

Board of Trustees



POLICY MANUAL

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INTRODUCTION

The Trustees Policy Manual incorporates the policies adopted by the Board of Trustees pursuant to C.R.S. 23-53-102, and changes thereto adopted by the Board of Trustees from time to time. Nothing in this Policy Manual is intended to create any rights enforceable by any employee of the University, and the Board of Trustees may unilaterally change or delete any provision of this Policy Manual at any time, in its sole discretion.

COLORADO MESA UNIVERSITY BOARD OF TRUSTEES condemns in the strongest terms possible any act of violence, intimidation, verbal or physical abuse or discrimination on each of its campuses and in the communities which we serve. Further, the Board of Trustees calls upon each member of the campus community—students, faculty, and staff—to embrace a culture of respect and inclusiveness and to report immediately, any acts of violence, intimidation, abuse or discrimination, suffered or observed, in accordance with the Professional Personnel Employee Handbook, Trustees Policy Manual, and the Maverick Guide.

The Policy Manual, by which term this document will hereafter be known, is published on the Colorado Mesa University website.

CHAPTER 1:

UNIVERSITY GOVERNANCE

SECTION 1.1: Authority of the Board of Trustees

As specified in C.R.S. § 23-53-101, et seq. (2003), the Trustees have full authority and responsibility for the control and governance of the University, including such areas as finance, resources, academic programs, curriculum, admissions, role and mission, personnel policies, etc. To exercise their authority appropriately, the Trustees regularly establish policies designed to enable the University to perform its statutory functions in a rational and systematic manner. To assist them in meeting their responsibilities, the Trustees delegate to the President of the University the authority to interpret and administer their policies in all areas of operations.

SECTION 1.2: Board Role

Board of Trustees. The Board shall have authority for and control of the assets and resources of the University and shall ensure that the activities of the University are performed in an exemplary manner. The Board's goals as a governing body are to create and maintain an environment conducive to the discovery and dissemination of knowledge to all citizens who seek it, to provide necessary resources in an atmosphere that induces and honors excellence and promotes equality of access, and to develop a sense of responsibility, accountability, and ethical practice among all those who are involved in sponsoring and providing educational services.

The Board shall monitor the University to be certain that it is performing at the highest possible level and that it makes any changes required for achieving such goals.

It is the policy of the Trustees to provide substantial administrative authority, to guarantee a minimum of external involvement in the affairs of the University, to encourage the development of the distinctive role of the University, and to support the University in its efforts to maintain and enhance academic excellence. At the same time, however, the Trustees' policies and procedures, administered by the President and staff, are designed to ensure effectiveness, efficiency, and accountability.

Committees and Task Forces. The Board may appoint committees and task forces from time to time on an ad hoc basis. The composition of such groups and their assignments will be determined at the time the groups are formed.

SECTION 1.3: Bylaws of the Board of Trustees

ARTICLE I BOARD OF TRUSTEES

- A. The affairs of the Trustees shall be governed and managed by the Board of Trustees thereof selected and appointed pursuant to the laws of the State of Colorado. Each Trustee so appointed shall, before assuming the duties of office, take and subscribe to the oath of office provided by law.
- B. The annual meeting of the Board shall be held by June 30 of each year or at such time and place as may be designated by the Board of Trustees. The annual meeting of the Board shall be for the purpose of electing officers and the transaction of such other business as may come before the meeting.
- C. Regular meetings of the Board may be held at such times and places as the Board, may determine. Notice of regular meetings shall be given in accordance with Colorado's Open Meetings law. All amendments to the schedule require official Board action.

D. Special meetings of the Board may be called at any time by the Chairperson of the Board or shall be called by the Chairperson of the Board upon the written request of a majority of the Board of Trustees.

1. Upon the call for a special meeting, the Secretary shall cause notice thereof to be mailed or delivered to each member, stating the time, place and purpose of the meeting; such notice shall be received no later than twenty-four hours prior to the hour set for the meeting.
2. No business other than that stated in the notice shall be transacted unless all members of the Board are present and consent to the consideration and transaction of such other business.
3. Any member may waive notice of the time; place and purpose of a special meeting at any time before, during or after such meeting and attendance thereat shall be deemed to be a waiver of the required notice thereof.
4. In the event of an unforeseen circumstance requiring immediate action, the Chairperson of the Board may convene an emergency special meeting of the Board by giving notice of not less than one hour by telephone to members of the Board and the public. If the Board is unable to meet in person, such emergency special meeting may be conducted by conference telephone call, with amplification of the discussion at the location set forth in the notice.

E. Meetings of the Board of Trustees

1. All meetings of two or more members of the Board at which any public business is discussed or at which any formal action may be taken are open to the public. Any meetings at which the decision or adoption of any proposed resolution, rule, regulation, or other formal action occurs or at which a majority or quorum of the Board is in attendance, or is expected to be in attendance shall be held only after full and timely notice to the public in accordance with Colorado's Open Meetings law. This Bylaw does not apply to any chance meeting or to any social gathering at which the discussion of public business is not the central purpose.
2. The Secretary of the Board shall maintain a list of persons who request notification of all meetings when certain specified policies will be discussed, and shall provide advance notification in accordance with Colorado's Open Meetings law.
3. A majority of the duly appointed members of the Board shall be necessary to constitute a quorum for the transaction of any business or the taking of any action.
4. Meetings of the Board shall be conducted in accordance with parliamentary rules and procedures provided by Robert's Rules of Order (Revised).
5. The order of business to be transacted at all meetings shall be according to the printed agenda thereof, or in the event of the special meeting, in accordance with the notice thereof.
6. At any time during any regular or special meeting of the Board, upon the vote of two-thirds of the entire membership and after the Chairperson announces the general topic, the Board may adjourn into executive session for the purpose of considering any matters or topics enumerated in C.R.S. § 24-6-402, as amended.
7. During any such executive session, only appropriate members of the Board and those persons invited by the Board to attend may be present. All discussion among those present and communications received during such executive session shall remain confidential.

8. Members of the public who desire to address the Board at any of its meetings shall request to do so by signing up prior to the meeting, specifying the topic to be discussed. The Chairperson shall have the right to deny any such request.
9. Complete and accurate minutes of each meeting, which shall constitute the official record of proceedings of the Board, shall be promptly recorded and shall be made available for public inspection during reasonable hours. A written copy of the minutes for the last preceding meeting and for any special meetings held since the last regular meeting shall be furnished each member of the Board concurrently with delivery of the printed agenda for the next regular meeting.
10. Visitors to all open and public meetings are allowed to use tape recorders to record proceedings.

ARTICLE II
OFFICERS OF THE BOARD

- A. The officers of the Board of Trustees shall be Chairperson of the Board, Vice Chairperson of the board, Secretary, and Treasurer.
- B. The officers of the Board of Trustees, as designated herein, shall perform such duties as may be prescribed from time to time by the laws of the State of Colorado, and such duties that are not inconsistent with such laws as may be prescribed from time to time by the Board of Trustees.
- C. Any officer of the Board of Trustees may be removed by the Board of Trustees whenever in its judgment the best interests of the Board of Trustees will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer shall not, of itself, create any contract rights.
- D. The Chairperson of the Board shall be selected from among the members of the Board and shall perform all duties incident to the office of Chairperson of the Board and all such other duties as may from time to time be assigned by the Board of Trustees. If present, the Chairperson of the Board shall preside at all meetings of the Board.
- E. The Vice Chairperson of the Board shall be selected from among the members of the Board and shall perform such duties as from time to time may be assigned to him or her by the Chairperson of the Board or the Board of Trustees. In the absence or inability to act of the Chairperson of the Board, he or she shall perform all duties of the Chairperson.
- F. The Secretary, who may be a member of the Board, shall be responsible for the faithful handling and true accounting and delivery of all moneys and property of the Board of Trustees coming into his/her hands or control.

The Secretary shall, if present, act as secretary at all meetings of the Board of Trustees and shall keep the minutes thereof. The Secretary shall see that all notices required to be given by the Trustees are duly given and served and shall be the custodian of the seal of the Board of Trustees and shall affix the same to any and all documents, the execution of which on behalf of the Board of Trustees under its seal, shall be duly authorized in accordance with law and the provisions of these Bylaws.

The Secretary shall see that all reports, statements, and other documents required by law are properly kept and filed and, in general, shall perform all the duties incident to the office of Secretary and such other duties as may from time to time be assigned to such office by the Board of Trustees.

The Board of Trustees may appoint Assistant Secretaries, who need not be members of the Board, to assist the Secretary in fulfilling his or her duties.

- G. The Treasurer, who may be a member of the Board, shall keep a true account of all moneys received and paid on behalf of the Board, and shall pay all warrants duly signed by the Chairperson of the Board and countersigned by the Secretary in the order of their presentation. Before entering upon the duties of such office, the Treasurer shall take and subscribe an oath that he or she will faithfully perform the duties of the Treasurer and shall give bond in such manner and in such amount as provided by the laws of the State of Colorado.

