

**ADOPTION AGREEMENT FOR THE
403(B) PLAN DOCUMENT FOR
PUBLIC HIGHER EDUCATION INSTITUTIONS**

Employer hereby establishes a 403(b) plan by adopting the 403(b) Plan Document for Public Higher Education Institutions plan document (the "Plan") as modified by this Adoption Agreement and agrees that the following provisions shall be incorporated as part of the Plan document. The Plan Document together with this Adoption Agreement shall constitute the Plan.

EMPLOYER INFORMATION

Name of Employer: New Mexico State University Federal Tax ID: 85-6000401

Employer's Address: P.O. Box 30001 MSC 3HRS

Las Cruces, New Mexico 88003

Telephone Number: (575) 646-8000 Fax: ()

Contact Person: Rene S. Yoder, Benefit Manager

Telephone/Extension: (575) 646-2047 E-mail: ryoder@nmsu.edu or benefits@nmsu.edu

Type of Organization:

- Public Community College Public College/University

Note: If Employer is not a public education institution, this document may not be used.

PLAN INFORMATION

Name of Plan: New Mexico State University 403(b) Plan 403(b) Plan

Effective Date: This Adoption Agreement:

- establishes a Plan effective as of _____ (the "Effective Date").
 amends and restates a previously established 403(b) Plan of the Employer. The effective date of this amended Plan is July 1, 2014 (the "Effective Date").

Eligibility: Except as otherwise selected below, all employees are immediately eligible to make contributions under the Plan. Eligibility for Employer Contributions is based on applicable employment agreements or collective bargaining agreements to which an employee is subject. The plan shall not include:

- Employees who are eligible to participate in one or more plans described under Section 403(b)(12)(A) of the Code during the calendar year sponsored by 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 are non-resident aliens who receive no earned income from the Employer which constitutes income from sources within the United States.
- Employees who normally work fewer than _____ hours per week (must be 20 or less; equivalent to 1,000 hours or less in a year except as otherwise provided under applicable 403(b) regulations generally effective January 1, 2009) during the calendar year.

Note: The inclusion of *all* common law employees will prevent an inadvertent violation of the universal availability requirement of Section 403(b)(12)(A)(ii).

Differential Pay: Differential wage payments (as described in Section 11.17) will be treated, for Plan Years beginning after December 31, 2008, as compensation for all Plan benefit purposes except as elected below:

- In lieu of the above default provision, the Employer elects the following (*select all that apply; these selections do not affect the operation of Section 11.17 (ii) of the Plan*):
- the inclusion is effective for Plan Years beginning after _____ (may not be earlier than December 31, 2008).
 - the inclusion only applies to Compensation for purposes of Elective Deferrals.

Contributions into the Plan:

Employee Contributions (in addition to salary reduction contributions):

- Roth 403(b) Contributions to the Plan are permitted beginning on _____.
- Roth 403(b) Contributions are NOT permitted under the Plan.
- After-tax Contributions to the Plan are permitted beginning on _____.
- After-tax Contributions are NOT permitted under the Plan.

(Default: If no election is made, Roth 403(b) Contributions and traditional after-tax contributions are **not** permitted.)

Non-Elective (i.e. mandatory) Employee Contributions:

- Employees shall be required, as a condition of employment, to make Non-elective Employee Contributions of _____% of Compensation.

Employer Contributions (if any):

- No Employer Contributions will be made.
- Employer Contributions will be made to the Plan in accordance with the following formula:
- Basic non-matching contribution up to _____ % of Compensation.
 - Matching contributions equal to _____ % of the first _____ % of Compensation deferred.
 - Other _____.
- Employer Contributions will be made in accordance with applicable employment agreements and collective bargaining agreements, or as may be determined from year to year by the Employer.

(Default: If no election is made, Employer Contributions are permitted at the discretion of the Employer.)

15 Years of Service Catch-up Contributions: The Plan will or will not permit employees with 15 Years of Service with the Employer that satisfy the conditions for the Special Section 403(b) Catch-up Limitation for Employees with 15 Years of Service (Section 3.2 of the Plan) to increase their Elective Deferrals limitation.

(Default: If no election is made, Special Section 403(b) Catch-up Contributions are permitted.)

