.

(a) To the extent provided in the investment arrangements and the Plan, including Article II above, a Participant or Beneficiary is permitted to change the investment of his or her Account among the providers under the Plan, subject to the terms of the investment arrangements. However, unless otherwise indicated in the Plan, exchanges are not permitted to providers that are not eligible to receive contributions. If the Plan authorizes exchanges to a provider that is not eligible to receive contributions, the conditions in paragraphs (b) through (d) of this Section 4.4 must be satisfied.

(b) The Participant or Beneficiary must have an Account balance immediately after the exchange that is at least equal to the Account balance of that Participant or Beneficiary immediately before the exchange (taking into account the Account balance of that Participant or Beneficiary under both section 403(b) contracts or custodial accounts immediately before the exchange).

(c) The investment arrangement with the receiving provider has distribution restrictions with respect to the Participant that are not less stringent than those imposed on the investment being exchanged.

(d) The Employer enters into an agreement with the receiving provider for the other contract or custodial account under which the Employer and the provider will from time to time in the future provide each other with the following information:

(1) Information necessary for the resulting contract or custodial account, or any other contract or custodial accounts to which contributions have been made by the Employer, to satisfy section 403(b) of the Code, including the following:

(i) the Employer providing information as to whether the Participant’s employment with the Employer is continuing, and notifying the provider when the Participant has had a severance from employment (for purposes of the distribution restrictions);

(ii) the provider notifying the Employer of any hardship withdrawal if the withdrawal results in a 6-month suspension of the Participant’s right to make Elective Deferrals under the Plan; and

(iii) the provider providing information to the Employer or other providers concerning the Participant’s or Beneficiary’s section 403(b) contracts or custodial accounts or qualified employer plan benefits (to enable a provider to determine the amount of any plan loans and any rollover accounts that are available to the Participant under the Plan in order to satisfy the financial need under the hardship withdrawal rules); and

(2) Information necessary in order for the resulting contract or custodial account and any other contract or custodial account to which contributions have been made for the Participant by the Employer to satisfy other tax requirements, including the following:

(i) the amount of any plan loan that is outstanding to the Participant in order for a provider to determine whether an additional plan loan satisfies the loan limitations of the Code so that any such additional loan is not a deemed distribution under section 72(p)(1); and
(ii) Information concerning the Participant's or Beneficiary's Roth Contributions and after-tax employee contributions in order for a provider to determine the extent to which a distribution is includible in gross income.

(e) If any provider ceases to be eligible to receive Elective Deferrals under the Plan, the provider shall enter into an information sharing agreement as described in Section 4.4(d) with the Employer if the Employer's existing contract with the provider does not provide for the exchange of information described in Section 4.4(d)(1) and (2).

4.5 Permissive Service Credit Transfers.

(a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in section 414(d) of the Code) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, and subject to any applicable federal and/or state limitations, then the Participant may elect to have any vested portion of the Participant's Account transferred to the defined benefit governmental plan. A transfer under this Section 4.5(a) may be made before the Participant has had a Severance from Employment.

(b) A transfer may be made under Section 4.5(a) only if the transfer is either for the purchase of permissive service credit (as defined in section 415(n)(3)(A) of the Code) under the receiving defined benefit governmental plan or a repayment to which section 415 of the Code does not apply by reason of section 415(k)(3) of the Code.

(c) In addition, if a plan-to-plan transfer does not constitute a complete transfer of the Participant's or Beneficiary's interest in the transferor plan, the Plan shall treat the amount transferred as a continuation of a pro rata portion of the Participant's or Beneficiary's interest in the transferor plan (e.g., a pro rata portion of the Participant's or Beneficiary's interest in any after-tax employee contributions).

ARTICLE V
DISTRIBUTIONS AND LOANS

5.1 Distributions from contracts other than custodial accounts or amounts attributable to elective deferrals (employer contributions held in annuity contracts). Except as provided under the Plan for correction of excess deferrals or plan termination, the portion of a Participant's Account not attributable to elective deferrals and which is held in annuity accounts may not be distributed until the earlier of (i) the stated event identified under the terms of the Plan document for receipt of such non-elective employer contributions, or (ii) severance from employment. If prior to this amendment the Plan imposed no restrictions on such distributions, the requirements of this section will apply only to those contracts established on or after the effective date of this amendment. If the Plan document or the contract(s) do not specify a stated event, the stated event for contracts issued on or after the effective date of this amendment shall be the earliest of attainment of age 59½, severance from employment, disability, and death.