The Treasurer shall render a statement of the condition of the finances of the Board of Trustees at all regular meetings of the Board of Trustees and shall perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to such office by the Board of Trustees. The same person may hold both the offices of Secretary and Treasurer. The Board of Trustees may appoint one or more Assistant Treasurers, as it may deem advisable from time to time, who shall hold office at the pleasure of the Board. Assistant Treasurers need not be members of the Board.

- H. The staff of Colorado Mesa University shall provide staff support for the Board of Trustees.
- I. The Board of Trustees may engage such employees and agents as it may deem advisable from time to time, who shall serve at the pleasure of the Board.

ARTICLE III ELECTION OF OFFICERS

- A. Officers shall be elected and appointed annually at a meeting of the Board.
- B. Those persons elected as officers of the Board shall possess those qualifications for their respective offices as may be prescribed from time to time by the laws of the State of Colorado and these Bylaws; and shall, before entering upon the duties of their respective offices, take and subscribe such oaths and provide such bonds in such form and amounts as may from time to time be prescribed by the laws of the State of Colorado or by resolution of the Board not inconsistent with such laws.
- C. The Chairperson and Vice Chairperson so elected shall hold their respective offices for a term of one year and until their successors shall have been elected and duly qualified. The Secretary and the Treasurer so elected shall hold such office at the pleasure of the Board.
- D. All officers of the Board shall be elected by the vote of a majority of a duly constituted quorum of the Board. Whenever a vacancy occurs in any office, the same shall be promptly filled by majority vote of a duly constituted quorum of the Board.

ARTICLE IV AMENDMENTS; REPEAL

Amendment or repeal of these Bylaws may be made at the Board's sole discretion at any meeting, either regular or special, upon the concurring vote of a majority of the entire membership of the Board, but subject to the following provision:

- A. Written notice of the proposed amendment or repeal shall be given to each member at least 15 calendar days prior to the meeting;

- B. Such amendment or repeal shall not be inconsistent with the laws of the State of Colorado.
- C. The University President, Faculty Senate President, or Classified Staff Council Chair may recommend amendments to the Trustees Policy Manual that affect their constituencies by written notification to the Board of Trustees Chair. The leader proposing the amendment will then be given time on the next BOT agenda to present the recommended amendment to the Board.

SECTION 1.4: Student Trustee

In accord with C.R.S. § 23-53-102(3) (2003), the student body at large shall elect one of its eligible members to be the Student Trustee.

- A. The Student Trustee must be a full-time junior or senior student at the University.
- B. The term of the Student Trustee shall be one year, beginning July 1.
- C. The office shall be advisory, without the right to vote and without the right to attend executive sessions of the Board of Trustees, as provided by section 24-6-402, C.R.S.
- D. In accordance with the statute, the Student Trustee shall have resided in the State of Colorado no less than three years prior to the student's election. If the statute is amended to eliminate the residency requirement, then there shall be no residency requirement by the Trustees.
- E. "Full-time student" means the equivalent of the definition of "full-time equivalent student" used by the Colorado Commission on Higher Education (CCHE).
- F. The Student Trustee shall take and subscribe to the oath of office prescribed by the Constitution of this State before entering upon the duties of this office.
- G. Should a vacancy occur for any reason whatsoever, such vacancy shall be filled in the same manner as caused the student to be elected originally to said committee. The vacancy shall be filled for the remainder of the Student Trustee's unexpired term.

SECTION 1.5: Faculty Trustee

In accord with C.R.S. § 23-53-102(4) (2003), the faculty of the University shall elect one of its eligible members to be the Faculty Trustee.

- A. A Faculty Trustee shall be a tenured member of the faculty of the University.
- B. The Faculty Trustee shall be elected for a term of two years beginning July 1, 2003, and beginning July 1 every odd-numbered year thereafter.
- C. The office shall be advisory, without the right to vote and without the right to attend executive sessions of the Board of Trustees, as provided by section 24-6-402, C.R.S.
- D. The Faculty Trustee shall take and subscribe to the oath of office prescribed by the Constitution of this State before entering upon the duties of this office.
- E. Any vacancy in this office shall be filled by election for the unexpired term.

SECTION 1.6: Policy-Making Procedures

The Board has the sole responsibility and authority to formulate policy for the University.

The President shall be responsible for establishing and distributing guidelines for the submission of policy proposals for consideration by the Board. No such proposal will be considered unless it is submitted in accord with these guidelines. The guidelines shall provide constituent groups, including the Faculty Senate, Student Government, and administrator/staff representatives, the opportunity to initiate and propose changes in policy to be considered by the Board.

SECTION 1.7: Maintenance and Distribution of the Policy Manual

The Policy Manual and all policies adopted and approved pursuant thereto shall be maintained and kept current by the President and the office staff. The office staff shall distribute approved amendments to the Policy Manual and all other statements of policy in a timely fashion to the individuals and organizations of interest.

SECTION 1.8: Calendar and Schedule for the Submission of Agenda Items

The President will provide an administrative calendar no later than August of each year, which shall become the official schedule for the submission of items to the Board.

SECTION 1.9: Recognition of Faculty Senate

Faculty input is a vital component of informed decision-making at Colorado Mesa University. The Board recognizes the Faculty Senate as a formal, direct, two-way communication link between the Board and the faculty. The President of the Senate shall have the opportunity to address the Board at each public session.

SECTION 1.10: Policy-Making and Policy Implementation

The Board distinguishes between its own responsibilities for policy-making and the institutional prerogatives for administration, procedures development, and operation. Nevertheless, the Board has certain expectations as to policy implementation.

- A. The Colorado Mesa University Professional Personnel Employment Handbook (referred to as Handbook herein) contains Board-approved policies regarding employment-related issues applicable to professional personnel (faculty and administrators). All professional personnel have access to the Handbook through the Colorado Mesa University website and are responsible for knowing and abiding by these policies. The Handbook is subject to amendment, from time to time, by the Board in its sole discretion. It cannot be changed without Board approval. The Handbook replaces all prior employment handbooks for professional personnel, including the Handbook for Professional Personnel revised October 25, 2002 and the Mesa State College Professional Staff Policy Handbook.
- B. The University shall maintain a current organizational chart identifying administrative and academic units and their relationships. All changes in structure at the department, division, school, center, institute, or University level shall be submitted through the President to the Board.
- C. The classified and administrative staffs shall have appropriate and continuing access to decision-makers whose determinations have direct impact on their status and performance.

- D. In view of the sensitivity accompanying the assessment and use of student fees the President may consult with the student government on the level and allocation of such fees prior to submitting them to the Board for action.
- E. In keeping with the Board's commitment to affirmative action, all screening committees may, to the extent appropriate and practicable, be broadly representative of the University. The Board encourages and expects rigorous adherence to the principles of affirmative action, particularly as they apply to women and minority groups.
- F. Institutional deliberations concerning long range planning, educational policies, personnel policies, priorities, and other matters affecting faculty and students may include opportunity for comment by representatives of the faculty and student organizations. The mechanisms for such comment, however, should recognize the rapidly changing circumstances confronting the University and the requirement for timely decisions.
- G. In order to facilitate policy decisions designed to offer outstanding opportunities for students to learn in environments which are conducive to their best possible educational growth, the Board encourages regular contacts by the Board with faculty, students, administrators, and classified staff.

SECTION 1.11: Communication Between Professional Personnel and the Board, and Between the University and External State Agencies

To enhance communication and to give prompt attention to problems, the Board urges that internal mechanisms for the expression of the views of professional personnel which respect clear administrative lines be established and maintained. Direct contact with the Board concerning campus issues without prior discussion with appropriate persons on the campus denies the opportunities for conflict resolution at the appropriate campus level. Parallel structures which confuse communication and which exclude or circumvent appropriate administrators without giving them an opportunity to address the issues are destructive of morale as well as contrary to common sense and the principles of good management.

Since access of professional personnel to the Board may be accomplished only through an orderly and open process, it is Board policy that individual faculty or administrators wishing to be heard by the Board at an official meeting shall request to do so by signing up prior to any such meeting, indicating the topic to be addressed. The Chairperson shall have the right to deny any such request.

It is Board policy that the President is responsible for communicating with the legislature, the CCHE, and other state agencies on a regular basis. The Chief Financial Officer, may, if contacted about a matter within the scope of his/her responsibilities, communicate directly with such entities. Unless specifically requested to do so, other University personnel are not to provide official information directly to external state agencies. When responding to a specific request for information from such an agency, the President and other University officers are required to provide copies of the request and the response to the Board in a timely fashion.

SECTION 1.12: Conflict of Interest and Code of Ethics

It shall be Colorado Mesa University's policy on conflict of interest and code of ethics to be the same as that required by the State of Colorado for governing board members, administrators, faculty and staff. Specifics are detailed in C.R.S. 24-18-101 - 105 and 24-18-108 - 110.

