

**Bylaws
of
The Luna Community College Foundation**

**ARTICLE I
NAME, LOCATION, STATUS.**

Section 1.1 Name:

The name of this non-profit corporation is "LUNA COMMUNITY COLLEGE (LCC) FOUNDATION, INCORPORATED, referred to as the LCC Foundation.

Section 1.2 Location and Office:

The Foundation's principal office shall be located upon the main campus of LCC, Camp Luna site, 366 Luna Drive, Las Vegas, New Mexico, 87701, with subsidiary offices wherever the President of LCC shall deem necessary and expedient.

Section 1.3 Status:

The foundation shall be organized and operated as a not for profit corporation under the New Mexico Non-Profit Corporation Act (§§53-8-1 to 53-8-99, NM Stat. Ann.1996 Cum Supp.), and in compliance with Section 6-5A-1, NMSA 1978 Comp., and Section 501 (C)(3) of the United States Internal Revenue Code.

**ARTICLE II
DEFINITIONS**

Section 2.1 Board of Trustees:

Board of Trustees shall mean the Board of Trustees of Luna Community College, its successors and assigns. The Board of Trustees may also be referred to as "**The Governing Board.**"

Section 2.2 Trustee:

Trustee shall mean a member of the Board of Trustees of Luna Community College, or its successors and assigns.

Section 2.3 Executive Director:

The Executive Director shall serve as the chief executive of the organization and is responsible for the day-to-day operations of the foundation. The Executive Director reports directly to the Board of Director and has the ultimate responsibility of making sure the foundation accomplished its goals and objective.

Section 2.4 Board of Directors:

Board of Directors shall mean the Board of Directors of the Luna Community College Foundation, its successors and assigns. The Board of Directors may also be referred to as "**The Foundation Board.**"

Section 2.5 Director. Director shall mean a member of the Board of Directors of the Luna Community College Foundation, its successors and assigns.

Section 2.6 Luna Community College. "Luna Community College" is the legal name of Luna Community College. All references to the trade name "Luna Community College" shall mean the same as the formal legal name.

Section 2.7The Foundation. The Foundation shall mean the "Luna Community College Foundation"

**ARTICLE III
PURPOSE**

The purpose of the foundation are as stated in Article IV of the Articles of Incorporation.

**ARTICLE IV
BOARD OF DIRECTORS**

Section 4.1 General Powers:

The business and affairs of the Foundation shall be managed by the Board of Directors.

- A. The Board of Directors of the Foundation shall not be less than five (5) nor exceed eleven (11) members, each of whom are dedicated to the purpose of the Foundation, shall be appointed by the President of Luna Community College.
- B. The CEO of LCC or his/her designee and the Vice President for Finance & Administration of LCC or his/her designee may hold ex-officio, non-voting membership on the Board of Directors only during the term of their office. No employee of LCC, including the President or his/her designee and may vote on LCC foundation issues nor hold office on the Board of Directors because of the obvious conflict of interest.
- C. The President may appoint additional directors to the Foundation at any time. The term of office of each director shall be for a period of 2 years. The director may continue to serve as long as he/she is reappointed by the President of LCC. Director appointments are effective immediately after delivery of the appointment in writing to the Foundation Secretary or Executive Director.

Section 4.2 Duties and Powers:

The business and property of the Foundation shall be managed and controlled by the Foundation Board of Directors. It is anticipated that in fulfillment of that responsibility, the Foundation Board of Directors will assist the Foundation in obtaining financial support, through donation(s), for the eventual benefit of the Foundation. Their responsibilities shall include, but are not limited to, establishing priorities of areas to be supported by private donations, identifying and cultivating sources of gifts among alumni and friends, displaying leadership by giving personal support of the Foundation, enrolling volunteer workers, soliciting gifts when appropriate, managing the assets of the Foundation, and allocating unrestricted assets of the Foundation.

The Board of Directors shall have control and management of the business and affairs of the Foundation. The Directors shall in all cases, act as a Board, Convene regularly and, in the transaction of business, the act of majority presents at a meeting shall be the act of the Board, providing a quorum is present. The Directors shall follow Robert's Rules of Order for parliamentary procedure for the conduct of their meetings and management of the Foundation.