5.2 Distributions from custodial accounts that are not attributable to elective deferrals (employer contributions held in custodial accounts). Except as provided under provisions of the Plan relating to excess deferrals or plan termination, the portion of a Participant's Account not attributable to elective deferrals and which is held in custodial accounts may not be distributed prior to the earliest of the date on which the Participant has a severance from employment, dies, becomes disabled within the meaning of Code section 72(m)(7), or attains age 59½. Any amounts transferred out of a custodial account to an annuity contract or retirement income account and the earnings thereon continue to be subject to this paragraph.

5.3 Distribution of section 403(b) elective deferrals.

(a) Except as permitted under provisions of the Plan relating to excess elective deferrals or plan termination, distributions from a Participant's Account may not be made earlier than the
earliest of the date on which the Participant has a severance from employment, dies, has a
hardship, becomes disabled within the meaning of Code section 72(m)(7), or attains age 59½.

(b) Notwithstanding the foregoing and in accordance with the terms of the individual
Agreements, the withdrawal restrictions described above do not apply to elective deferrals made
to an annuity contract and attributable earnings as of December 31, 1988. Distributions shall
otherwise be made in accordance with the terms of the investment arrangements.

5.4 Hardship Distributions. To the extent permitted under the terms of the Plan and the applicable
investment arrangements, including section 2.1 above, hardship distributions may be made under
the Plan.

5.5 Loans. If authorized in the Plan, loans shall be permitted to the extent permitted by and in
accordance with the investment arrangements controlling the Account assets from which the loan
is made and by which the loan will be secured.

(a) Information Coordination Concerning Loans. Each provider is responsible for all
information reporting and tax withholding required by applicable federal and state law in
connection with distributions and loans. To minimize the instances in which Participants have
taxable income as a result of loans from the Plan, the Administrator(s) shall take such steps as
may be appropriate to coordinate the limitations on loans set forth below, including the collection
of information from providers, and transmission of information requested by any provider,
concerning the outstanding balance of any loans made to a Participant under the Plan or any
other plan of the Employer. The Administrator(s) shall also take such steps as may be
appropriate to collect information from providers, and transmission of information to any provider,
concerning any failure by a Participant to repay timely any loans made to a Participant under the
Plan or any other plan of the Employer.

(b) Maximum Loan Amount. No loan to a Participant under the Plan may exceed the lesser of:

(1) $50,000, reduced by the greater of (i) the outstanding balance on any loan from
the Plan to the Participant on the date the loan is made, or (ii) the highest outstanding
balance on loans from the Plan to the Participant during the one-year period ending on
the day before the date the loan is approved by the Administrator (not taking into account
any payments made during such one-year period); or

(2) one half of the value of the Participant's vested Account balance (as of the
Valuation Date immediately preceding the date on which such loan is approved by the
Administrator) reduced by the amount of any outstanding loan balances.

(c) If this Plan is not subject to the provisions of ERISA, to the extent provided in the
investment arrangements and the Plan, loans may be permitted up to the lesser of (1) the amount
determined under (b)(1) above, or (2) the greater of (i) the amount determined under (b)(2)
above, or (ii) $10,000 less the amount of any outstanding loans.

For purposes of this section, any loan from any other plan maintained by the Employer and any
related employer shall be treated as if it were a loan made from the Plan, and the Participant’s
vested interest under any such other plan shall be considered a vested interest under this Plan;
provided, however, that the provisions of this paragraph shall not be applied so as to allow the
amount of a loan to exceed the amount that would otherwise be permitted in the absence of this
paragraph.