CHAPTER 2:

EQUAL OPPORTUNITY

SECTION 2.1: Anti-Discrimination Policy

It is the policy of the University to comply with all applicable federal and state anti-discrimination laws. The University will not engage in unlawful discrimination in employment opportunities or educational services against any person because of race, religion, gender, age, national origin, color, disability, veteran or marital status, or sexual orientation. The University shall have an Affirmative Action Office to ensure adherence to this policy. The Affirmative Action Office shall maintain a comprehensive affirmative action plan conforming to federal and state law, and approved by the Board. The University will post in conspicuous places notices setting forth the provisions of the University's affirmative action policy.

CHAPTER 3:

PERSONNEL/WELFARE

SECTION 3.1: Honorary Degrees and Other Awards

A. Honorary Degrees

An honorary degree is intended to indicate that the person receiving the degree is learned in any field of public service or has performed outstanding public service or has demonstrated proficiency in any field of endeavor without having completed courses of formal instruction or study or formal preparation or training.

The Board may approve an honorary degree only after the President has submitted a recommendation, which contains sufficient justification for the Board to make an informed decision about awarding the degree.

B. Awards Other Than Honorary Degrees for Persons Outside the University

The Board supports awards other than honorary degrees to recognize distinguished service or accomplishments by graduates of the University, by members of the academic community, by friends of the University, or by other persons outside the University.

Institutional policies shall clearly articulate the criteria for such awards and for procedures for selection.

Board approval is not required for any such award.

SECTION 3.2: Employment Assignment for Professional Personnel

Written employment assignments shall be uniform for professional personnel at the University, except for part-time or temporary assignments. No employment assignment of professional personnel shall create promises or obligations for the University that conflict with the policies and procedures set forth in the Handbook or in this Policy Manual, as they may be amended from time to time. Any such conflicting provision in an employment assignment shall be null and void. Employees shall be notified of (1) conditions of employment; (2) salary to be paid; (3) duration of the assignment and (4) the fact that the employee is subject to the policies set forth in the Handbook, as amended from time to time.

SECTION 3.3: Standard Personnel Recommendation and Information Forms

The President, will submit personnel action recommendations and information for review or approval by the Board. The recommendations and information to be submitted include but are not limited to:

A. Recommendations:

1. Initial appointments of tenured and tenure-track faculty and administrators
2. Favorable recommendation to award tenure
3. Conferral of emeritus status
4. Awards of honorary degrees
5. Sabbatical leaves

B. Information:

1. Appointments of temporary faculty and temporary administrators
2. Faculty promotions
3. Leaves without pay

4. Paid administrative leave in excess of thirty (30) working days; unpaid administrative leave in excess of sixty (60) working days
5. Resignations
6. Non-renewal of probationary faculty members
7. Termination of administrators
8. President's final decision to deny tenure
9. Transitional retirements
10. Final sabbatical leaves reports

Other actions, which require Board approval, will be handled on a case-by-case basis.

SECTION 3.4: Discrimination, Harassment, and Violence Prohibited

The University prohibits discrimination in employment-related and student-related decisions against any applicant, employee or student based on race, color, religion, creed, sex or gender (including pregnancy), national origin, ancestry, age (40 and older), disability (where otherwise qualified), veteran status, marital status or sexual orientation (referred to jointly as "protected status"). Harassment based on protected status is a form of discrimination, and is also prohibited. Further, the University has a zero tolerance for violence and threats of violence, regardless whether the conduct is based on a victim's protected status. Any employee or student who engages in prohibited discrimination, harassment, or violence may be disciplined, discharged, or expelled. The University shall include in its policies for employees and students a policy prohibiting such conduct, and setting forth a method for reporting the prohibited conduct. The policies will also provide for the investigation of complaints and corrective action

SECTION 3.5: Presidential Authority Over Certain Personnel Matters

- A. These powers delegated hereunder shall be exercised in conformity with the Handbook and applicable Board policies, and shall include the authority to give all notices and take other actions, which may be necessary to comply with such policies.
- B. **Delegated Powers.** The Board of Trustees delegates the following powers over professional personnel matters to the President of the University. For the purposes of this section, "professional personnel" means professional personnel, temporary faculty, tenured faculty, technical faculty, tenure-track faculty, and administrative personnel as defined in the Handbook.

Board approval shall not be necessary to give effect to personnel actions authorized by this subsection 3.5.A.

1. The power to assign temporary personnel is hereby delegated to the University President.
2. The power to renew employment assignments of temporary and tenured faculty members is hereby delegated to the University President.
3. The power to terminate administrators is hereby delegated to the University President.
4. The power to non-renew the employee assignments of technical, temporary or tenure track faculty members is hereby delegated to the University President.
5. The powers to suspend professional personnel and to dismiss or non-renew faculty members and regular/administrative personnel for cause in accordance with Handbook, is hereby delegated to the University President.

6. The power to accept the resignations of professional personnel is hereby delegated to the University President. Resignations shall become irrevocable when accepted by the University President in writing.
 7. The power to reassign administrators to any other exempt position at the University is hereby delegated to the University President.
 8. The power to discipline professional personnel for violations of Handbook and/or Board policies is hereby delegated to the University President.
 9. The power to promote faculty members in rank is hereby delegated to the University President.
 10. The power to grant administrative leave, leave without pay, sick leave and vacation leave is hereby delegated to the University President.
 11. The power to approve transitional retirement applications and enter into transitional retirement assignments is hereby delegated to the University President. This power shall be exercised in conformity with the Handbook and the following item 12.
 12. The power to evaluate professional personnel, award performance-based salary adjustments and supplement salaries is hereby delegated to the University President. All performance-based salary adjustments awarded hereunder must be consistent with the University's Board-approved salary administration plan and Board-approved annual operating budget guidelines.
- C. **No Sub Delegation.** Unless authorized by the Handbook or other Board policies, the personnel powers delegated to the University President by this section may not be sub delegated to subordinate officers or employees of the University. Policies or procedures providing for peer or supervisory review, evaluations or recommendations shall not in any event be or be deemed to be sub delegations of the powers delegated to the University President.
- D. **Retained Powers.** The Board retains the following personnel powers:
1. All powers relating to the appointment, employment, compensation, evaluation and termination of the President.
 2. The power to award or deny tenure to the President.
 3. The power to award or deny tenure to any newly appointed or currently employed professional personnel who are recommended for tenure by the President.
 4. The power to appoint and/or enter into initial employment assignments of all tenured and tenure-track faculty members and administrative personnel. The President is authorized to execute such assignments on the Board's behalf; however, no appointments or initial employment assignments shall be binding or effective unless and until approved by the Board.
 5. The power to authorize a reduction in force for one or more of the reasons listed in the Handbook.
 6. The power to review and/or take action on the initial decisions of hearing officers in all cases in which hearings are authorized by and timely requested and conducted under applicable sections of the Handbook in connection with disciplinary actions, dismissals, non-renewals or suspensions of professional personnel (including terminations due to a reduction in force).

7. The power to confer emeritus status on retiring professional personnel.
 8. The power to dispose of grievances filed under the Handbook in all cases in which grievances are heard and reports are filed by hearing officers.
 9. The power to grant sabbatical leaves.
 10. The power to make, adopt, review, approve, amend, modify, rescind or repeal any and all personnel policies including, without limitation, Handbook policies, University affirmative action plans or policies, University salary administration plans, University performance evaluation systems, University promotion policies, and University tenure policies. No personnel policy shall have any force or effect unless adopted or approved by the Board.
 11. The Board retains all professional personnel powers not specifically delegated to the President.
- E. **Reporting and Accountability.** At each regularly scheduled meeting of the Board, the President shall report personnel actions occurring since the preceding regularly scheduled Board meeting on standardized personnel forms approved by the Board.

SECTION 3.6: Drug-Free Workplace Policy

The unlawful manufacture, distribution, sale, dispensation, possession or use of a controlled substance in the workplace or a state-owned vehicle by employees of the University is prohibited.

- A. As a term of his or her employment, every University employee shall:
 1. Abide by the terms of this Policy Statement; and
 2. Notify the Director of Human Resources of any criminal drug statute conviction for a violation occurring in the workplace or a state-owned vehicle no later than five days after such conviction.

Any employee who violates the provisions of this Policy Statement shall be subject to appropriate disciplinary action, which may include termination. This Policy Statement shall be included in the Handbook.

SECTION 3.7: Policy Prohibiting the Unlawful Possession, Use or Distribution of Illicit Drugs and Alcohol by Students and Employees

- A. **Standards of Conduct.** The Trustees hereby prohibit the possession, use or distribution of illicit drugs, marijuana and alcohol by students and employees on the property or as part of the activities of the University, except as set forth in Section 4.9.
- B. **Disciplinary Sanctions.** Students and employees who violate the foregoing standards of conduct shall be subject to disciplinary sanctions which may include, without limitation, completion of an appropriate rehabilitation program, reprimand, probation, suspension from the University, expulsion from the University, corrective action, a fine, temporary adjustment of pay to a lower step in the assigned pay grade, demotion, reassignment with or without a salary adjustment, suspension with or without pay, and termination. Disciplinary sanctions shall be consistent with local, state and federal law and shall be administered in accordance with applicable student disciplinary procedures, state personnel system rules and procedures, and Handbook policies. In

addition to the foregoing disciplinary sanctions, violations shall be reported to law enforcement authorities for criminal prosecution.