Section 4.3 Regular Meetings:

Regular meetings of the Board of Directors, for the purpose of electing or appointing officers and for the transaction of any business which may come before the meeting, shall be held monthly, open to the public, and advertised in advance. The Board of Directors may provide, by resolution, the time and place, either within or without the State of New Mexico, for the holding of additional regular meetings when the Director(s) is not able to attend in person.

Section 4.4 Special Meetings:

Special meetings of the Board of Directors shall be called by or at the request of the Chairman or the President. The Chairman must, upon an electronic written request of a majority of Directors, call a special meeting to be held no more than fourteen (14) days after the receipt of such request.

Section 4.5 Notice:

Notice of any special meeting shall be given at least seventy (72) hours notification.

Section 4.6 Order of Business and Rules of Order:

The order of business at all meetings of the Board of Directors shall be as follows:

- (1) Call to order and roll call
- (2) Introduction of guests and delegations
- (3) Report of Secretary and approval of minutes
- (4) Report of Executive Director
- (5) Report of Treasurer
- (6) Recommended actions
 - Old business
 - New business

- (7) Other business
- (8) Adjournment

provided, however, that in the absence of any objection, the Chair or presiding officer may vary the order of business.

The Foundation shall follow Robert's Rules of Order unless the specific interpretation conflicts with these articles of incorporation or By-laws.

Section 4.7 Quorum:

A simple quorum as defined by Roberts Rules of Order shall constitute a quorum. A Teleconference may be used to meet a Quorum.

Section 4.8 Term:

Each director shall serve a term of two (2) years. There is no limit to the number of terms, which may be served. To remain on the Board, the director must be reappointed by the President to serve another term.

Section 4.9 Vacancies:

Any vacancy occurring in the Board of Directors must be filled by the appointment of the President of LCC.

Section 4.10 Removal of Directors:

At a Board of Directors' meeting called expressly for that purpose, one or more directors may be removed with cause by vote of two thirds (2/3) of the Foundation Board of Directors present and voting and upon approval of the President of LCC.

Section 4.11 Resignation:

Any Director may resign his office at any time. Such resignation shall be in writing and is effective upon delivery to the Secretary or Executive Director.

Section 4.12 Committees:

The Board of Directors, by resolution adopted by a majority of the full Board of Directors, may designate from among its members an executive committee and one (1) or more other committees. These committees shall have and may exercise the delegation of the authority only to the extent provided in the resolution by the Board of Directors.

The executive Committee shall be responsible for limited interim policy direction between meetings of the Foundation. The Executive Committee shall be composed of the Chair, Vice-Chair, Secretary, and Treasurer. The Executive Director Shall be a non- voting member of the Executive Committee. The Committee shall meet only when immediate action is required of the Foundation and it is very difficult for the entire Board to meet. The Committee may also meet at the request of the Executive Director with the approval of the chairman.

ARTICLE V OFFICERS

Section 5.1 Officers and Qualifications:

The officers of this Foundation shall consist of a Chairman, a Vice Chairman, a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors at the time and in the manner prescribed by these By-Laws. Any two (2) or more offices may be held by the same person, except the offices of the Chairman and Secretary. All officers and formally appointed agents of the Foundation, as between themselves and Foundation, shall have the authority to perform the duties in the management of the Foundation as provided in these By-Laws or as determined by the resolutions of the Board of Directors not inconsistent with these By-Laws.

Section 5.2 Election and Term:

All officers of the Foundation shall be elected by the Board of Directors. If the election of officers is not held at such meeting, such election shall be held as soon thereafter as may be convenient. Each officer shall hold office until his/her successor has been duly elected by the Board of Directors.

Section 5.3 Vacancies:

A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term. All vacancies in any office shall be filled promptly by the Board of Directors, either at a regular meeting or at a meeting specifically called for that purpose.

