

UPDATED WORKING GROUP NOTES

1. This draft incorporates Katie's subcommittee's revisions; leaves a few questions at end of Part 6
2. This draft incorporates reformatting changes to make it compatible for insertion into the Administrative Rules and Procedures of NMSU-slated for Chapter 5 of the recompilation (entitled, "Student Rights and Responsibilities")
3. Other minor revisions were made to shorten, simplify, clarify, update or delete cross references or old comments; and hopefully not change intent—I will also provide a compare version b/t the 01.30.13 draft and this draft.

Some NOTES from JULY 2016 Meeting:

4. Add an Appendix listing examples of Type I and Type II academic misconduct
5. Give Rules of the Game" to every student at beginning of semester (i.e. put in requirement to inform students at beginning of Academic Program)
6. Higher standards for grad students→ one strike and you're out
7. Make it as simple as possible so faculty will be willing to do it (we can probably shorten by a page or few, esp if we get rid of the Degree Revocation material on next round of edits)
8. Address global considerations/cultural differences ???

Rule 5.07 - Academic Conduct Code for Students (See Also Rule 5.94.10, Addressing Allegations of Misconduct in Research; and NMSU Business Ethics Handbook)

PART 1: ACADEMIC INTEGRITY PRINCIPLES

- A. **Purpose:** This Rule strives to cultivate an academic environment where student scholarship can thrive, by clarifying the academic standards to be consistently applied throughout the NMSU system. The Rule contemplates an objective and expeditious fact finding process, and in the event of a finding of academic dishonesty, provision of due process as sanctions commensurate with the severity of the infraction are imposed or proposed. [rev since 08.11.16 mtg to simplify] [next 2 Ps deleted – see Box at very end that contains Policy Administrator and Scope which will go on side bar in web based ARP eventually-consistent with how other Rules are being formatted]
- B. **Academic Honesty:** It is the student's responsibility to know, understand, and comply with the university's policies and administrative rules and procedures, especially those addressing standards for student academic and non-academic conduct. (See Regents Policy Manual; Administrative Rules and Procedures of NMSU; Student Handbook, Undergraduate Catalog, and Graduate Catalog, and NMSU Housing Requirements.) NMSU students are expected to observe and maintain high academic, ethical, and professional standards of conduct, which includes the requirement to be honest in all academic matters. Academic dishonesty may take a variety of forms, including, but not limited to those listed below:
 1. **Cheating or Assisting to Cheat:** Cheating or knowingly assisting another in committing an act of cheating or other form of academic dishonesty. Cheating as used in this Rule includes but is not limited to deceiving, tricking, defrauding, and/or otherwise taking unfair or unethical advantage of a situation to benefit someone's grade, academic standing or status.
 2. **Plagiarism:** The use of another person's work without acknowledgment, making it appear to be one's own. Examples of plagiarism may be viewed at [Appendix 5-C](#). [OLD NOTE: Examples deleted from former 6.50.1 E. 2. d. per last meeting; who is in charge of making sure these do not get "lost in the shuffle"??]

Commented [LW1]: is this still desired? If so, it too could become an Appendix along with the 2 or 3 others referenced

- a. Any ideas, words, pictures, or other intellectual content taken from another source must be acknowledged in a citation that gives credit to the source.
 - b. This applies irrespective of the origin of the material, including the Internet, another person's work, unpublished materials, or oral sources.
 - c. Intentional and unintentional instances of plagiarism are considered instances of academic misconduct.
3. **Unauthorized Possession of Academic Material:** Unauthorized possession of examinations, reserve library materials, laboratory materials, or other course-related materials;
4. **Unauthorized Access to or Alteration of Academic Records:** Unauthorized changing of grades on an examination, in an instructor's grade book, or on a grade report; or unauthorized access to academic computer records;
5. **Misrepresentation:** Misrepresentation, including nondisclosure when disclosure is required, in filling out applications or other University records in, or for, academic departments or colleges. An example of this is a student who conceals the fact that he or she has attended another college or university, and who has not had the registrar submit a transcript for each institution whether or not credit was earned.
- C. Notice to Students regarding Applicable Academic Standards:
1. **Academic Conduct Code:** These administrative rules, referred to collectively as the Academic Conduct Code for Students, will be specifically referenced in the Student Handbook and Undergraduate and Graduate Catalogs, and may be summarized therein.
 2. **Academic Requirements Listed on Course Syllabi:** Each NMSU faculty member will provide reasonable specificity on their course syllabus provided to each student at the beginning of each semester or session which describes the faculty member's expectations as they relate to academic requirements for the class. Academic requirements include academic standards, including applicable ethical standards required by the specific discipline, as well as how student work will be evaluated.
- D. Confidentiality: An allegation of even a potential violation of the Academic Conduct Code for Students is a serious matter, and may cause harm to a student's prospective academic or professional career; the internal investigation and sanctions imposed, if any, will be conducted and/or imposed confidentially and within a circle of personnel with a "need to know", or legitimate business reason to be aware of the facts or the proceedings. University employees or students who become privy to the matter will maintain confidentiality. Other students enrolled in the course do not have any need to know specific facts of any case unless they are witnesses involved in the investigation, and then they will be counseled and asked to sign a [Confidentiality Agreement](#).
- E. Protection from Retaliation for Acting in Good Faith: An accusation of academic dishonesty affects not only the reputation of the individual accused, but potentially that of the institution; all individuals involved in the processes outlined in this ese will act with honesty of intention when reporting, investigating and taking administrative action relating to suspected violations of this Academic Conduct Code for Students. Individuals who believe they are being retaliated against because they have in good faith reported others for cheating or other alleged violation of this Rule, investigated a claim of academic dishonesty, cooperated in an investigation, provided evidence at a hearing, conducted a hearing, imposed or proposed a sanction, issued a determination or decision, or otherwise taken action pursuant to this Rule, will promptly report such claim to the Office of the Student