C. Definitions.

1. "Illicit drugs" shall mean controlled substances listed in Schedules I-V of the Controlled Substances Act, 21 U.S.C. § 812, and related federal regulations, 21 C.F.R. §§ 1308.11 - 1308.15, as they may be amended from time to time and Schedules I-V of title 18, article 18, part 2 of the Colorado Revised Statutes as it may be amended from time to time. "Illicit drugs" shall include controlled substance analogs as defined by federal and state law.
2. "Alcohol" shall mean any beverage containing not less than 0.5% ethyl alcohol by weight.
3. "Property" shall mean any real or personal property owned, leased, chartered or occupied by the University including, but not limited to, motor vehicles, boats and aircraft.
4. "Activities" shall mean any act or event sponsored or participated in by the University, including its constituent administrative units and approved student organizations. Without limitation, "activities" shall include all intercollegiate and intramural athletic events; faculty, staff and student meetings; conferences; field trips; retreats and all other acts or events for which the University (including approved student organizations) pays expenses, or provides facilities, services, supplies or transportation.

"Activities" shall not include incidental work- or study-related activities which students or employees perform in their personal, off-campus residences (e.g., studying, class preparation, writing or reading) or purely social events, which are held off-campus and are organized or attended by students or employees solely in their personal capacities.

D. Implementation. The University shall implement a drug and alcohol abuse prevention program which, at a minimum, meets the requirements of the Drug-Free Schools and Communities Act Amendments of 1989, 20 U.S.C. §1145(g), and shall review its program biennially to determine its effectiveness, implement changes if needed and ensure that the sanctions authorized by this policy are consistently enforced.

E. Other Policies. This policy is supplemental to and does not supersede or repeal other related State policies, including the State of Colorado Substance Abuse Policy promulgated by the Governor.

SECTION 3.7.1: Policy Prohibiting Tobacco Use in Certain Areas by Students and Employees

A. Standards of Conduct. The Trustees hereby prohibit the use of any tobacco product within forty feet (40') of any Colorado Mesa University leased, owned, operated and controlled buildings.

B. Definitions.

1. "Tobacco" means cigarettes, e-cigarettes, cigars, cheroots, stogies, and perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; Cavendish tobacco; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. "Tobacco" also includes cloves and any other plant matter or product that is packaged for smoking.

C. **Implementation.** The university shall be responsible for ensuring that adequate signage and receptacles are available to ensure adherence to this policy.

D. **Other Policies.** This policy is supplemental to and does not supersede other related state policies or law, including the State of Colorado Clean Indoor Air Act, C.R.S. 25-14-201, et seq.

SECTION 3.8: Policy Governing Electronic Mail and Other Electronic Communications; Policy Regarding the Retention, Archiving and Destruction of Records Kept Only in Digital or Miniaturized Form

The President shall develop policies pertaining to electronic mail and other electronic communications; use of University computers (including internet and intranet use); and the retention, archiving and destruction of records kept only in digital or miniaturized form. Such policies shall comply with the Colorado Public Records Act, C.R.S. §§ 24-72-201, et seq. Such policies shall be reviewed and approved by the Board. Once approved, such policies shall be posted on the University's web site.

CHAPTER 4:

BUSINESS/FINANCE AND PHYSICAL PLANT

SECTION 4.1: Financial Authority

The Board delegates to the President the authority and responsibility to establish, maintain and manage a financial budget and accounting system for all sources of funds subject to approval by the Board of each fiscal year's budget. This includes appropriated programs, auxiliary enterprise funds, student activity fees, sponsored programs, gifts, contracts and grants, capital construction, controlled maintenance, and other funds.

- A. All funds shall be budgeted in conformance with instructions, guidelines, and formulas established by funding or coordinating agencies (e.g., the CCHE). The President is authorized to establish processes and procedures in accord with such instructions, guidelines and formulas.
- B. All funds shall be reported or accounted for in conformance with generally accepted accounting principles and practices promulgated by the American Institute of Certified Public Accountants and the National Association of University and University Business Officers.
- C. The expenditure of all funds shall be audited in accord with Colorado statutes, and in conformance with generally accepted auditing principles and practices.
- D. The President is charged with recommending fiscal year budgets annually for all funds to the Board for review and approval. The President shall submit periodic status reports to the Board for review and approval.

SECTION 4.2: Tuition and Fees

The Board of Trustees has the responsibility and authority to set tuition and fees in accordance with the policies established by the CCHE.

- A. The President shall annually submit a recommended tuition and fee schedule for the upcoming fiscal year to the Board for review and approval as part of the operating budget setting process. While the timeline and format of such presentation may vary, the schedule shall compare proposed tuition rates and structure and all fees with the previous year's charges. Appropriate justification and support materials must accompany the presentation.
- B. The Board shall approve actions regarding all student fees (new or modified). The Trustees intend that the President consult with the student government in establishing rates and allocating funds related to student activity fees prior to submission to the Board. Student fees cannot be used to support academic instruction; nor should increase in academic fees be used to minimize tuition rate proposals by shifting tuition increases to special fee increases. Mandatory student fees shall be used to fund activities and services open to all students.

The proposed distribution of funds among the various student activities and a comparison with previous year's budgets will be submitted to the Board for review and action.

- C. Fees and related budgets are to be submitted to the Board for review and action.

SECTION 4.3: Guidelines, Review Procedures and Reporting Policies for the Provision of Goods and Services by the University

- A. Guidelines for the Provision of Goods and Services

- 1. Introduction

The primary mission of higher education Universities is to create and disseminate knowledge. To perform this mission, it is often necessary for Universities to provide, and charge fees for, goods and services that enhance, promote, or support their teaching, research, and public service functions. It is important, however, that Universities be mindful that the provision of goods and services may be in competition with private businesses, and remain sensitive to the interests of private businesses.

The purpose of these guidelines is to define the legitimate purposes of the provision of goods and services by the University and to establish a mechanism for addressing complaints of unfair competition by private businesses.

2. Exclusions

In recognition of the teaching, research, and public service missions of higher education Universities, these guidelines shall not apply to the following situations:

- a. Instructional charges;
- b. Services provided in the experiential aspects of instructional and research programs;
- c. Services for fees in extracurricular or residential life programs, including residence halls, food services, athletic, recreational and cultural programs;
- d. Public service radio and television stations licensed to the University.

3. Guidelines

It is appropriate for the University to provide and charge for goods and services to students, faculty, staff and invited guests, under the following conditions:

- a. The good or service is authorized by statute;
- b. The good or service offers a valuable educational or research experience for students as a part of their education;
- c. The good or service fulfills the public service mission of the University of higher education; or
- d. The good or service is being provided other than through intergovernmental or interagency agreement with another agency of state government or unit of local government, which, if provided directly by the University would be in violation of these guidelines.

4. Criteria for Provision of Goods and Services to Students, Faculty and Invited Guests

In determining the appropriateness of a good or service to the campus community, consideration shall be given to the following criteria:

- a. Whether the good or service is substantially and directly related to the instructional, research, or public service mission of the University;

- b. Whether the good or service is necessary or convenient for the campus community;
 - c. Whether the intended use of the good or service is for students, faculty, staff, or invited guests rather than the general public. Invited guests are defined as persons who enter a campus for an educational, research, or public service activity, and not primarily to purchase or receive goods and services not related to the educational, research, or public service mission of the campus;
 - d. Whether the price charged reflects the direct and indirect costs and overhead costs of the good, as well as the price in the private marketplace; or
 - e. Whether in establishing the price of the good or service, consideration was given to the price in the private marketplace; or
 - f. Whether there is a demand by the general public for the good or service.
5. Criteria for Sales to the External Community

In assessing the advisability of providing goods or services to the external community, both of the following criteria must be met:

- a. The good or service represents a resource that is directly related to the University's educational mission, not commonly available or otherwise easily accessible, and for which there is a demand from the external community; the goods or services are byproducts of the University's instructional, research, or public service activities; the University has specific statutory authority to sell the good or service; or the good or service is produced from the businesslike management of the assets of the University for the exclusive benefit of the University; and
- b. The price charged is sufficient to recover the full costs, including both direct and appropriate indirect costs, of the good or service. The price of such items in the private market place shall be taken into account in establishing the price or fee.

B. Guidelines for Grievance Review Procedures

In the event that the provision of a good or service by the University is perceived to be in competition with a privately owned business, that business shall be provided the opportunity for a hearing of such complaint according to the following guidelines:

- 1. The complaint shall first be heard by the President or the President's designee.
- 2. If resolution is not reached as a result of the initial review by the President, appeal may be made to the Board of Trustees.