(d) Loan Repayments For Participants in Military Service. Notwithstanding any other
provision of the Plan or any Annuity Contract or Custodial Account, loan repayments by eligible
uniformed services personnel may be suspended as permitted under section 404(u)(4) of the
Code and the terms of any loan shall be modified to conform to the requirements of the
Uniformed Services Employment and Reemployment Rights Act.
5.6 **Minimum Distributions.** Each investment arrangement shall comply with the minimum distribution requirements of section 401(a)(9) of the Code and the regulations thereunder. For purposes of applying the distribution rules of section 401(a)(9) of the Code, each investment arrangement is treated as an individual retirement account (IRA) and distributions shall be made in accordance with the provisions of § 1.408-8 of the Income Tax Regulations, except as provided in Treas. Reg. § 1.403(b)-6(e).

5.7 **Vesting provisions.** Nonvested account values must be accounted for separately in accordance with section 403(c) of the Code until they become 100% vested. Elective contributions and any earnings thereon are always fully vested and nonforfeitable. The Plan shall take a participant's elective contributions/deferrals into account in determining the Participant's vested benefits under the Plan. Thus, for example, the Plan shall take elective contributions into account for applying provisions permitting the repayment of distributions to allow forfeited amounts to be restored, and the provisions of Code Sections 410(a)(5)(D)(iii) and 411(a)(6)(D)(iii) permitting a plan to disregard certain service completed prior to breaks-in-service (sometimes referred to as "the rule of parity").

**ARTICLE VI**

**AMENDMENT AND TERMINATION**

6.1 **Right to amend:** The Employer reserves the right to amend or terminate the Plan at any time, provided that no such amendment may cause any amounts held under the Plan to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and Beneficiaries, and provided further that no amendment or termination of the Plan may reduce the benefits accrued by or the amount credited to the Account of any Participant, reduce any Participant's Vested percentage in that portion of the Participant's account attributable to Employer Contributions made before the day such amendment is adopted or becomes effective, whichever is later, or eliminate or reduce any optional form of distribution or benefit or any early retirement benefit provided by the Plan.

6.2 **Distribution upon Plan Termination:** Upon Plan termination, Participant Accounts shall be distributed in either (i) the form of a lump sum distribution, or (ii) in the form of the Annuity Contract(s), in accordance with and subject to Section 403(b) of the Code and the applicable Regulations thereunder. All distributions made pursuant to the Plan termination and in accordance with the requirements of Section 1.403(b)-10 of the Regulations, either in cash or in the form of distributed Annuity Contracts which impose the applicable restrictions of Code Section 403(b)(11) which survive such termination, shall be made in accordance with the applicable requirements of the Code, as determined by, and pursuant to the direction of, the Employer and/or the Plan Administrator.

**ARTICLE VII**

**TIMING OF CONTRIBUTION REMITTANCE**

7.1 **Employer Contributions:** Employer contributions shall be transferred to the provider of the applicable funding vehicle within a reasonable period of time.

7.2 **Elective Contributions/Deferrals subject to ERISA:** If the Plan is subject to the requirements of ERISA, elective deferrals accumulated through payroll deductions shall be paid to the provider of the applicable funding vehicle as of the earliest date on which such contributions can reasonably be segregated from the Employer's general assets, but no later than such time specified or permitted by the Department of Labor regulations.
7.3 **Elective Contributions/Deferrals not subject to ERISA:** If the Plan is not subject to the requirements of ERISA, the Employer shall remit contributions to the provider of the applicable funding vehicle within a "reasonable" time following withholding from the employees' pay, or such date as required by applicable state law.

**ARTICLE VIII**
**CORRECTIVE DISTRIBUTIONS**

Notwithstanding any other provision of the Plan to the contrary, for limitation years beginning on or after July 1, 2007, if (notwithstanding the application of the provisions of the Plan titled "Special Code Limitations") the limit on annual additions under Section 415 is exceeded for the limitation year, the excess annual additions shall be segregated and accounted for separately (as required under Treas. Reg. Section 1.403(b)-3(b)(2)) until corrected (by distribution or otherwise) in a manner consistent with applicable IRS guidance regarding the correction of excess annual additions.

**ARTICLE IX**
**PLAN DOCUMENT**

The Plan document, as amended, the adoption agreement (if applicable), as amended, and any underlying annuity contracts and/or custodial accounts provided by the provider(s) authorized by the Employer, as well as necessary forms and administrative policies and procedures incorporated by the Employer, an Administrator, or any Funding Vehicle, shall constitute the entire Plan.