Judicial Affairs (if claim is against a student) or the Office of Human Resource Services-Employee and Management Services (if the claim is against a faculty member or other member of the University Community). All allegations of retaliation will be investigated independently and objectively; and if warranted, disciplinary action taken.

F. Cross References to Related Policies: This Rule provides due process in the event a student is accused of cheating or other breach of academic integrity. Depending upon the situation, it may be that another, more specific policy or rule is applicable. Examples follow:

1. **Research Misconduct Violations**: If an alleged or suspected violation of the Academic Conduct Code occurs in the context of sponsored research activities, *see* [Rule 5.94.10, "Addressing Allegations of Misconduct in Research"](#).
2. **Grade Appeals or Other Grievances Against Faculty Members**: If a student wishes to challenge a grade assigned by a faculty member for reasons other than a sanction for academic misconduct, or wishes to grieve any other alleged policy or rule violation or unfair treatment, *See* Undergraduate Catalog ("[Academic Appeals](#)") for undergraduate student grade appeals/grievances; *See* Graduate Catalog ("[Graduate Student Appeals Board](#)") for graduate student grade appeals/grievances.
3. **Discrimination Complaints**: If a student believes they have suffered unfair or adverse treatment as a result of discriminatory misconduct by a faculty member or other NMSU official, *See* Rule 3.25 or <https://eeo.nmsu.edu/>
4. **Non-Academic Code Violations**: If the student is alleged or suspected to have committed a violation of the Student Code of Conduct not involving the Academic Integrity Principles, *See* the Student Social Code of Conduct at <http://studenthandbook.nmsu.edu/student-social-code-of-conduct/>
5. **Involuntary Administrative Dismissal From Course**: If the student's conduct involves excessive absenteeism, persistent failure to turn in coursework, or disruption in an academic setting, *See* Undergraduate Catalog ("[Attendance and Student Performance](#)" and "[Academic Appeals](#)") for undergraduate students; *See* Graduate Catalog ("[Attendance and Student Behavior](#)") for graduate students.

PART 2: PROCESS OVERVIEW AND DEFINITIONS:

- A. Process Overview: For a flowchart providing the steps and an illustration of the investigative and disciplinary stages of the process(es) which apply in the event of alleged academic misconduct, *See* Appendix 5-A.
- B. Definitions: For purposes of this Rule, the following definitions will apply: (*See Also* Part 3 for the roles and responsibilities of the various NMSU officials and hearing officers tasked with duties under this Academic Conduct Code for Students.)
 1. **Academic Conduct Officer**: The NMSU employee charged with providing administrative support to the Student Academic Conduct Board, and coordinating the administration of this Rule. (*See Also* [Part 3. A.](#) for specific responsibilities of the Academic Conduct Officer.)
 2. **Academic Misconduct-Course/Program Level**: Course/Program level academic misconduct pertains to a particular course or academic program (e.g. plagiarism on a course assignment, cheating on an exam, alteration of a faculty member's grade book).

3. **Academic Misconduct-University Level:** University level academic misconduct pertains more generally to the student's general academic standing (e.g. falsification of university records, misrepresentation of previous transcripts or degrees, or forgery.)
4. **Allegation:** An allegation refers to an assertion that someone may have participated in some form of academic misconduct, but which has yet to be proved or supported by evidence.
5. **Clear and Convincing Evidence:** Evidence that makes the fact to be proven highly probable or reasonably certain. To prove a fact by clear and convincing evidence is evidence stronger than a "preponderance" and yet less than "beyond a reasonable doubt;" for evidence to be clear and convincing, it must instantly tilt the scales in the affirmative when weighed against the evidence in opposition and the fact finder's mind is left with an abiding conviction that the evidence is true. [\[See lw note below in Part 4. C.\]](#)
6. **Day:** When a time limit refers to "day", it refers to business rather than calendar days (Monday through Friday), and excludes official university holidays and closures.
7. **Dean:** Unless otherwise specified, dean as used in this Rule refers to the course dean, and not the dean of the major declared, if any, by the student.
8. **Faculty:** Faculty of any rank or status, including tenured, tenure-track, college, temporary and visiting faculty members.
9. **Parties:** The student accused, and the involved course faculty member (and/or other supporting academic administrators) or the registrar/designee, as appropriate, are considered parties with standing for purposes of this Rule and procedures.
10. **Plagiarism:** [See Part 1, Section B. 2.](#)
11. **Preponderance of the Evidence:** The greater weight of the evidence. To prove a fact by the greater weight of the evidence means one must be persuaded that what is sought to be proved is more probably true than not true. It means 51% or just a tipping of the scale; evenly balanced evidence is not sufficient. [\[See lw note below in Part 4. C.\]](#)