SECTION 4.4: Official Expense Allowance for Travel for Board of Trustees and Administrative Staff

Official travel by Board members and administrative staff must be for the benefit of the State. All travel should be completed at the most economical and reasonable cost.

A. Out of State Travel

1. The Board Chair shall be responsible for granting prior written authorization for all out of state travel for Board members. The President or his or her designee shall be responsible for granting prior written authorization for all out of state travel for administrative staff. The Out of State Travel Request and Authorization form should be submitted with the travel reimbursement voucher.

B. Types of Expenses That Are Reimbursed

Appropriate documentation (receipts) of expenses for which reimbursement is sought is required for the following:

1. Registration fees for conferences and seminars
2. Official telephone calls
3. Commercial transportation costs
4. Rental car cost
5. Tips of more than 15 percent
6. Lodging
7. Meals (if charges exceed amounts authorized by state fiscal rules), including tips
8. Other appropriate expenses

C. Documentation is not required for the following:

1. Mileage for use of a private vehicle
2. Tips up to 15 percent
3. Meals (if charges do not exceed amounts authorized by state fiscal rules), including tips

SECTION 4.5: University Foundations: Acceptance and Management of Gifts and Donations

It is Board policy that the University shall establish and operate a nonprofit, independent corporate foundation for the purpose of accepting, controlling, and managing funds and other gifts received as donations to the University. Articles of incorporation are to be reviewed by Board of Trustees.

The public purposes of the Foundation are to assist the general public with higher education costs through the generation of scholarships, to stimulate economic development through capital campaigns, to develop properties for the University's use, and to promote higher education and academic enrichment through procurement of endowed funds.

Gifts to the foundation and expenditure of foundation funds must be consistent with the role and mission of the University and must contribute to institutional goals and objectives.

- A. Any gift or activity funded through the foundation that requires or is likely to require, the

use of state appropriated program funds must have prior approval of the Board. The University foundation shall submit, by October 1 of each year, an audit report and a written annual report to the Board, which shall include:

1. A statement of sources and uses of funds for the prior fiscal year; and
2. A report of projects funded by the foundation in the prior fiscal year.

SECTION 4.6: Naming of University Buildings

The Board shall approve the names of all University buildings.

SECTION 4.7: Approval of Memorials (Fountains, Monuments, Buildings, etc.)

All proposals and plans for the construction of memorials, which require the expenditures of funds from any source, shall be submitted to the Board for review and action. Subsequently, the project shall follow the standard capital construction approval process.

SECTION 4.8: Fire and Safety Inspection Reports

The University shall appoint an administrator who is responsible for safety and for fire inspections. This officer shall be responsible for University compliance with state and local building and safety codes, and shall file quarterly fire and safety reports with the President's office.

SECTION 4.9: Use of Tax-free Alcohol on University Campus

The University shall be permitted to procure and use tax-free alcohol for instructional purposes provided such procurement and use are in strict compliance with Title 12, Articles 46 and 47, C.R.S. The President shall be responsible for the proper acquisition and use of alcohol and shall have the authority to delegate to appropriate individuals on the campus the authority to sign the necessary applications and documents for licenses and requisitions.

SECTION 4.10: Processing Surplus Property

The University is authorized to process property through the Colorado Surplus Property Agency. The President is to delegate the authority to designate authorized representatives to obligate University funds and obtain the transfer of property from the Colorado Surplus Property Agency, upon and subject to the terms and conditions set forth by the Colorado Surplus Property Agency.

The President shall forward additions to or deletions from the list of authorized representatives immediately to the Colorado Surplus Property Agency.

SECTION 4.11: Trustees Tax Deferred Annuity (TDA) Plan

The University may offer to its benefits-eligible employees, the administration of a payroll deduction tax deferred annuity plan in accordance with Internal Revenue Code § 403(b).

SECTION 4.12: Leases of Real Property

The Board of Trustees has the responsibility and authority to review and approve the acquisition of real property secured through lease rental agreements or otherwise.

This policy applies to the acquisition of real property regardless of its planned use (e.g., instructional, public service, institutional support, academic support, etc.).

“Real property” is defined as land, any interest therein, and generally whatever is erected or growing upon or affixed to land.

Lease, rental, or other real property use agreements executed prior to the effective date of this policy shall not be construed as invalidated.

SECTION 4.13: Defined Contribution Pension Plan

The University may offer to its benefits-eligible employees a Defined Contribution Pension Plan in accordance with C.R.S. §§ 24-54.5-101, et seq. The University may continue to offer a Defined Payment Pension Plan to those employees who are participating in this plan as of July 1, 2003.

SECTION 4.14: University Officer Titles

For purpose of exempting some of the professional staff members of the University from the State Personnel System, pursuant to Article XII, Section 13 (2) of the State Constitution, and § 24-50-135(a), the following position titles at the University are designated as “Officer of the University.” It is the intention of this policy to allow a position to have a “working title” that is different than its official title.

- President
- Vice President
- Associate Vice President
- Assistant Vice President
- Controller
- Executive Director
- Director

SECTION 4.15: Debt Management

The University may incur debt financing for a variety of reasons. Most commonly, debt is used to pay for capital construction and capital improvements over a period of time rather than pay for these improvements at the time of purchase or acquisition. However, there are other reasons for borrowing besides the financing of facilities. These could include, for example, the need for working capital, or to finance equipment acquisitions, or to fund an entrepreneurial activity.

Debt management includes many forms of debt financing and refinancing. There are also different sources of funds for the financing of facilities. The capital markets are probably the primary source of debt financing for the University, but gifts and investments could someday become a possible source of funds. Nonetheless, they all involve certain financial responsibilities and, at the same time, potential risk. Any and all bond or debt issues will be reviewed and approved by the Board. Such reviews should include:

- Existing debt service requirements
- Purpose, goals and objectives of contemplated debt
- Financing alternatives and revenue sources
- Debt capacity analysis
- Schedule and timing of debt acquisition and use
- Market conditions
- Cross pledging among funds

SECTION 4.16: Reporting Requirements for Tax Exempt Debt

Any tax-exempt debt, including bank-qualified debt, incurred by the University must be approved by the Board prior to the issuance of the debt instrument (e.g., bonds, lease purchase agreements, etc.).

CHAPTER 5:

ACADEMIC AFFAIRS

SECTION 5.1: Academic Freedom

The Board of Trustees endorses the principle of academic freedom, which means the freedom to fully discuss academic subjects; engage in research and publish the results of research; and write or speak as citizens without fear of institutional censorship or discipline, provided that individuals do not represent themselves as writing or speaking for the University. Academic freedom is extended to all faculties regardless of tenure status.

SECTION 5.2: Academic Planning

The President, with the advice of the faculty, shall develop policies, subject to Board approval, for short and long-term academic planning. Such policies shall conform to all requirements of statute. The Board also recognizes that while it has the ultimate authority for approving curriculum, the faculty should play a proactive role in formulating curriculum for the Board's consideration.

SECTION 5.3: Approval, Modification and Discontinuation Procedures for New Degree, Sub major and Minor Programs

The President, with the advice of the faculty, shall develop policies, subject to Board approval, for the approval, modification and discontinuation of new degree, sub major and minor programs. Such policies shall conform to all requirements of statute, and shall be consistent with Board goals and priorities.

SECTION 5.4: Review Procedures for Existing Programs (Policy and Procedures for Academic Program Review)

The President, with the advice of the faculty, shall develop policies, subject to Board approval, for the review of existing programs. Such policies shall conform to all requirements of statute and the CCHE, and shall be consistent with Board goals and priorities.

SECTION 5.5: Academic Calendar

The University shall operate on a semester system during the academic year.

The period and duration of summer terms are to be scheduled by the University to respond to the distinctive needs of the University and its clientele. Innovative scheduling of mini-semester, short courses, and non-traditional programs is encouraged.

SECTION 5.6: Policy for Developing and Discontinuing Cooperative Programs

The CCHE has statutory authority for the approval of new programs for all public Universities; therefore, if circumstances appear to justify independent degree-granting status for a cooperative program, the normal new program approval policy of the CCHE will be followed. Further, the CCHE has statutory authority to discontinue programs; therefore, if circumstances appear to justify discontinuance of a cooperative program arrangement, the CCHE will act using its discontinuance policy as a guide.

SECTION 5.7: Admission Requirements of the University

The Board has the responsibility and authority to establish the admission requirements for the University, provided that such requirements do not include admission standards lower than those set by the CCHE. The admission requirements may not be changed in any way without prior approval of the Board.

The University may not implement any changes in admission requirements involving admission standards approved by the Board until such changes have been approved by the CCHE. The President is assigned the responsibility for communicating with the CCHE.

As the need arises, the President will monitor admission practices of the University to assure compliance with published admission requirements.

SECTION 5.8: Transfer of Earned Credits

The University adheres to the “Statewide Transfer Policy” adopted by the CCHE.