This amendment has been executed this 18th day of December, 2008.

Name of Employer: New Mexico Junior College

Name of Plan: New Mexico Junior College Supplemental Retirement Plan

By: ___________________

Name: Steve McCleery

(Print)

Title: President
SUMMARY OF MATERIAL MODIFICATIONS
for the

New Mexico Junior College Supplemental Retirement Plan
(Name of Plan)

(1) General. This is a Summary of Material Modifications regarding the New Mexico Junior College Supplemental Retirement "Plan". This Summary of Material Modifications supplements and amends the Summary Plan Description (SPD) which was previously provided to you. You should retain this document with your copy of the SPD.

(2) Identification of Employer. The legal name, address and Federal Employer identification number of the Employer are:

New Mexico Junior College
1 Thunderbird Circle
Hobbs, NM 88240

EIN: 85-9193990

(3) Description of Modifications.

Why is the Plan being amended?

The Plan is being amended to incorporate required regulatory changes, including the regulations recently issued under sections 403(b) and 415 of the Internal Revenue Code of 1986, as amended (the "Code").

When are the changes effective?

Unless otherwise indicated, the Plan is amended effective as of January 1, 2009. Certain provisions of the Plan relating to transfers and exchanges became effective September 25, 2007, in accordance with applicable law. The changes relating to the definition of compensation are generally effective January 1, 2008.

What classes of employees are excluded for purposes of making elective deferrals?

Section A. All employees shall be immediately eligible to make elective deferrals under this Plan except for those classifications indicated below.

☐ All employees who participate in a Section 401(k) plan, a Section 457(b) plan, or another 403(b) plan of the Employer.

☒ Employees who are students and regularly attending classes at the Employer institution during the calendar year (limited to Employers that are educational institutions).

☐ Employees who normally work fewer than 20 hours per week (must be 20 or less). However, if you work at least 1,000 hours in the previous year, you will be considered to work at least 20 hours per week.

☒ Employees who are nonresident aliens and perform no services in the U.S. during the calendar year.

Section B. In addition to the exclusions above, the following classifications of employees will be excluded for years prior to 2010, but shall become eligible to participate effective January 1, 2010.

☐ Employees who make a one-time election to participate in a governmental Plan instead of a 403(b) Plan.
Professors who are providing services on a temporary basis to another school for up to one year and who meet certain other criteria.

Employees who are affiliated with a religious order and who have taken a vow of poverty.

Section C. There are special rules for employees covered by a collective bargaining agreement. If you are covered by a collective bargaining agreement and you have been excluded because the Plan excluded those employees covered by a collective bargaining agreement on July 26, 2007, then you will become eligible to participate in the Plan on the later of (i) The first day of the first taxable year that begins after December 31, 2008; or (ii) The earlier of (A) The date on which the related collective bargaining agreement terminates (determined without regard to any extension thereof after July 26, 2007); or (B) July 26, 2010.

What classes of employees are excluded from receiving employer contributions (other than elective deferrals) made to the Plan?

Classes of employees indicated below are not eligible to receive employer contributions (other than elective contributions/deferrals).

☐ All employees who are eligible to participate in Section 401(k) plan, a Section 457(b) plan or another Section 403(b) plan of the Employer.

☒ Employees who are students and regularly attending classes at the Employer institution during the calendar year (limited to Employers that are educational institutions).

☒ Employees who normally work fewer than 20 hours per week during the calendar year. However, if you work at least 1,000 hours in the previous year, you will be considered to work at least 20 hours per week.

☒ Employees who are nonresident aliens and perform no services in the U.S. during the calendar year.

☐ Employees who make a one-time election to participate in a governmental plan instead of the Plan.

☐ Professors who are providing services on a temporary basis to another school for up to one year and who meet certain other criteria.

☒ Employees who are affiliated with a religious order and who have taken a vow of poverty.

☒ Employees who are covered by a collective bargaining agreement.

☐ Other

While I am employed, from what compensation may I make elective deferrals?

Unless indicated below, you may make elective deferrals from all compensation that is paid prior to your severance from employment.