PART 3: ROLES AND RESPONSIBILITIES

- A. Authority of Office of the Provost; Resolution at Lowest Administrative Level: The responsibility for student academic discipline is delegated by the University President to the Office of the Executive Vice President and Provost, who in turn has delegated authority to other individuals and groups. An over-arching goal is to resolve disputes at the lowest administrative level possible, without compromising the student's right to due process.
- B. Responsibility to Apply Academic Student Conduct Code: The NMSU official charged with investigating and processing a matter of alleged academic misconduct will differ based on the allegation. The faculty member in consultation with academic administrators address course or academic program academic dishonesty; the Office of the Registrar or the Academic Conduct Officer may be called upon to address allegations of academic misconduct that do not involve course or academic program academic misconduct, such as university level academic misconduct. [See Part 2, Section B. 3.](#)

C. Specific Roles and Responsibilities:

1. Academic Conduct Officer: The duties of the Academic Conduct Officer will include and will not be limited to: 1. serving as a resource for students, faculty and/or academic administrators regarding the protocols outlined in this Rule for the resolution of alleged academic misconduct; 2. serving as support staff to the Student Academic Conduct Board, and other officials and hearing officers identified in this Rule and procedures; and 3. coordinating the administration of this Rule with all involved parties, including working with the Office of Student Judicial Affairs regarding necessary statistical reports.
2. Coordinator, Student Judicial Affairs: The Student Judicial Coordinator oversees the administration of the non-academic student code of conduct, including investigation, adjudication and disciplinary and reporting functions. This position will coordinate with the Academic Conduct Officer and others regarding discipline and reporting for infractions involving academic integrity. All violations of the Student Code of Conduct, including disciplinary action imposed, will be copied to the Student Judicial Coordinator. The Student Judicial Coordinator, in addition to the Academic Conduct Officer, is available as a central resource person for administrators, faculty, staff and students in order to promote consistency throughout the university community relative to student discipline.
3. Dean of Students: If the student appealing from a finding of academic misconduct is an undergraduate student, the dean of students may serve in an *ex officio* capacity on the Formal Appeal Hearing Panel.
4. Dean of the Graduate School: If the student appealing from a finding of academic misconduct is a graduate student, the dean of the Graduate School may serve in an *ex officio* capacity on the Formal Appeal Hearing Panel.
5. Executive Vice President and Provost: The Executive Vice President and Provost or designee provides a final administrative review if the Decision by the Formal Appeal Hearing Panel is appealed by either the student or by the faculty member or registrar/designee, as appropriate.
6. Faculty. For course level academic misconduct, the course faculty member receives or initiates the allegation of academic misconduct; confers as needed with departmental or college immediate supervisors; determines the appropriate whether the academic misconduct at issue is governed by this Rule or by Policy 5.94; and if governed by this Rule, confidentially conducts the fact finding investigation and pursues appropriate sanctions in coordination with the Academic Conduct Officer.
7. Formal Appeal Hearing Panel: A hearing panel whose members are designated by the Student Academic Conduct Board, from its membership (*See No. 11. below, this Part*). Each panel convened will consist of three voting members; *ex officio* members may attend at their discretion. Once designated, the Formal Appeal Hearing Panel will elect a chair from its voting members who will conduct the hearing in accordance with this Rule and procedures. The chair of the Formal Appeal Hearing Panel does not have authority to act or speak for the panel except authorized by the panel; decisions will be by consensus or by vote, if necessary for clarity. Each member designated to serve on the Formal Appeal Hearing Panel will make time in their schedule to serve, and will not have a conflict of interest relating to the involved parties or to the subject matter. The *ex officio* members may attend at their discretion, or at the request of a party. The members of the Formal Hearing Panel consists of:

- a. One faculty member;
 - b. One academic administrator from outside the involved college;
 - c. One undergraduate student, graduate student or community college student, as appropriate, selected by the student whose conduct is at issue.
 - d. The dean of students or the dean of the Graduate School or their respective designees, as appropriate, may sit as an *ex officio* member of the Formal Hearing Panel.
 - e. The course dean or designee may also sit as an *ex officio* member of the Formal Hearing Panel.
8. **Informal Hearing Officer:** An individual member from the Student Academic Conduct Review Board who is designated by the board to hear student appeals from the imposition of a Type I sanction, as well as to hear contested matters involving Type II sanctions proposed by a faculty member or academic administrator, or the registrar, as appropriate. The Student Academic Conduct Review Board may decide, in its discretion, the most efficient method to designate one of its members to serve as the informal hearing officer. For example, the board may assign one of its members to hear all cases for a designated period of time, or may decide to rotate this function amongst the membership on a case by case basis. The intent of this Rule is that the decision making process be one that gives serious consideration to the issues presented, which are of a nature to permanently affect a student's academic career; that expedites the decision making process to the extent possible; as well as one that facilitates consistency of results on a university wide basis. The Determination issued by the Informal Hearing Officer upholding, modifying or reversing discipline imposed by a faculty member and/or academic administrator or the registrar, as appropriate, may be appealed to the Formal Appeal Hearing Panel, through the chair of the Student Academic Conduct Board.
9. **Registrar or Designee:** When university level academic misconduct is alleged, the registrar or designee will serve the same role that faculty serves with regard to alleged course level academic misconduct.
10. **Student:** Each undergraduate and graduate student has a responsibility to report any observed or reasonably suspected academic misconduct to the Academic Conduct Officer or other appropriate official, as well as a duty to cooperate in any investigation or administrative proceeding as may be requested or required by those charged with administering this Rule and procedures.
11. **Student Academic Conduct Board:** The Student Academic Conduct Board is a standing university board established by this Rule, from which individual informal hearing officers and formal appeal hearing panels will be selected on an *ad hoc* basis. The Academic Conduct Officer will perform the administrative tasks required to maintain the Student Academic Conduct Board, as well as will assist the board as needed to select the *ad hoc* informal hearing officer(s) and formal hearing panels in accordance with this Rule. The Student Academic Conduct Board will consist of the following members, who will serve staggered terms as indicated below.
- a. Ten members of faculty, appointed by the Faculty Senate (four tenured or tenure track faculty and two college faculty from NMSU-LC, and one faculty member from each community college) [staggered 3 year terms];
 - b. Five undergraduate students, appointed by the ASNMSU President, confirmed by the ASNMSU Senate [staggered 2 year terms];
 - c. Four community college students, one appointed by each community college [one year terms];
 - d. Three graduate students, appointed by the Graduate Student Council [one year terms];
 - e. Three academic administrators with faculty rank, appointed by the Associate Deans Academic Council [3staggered 3 year terms];

- f. Each College Dean or designee;
 - g. The Library Dean or designee;
 - h. The Graduate Dean, *Ex officio* (non-voting);
 - i. The Dean of Students, *Ex officio* (non-voting).
12. Student Advisor: For purposes of this Rule, the “Student Advisor” may be selected by the student, at the student’s discretion, to provide consultation type guidance and/or support during the processes outlined in this Rule. The student may enlist the assistance of the ASNMSU President to designate someone to serve in such capacity on the student’s behalf. The student advisor will not interfere with the investigative or hearing/appeal processes.
13. NMSU Chancellor: The NMSU Chancellor serves on behalf of the Board of Regents to provide a final review on the record in contested academic misconduct cases involving Type III sanctions.

PART 4: GENERAL PRINCIPLES

- A. Fairness of Process/Avoidance of Conflict of Interest: A fair and impartial hearing is an integral component to due process.
- 1. All parties involved in the processes outlined in this Rule will perform their duties in a fair, objective, and impartial manner. NMSU officials charged with duties under this Rule will voluntarily disclose any conflict of interest in a specific case which they believe would render them unable to serve in an unbiased capacity.
 - 2. No party will seek to directly or indirectly influence or obtain relief from any NMSU employee or official involved in investigating or deciding the matter, except as permitted under this Rule and procedures.
 - 3. Alleged conflicts of interest will be brought to the appropriate official’s attention and resolved as early as possible in the proceeding. The Student Academic Conduct Board serves as a larger pool from which hearing panel members will be drawn; the intent is that this is to facilitate the resolution of actual and perceived conflicts of interest, which will be identified and resolved before the matter is set for either the informal or the formal hearing. If such an issue is not resolved prior to the proceeding, then all parties will be made aware of the issue and will be entitled to given their position relating to the issue, so that the official, panel or board may, as the first order of business, render a decision on the issue potentially affecting impartiality of the hearing.
- B. Extensions of Time Deadlines: The investigation and assessment of facts, the informal hearing, and the formal appeal hearing stages will be conducted as expeditiously as possible. Unless a request for extension of time is granted with notice to the parties, the time deadlines set forth herein will apply.
- 1. Written requests for an extension of a deadline applicable to a party may be granted by the Informal Hearing Officer or Formal Appeal Hearing Panel chair with the mutual consent of the parties or for reasonable cause shown.
 - 2. The first request for an extension by either party should be granted; if one party opposes the other’s request for extension, the appropriate hearing official or hearing panel chair will hear from both parties present or on the phone together, on the issue of whether to grant the time extension.

