

ARTICLE 13

Community Colleges

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21-13-1. Short title.

[Chapter 21, Article 13](#) NMSA 1978 shall be known as the "Community College Act".

History: 1953 Comp., § 73-33-1, enacted by Laws 1963, ch. 17, § 1; 1985, ch. 238, § 1.

21-13-2. Definitions.

As used in the Community College Act [[21-13-1](#) NMSA 1978]:

A. "community college" means a public educational institution that provides not to exceed two years of training in the arts, sciences and humanities beyond the twelfth grade of the public high school curriculum or, in lieu of that training or in addition to it, not to exceed two years of a vocational and technical curriculum and appropriate courses of study for persons who may or may not have completed the twelfth grade of public high school;

B. "community college district" means a district in which a community college is located, which district is composed of the territory of one or more school districts of the state. For the purposes of relating community college districts to existing law, community college districts and the community colleges thereof shall not:

(1) be considered a part of the uniform system of free public schools pursuant to Article 12, Section 1 and [Article 21, Section 4](#) of the constitution of New Mexico;

(2) benefit from the permanent school fund and from the current school fund under [Article 12, Sections 2](#) and 4 of the constitution of New Mexico;

(3) be subject, except as it relates to technical and vocational education, to the control, management and direction of the state board of education under [Article 12, Section 6](#) of the constitution of New Mexico; and

(4) be considered school districts insofar as the restrictions of [Article 9, Section 11](#) of the constitution of New Mexico are concerned; and

C. "qualified elector" means a person otherwise eligible to vote within the community college district.

History: 1953 Comp., § 73-33-2, enacted by Laws 1963, ch. 17, § 2; 1964 (1st S.S.), ch. 16, § 1; 1980, ch. 53, § 1; 1985, ch. 238, § 2; 1998, ch. 61, § 3.

21-13-3, 21-13-4. Repealed.

21-13-4.1. Limitations on community colleges.

There shall be no new community college, branch campus or off-campus instructional center created after January 1, 1998 unless specifically created by the legislature.

History: Laws 1998, ch. 61, § 5.

21-13-4.2. Name change.

A. Luna vocational-technical institute shall be known as "Luna community college", and Mesa technical college shall be known as "Mesalands community college" and shall be organized as provided in Chapter [21](#), Article 13 NMSA 1978.

B. The governing board of the Luna vocational-technical institute shall be the governing board of Luna community college, and the governing board of the Mesa technical college shall be the governing board of the Mesalands community college.

C. All taxes levied to pay any principal and interest on bonds of the Luna vocational-technical institute or Mesa technical college for operating, maintaining and providing facilities shall continue in effect until dissolution pursuant to procedures set forth in Chapter [21](#), Article 13 NMSA 1978.

D. All references in law to the Luna vocational-technical institute shall be construed to be references to Luna community college, and all references in law to the Mesa technical college shall be construed to be references to Mesalands community college.

History: Laws 2005, ch. 193, § 1.

21-13-5 to 21-13-7. Repealed.

21-13-8. Community college board.

A. Community college board members shall be over twenty-one years of age, qualified electors and residents of the community college district.

B. Community college board members shall be elected for staggered terms of six years beginning on April 1 succeeding their elections. Elections shall be held:

(1) in conjunction with regular school district elections on the first Tuesday of February in each odd-numbered year if the community college board and school board agree to hold their elections at the same time; or

(2) on the date otherwise prescribed by the Community College Act [[21-13-1](#) NMSA 1978].

C. All vacancies caused in any other manner than by the expiration of the term of office shall be filled by appointment by the remaining members. An individual appointed by the remaining members of the board to fill a vacancy in office shall serve until the next community college board election, at which time candidates shall file for and be elected to fill the vacant position to serve the remainder of the unexpired term.

D. A community college board shall select from its members a chair and secretary who shall serve in these offices until the next regular community college board election. After each community college board election, the members shall proceed to reorganize.

History: 1953 Comp., § 73-33-7, enacted by Laws 1963, ch. 17, § 7; 1964 (1st S.S.), ch. 16, § 6; 1965, ch. 277, § 2; 1980, ch. 53, § 4; 1985, ch. 238, § 8; 1995, ch. 90, § 1; 1998, ch. 61, § 4; 1999, ch. 219, § 1; 2008, ch. 43, § 1.

21-13-8.1. Community college board; optional form.