SECTION 5.9: Policy on Intellectual Property

A. Copyright Policy

1. **Encouragement of Scholarly and Creative Work.** In the course of teaching and professional development duties and other intellectual and administrative activity at the University, faculty, staff, student employees and others may create works that are protected by copyright. Federal copyright law provides that most original works of authorship are protected by copyright automatically when they are fixed in tangible form. Copyrightable works or authorship include, among other categories, books, articles and other written works; musical and dramatic works; pictures, sculpture and other works of art; computer software; and electronic chip designs. Works created by faculty, staff, and student employees in the course of their responsibilities may be found in any of these categories. As a matter of fundamental policy, the Board of Trustees encourages the wide dissemination of scholarly and creative work produced by members of the University community, including copyrightable works.
2. **Ownership.** Under the Copyright Act, the copyright to work created by a person in the course of his or her employment belongs to the employer rather than to the individual creator. The Act provides, therefore, that works created by faculty members in the course of their teaching and professional development activities, and works created by staff members in the course of their jobs, are property of the University. However, to encourage members of the academic community to write and to publish what they wish, most universities have not asserted their claims of ownership to certain scholarly works. Instead, books, articles, lecture notes and outlines, computerized “courseware” and other forms of scholarly writing intended to fulfill the regular classroom teaching and professional development responsibilities of faculty have traditionally been treated as the property of the author, who is entitled to determine how the works are disseminated and to keep any income they produce. In recognition of this longstanding academic tradition, the University disclaims ownership of works by faculty, staff, and students, whether in traditional or nontraditional forms except in the following cases:
 - a. **Assigned Tasks.** The University will own the copyright to works created (i) by administrative/professional or classified staff members of the University in the course of their assigned duties or employment; (ii) by student employees in the course of their assigned duties (“student employees” includes students who work on a University-funded project, with or without academic credit); or (iii) by faculty members as part of an agreed assignment, when the assignment explicitly states that the work will be owned by the University.
 - b. **Outside Agreements and Consultant Agreements.** When copyrighted materials are developed by an investigator in the course of sponsored research funded by an outside agency or organization pursuant to an agreement approved by the University, ownership

of the copyright will be determined by the applicable terms of the funding agreement if the agreement addresses the issue. When University resources are used to retain the services of a consultant or independent contractor for the specific purpose of creating a copyrightable or patentable work, the contract shall provide that the consultant will assign the work to the University unless the Vice President for Academic Affairs approves other terms.

- c. **Patentable Works.** When a copyrighted work is also patentable, such as certain computer software source code among other categories of work, the University's patent policy will apply to it, notwithstanding any inconsistent provisions of this policy.

- d. **Online and Other Distance Learning Course Materials.** Online and other distance learning course materials (including course materials delivered over the Internet or a campus intranet, by TV or radio broadcasts, or fixed in machine-readable digital storage media, videotape, or audio tape) cannot be treated as traditional works because of the legal and business consideration that affect them. The University devotes significant material and technical resources to the design, development and distribution of these course materials. Also, contracts involving display, reproduction, or distribution of copyrighted material commonly require assurances as to ownership as protection against infringement claims. The University must retain sufficient rights in online and distance learning course material to provide such assurance if they are to pursue distance education opportunities that may arise in an uncertain business environment. Also, the University must retain sufficient rights in online and distance learning materials to enter appropriate and mutually acceptable relationships with external organizations. Because the terms of such relationships cannot be foreseen, it is not possible to provide specific guarantees of any kind as to what the University may be able to provide faculty members in the form of compensation and terms. However, the Trustees recognize that University ownership and use of academic work that is created by faculty may involve important consideration of academic integrity. Before entering a contract with an external public or private organization that would involve such academic consideration, the University will consider the faculty member's interest in using and protecting the integrity of the work, including but not limited to interests in: (i) using the work in future scholarly activity and employment; (ii) controlling the use of the faculty member's name in association with the work; and (iii) revising the work to assure that it is current. Unless otherwise agreed in writing, the University will retain ownership of scholarly or creative work that is delivered, transmitted, or fixed as provided in this subparagraph. However, the Trustees encourage joint ownership agreements with faculty members who create online or other distance learning courses, which agreements would grant the institution the exclusive right to license the work to others for a specific period of time, allow each party to retain a nonexclusive right to use the work for non-commercial educational purposes, and address the issues of attribution and revision. The Trustees authorize the President to establish institutional contract terms and revenue sharing policies for distance learning courses that as may be, in the President's judgment, financially prudent and consistent with the University's commitments and objectives.

- e. **Special Circumstances.** Where the University makes an unusual and significant commitment of resources to a project, the University may retain ownership of any works created. The President or Vice President for Academic Affairs will determine whether such commitments exist in a particular case and whether the University will retain ownership of such works. When feasible, the President or Vice President for Academic Affairs will make this determination before the work is created and at the

beginning of this project, and will so inform the principal investigator or other responsible party.

Although sabbatical leave involves such an unusual significant commitment of resources, works created by faculty members on sabbatical leave traditionally have been treated as the property of the author. Except as provided in subparagraphs a, b, c, and d of this policy, the University disclaims ownership of works by a faculty member on sabbatical leave.

Works that do not meet the criteria stated in subparagraphs a through e above, and works created by a University employee outside the scope of employment and without the use of institutional assistance, support, facilities or resources shall be the exclusive personal property of the employee.

In any case in which there is a question about the ownership of a work, the President or Vice President for Academic Affairs will decide the issue.

3. **Students.** Because students who are not University employees may work with faculty members or other University employees on intellectual property in which the University claims an interest as provided herein, the Copyright Act does not automatically grant the University ownership of the copyright to student work. However, to assure fairness, students who serve on University-funded projects, with or without salary and with or without academic credit, are covered by this policy as student employees. Students acting in such capacity are subject to this policy as a condition of their enrollment, employment, or association with the University-funded project. Students will be the sole owners of works that they create solely in their capacity as students or individuals, and not as “student employees” as that term is defined above.
4. **Use of Income from University-Owned Works**
 - a. **Division.** Any income which the University receives from the commercial licensing, sale, lease, or other commercial use of copyrighted works owned by the University pursuant to this copyright policy will be shared as determined by the University in its sole discretion. The University will ordinarily share fifty percent of net revenues from such commercial uses with the individual employees who created the work.
 - b. **Disposition of University Shares.** The portion of net income that is not paid to the creator or creators of a work will be used as determined by the University in its sole discretion.
5. **Assistance from the University.** A faculty member, staff member, or student employee who has created and under this policy owns a copyrighted work, and who wishes to engage the resources of the University for assistance in licensing or otherwise exploiting the copyright, may request such assistance from the Office of Academic Affairs or other office designated by the Board. If the University provides such assistance, all net income from its licensing efforts will be shared between the University and the creator(s) as provided in paragraph 4 above.
6. **Authors are Responsible for Registering and Defending their Copyrights.** Except as provided in paragraph 4 of this policy, faculty members, staff, and students are solely responsible for identifying, registering and taking any other legal action necessary to protect and defend their copyrights and any related rights to or arising from work in which the University has disclaimed ownership interests.

B. Patent Policy

1. **Encouragement of Patents.** In the course of teaching, professional development, and other intellectual and administrative activity at the University, faculty, staff, student employees (as defined above), and others may make discoveries or inventions both patentable and practical. Encouraging such inventions in appropriate ways both supports the public interest and is consistent with the advancement and dissemination of knowledge, the primary purpose of teaching and professional development. The University's patent policy establishes the procedure to be followed in the administration of inventions which result from teaching, professional development, and other intellectual activity performed under University auspices as defined and clarified in paragraph 6 below.
2. **Purpose of Patent Policy.** The purposes of this patent policy are (1) to help assure, in the public interest, that the patentability (or other means of protection) and practicality of inventions will be evaluated by qualified persons, and that the income from inventions will be used to support professional development or other desirable University activities; and (2) to allocate remuneration between the inventor or inventors (hereinafter the "inventor") and the University if the invention produces Net Revenues from commercial use.
3. **Procedure as to Inventions.**
 - a. **Patent Applications.** All inventions described in paragraph 1 shall be reported promptly in writing to the President or Vice President for Academic Affairs. The President or Vice President for Academic Affairs, with the advice of legal counsel, shall conduct an initial screening followed, if appropriate, by a detailed evaluation of the invention. The evaluation may be conducted internally or referred to an external organization. After the evaluation, the University, with or without the assistance of an external organization, may make application for letters patent or other means of protecting and marketing the invention. At the President's or Vice President for Academic Affairs' request, the inventor shall execute assignments or other documents assigning to the University all rights in the invention and any patent applications or resulting patents on the invention. The University will retain title to all such patent applications and resulting patents. If the University decides that it does not wish, and/or has no obligation to participate in patenting or licensing an invention, the University may release the University's interest in the invention to the Inventor, and the Inventor shall then be free to dispose of the invention as he or she wishes.
 - b. **License Agreements.**
 - i. If the University decides to participate in patenting or licensing an invention, the University will seek to enter into appropriate licensing arrangements to commercialize the invention. The University's objectives are to assure the development of its technology in furtherance of its own educational mission and to the benefit of society in general. Therefore, as a general policy, the University will establish license terms that further these objectives. Exclusive licenses will be granted if it appears to the University that this is the most effective way of ensuring that development will proceed to the point that the public will benefit. Any exclusive license agreement will protect against the licensee's failure to develop and market the invention within a specified time.
 - ii. Grants or contracts sponsored by government agencies and private businesses typically include a section covering patents on future inventions, if any. When deemed appropriate, the sponsor may be granted a license to any inventions developed during the term of the grant or contract in accordance with the policies outlined in (1) above.