3. A deadline applicable to the NMSU officials conducting the investigative, hearing or appeal processes may be extended with notice to the parties, and approval from the Associate Vice President and Deputy Provost.

C. Evidentiary Standards of Proof:

1. The standard of proof required for evidentiary finding(s), upon which a Type I or Type II sanction is based, will be a preponderance of the evidence. *See* Part 2, subsection A. 11.
2. The standard of proof required for an evidentiary finding(s), upon which a degree revocation or permanent expulsion is based, will be clear and convincing evidence. *See* Part 2, subsection A. 5.

- D. Control of Hearing Processes: The Informal Hearing Officer or the chair of the Formal Appeal Hearing Panel are each authorized to exercise active control over the proceeding in order to elicit truthful, relevant information, to avoid repetitive or redundant witness testimony, and to prevent the harassment or intimidation of any witnesses who may be called to testify.

E. Reporting and Records Retention:

1. Faculty, academic administrators, and/or the registrar or designee, as appropriate, may consult with the Academic Conduct Officer about pending academic misconduct cases, and will notify the Academic Conduct Officer within ten days from the final action of the final administrative action taken.
2. The Academic Conduct Officer will coordinate with the Office of Student Judicial Affairs for institutional reporting purposes.
3. The documentation from the entire proceeding will be retained by either the faculty member and/or academic administrator or the registrar, as appropriate, or the Office of the Student Judicial Affairs, as may be agreed between them, for the period of time specified by the university's records retention guidelines.

Commented [LW2]: Having 2 evidentiary standards seems more complicated –the group may decide to remove the Type III Sanctions from this Rule which will fix that; Alternatively, you could consider Type I and Type II under the clear and convincing evidence standard, since accusing someone of fraud is not an insignificant matter.

PART 5: INVESTIGATION OF ALLEGED VIOLATION OF ACADEMIC CONDUCT CODE

An accusation of academic dishonesty has the potential to seriously impact a student's reputation, academic record and/or career. The process below provides guidance for conducting the necessary fact finding in an objective and timely manner.

A. Time Limitations:

1. Absent extenuating circumstances, as determined by the Academic Conduct Officer, an investigation into alleged academic misconduct will be commenced (by faculty and/or academic administrator or the registrar, as appropriate) within **thirty days** from the date that the academic misconduct is first suspected or alleged.
2. Any sanction will be initiated **no later than 90 days** from the time the underlying academic dishonesty was first suspected or alleged, absent an extension of the time deadline, with notice to all parties, by the Academic Conduct Officer.

- B. Allegation is Received or Suspicion is Documented: The individual faculty members who review student work may detect potential academic misconduct, or they may receive third party reports or complaints alleging violations of the academic integrity Rule. It is the responsibility of the faculty member or academic administrator or registrar, as appropriate, to ensure that a fair, prompt, confidential fact finding process occurs; and to coordinate with the appropriate university officials to

address the matter in accordance with this Rule/procedures. *See Academic Misconduct Report form*, which may be used as a checklist to facilitate the investigation and subsequent administrative action. Anonymous complaints will be investigated in the same fashion as a complaint that is originated by the faculty member or by a confidential reporter; the anonymity may affect the ability to investigate, but will not preclude an investigation.

- C. **Notification to Accused Student:** Unless notification would jeopardize the ability to adequately investigate, the accused student will be given notice of the allegation being made within **three days** from the date the allegation is received or the faculty member suspects academic misconduct. Notice of the allegation and that an investigation is pending will be given either in person or by sealed confidential correspondence addressed to the student's official address of record with the university. The student will be provided with a copy of this Rule with the notice. The Academic Conduct Officer must concur regarding a decision to postpone notification to the student; in no event will investigative factual findings be issued without the student having first had an opportunity to provide a statement in response to the allegation, as part of the investigative process.
- D. **Fact Finding:** Suspicions and/or allegations of student academic dishonesty will be investigated by the faculty member or academic administrator or registrar, as appropriate, who may coordinate with departmental academic administrators or with the Academic Conduct Officer. The investigation will include an interview with the student and consideration of evidence contributed by the student. Depending upon the nature of each case, the investigation may or may not involve interviewing witnesses, assessing witness credibility, consulting with experts in the pertinent field, and pursuing other administrative fact finding techniques likely to produce relevant evidence.
- E. **Review of Investigative Results:** The faculty member or academic administrator or registrar, as appropriate, will write up the results of the investigation and forward a copy to the Academic Conduct Officer. If the evidence supports a finding, by the applicable standard of proof, that the student violated one or more sections of **Part 1** above, the faculty member will impose an appropriate sanction. It is recommended that the faculty member consult with the appropriate department head, or with the Academic Conduct Officer to ensure that the investigation was thorough and objective, and that the proposed sanction is appropriate for the violation.