The community college board of any community college organized pursuant to the Community College Act [[21-13-1](#) NMSA 1978] may, by adoption of a resolution to that effect, establish a governing board composed of five or seven members elected from single-member districts for staggered terms. The single-member districts shall be compact and contiguous and composed of populations as equal as practicable. Members shall be required to reside in the districts from which elected. Any member removing his residence from the district from which he was elected shall be deemed to have resigned his position and the vacancy created by such resignation shall be filled in the manner provided by law for the filling of vacancies on the board of a community college district.

History: 1978 Comp., § 21-13-8.1, enacted by Laws 1987, ch. 174, § 1.

21-13-9. Community college board meetings.

Regular meetings of the community college board shall be held not less than quarterly each calendar year. Special meetings may be held upon call of the chairman or a majority of the board. The secretary of the board shall notify members of the time and place of each meeting, and all notices shall be mailed to each board member at least ten days prior to the date of the meeting. Upon agreement of all the members of the board, however, the period of notice of the meeting may be shortened or waived.

History: 1953 Comp., § 73-33-8, enacted by Laws 1963, ch. 17, § 8; 1985, ch. 238, § 9; 1993, ch. 75, § 1.

21-13-10. Board duties.

A. It is the duty of the community college board to determine financial and educational policies of the community college. The community college board shall provide for the management of the community college and execution of these policies by selecting a competent president for the community college, and, upon the president's recommendation, the board shall employ other administrative personnel, instructional staff or other personnel as may be needed for the operation, maintenance and administration of the community college.

B. The community college board shall have the power to fix tuition and fee rates for resident and nonresident students of the community college district, to accept gifts, to accept federal aid, to purchase, hold, sell and rent property and equipment and to promote the general welfare of the institution for the best interest of educational service to the people of the community college district.

C. To the extent that funds are made available by the legislature from the lottery tuition fund, the community college board shall award legislative lottery scholarships for qualified resident students attending their respective institutions.

D. The legislative lottery scholarships authorized in this section shall apply only to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school or upon receiving a graduate equivalent diploma, are accepted for entrance to and attend a community college. Each legislative lottery scholarship shall be awarded for up to two consecutive years beginning the second semester of the recipient's first year of enrollment, provided that the recipient has maintained residency in New Mexico and maintained a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment.

E. The higher education department shall prepare guidelines setting forth explicit student continuing eligibility criteria and guidelines for administration of the legislative lottery scholarship program. Guidelines shall be distributed to community college boards to enable a uniform availability of the resident student lottery tuition scholarships.

F. For purposes of the legislative lottery scholarship program as it applies to students with disabilities who may require special accommodations, the higher education department, in consultation with the student and the office at the community college that serves students with disabilities, shall review both the definition of "full time" and the maximum number of consecutive semesters of eligibility and adjust either or both as deemed reasonable and appropriate, based on the student's disability needs. In no case, however, shall "full time" mean fewer than six credit hours per semester and in no case shall eligibility extend beyond fourteen consecutive semesters.

History: 1953 Comp., § 73-33-9, enacted by Laws 1963, ch. 17, § 9; 1980, ch. 53, § 5; 1985, ch. 238, § 10; 1996, ch. 71, § 5; 2000, ch. 52, § 3; 2003, ch. 390, § 1; 2007, ch. 73, § 2.

21-13-11. Standards and accrediting of community colleges.

A. The community college board shall prescribe the course of study for the community college and shall define, in conjunction with the higher education department, official standards of excellence in all matters relating to the administration, course of study and quality of instruction, except that the prescribed standards may not be less in quality or quantity than those prescribed for other state institutions of higher learning by the regional accrediting agency that accredits other colleges and universities of the state.

B. The department shall annually inspect, or investigate through the requirement of reports prescribed by the department, each community college. The inspection or investigation by report shall be conducted upon the facilities and program of each community college to determine the extent of compliance with the rules promulgated by the department. A report of each inspection or final investigation by report shall be made to the department.

C. In the event of any serious deviation from established practices and procedures or any deficiencies that impair the quality of the instructional program in any community college, the department shall first call these to the attention of the president of the community college and the community college board.

D. In the case of repeated failure to meet the standards provided for in Subsection A of this section, the department may take action discontinuing the approval of any community college so delinquent. Upon a showing that the unsatisfactory conditions have been remedied, the department may reinstate its approval of a disapproved community college.

History: 1953 Comp., § 73-33-10, enacted by Laws 1963, ch. 17, § 10; 1980, ch. 53, § 6; 1985, ch. 238, § 11; 1999, ch. 219, § 2; 2005, ch. 289, § 26.