4. **Division of Net Revenues.** The Net Revenues as defined below shall be divided between the Inventor(s) (as defined under the patent law) and the University as follows:

Fifty percent (50%) to the inventor(s), 50% allocated to University purposes pursuant to paragraph 5.

As used in this document, the term “inventor” may represent two or more individuals. These individuals will be expected to agree among themselves on the fractional distribution of the “inventor” share of any Net Revenues. A written agreement must be signed by all the individuals involved, and deposited for the record in the President’s or Vice President for Academic Affairs’ office. If no written agreement has been deposited at the time of a distribution of Net Revenues, the inventors’ share of such distribution shall be divided equally among the inventors.

5. **University Use of Net Revenues.** The University’s share of Net Revenues will be used for such University purposes as the President shall determine.
6. **Inventions Not Under University Auspices.** Inventions by University employees usually result from teaching, professional development, or other intellectual activity involving University facilities or personnel.

Accordingly, all inventions by University employees must be reported to the President or Vice President for Academic Affairs’ Office. If the University determines that an invention by a University employee is unrelated to the activities for which the individual is employed and has not involved the use of University facilities, property, or personnel, the University will make no claim to such an invention. All inventions made or conceived under circumstances involving University facilities, property or personnel are the property of the University.

An invention made by a faculty member in the course of a paid consulting engagement for a company may be assigned to the company only if it is unrelated to the activities for which the faculty member is employed by the University and it was not made or conceived under circumstances involving University facilities, property, or personnel. Such an invention will be considered unrelated to the activities for which the faculty member is employed by the University if the invention arises directly out of consulting activity paid for by the company, and, for example, it is made in response to a problem posed by the company or is based on nonpublic information provided by the company to the faculty member for use in the consulting engagement. All inventions made by University faculty members in the course of consulting, and any assignments of rights to such inventions, must be reported promptly to the President’s or Vice President for Academic Affairs’ Office. The University will agree to abide by reasonable confidentiality restrictions for disclosures of inventions and assignments made in the course of consulting.

An invention will be considered not to have involved the use of University facilities if no University facilities or resources (including but not limited to space, computers, laboratory equipment and supplies), no University-administered funds, no University property and no University personnel other than the faculty member himself or herself, are involved in the conception or reduction to practice of the invention.

7. **When Arrangements with Outside Organizations Override this Policy.** Arrangements with outside people and organizations that propose terms which are exceptions to this policy must be submitted to the President or Vice President for Academic Affairs for review. If approved by

the University the terms shall be binding upon all members of the faculty, staff, and employees of the University conducting such projects or utilizing such facilities, and will supersede the provisions of this patent policy to the extent that the terms are inconsistent herewith.

8. **Inventions by Staff Resulting from Performance of the Responsibilities of Their Employment.** If administrative/professional or classified staff, make commercially valuable discoveries or inventions in the course of carrying out their assigned duties (e.g. the employee received a salary or wage for the purpose of developing the discovery or invention or for work which directly resulted in the discovery or invention), there is no presumption that the University will share any resulting net revenues with the employee. The University does not share revenues with such staff except in cases where it appears that the invention or commercially valuable property has not resulted from the performance of assigned duties. However, the President or Vice President for Academic Affairs may decide to share revenues on any basis.
9. **Governmental Rights in Certain Inventions.** Current governmental regulations permit educational institutions to retain rights and title to patentable inventions which result from federally funded experimental, developmental and research work. Retention of rights by a University is contingent upon the satisfaction of a number of obligations by the University and the inventor(s). These obligations must be met to protect the parties' interests. Though the University may retain rights and title to such patentable inventions, the federal government retains a royalty free license and places certain other restrictions upon the ultimate disposition of the patent(s). Details of the implementing regulations may be obtained from the office of the President or Vice President for Academic Affairs. Members of the University community who apply for and receive federal funding to support research or who use federal monies in the conduct of their research must execute a written agreement that they will promptly disclose patentable inventions to the University and will execute all instruments necessary to protect the rights of the government and/or the University. Forms for this agreement will be provided to all faculty and will be available for other participants from the office of the President or Vice President for Academic Affairs.
10. **Revocation or Amendment.** This patent policy is subject to revocation or amendment by the Board of Trustees in its sole discretion. In case of doubt as to the interpretation of this patent policy, the President or Vice President for Academic Affairs will provide a definitive interpretation. This patent policy is effective as to all inventions/discoveries made on or after the date of adoption.

C. Distribution of copyrighted materials or intellectual property by network user.

1. Colorado Mesa University complies with the higher education opportunity act (HEOA) and strictly prohibits students, faculty, and staff from the unauthorized distribution of copyrighted material and intellectual property, including the unauthorized peer-to-peer file sharing using the University's information technology system. The unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students and employees to civil and criminal liabilities.
2. The University, through the information technology department, has developed a HEOA-compliant plan and policy to effectively combat the unauthorized distribution of copyrighted material, including through the use of a variety of technology-based deterrents; and, to the extent practicable, offers alternatives to illegal downloading or peer-to-peer distribution of intellectual property.

3. The plan includes a description of the University's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students, faculty, and staff who engage in unauthorized distribution of copyrighted materials using the institution's information technology system, and a summary of the penalties for violation of federal copyright laws.

D. Definitions

For purposes of this policy:

1. "Intellectual property" means a work, creation, invention or idea that can be owned, protected or controlled under the laws of the United States, the state of Colorado, or other governments, concerning copyrights, patents, and similar legal interests.
2. "Copyright" is the exclusive right of the owner to reproduce a work, prepare derivative works, distribute the work by sale or otherwise, and display or perform the work publicly. Copyright subsists in "original works of authorship" as defined by law, which have been fixed in any tangible medium of expression from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. In contrast to a patent, which protects an "idea," copyright protects the "expression" in the particular work.
3. A "patent" is a grant issued by the U.S. Patent and Trademark Office or a similar right granted by a foreign country. Generally, in the United States, a patent gives an inventor of a novel, useful, and nonobvious creation, invention, or idea the right to exclude all others from making, using or selling the invention within the United States, its territories and possessions for a period of 20 years after the U.S. Filing Date of the parent patent application. Patent procedures, criteria for patentability, and terms in foreign countries vary considerably from country to country.
4. "Creator," "Inventor," and "Author" are used in this policy to describe any person who possesses or claims any legal rights to intellectual property through conception, creation or other lawful means of acquisition.
5. "Contractor" is any person or entity that receives payment for goods and/or services that is reported by the University to the Internal Revenue Service on form 1099.
6. "Net revenues" or "net income" means gross income received from the commercial uses of intellectual property (including but not limited to earnings, gains, investments, license fees, rents, royalties, or sales) less all direct or indirect costs of producing, protecting, and enhancing the value of the intellectual property (including but not limited to personnel costs and overhead, consulting fees, legal fees, and the other costs associated with securing the copyright or patent, for defending it against claims of infringement, and for licensing, marketing, or otherwise using the work for commercial purposes).
7. "Commercial," when used in this policy to describe the transfer, sale and/or other use of intellectual property owned by the University, shall refer to a use that is intended to produce profit or net revenues in the commerce of intellectual property. The word shall not include uses of intellectual property for the education of students duly enrolled in the University, or for other non-profit educational purposes. The University will not share net revenues with the creator or inventor for such non-profit educational uses.

SECTION 5.10: Summary of Copyright Law Fair Use Provisions and Agreement on Guidelines for Classroom Copying

Section 107 of the Federal Copyright Law Revision of 1973, provides that “fair use” of a copyrighted work, including use by reproduction in copies, for purposes such as “teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.” The four statutory criteria used to determine whether the use made of a work in any particular case in a fair use include:

1. The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational uses;
2. The nature of the copyrighted work;
3. The amount and substantially of the portion used in relation to the copyrighted work as a whole; and
4. The effect of the use upon the potential market for or value of the copyrighted work.

An agreement between an Ad Hoc Committee and an author-publisher group entitled “An Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions” states the minimums that may be copied without infringement regarding single copies for teachers and multiple classroom copies, and contains prohibitions applicable to both.