PART 6: EVALUATION OF FACTUAL FINDINGS; EDUCATIONAL AND DISCIPLINARY SANCTIONS

- A. **Allegation Not Substantiated By Investigation:** If the facts found do not support a finding of a violation of this Rule by the applicable standard of proof, the matter will be closed. *Other administrative action, as appropriate, may be taken to rectify false charges that may have been intentionally levied against an individual.*
- B. **Finding of Violation of Academic Conduct Code:** If academic dishonesty is substantiated by the investigation, the student will be required to participate in the Academic Integrity Education Program and will be subject to some form of disciplinary sanction.
- C. **Educational and/or Disciplinary Sanctions:** The corrective action will be commensurate with the severity of the infraction and all attendant circumstances, including but not limited to whether or not the offense is a first or repeat offense.
1. **Type I Sanctions:** Type I sanctions may be imposed directly by the faculty member after the facts have been determined through investigation, and documented. *See Academic Report Form.* The finding(s) or the nature of the discipline may be appealed by the student through the Informal

Commented [LW3]: I think if false charges are to be addressed, it should be a different section and would need to reference that it may be pursued by filing an independent complaint which in turn would be investigated—merely not finding an accused not culpable does not translate into "false charges". I recommend deleting 2nd sentence from this section.

Hearing process (*See Part 7*) and the Formal Hearing Process (*See Part 8*). The Formal Hearing Panel issues the final decision in Type I cases. Type I sanctions are limited to:

- a. Requiring the student to re-do an academic assignment;
 - b. Issuance of a verbal warning (documented and signed as received by the student);
 - c. Imposing a failing grade on an assignment; or
 - d. Reduce final grade in course by one letter grade.
2. **Type II Sanctions:** Type II sanctions are appropriate when the investigative findings substantiate either a repetition of a Type I infraction or a more serious violation such as premeditated cheating on a test or organized cheating. *See Appendix 5-B for List of Examples of Type I and Type II Academic Misconduct.*
- a. Any violation by a graduate student is considered a serious violation subject to Type II sanctions.
 - b. Type II sanctions may not be imposed directly by the faculty member, and notice of the charges and a description of the evidence supporting the charges must be given to the student, in coordination with the department head and/or the Academic Integrity Code Officer.
 - c. The sanction is proposed in advance in order to allow the student the opportunity to contest the investigative findings through the Informal Hearing Process. (*See Part 7*).
 - d. If the informal Hearing Officer upholds the proposed Type II sanction, it may be implemented, subject to the student's right to appeal through the Formal Hearing Process (*See Part 8*).
 - e. Type II sanctions include, but are not limited to the following:
 - i. A written reprimand;
 - ii. A failing grade in the course;
 - iii. Disciplinary probation;
 - iv. Disciplinary suspension;
 - v. Disciplinary dismissal for a specified time period;
 - vi. A notation of academic misconduct on the student's official transcript. (*See Also Section 6.03.10 below for petition process for removal of the transcript notation.*)

Commented [KD4]: Repeated Type I's should be put on probation. How would one get off of probation? Successful completion of probation can remove the infraction?

Commented [KD5]: One or two semesters.

Commented [KD6]: What would this amount to? A year or more?

- 3. **Type III Sanctions:** A third type of sanction involves revocation of a degree awarded or permanent expulsion. Such a serious consequence for academic misconduct is rarely applied, and is used in cases involving academic misconduct discovered after a degree is awarded, or for the most egregious of fraudulent academic misconduct.

Commented [LW7]: At end of Aug 10 mtg, I recommended that we get Type I and Type II infractions and hearing processes down, and perhaps leave Type III's for another day—b/c that process is in Regents Policy 6.50.

[NEW NOTE: decisions needed here—can leave this category alone—it is in Policy 6.50 right now. OLD NOTE: will need to incorporate some of the lang from below here and then have 3.03.09 be the process for the ultimate appeal to the president obo the BOR... so it will have informal hearing, formal hearing AND presidential review (make sure EVP/Provost is involved in formal hearing stage)]

OLD NOTE: NEED HELP AND/OR MORE TIME FROM HERE DOWN

PART 7: INFORMAL HEARING PROCESS

- A. *this needs to be moved to have this section be only the hearing process:* Imposition of Type I Sanction: The faculty member or academic administrator or registrar, as appropriate may reach a

mutually satisfactory resolution with a student charged with academic misconduct. Alternatively, and as warranted by the circumstances, the faculty member or academic administrator or registrar, as appropriate may issue official findings of fact and notice of imposition of Type I sanction to the student, if the evidence supports the finding of academic misconduct by a preponderance of the evidence. If the student disputes either the factual findings or the corrective action/sanction imposed, the student may appeal to the Student Academic Conduct Board, who will assign an Informal Hearing Officer to the specific case. **Type I sanctions may be imposed prior to the appeal hearing.** *[Iw doesn't think last sentence "fits" here—where better? if needed]*