21-13-12. Degrees and certificates awarded.

A. The community college board of a community college may award the appropriate degree upon the completion of a curriculum organized for that purpose and approved by the commission on higher education [higher education department]. An associate degree or certificate may be awarded only to students as recommended by the faculty, the chief academic officer and the president of the community college as having completed satisfactorily the prescribed course of study.

B. The community college board may award an appropriate certificate upon completion of an education curriculum and program leading to alternative certification for degreed individuals pursuant to Section [22-10-3.5](#) NMSA 1978 or certification of educational assistant and coursework in elementary and secondary education professional development. The curriculum and program leading to alternative certification or certification of educational assistant shall be approved by the state board of education.

History: 1953 Comp., § 73-33-11, enacted by Laws 1963, ch. 17, § 11; 1980, ch. 53, § 7; 1985, ch. 238, § 12; 1999, ch. 219, § 3; 2001, ch. 299, § 1.

21-13-13. Per diem; mileage.

Members of the community college board shall, for attendance at meetings of the board, receive traveling expenses to and from meetings at the rate set by law for state employees, for each mile traveled by the shortest usually traveled route from their homes to the place of the meeting.

History: 1953 Comp., § 73-33-12, enacted by Laws 1963, ch. 17, § 12; 1985, ch. 238, § 13.

21-13-14 to 21-13-18. Repealed.

21-13-18.1. Regular community college election; resolution; publication.

A. The community college board shall issue a resolution in English and Spanish calling for a regular community college election within the community college district on the date prescribed by the Community College Act. The resolution shall be filed with each county clerk in the community college district on the third Friday in December or, if the election is held in conjunction with a school district election, the last Tuesday in November of each even-numbered year.

B. The resolution shall specify:

- (1) the date the election will be held;
- (2) the positions on the board to be filled;
- (3) the date on which declarations of candidacy are to be filed;
- (4) the date on which declarations of intent to be a write-in candidate are to be filed;
- (5) any questions to be submitted to the voters;
- (6) the precincts in each county in which the election is to be held and the location of each polling place;
- (7) the hours each polling place will be open; and
- (8) the date and time of the closing of the registration books by the county clerks as required by law.

C. In the event that only one candidate files a declaration of candidacy for each position to be filled at an election and no declared write-in candidates have filed for any position in which there is any other candidate and there are no questions or bond issues on the ballot, only one polling place for the election shall be designated and it shall be in the office of the county clerk of the county in which the community college is located.

D. In any election held under the Community College Act, the county clerk shall perform the duties of the precinct board and no other precinct board shall be appointed.

History: 1978 Comp., § 21-13-18.1, enacted by Laws 1993, ch. 75, § 3; 2008, ch. 43, § 2.

21-13-18.2. Declaration of candidacy; write-in candidates; filing date; penalty.

A. A declaration of candidacy for membership on the community college board shall be filed with the proper filing officer during the period commencing at 9:00 a.m. on the forty-eighth day before an election and ending at 5:00 p.m. on the same day.

B. Write-in candidates for the office of board member shall be permitted in community college district elections.

C. A person may be a write-in candidate only if he has the qualifications to be a candidate for membership on the board as provided in the Community College Act [[21-13-1](#) NMSA 1978].

D. A person desiring to be a write-in candidate for the office of board member shall file with the proper filing officer a declaration of intent to be a write-in candidate. The declaration shall be filed before 5:00 p.m. on the thirty-fifth day preceding the date of the election.

E. Any person knowingly making a false statement in his declaration of candidacy is guilty of a fourth degree felony.

F. As used in this section, "proper filing officer" means the county clerk of the county in which the community college is situated.

History: 1978 Comp., § 21-13-18.2, enacted by Laws 1993, ch. 75, § 4.

21-13-19. Enrollment defined; payments.

A. For those students in community colleges taking college-level courses, full-time-equivalent students shall be defined and computed by the higher education department in the same manner in which it defines and computes full-time-equivalent students for all other college-level programs within its jurisdiction.

B. No student shall be included in any calculations made under the provisions of this section if the student is enrolled in a course the cost of which is totally reimbursed from federal, state or private sources.