Section 5.4 Duties of Officers:

The duties and powers of the officers of the Foundation shall be as follows and shall hereafter be set by resolution of the Board of Directors:

Chair

The Board of Directors shall have the right and power to elect a Chairman from among the members of Directors. The Chairman shall preside at all meetings of the Foundation and may also cast a vote on all questions. The chairman may have other duties as set by resolution of the Board of Directors. The chairman will be responsible for the LCC Foundation Board Meeting Agenda.

Vice Chair

In the absence of the Chairman or in the event of the Chairman's inability or refusal to act, the Vice Chairman shall perform the duties of the Chairman and when so acting, shall have the power and be subject to all the responsibilities of the office of the Chairman and shall perform such duties and functions as the Board of Directors may prescribe.

Secretary

- A. The Secretary shall keep the minutes of the meeting of the Board of Directors and membership in the appropriate books.
- B. The Secretary shall attend to the giving of notice of special meetings of the Board of Directors and of all the meetings of the membership of the Foundation.
- C. The Secretary shall be the custodian of the records of the Foundation.
- D. The Secretary shall keep at the principal office of the Foundation, a book or record containing the names, alphabetically arranged, of all persons who are members of the Foundation, showing their mailing addresses, and the dates when they were appointed or became the members of record thereof. The Secretary shall keep such books or records and minutes of the proceedings of its members open daily during the normal business hours for inspection within the limits prescribed by law, by any person duly authorized to inspect such records. At the request of the person entitled to an inspection thereof, the Secretary shall prepare and make available a current list of the officers and Directors of the Foundation and their mailing addresses.
- E. The Secretary shall attest the execution of the instruments on behalf of the Foundation by a proper officer thereof.
- F. The Secretary shall sign all certificates representing membership.
- G. The Secretary shall attend to all correspondence and present to the Board of Directors at its meeting all official communications received by the Secretary.
- H. The Secretary shall have general charge of the director and membership books of the Foundation.
- I. The Secretary shall, in general, perform all duties required by to the Office of Secretary and such other duties as from time to time may be assigned to the Secretary by the Chairman or by the Board of Directors.
- J. The Secretary may direct the Executive Director to assist with any and/or all of the items listed above.

Treasurer

- A. The Treasurer shall oversee the care and custody of and be responsible for all the funds and securities of the Foundation and shall deposit such funds and securities in the name of the Foundation in such banks, trust companies or other depositories as shall be designed by the Board of Directors. The Executive Director will prepare all deposits.
- B. The Treasurer shall be responsible for overseeing the financial and accounting records that will be kept at the principal office of the Foundation, maintain accurate books of account of all its business and transactions and shall, at all reasonable hours, exhibit books and accounts to any director upon application at the office of the Foundation during business hours.
- C. The Treasurer shall render a report of the condition of the finances of the Foundation at each regular meeting of the Board of Directors and at such other

times as shall be required of him/her and s/he shall make a full financial report at the annual meeting of the directors and membership.

- D. The Treasurer shall further perform all duties incident to the office of the Treasurer of the Foundation.
- E. If required by the Board of Directors the Treasurer shall give such bond as it shall determine appropriate for the faithful performance of the duties provided herein.
- F. The Treasurer of this corporation shall be sole person required to collect, truthfully account for, and pay over all taxes imposed upon this corporation or its employees by I.R.C. §§3101 and 3111 (1954) (Federal Insurance Contributions Act) and by I.R.C. §§ 3401 through 3404 (1954) (withholding of income tax).

Other Officers

Other officers shall perform such duties and have powers as may be assigned to them by the Board of Directors. When financially feasible, an executive director and other Foundation staff, will carry out the day functions of the Foundation. Assistant secretaries and assistant treasurer, in general shall perform such duties as shall be assigned to them by the secretary or the treasurer, respectively, or by the Chairman of the Board of Directors.

ARTICLE VI CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 6.1 Contracts:

The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

Section 6.2 Loans:

No loans shall be contracted on behalf of the corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 6.3 Checks, Drafts, etc.

Subject to banking resolutions adopted by the Board of Directors, the officers, the Foundation Director and one other member from the LCC Foundation Board, shall sign any and all checks of the Foundation. Any two signatures are required on all checks.