B. Informal Hearing:

1. Appeal from Type I. Sanction: A student who wishes to appeal the imposition of a Type I sanction may appeal within ten days from the date of receipt of the notice of sanction from the faculty member or academic administrator or registrar, as appropriate.
2. The following process will apply for either a Type I appeal or for a Type II hearing contesting a proposed sanction:
 - a. The Informal Hearing Officer will set an informal hearing/meeting time within fifteen days of receipt of the notice of appeal or request for hearing, and review the matter with both parties. The Informal Hearing Officer may meet with both parties jointly, or with each party separately. If the hearing officer meets separately with the parties, the hearing officer will inform each party of the evidence presented and position taken by the other, and allow for rebuttal.
 - b. The Informal Hearing Officer will ensure that the student is presented with the factual evidence that has been gathered relating to the finding of academic misconduct and imposition of sanction, and that the student has been given the opportunity to present information, witness statements, documentation or other evidence in support of the student's position.
 - c. Neither side may have an attorney actively advocate on their behalf, although they may have a representative present, for support or other guidance that does not interfere with the hearing. The rules of evidence applicable in civil court will not apply.
 - d. Within ten days from the conclusion of the informal hearing/meeting, and based upon the evidence presented, the Informal Hearing Officer will issue a written Determination and take appropriate administrative action, including but not limited to:
 - i. Dismiss the allegation for lack of sufficient evidence supporting a finding of academic misconduct in accordance with the applicable evidentiary standard; or
 - ii. Uphold or modify the Type I sanction imposed by the involved faculty member or registrar, as appropriate; or
 - iii. Uphold or modify the recommendation for proposed Type II sanction proposed by the faculty member or registrar, as appropriate.
 - iv. Inform the parties of the right to submit a request for further review of the matter from the Student Academic Conduct Board a further review of the matter (i.e. to proceed to the formal hearing process).
 - v. Deliver the decision to both the student and the involved faculty member or registrar, as appropriate, by way of hand-delivery or by certified mail, return receipt requested, to their addresses listed in the NMSU directory.

PART 8: FORMAL HEARING PROCESS

- A. Proposal to Impose Type II Sanction: The faculty member will consult with the appropriate department head and/or with the Academic Conduct Officer to ensure that the investigation has been conducted fully and fairly, and to assess the appropriate level of corrective action or sanction based upon the facts supported by clear and convincing evidence. A memo will be delivered to the student that outlines the charge made against the student, the evidence found, and the corrective action/sanction being proposed. The memo will also inform the student of the burden of proof (preponderance of evidence), and the right to be heard by an Informal Hearing Officer prior to imposition of the sanction.
- B. Type II Proposed Sanction Hearing: A student who wishes to contest a proposal to impose a Type II sanction may request an informal hearing within ten days of receipt of the notice of proposed Type II sanction.
- C. Formal Appeal: Upon the direction of the Student Academic Conduct Board, a Formal Appeal Hearing Panel will be convened to hear appeals from the decisions of the Informal Hearing Officer. The basic hearing procedures are set forth below:
1. In order to timely appeal, the appellant must submit a written notice of appeal to the chair of the Student Academic Conduct Board, attaching a copy of the decision of the Informal Hearing Officer, within ten days from receipt of the Informal Hearing Officer's decision.
 2. The chair of the Student Academic Conduct Board will convene the board, and the board will designate which of its members who do not have any conflict of interest in the matter will be appointed to serve on the Formal Appeal Hearing Panel. Each panel will elect a chair who will lead the administrative hearing.
 3. The chair of the Formal Appeal Hearing Panel will send the parties notice of the date, time and location for the hearing, which will be held within thirty days from the date the request was received, absent the granting of an extension of time.
 4. The parties will, within three days of the hearing, submit to the chair of the Formal Appeal Hearing Panel five copies of their position statement and other evidence or list of witnesses (one for each member of the panel). The parties will also send within three days of the hearing, a copy of their position statement and other evidence or list of witnesses to the other party.
 5. At the hearing, the chair will ensure that each side has an adequate opportunity to address the panel and to present all evidence in support of their position.
 6. Neither side may have an attorney actively advocate on their behalf, although they may have a representative present, for support or other guidance that does not interfere with the hearing. The rules of evidence applicable in civil court will not apply.
 7. The Informal Hearing Officer or the Formal Appeal Hearing Panel may set additional hearing procedures, provided they are approved by the Student Academic Conduct Board and provided to both parties in advance of the hearing.
 8. The Formal Appeal Hearing Panel will hear from the parties, review the documentation or other evidence (i.e. witness testimony) presented, and may ask questions of the parties.