C. The higher education department shall not recommend an appropriation greater than three hundred twenty-five dollars (\$325) for each full-time-equivalent student for any community college that levies a tax at a rate less than two dollars (\$2.00), unless a lower amount is required by operation of the rate limitation provisions of Section [7-37-7.1](#) NMSA 1978 upon a rate of at least two dollars (\$2.00) on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code [[7-35-1](#) NMSA 1978], or any community college that reduces a previously authorized tax levy, except as required by the operation of the rate limitation provisions of Section [7-37-7.1](#) NMSA 1978.

D. The higher education department shall require from the community college such reports as the department deems necessary for the purpose of determining the number of full-time-equivalent students at the community college eligible to receive support under this section.

E. A community college board shall establish tuition and fee rates for its respective institutions for full-time, part-time, resident and nonresident students, as defined by the higher education department.

F. A community college board may establish and grant gratis scholarships to students who are residents of New Mexico in an amount not to exceed the matriculation fee or tuition and fees, or both. The gratis scholarships are in addition to the lottery tuition scholarships authorized in Section [21-13-10](#) NMSA 1978 and shall be granted to the full extent of available funds before lottery tuition scholarships are granted. The number of scholarships established and granted pursuant to this subsection shall not exceed three percent of the preceding fall semester enrollment in each institution and shall not be established and granted for summer sessions. The president of each institution shall select and recommend to the community college board of the president's institution, as recipients of scholarships, students who possess good moral character and satisfactory initiative, scholastic standing and personality. All of the gratis scholarships established and granted by each community college board each year shall be granted on the basis of financial need.

G. A student in a home school or private school who meets the eligibility criteria in rules promulgated by the public education department and higher education department may apply for dual credit courses, provided that the student pays the full cost of dual credit courses.

History: 1953 Comp., § 73-33-14.2, enacted by Laws 1968, ch. 70, § 2; 1974, ch. 20, § 1; 1980, ch. 53, § 12; 1985, ch. 238, § 19; 1986, ch. 32, § 10; 1988, ch. 98, § 1; 1990, ch. 25, § 1; 1999, ch. 219, § 4; 2003, ch. 390, § 2; 2007, ch. 227, § 2; 2009, ch. 47, § 2.

21-13-20. Sharing of facilities.

Community college districts may contract for the use or sharing of facilities with any school. Any agreement entered into between the community college board and a school board shall provide that each district using the facilities shall bear an appropriate and equitable share of the expenses for the maintenance and operation of the facilities used.

History: 1953 Comp., § 73-33-15, enacted by Laws 1963, ch. 17, § 15; 1985, ch. 238, § 20.

21-13-21. Addition of school districts to existing community college districts.

A. The qualified electors within the territorial limits of a school district, group of school districts within a county or school districts in an adjoining county, not included in the community college district as originally formed, may petition the commission on higher education [higher education department] to be added to the community college district. The commission [department] shall examine the petition and, if it finds that the petition is signed by the requisite number of qualified electors as provided in Sections 21-13-4 and [21-13-5](#) NMSA 1978, the commission [department] shall cause a survey to be made of the petitioning district to determine the desirability of the proposed extension of the area of the community college district.

B. In conducting the survey, the commission on higher education [higher education department] shall ascertain the attitude of the community college board and collect other information as prescribed in Section [21-13-5](#) NMSA 1978. If on the basis of the survey the commission [department] finds that the proposed addition of the petitioning district will promote an improved education service in the area, it shall approve the petition. Thereafter, the commission [department] shall proceed to call an election within the petitioning district and in the established community college district on the question of the inclusion of the area in the community college district. In the election, the procedure prescribed in Sections 21-13-6, 21-13-7 and 21-13-18 NMSA 1978 shall be followed.

C. If it appears on canvass of the results of the election in the office of the executive director of the commission on higher education [higher education department] that a majority of the votes cast in each of the petitioning areas and within the established community college district was in favor of the addition of the petitioning area, the executive director shall notify the boards of education within each school district and the community college board of the results of the election and shall declare the extension of the boundaries of the community college district to include the petitioning area in which the proposed addition referendum carried by a majority vote. The addition shall take effect on the next succeeding July 1.

D. The territory within each school district added to any existing community college district shall automatically be subject to any special levy on taxable property approved for the community college district for the maintenance of facilities and services and for support of bond issues.

History: 1953 Comp., § 73-33-16, enacted by Laws 1963, ch. 17, § 16; 1964 (1st S.S.), ch. 16, § 11; 1980, ch. 53, § 13; 1985, ch. 238, § 21; 1999, ch. 219, § 5.

21-13-22. Transportation system.