In summary, the agreement specifies that teachers may make single copies of these items: a chapter from a book; an article from a periodical or newspaper; a short story, essay, or poem; or a chart, picture, etc. Multiple copying for classroom use cannot exceed the numbers of pupils in a class; must meet strict tests of brevity, spontaneity, and noncumulative effect; and must include a notice of copyright. “Brevity” is defined in strict and arbitrary volume terms; e.g., no more than 250 words from a poem, between 500-1000 words of prose but up to 2500 words of a complete article. “Spontaneity” requires teacher inspiration and time pressures that make it unreasonable to request permission. “Cumulative effect” limits copying by each instructor of a given item to only one course in the school, not more than nine instances of multiple copying for one course during one class term, and not more than one item from the same author nor three from the same collective work or periodical volume during one class term. Under the guidelines copies may not: i) be used as substitute for anthologies, compilations or collective works; ii) be made of “consumables” such as workbooks; iii) be a substitute for purchases, be directed by higher authority, or be repeated with respect to the same item by the same teacher from term to term; iv) be the subject of a charge to the student beyond actual copying cost.

Videotaping of television programs for classroom use from commercial television programming should be tested by the above statutory criteria for fair use. Before videotaping television programs for classroom use from a public broadcasting agency, the University should contact the local public broadcasting station as to the list of programs which schools may record off-the-air.

Institutional employees desirous of using copies of material created by others are responsible for determining its copyright status and should obtain written permission from the copyright owner before using the material except when the “fair use” criteria stated above are met.

CHAPTER 6:

STUDENT AFFAIRS

SECTION 6.1: Student Conduct, Disciplinary Action, and Student Due Process

The President shall develop policies establishing standards for student conduct, sanctions for violations of such standards, and procedures for administering sanctions. Meetings and hearings conducted pursuant to those procedures shall not be considered meetings of the Board, or any committee thereof, and shall not be open to the public unless all participants agree otherwise.

SECTION 6.2: Intercollegiate Athletics

A. Philosophy

1. Preface

The Board of Trustees considers intercollegiate athletics an integral part of the role and mission of the University. Intercollegiate athletic programs are part of the overall educational plan of the University.

2. Level of Competition

NCAA-Division II status is appropriate for the University.

B. Control of Intercollegiate Athletics

The Director of Athletics, who shall report to the President, shall administer the Athletic Department of the University. The Trustees endorse the continuation of the Athletic Advisory Council to monitor (i) academic performance of student athletes and their progress toward graduation; and (ii) the commitment of the athletic program to NCAA compliance, academic integrity, fiscal integrity, and equity.

SECTION 6.3: Recognition and Funding of Student Groups

Student groups have the right to petition for official organizational status, following the policy and procedures of the University governing recognition of student organizations throughout the petitioning process. Furthermore, officially recognized student organizations have the right to petition for funding support from the Club Advisory Board, adhering to the policies and procedures of the University governing funding for student organizations throughout the petitioning process.

CHAPTER 7:

UNIVERSITY PRESIDENT

SECTION 7.1: Duties and Responsibilities of the University President

The President of the University is responsible to the Board of Trustees. Within the policies and regulations of the Board and of other state and federal authorities, the President of the University, as chief executive officer, has general authority and responsibility for the University and for keeping the Board of Trustees informed regarding the University in a timely and appropriate manner.

The President is expected to demonstrate those leadership skills necessary for the dynamic pursuit of the goals and objectives embodied in the mission of the University. The President is also expected to understand the higher education needs of the University's service region, work with the Board to develop proposals for meeting those needs, and provide leadership to foster cooperation between campus and community in fulfilling the University's teaching, research, and public service responsibilities.

The President is expected to consult appropriately with faculty, students, classified staff and administrators in discharging the responsibilities of the office. The President is also expected to ensure that the policies, procedures and actions of the Board are communicated to appropriate constituencies of the University in a timely manner.

- A. As chief executive of the University, the President is charged with the following specific responsibilities:
1. Exercising effective leadership in a joint effort with the Board to implement the mission of the University, as delineated in role and scope statements approved by the Board.
 2. Providing effective leadership and support for an academic program that is consistent with the University mission, the needs of those being served, sound standards of quality, and available resources.
 3. Providing effective leadership and support for a program of student life that complements the academic program and recognizes the diverse interests and needs of the student body.
 4. Developing a competent administrative organization and staff to ensure effective and efficient management of the University.
 5. Maintaining lawful, equitable and efficient personnel programs including: appointment of qualified persons to the faculty and staff and promotion, retention or dismissal for cause of the same. These programs should function in accordance with Board policies and Handbook with due regard for the best interests of higher education and the State of Colorado.
 6. In addition to any budget formula established by the Board, recommending to the Board annual operating and capital budgets and other plans, financial and otherwise, for realizing the University mission, and providing sound management of the approved budgets and plans. Budgets should reflect priorities of the University and facilitate their achievement.
 7. Communicating the needs of higher education to the governor, legislators, CCHE, other state and local officials, and citizens of the state in concert with the Board.
 8. Interacting with appropriate external bodies, including state and national accrediting groups, and professional and athletic associations, to achieve the mission of the University in a manner consistent with Board policy, statutory and regulatory provisions, and sound academic principles.

9. Developing an effective external relations and fund raising program for the University.
10. Undertaking assignments requested by the Board.
11. Demonstrating effective pursuit of the Board's goals and objectives for both the current year and the long term.

SECTION 7.2: Evaluation of University President

Presidential evaluations seek to assess the overall performance of the President in light of Board goals and priorities and to identify areas of strength, and areas in which improvement is appropriate in order to assist the President in improving his or her effectiveness. The Board will review the President's performance at least annually, using whatever process and criteria the Board deems appropriate.

If the President's performance has exceeded expectations for three consecutive years, the board may, in its discretion, substitute at least two executive committee discussions during a fiscal year of the President's performance in lieu of the evaluation procedures described in Section 7.2.

SECTION 7.3: Terms of Appointment and Conditions of Employment for University President

- A. **Terms of Appointment.** The University President is defined as administrative personnel. Under article 19 of title 24 of the Colorado Revised Statutes, administrative personnel employed by the Board of Trustees are employees-at-will and may be terminated at any time, without cause or advance notice of termination. However, the Board has the right, pursuant to C.R.S. 24-19-104, to enter into a multi-year employment contract having duration of no more than five years, under the conditions set forth in subsection 24-19- 104(1.5).
- B. **Rank and Tenure.** Rank and tenure may be awarded at the time an appointment is made, in the Board's sole discretion. If the President has earned academic rank in a previous position, the Board, after consultation with the affected department, may award rank and tenure in the appropriate discipline, in the Board's sole discretion. If, however, the

President comes from a background where it was not possible to earn academic rank, the Board may, in its sole discretion, grant rank and tenure in the discipline which matches the President's education and experience.

- C. **Involuntary Termination of Presidential Appointment.** The University President serves at the will and pleasure of the Trustees and may be terminated at any time with or without cause, except as otherwise provided in any employment contract entered into in accordance with C.R.S. 24-19-104. Following the Board's adoption of a resolution of termination, the Chair of the Board shall give written notice thereof to the President. The notice shall be hand-delivered or sent certified mail, return receipt requested (and shall be deemed to be given on the date of hand-delivery or mailing), shall specify the effective date of termination, and shall contain a copy of the Board's termination resolution.

A President who has been notified of termination shall receive his or her salary through the effective date of termination and shall be entitled to pay for accrued vacation time (annual leave) as provided for other full-time administrators in the Handbook. However, the Board in its discretion may require the President to use some or all of such unused vacation time prior to the date of termination. The President may also be awarded severance pay at the Board's sole discretion.

A President who has been terminated shall have no right to any compensation in addition to salary through the effective date of termination and vacation pay.

SECTION 7.4: Policies and Procedures for Selection of the President

The selection of the President is solely the responsibility of the Board of Trustees. The Board will seek the advice and participation of the campus and community in identifying Presidential candidates.

- A. Search and Selection Procedures. When the position of President becomes vacant, the Board of Trustees shall adopt search and selection procedures appropriate for filling the vacancy. Presidential searches will comply with Trustee affirmative action policies and Colorado state statutes.
- B. Appointment of Acting President, Interim President, and Defined Term Appointments. In the event that a President shall be absent from the position for a period of 30 days or longer, but is expected to return, the Board may appoint an acting President with the authority to administer the University during the period the President is absent.

If the position of President is to be vacant while a search for a new President is proceeding, the Board may appoint an interim President to serve until the new President takes office.

The Board, in its discretion, may fill a Presidential vacancy without a search by appointing a President for a defined term or series of defined terms. A search shall be conducted to fill the Presidency at the end of the defined term(s), if the appointment is not renewed. The President who was appointed for the defined term(s) shall be eligible to be a candidate for the Presidency.

SECTION 7.5: Designation of a Person to be Responsible in the Absence of the President

The President shall formally designate a specific person who will regularly be the responsible professional when the President is not available. The name of the individual so designated shall be made known to the Board of Trustees and the University community.