You will not be allowed to make elective deferrals from:

☐ Overtime

☐ Bonuses

☐ Commissions
Can I make elective deferrals from my last paycheck or other regular pay that is paid to me after my severance from employment?

Yes. You may make elective deferrals from compensation that is paid after severance from employment with the employer, if such compensation is either (i) compensation for pay periods beginning prior to severance from employment (i.e., the last paycheck), or (ii) "regular" pay, such as overtime, shift differential, commissions, bonuses, or other similar payments (that would have been paid prior to severance if you had continued in employment) that is paid by the later of 2 1/2 months after severance from employment or the last day of the limitation year that includes the date of severance.

From what other types of post-severance compensation may I make elective deferrals?

Unless indicated below, you may not make elective deferrals with respect to Compensation (other than regular compensation) that is paid after severance from employment:

You may make elective contributions/deferrals from the following types of post-severance compensation if indicated:

- Payments for unused accrued sick, vacation or other leave (that could have been used had you continued in employment) that is paid by the later of 2 1/2 months after severance from employment or the last day of the limitation year that includes the date of severance.

- Amounts payable to you under a nonqualified unfunded deferred compensation Plan (if the payment would have been made at the same time if you had continued in employment) that are paid by the later of 2 1/2 months after severance from employment or the last day of the limitation year that includes the date of severance.

- Certain salary continuation payments to disabled participants.

- Salary continuation payments to you during a period of qualified military service.

What is my compensation for purposes of determining the amount and allocation of my employer contributions (other than elective deferrals)?

Compensation for determining employer contributions other than elective deferrals means (if no box is checked Compensation means Section 415 "safe harbor" compensation):

- W-2 wages (wages, tips and other compensation reported in Box 1 of Form W-2), increased by Elective Contributions

- Section 3401(a) wages (wages for federal income tax withholding purposes), increased by Elective Contributions

- Section 415 "safe harbor" compensation, including Elective Contributions

- Other (specify):
What time period does the Plan use for determining my compensation for purposes of employer contributions?

Compensation shall be based on the determination period indicated below, or the Plan Year if no options are indicated:

☐ the Plan Year (refer to your SPD);
☒ the calendar year coinciding with or ending within the Plan Year;

Are there any exclusions from compensation when determining employer contributions, and if so, what types of compensation are excluded?

The items indicated below will be excluded from compensation for purposes of determining employer contributions.

☒ No exclusions

☐ Elective Contributions: amounts excludible from your taxable income by reason of your election to defer under any other plan or arrangement of your Employer.

☐ Pre-Entry Date Compensation: compensation earned prior to the date you are first eligible for employer contributions

☐ Expense reimbursements/expense allowances, fringe benefits, moving expenses, deferred compensation and welfare benefits

☐ Overtime

☐ Bonuses

☐ Commissions

☐ Other (specify): ____________________________________________________________________
   ____________________________________________________________________
   ____________________________________________________________________

When determining employer contributions, will amounts paid after my severance from employment be included?

Unless otherwise excluded above, Compensation will include post-severance "regular pay" (i.e., base pay, overtime, shift differential, commissions, bonuses or similar payments) that is paid by the later of (i) 2 1/2 months after severance from employment, or (ii) the last day of the limitation year that includes the date of severance, so long as such amounts would have been paid to you prior to severance if you had continued in employment. This would include, for example, your final paycheck, if paid to you after severance from employment.

In addition, compensation will include the types of post-severance compensation indicated below:

☐ Payments for unused accrued sick, vacation or other leave (that could have been used by you had you continued in employment) that is paid by the later of 2 1/2 months after severance from employment or the last day of the limitation year that includes the date of severance

☐ Amounts payable to you under a nonqualified unfunded deferred compensation Plan (if the payment would have been made at the same time if you had continued in employment) that are paid by the later of 2 1/2 months after severance from employment or the last day of the limitation year that includes the date of severance
☐ Certain salary continuation payments to disabled Participants
☐ Salary continuation payments to you during a period of qualified military service

May I change my investments among providers under the Plan?

☐ Yes. Subject to the terms of your investments, you will be permitted to exchange investments among those providers approved to receive contributions under the terms of the Plan. Before directing any exchange, you should verify the terms of your investments.