Vesting: (*Check one of a – c to apply for all employer contribution sources. Check d if applicable.*) Non-vested amounts shall be accounted for separately in accordance with applicable requirements of Code Section 403(c). Forfeitures will be used to reduce future employer contributions or pay plan expenses. The Vesting schedule for Employer Contributions shall be:

- 100% Immediate
- 3-Year Cliff (0% Years 1-2, 100% at end of 3rd year)
- 6-Year Graded (per the following schedule):

<u>Years (of service)</u>	<u>Percent Vested</u>
1 Year	0%
2 Years	20%
3 Years	40%
4 Years	60%
5 Years	80%
6 Years	100%

- 100% vesting at death or disability

Investment Options: Any Annuity Contracts and/or Custodial Accounts provided by Vendors authorized on Appendix A, which may be revised from time to time, are authorized to accept contributions under the Plan.

Exchanges Within the Plan: The Plan will or will not permit Participants to make Exchanges. If permitted, Exchanges may occur between:

- Those organizations listed on Appendix A only (default if no election made).
- Those organizations listed on Appendix A and any other organization offering annuity contracts and or custodial

accounts that satisfy the requirements of Section 403(b) of the Code that executes an information sharing agreement with Employer or its appointee for purposes of satisfying applicable compliance requirements.

(Default: if no election made, Exchanges between organizations listed on Appendix A are permitted.)

Transfers Into the Plan: The Plan will or will not accept Transfers from another employer's 403(b) plan.

(Default: If no election is made, Transfers will be accepted.)

Transfers From the Plan: The Plan will or will not permit Transfers from the Plan to another employer's 403(b) plan, if requested by a former Participant.

(Default: If no election is made, Transfers to another 403(b) plan will be permitted.)

Transfers From the Plan to Purchase Permissive Service Credits: Notwithstanding any provision of the Plan to the contrary, and applicable to the vested portion of the Participant's account only, transfers to purchase service credits shall be permitted.

Financial Hardship Distributions: Hardship Distributions are or are not available under the Plan.

Financial Hardship Distributions for Beneficiaries: Financial Hardship distributions for expenses of Beneficiaries (Section 11.8) will be allowed effective as of August 17, 2006, unless otherwise elected below (applies only for 403(b) plans that allow hardship distributions):

Use the following instead of the default (*select one*):

1. Hardship distributions for Beneficiary expenses are not allowed.
2. Hardship distributions for Beneficiary expenses are allowed effective as of _____ (may not be earlier than August 17, 2006).

Withdrawals from Employer Contribution Sources: Withdrawals from any Employer Contribution source shall be available to Plan Participants upon the following (*Check all that apply. Applicable ONLY if such withdrawals are permitted under the terms of the applicable Individual Agreement(s).*)

- Attainment of age 59½
- Disability
- Hardship
- No in-service withdrawals allowed
- Allowed on all vested funds upon attainment of age _____
- Allowed upon full vesting of all employer contributions and attainment of age _____

Note: A Participant shall always be entitled to a distribution of his/her vested account balance upon Severance from Employment.

Loans: Loans are or are not available under the Plan subject to availability and any additional conditions that may apply under a Participant's 403(b) Individual Agreement(s).

(Default: If no election made, loans are permitted.)

Note: The Plan prohibits loans to any Participant who has an existing outstanding defaulted loan under any retirement or deferred compensation plan sponsored by the Employer.

Loans from Employer Contributions: If loans are permitted under the terms of the Plan and the Participant's 403(b) Individual Agreement, Loans shall be:

- Allowed from Employer non-matching contributions
- Allowed from Employer matching contributions
- No loans from Employer contributions

(Default: If no election is made, loans are NOT permitted from Employer Contribution sources.)

Qualified Reservist Distributions: Qualified Reservist Distributions as provided in Section 11.9 will not be allowed unless elected below:

Qualified Reservist Distributions are allowed effective as of July 1, 2014 (may not be earlier than September 12, 2001).

Distributions on account of deemed severance of employment. The Plan does not permit distributions pursuant to Section 11.18 of the Plan unless otherwise elected below:

- The Plan permits such distributions effective January 1, 2007.
- The Plan permits such distributions effective as of _____ (may not be earlier than January 1, 2007).

Required Minimum Distributions (RMDs): RMDs for 2009 shall continue in accordance with the terms of the Plan for Participants or Beneficiaries receiving installment payments unless such Participant or Beneficiary elects otherwise, whereas RMDs are suspended

for all other Participants and Beneficiaries unless otherwise elected below (this option reflects VALIC standard operations during 2009):

- The provisions of Section 11.19 (a) of the Plan shall apply (RMDs continue in accordance with the terms of the Plan for all Participants and Beneficiaries, unless otherwise elected by a Participant or Beneficiary).
- The provisions of Section 11.19 (b) of the Plan shall apply (RMDs continue in accordance with the terms of the Plan for all Participants and Beneficiaries, but only Participants or Beneficiaries receiving installment payments may elect otherwise).
- Other: _____.