Section 6.4 Deposits:

All funds of the corporation, not otherwise employed, shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board of Directors may select.

ARTICLE VII INDEMNIFICATION

- (a) To the full extent permitted under N.M. Stat. Ann. §§ 53-11-4.1 (1993 Repl. Pamp.), the corporation shall indemnify any person made a party to an action or proceeding by or in the right of the corporation to procure a judgment in its favor by reason to the fact that such person, that person's testator or intestate, is or was a director, officer or employee of the corporation against the connection with the defense of such action or proceeding, or in connection with an appeal therein, except to matters as to which such person is adjudged to have breached a duty to the corporation.
- (b) The corporation shall indemnify any person made or threatened to be made a party to an action or proceeding other than one by or in the right of the corporation to procure a judgement in its favor, whether civil or criminal, including any action by or in the right of any other corporation of any type or kind, domestic, or foreign, which any director officer or employee of the corporation served in any capacity at the request of the corporation, by reason of the fact that such person, such person's testator or intestate, was a director or officer or employee of the corporation in any capacity against judgments, fines, amounts paid in settlement and reasonable expenses, including attorney's fees actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, if such person acted in good faith, for a purpose which he reasonably believed to be in the best interests of the corporation and, in criminal actions or proceeding in addition had no reasonable cause to believe that such person's conduct was unlawful.
- (c) The Foundation shall provide errors and omissions insurance for each Director.

ARTICLE VIII DUTY OF LOYALTY AND CONFLICT OF INTEREST

Each director on The Foundation Board owes a legal duty of loyalty to the LCC Foundation. This duty requires directors to exercise their powers in the best interests of The Foundation. A director shall not use his or her power to make a personal profit or to gain personal or other advantage for the purpose of benefiting another person (including but not limited to a family member), organization, or entity.

The duty of loyalty to The Foundation is not breached simply because a conflict of interest exists or appears to exist. Rather, the question of whether the duty of loyalty is properly fulfilled is determined by the manner in which an interested director and The Foundation Board act when a conflict or potential conflict of interest arises.

In order to ensure the propriety of its individual and collective actions, The Foundation directors shall adhere to the following guidelines regarding conflicts of interest:

- (a) Directors shall be alert to any interest they may have that might be considered to conflict with the best interest of The Foundation.
- (b) A director is considered to be "interested" in a matter when he or she has a financial or personal interest in a contract, transaction, or other action to which The Foundation is to be a party or when the director is contemplating entering into a transaction that involves the use of The Foundation assets.
- (c) An interested director must disclose that interest and describe to other directors all relevant facts concerning the matter known to the interested director.
- (d) An interested director shall seek approval by disinterested directors of all interested transactions or conduct.
- (e) The Board of Directors must act on all interested matters with complete candor and for the purpose of furthering the best interests of The Foundation. Disinterested directors shall consider an interested matter to determine whether the proposed transaction is on at least as favorable terms to The Foundation as might be available from other persons or entities and whether the process by which the decision is reached is appropriate.
- (f) When any matter arises in which a director is interested, The Foundation Chair shall excuse the interested director from participation in the discussion, and the interested director shall leave the meeting while the disinterested directors discuss and vote on the matter. The interested director shall abstain from voting on the matter.
- (g) Disclosure of conflicts of interest and the results of the directors' consideration of the matter should be documented appropriately in the minutes of the meeting.

ARTICLE IX DISSOLUTION

The Foundation may be dissolved and its charter revoked by a two-thirds vote of the full Board of Directors of Luna Community College. Further, The Foundation may otherwise be dissolved by operation of law.

Upon dissolution of The Foundation, its remaining assets, if any, shall be distributed to Luna Community College, an institution of higher education in the State of New Mexico, in accordance to state law. If, at the time of dissolution the said College is not in existence or is unable to accept the assets, the distribution will be made to one or more organizations organized and operated exclusively for religious, charitable, scientific, literary or educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, as now in force or afterwards amended, as the directors of The Foundation shall determine.

ARTICLE X COMPENSATION AND FEES