☐ Yes. Subject to the terms of your investments, you will be permitted to exchange investments among those providers approved to receive contributions under the terms of the Plan as well as those providers of products identified by the Plan Sponsor that have entered into an Information sharing agreement in accordance with the requirements of the final 403(b) regulations. Before directing any exchange, you should verify the terms of your investments.

☐ No. Investment exchanges are not permitted under the Plan.

May I transfer amounts from another 403(b) plan into this Plan?

☐ Yes
☐ No

May I transfer amounts to another 403(b) plan from this Plan?

☐ Yes
☐ No

When can I receive a distribution under the Plan?

You may receive a distribution from the Plan if (a) you are no longer employed by the employer (b) you have met a stated event as provided under the terms of the Plan (refer to your SPD), or (c) the Plan has been terminated by your employer in accordance with and subject to the requirements of the final 403(b) regulations. If your Plan does not specify a stated event, the stated event for contracts issued on or after the date of this amendment will be the earliest of age 59½, severance from employment, disability or death.

May I receive a distribution due to hardship?

☐ Yes. Your employer has selected the “safe harbor” events test. If permitted under your investments, hardship withdrawals are permitted for certain expenses which are deemed to be immediate and heavy financial needs. These expenses are (a) expenses already incurred or necessary for anticipated medical care, for yourself, your spouse, your children or your dependents; (b) purchase (excluding mortgage payments) of your principal residence; (c) payment of tuition and related educational fees, including room and board expenses, for the next 12 months of post-secondary education for the yourself, your spouse, your children or your dependents; (d) the payment of amounts necessary to prevent your eviction from your principal residence or the foreclosure on the mortgage of your principal residence; (e) payments for burial or funeral expenses for your deceased parent, spouse, children or dependents; (f) expenses for the repair of damage to your principal residence that would qualify for the casualty deduction under the Internal Revenue Code or (g) such other circumstances as may be specified in the Treasury regulations. A hardship distribution is only permitted if you have obtained all other currently available distributions and non-taxable loans under the Plan and all other plans maintained by the Employer. Your right to make elective deferral contributions to any Plan of the employer will be suspended for 6 months after you take a hardship distribution.
Yes. Your employer has selected the general events test. If permitted under your investments, hardship withdrawals are permitted for certain expenses which are immediate and heavy financial needs as determined by your Administrator under Internal Revenue Code section 401(k) and the Treasury Regulations. Your right to make elective deferral contributions to any Plan of the employer will be suspended for 6 months after you take a hardship distribution.

☐ No. Hardship withdrawals are not permitted.

May I take a loan from the Plan?

☐ No, loans are not permitted from the Plan.

☐ Yes, if permitted under your investment vehicle, loans are permitted up to certain limits in accordance with the terms of the Plan and the Code.

What is the maximum loan amount?

Generally, you cannot receive a loan from the Plan that exceeds the lesser of:

1. $50,000, reduced by the greater of (i) the outstanding balance on any loan from the Plan to you on the date the loan is made or (ii) the highest outstanding balance on loans from the Plan to you during the one-year period ending on the day before the date the loan is approved by the Administrator (not taking into account any payments made during such one-year period); or

2. one half of the value of your vested account balance (as of the Valuation Date immediately preceding the date on which such loan is approved by the Administrator) reduced by the amount of any outstanding loan balances.

For purposes of this limit any loan from any other Plan maintained by the employer and any related employer shall be treated as if it were a loan made from the Plan, and your vested interest under any such other Plan shall be considered a vested interest under this Plan; provided, however, that this provision shall not be applied so as to allow the amount of a loan to exceed the amount that would otherwise be permitted in the absence of this paragraph.

May my employer terminate this Plan?

Yes. The final 403(b) regulations permit your employer to terminate the Plan at any time and distribute the assets. The final 403(b) regulations require that in the event of a Plan termination, all of the Plan's assets must be distributed either in the form of annuity contracts or as a lump sum distribution as soon as administratively practicable following the termination of the Plan. The Plan Administrator will provide you with further information regarding your distribution rights in the event of the Plan's termination.