For purposes of Section 11.19 of the Plan, the Plan will also treat the following as eligible rollover distributions in 2009 (if no election is made, then a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code Section 401(a)(9)(H)) (this option reflects VALIC standard operations for 2009):

- 2009 RMDs (as defined in Section 11.19 of the Plan) and installment payments that include 2009 RMDs.
- 2009 RMDs (as defined in Section 11.19 of the Plan) but only if paid with an additional amount that is an eligible rollover distribution without regard to Code Section 401(a)(9)(H).

Direct Roth Rollovers: If Roth 403(b) Contributions are permitted to the Plan (above), direct rollovers from other Roth 403(b) or Roth 401(k) plans are are not accepted into the Plan.

- Not Applicable because Roth Contributions are not permitted to the Plan.

(Default: If no election made, direct rollovers of Roth contributions will be permitted.)

In-Plan Roth Conversions: If Roth Section 403(b) Contributions are permitted (above), the Employer shall shall not allow in-plan Roth conversions with respect to the following pre-tax amounts (and the earnings attributable thereto) at the following times (check applicable boxes):

- Not applicable because in-plan Roth conversions are not permitted.
- Rollover contributions (at any time).
- Elective Deferrals (upon attainment of age _____ (must be age 59 ½ or greater)).
- Employer Contributions (upon attainment of age _____ (must be 50 or more) or at least _____ (must be 5 or more) years of participation in the Plan).

Non-spouse rollovers: Rollovers by non-spouse beneficiaries are allowed after December 31, 2006, unless otherwise elected below (Section 11.7 provides that such distributions are always allowed after December 31, 2009):

- Use the following instead of the default (select one):
 1. Non-spousal rollovers are not allowed before January 1, 2010.
 2. Non-spousal rollovers are allowed effective _____ (not earlier than January 1, 2007 and not later than January 1, 2010).

Continued benefit accruals for individuals who die or become disabled while performing Qualified Military Service: The provisions of Section 11.16 of the Plan will not apply unless otherwise elected below:

- The provisions of Section 11.16 apply effective as of (select 1 or 2 and 3 (if applicable)):
 1. The first day of the 2007 Plan Year.
 2. _____ (may not be earlier than the first day of the 2007 Plan Year).
 3. However, the provisions (elected in 1 or 2 above) no longer apply effective as of (select if applicable):
_____.

Plan Administration: The Plan shall be administered:

- By Employer
- Jointly by Employer and Vendors. Unless otherwise agreed to by the affected parties, Employer and the provider/issuer of each Funding Vehicle shall jointly act as Administrator of the Plan. Employer shall be responsible for matters relating to eligibility (including providing notice of the Plan to Employees), enrollment opportunities, Contributions, authorizing disbursements in accordance with Section 5, proper tax reporting on Contributions, Plan document maintenance and payroll related issues. The Funding Vehicles are responsible for matters relating to investing Contributions as directed by Participants, beneficiary designations, distributions authorized by the Employer, Exchanges, Transfers, Rollovers, loans, withdrawals and post-employment compliance, such as tax reporting, notice requirements and withholding on distributions.
- By a designated Administrator. The Employer has named _____

_____ to act in this capacity.

The following section may be used to insert provisions for which there were no acceptable alternatives provided. It may be used to modify any portion of the Plan or Adoption Agreement.

Note: Any modifications should be carefully reviewed by Employer's legal counsel to ensure that changes do not adversely affect the Plan's qualification under Section 403(b) of the Code.

Other provisions of the Plan (Attach additional pages as necessary): _____

Section 5.3 of the Plan Document is hereby amended as follows: A Participant may elect to receive Rollover Distributions after attaining age 59-1/2 or a distributable event.

Section 9.7 of the Plan Document is hereby amended to read as follows: In the event that all, or any portion, of any distribution payable to a Participant or his Beneficiary hereunder shall, at the expiration of three (3) years after it shall become payable, remain unpaid solely by reason of the inability of the life insurance company that has issued the Annuity Contract or the custodian of the Custodial Account to ascertain the whereabouts of such Participant or his Beneficiary, the amount so distributable shall be escheated to the State in which the Participant or his Beneficiary, whichever is applicable, last resided.

EMPLOYER ACKNOWLEDGEMENTS AND SIGNATURES

Employer acknowledges that it is an eligible public higher education institution under Section 170(b)(1)(A)(ii) of the Code and is authorized to offer a program qualified under Section 403(b) of the Internal Revenue Code.

EMPLOYER

By: _____

Print Name of Signer: _____

Title: _____

Dated: _____



ANDREW M. PEÑA

AVP - HUMAN RESOURCES

JUNE 19, 2014