When in the judgment of the community college board of an established community college the educational services of the community college can be extended to a number of students who should be served by the community college by the establishment of a transportation system, the community college board may do so through the use of maintenance funds from the annual tax levy. The community college transportation system shall be limited to nonstop bus routes between outlying population centers within the community college district and the community college. Provided that, other laws to the contrary notwithstanding, local school boards within the community college district shall allow community college students to ride on public school buses over established routes upon payment by the community college for the cost of such services, and provided further that the local school boards within the community college district shall make every effort to schedule their bus routes and times in such manner that they accommodate the community college students. Students who use community college or public school bus facilities may be charged such fees as the community college board deems reasonable. In lieu of providing any college-owned or operated transportation, the community college board may make agreements with local school boards for the transportation of community college students to and from the community college campus. The community college board shall make payments to the local school fund for any transportation.

History: 1953 Comp., § 73-33-17, enacted by Laws 1963, ch. 17, § 17; 1964 (1st S.S.), ch. 16, § 12; 1980, ch. 53, § 14; 1985, ch. 238, § 22.

21-13-23. Dissolution of community college districts.

Community college districts may be dissolved in the following manner:

- A. submission of a plan for the dissolution of the community college district to the executive director of the commission on higher education [higher education department] by a petition signed by ten percent of the qualified electors residing within the district. Upon receipt of a proper plan and petition, the executive director shall call a special election for the purpose of referring to the qualified electors residing in the district the question of dissolution. Plans for the dissolution of a community college district shall provide for the payment of all district debts and liabilities and for the equitable distribution of all remaining assets to the school districts within the community college district;
- B. if the executive director of the commission on higher education [higher education department] finds that a majority of the qualified electors voting on the issue at the special election has authorized the dissolution, the community college board shall proceed with the approved plan. Upon completion of the plan, the community college board shall submit a full report to the executive director and a copy of the report to each local school district board within the community college district; and
- C. upon receipt of the final report of the community college board, the executive director of the commission on higher education [higher education department] shall examine the report to determine whether any outstanding obligations still exist and whether the terms of the approved plan have been accomplished. If, upon determination by the executive director, no obligations are yet outstanding and the provisions of the plan have been fulfilled, he shall formally declare the community college district dissolved.

History: 1953 Comp., § 73-33-18, enacted by Laws 1963, ch. 17, § 18; 1964 (1st S.S.), ch. 16, § 13; 1980, ch. 53, § 15; 1985, ch. 238, § 23; 1999, ch. 219, § 6.

21-13-24. Repealed.

21-13-24.1. Establishing procedures for independence; funding; tuition; appropriation; local support level; outstanding indebtedness.

Any institution established in accordance with [Chapter 21, Article 14](#) or [16](#) NMSA 1978 that desires to become an independent institution pursuant to the Community College Act [[21-13-1](#) NMSA 1978] and to receive more than three hundred twenty-five dollars (\$325) per full-time-equivalent student is subject to the following:

- A. approval of the institutional request for independent status by the commission on higher education [higher education department];
- B. tuition rates shall be recommended by the commission on higher education [higher education department] and shall be set by the community college board;
- C. the commission on higher education [higher education department] shall recommend an appropriation for the institution based upon expenditure levels determined by commission [department] formulas in relation to its authorized program and its available funds from nongeneral fund sources, and the recommended appropriation shall be an amount not less than three hundred twenty-five dollars (\$325) for each full-time-equivalent student;
- D. the minimum level of local support for operational purposes shall be a tax rate of two dollars (\$2.00), or any lower amount required by the operation of the rate limitation provisions of [Section 7-37-7.1](#) NMSA 1978 upon an amount of at least two dollars (\$2.00) on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code [[7-35-1](#) NMSA 1978]; and
- E. the community college board shall provide for the assumption of any outstanding indebtedness of the institution desiring to become independent by the voters of the community college district.

History: 1978 Comp., § 21-13-24.1, enacted by Laws 1980, ch. 53, § 17; 1985, ch. 238, § 25; 1986, ch. 32, § 11; 1999, ch. 219, § 7.

21-13-25. Liberal construction.

The Community College Act [[21-13-1](#) NMSA 1978], being necessary to secure the public health, safety, convenience and welfare, shall be liberally construed to effect its purposes.

History: 1953 Comp., § 73-33-20, enacted by Laws 1964 (1st S.S.), ch. 16, § 15; 1985, ch. 238, § 26.

21-13-26. Repealed.