9. Upon the conclusion of the hearing, the panel will deliberate and come to a consensus about its collective decision, including whether the sanctions recommended or as previously determined by the Informal Hearing Officer should be upheld; *ex officio* members may participate in the deliberations but will not vote regarding the decision.
 10. The Formal Appeal Hearing Panel will designate one of its members to draft the decision on behalf of the panel, which decision will be circulated and signed by each member prior to submission to the parties. A dissenting voting member need not sign the decision, and may attach a separate opinion.
 11. In cases involving Type I sanctions, the decision of the Formal Appeal Hearing Panel will be final.
 12. In cases involving Type II sanctions, the decision will inform the parties of their right to seek a final administrative review from the Office of the Executive Vice President and Provost.
 13. The decision will be delivered to the student and the involved faculty member or academic administrator, or registrar as appropriate, by hand-delivery or by certified mail, return receipt requested, to their respective addresses listed in the NMSU directory.
- D. Type II Final Administrative Review: Either the student or the involved faculty member or academic administrator, or the registrar/designee, as appropriate, may seek a final administrative review from the Office of the Executive Vice President and Provost.
1. The party seeking the final review will submit a written notice of appeal within five days from receipt of the hearing panel's decision.
 2. The role of the Office of the Executive Vice President is to issue a Final Decision based upon the written materials provided from the previous hearing(s). At the discretion of the Executive Vice President or Provost/designee, the parties may be asked to appear and present their respective positions; if this step is utilized, then both parties must appear at the same time and have an opportunity to respond to the assertions of the other.
 3. The Office of the Executive Vice President and Provost will issue a written Final Decision, supported by clear and convincing evidence, on behalf of the university within twenty days following receipt of the notice of appeal.
 4. The university's Final Decision will be sent by the Office of the Executive Vice President and Provost to the student and the involved faculty member or academic administrator or registrar, as appropriate, with confidential copies to the other involved university personnel.

PART 9: FINAL REVIEW BY NMSU CHANCELLOR (for cases involving degree revocation or permanent expulsion)

(current Policy 6.50) Degree Revocation and Expulsion from University *[this section needs WORK-figure out above first though and then maybe much can be cross referencing new processes above ?]*

- A. The Board of Regents recognizes that on rare occasions a degree may be awarded to an individual who, upon review, has not properly completed all requirements for the degree. In such event, the course dean will lead the fact finding investigative process outlined above in Section **???**, and may, in the dean's discretion, utilize an ad hoc committee appointed to assist the dean with the investigative process. The ad hoc committee may recommend findings to the dean; the dean will issue the final

investigative report, and notify the executive vice president and provost if serious academic misconduct implicating degree revocation is supported by the findings.

- B. The dean will issue to the involved student a Notice of Intent to Revoke Degree or to Permanently Expel, as appropriate, and attach a copy of the investigative report in support. This notice will also inform the accused of the right to appear at a hearing before an ad hoc committee and to present evidence at that hearing. The notice will inform the accused of the proposed date of the hearing and that, if the allegations are substantiated, the revocation of the accused's degree will be considered as a sanction. In addition, a copy of these procedures will be included with the notice. This notice will be delivered to the accused in person or by registered or certified mail, return receipt requested.
- C. Formal Hearing: **how and whether to plug back in to the new hearing process from above?**

The ad hoc committee will be composed of five senior faculty members appointed by the executive vice president and provost. The executive vice president and provost will designate one member of the committee as the chair. In the event of a conflict of interest, bias against the accused, or refusal to serve on the committee, the executive vice president and provost will appoint a replacement.

Ad Hoc Committee Hearing Process: A hearing will be held before the ad hoc committee, which hearing will begin between 20 and 30 working days after the accused has been notified of the allegations, unless an earlier hearing is requested by the accused. The accused may request, and will be granted, additional time, not to exceed 20 working days, to prepare for the hearing before the ad hoc committee. All hearings and appeals described in this procedure will be closed meetings, unless the accused student or former student requests that they be open to the public.

1. The accused will be given the opportunity, at least 10 working days before the ad hoc committee hearing, to examine any documentary evidence that may be used in support of the allegations, and to interview any witnesses who will be called in support of the allegations.
2. The accused may be represented by legal counsel, at the accused's expense, who will be allowed to fully participate in all proceedings following notice of the charge(s) to the accused.
3. The university may designate and appoint an attorney to present the evidence against the accused and to fully participate in all aspects of the proceedings.
4. The hearing by the ad hoc committee and any subsequent proceedings will be recorded by certified court reporter.
5. All testimony before the ad hoc committee will be sworn and upon the oath or affirmation of the witness.
6. The burden of proof will be on the university to prove the charge(s) by clear and convincing evidence.
7. At the hearing before the ad hoc committee, the accused will be entitled to present witnesses and cross-examine adverse witnesses, and to present such other written or documentary evidence as may be relevant to the charge(s).
8. No formal rules of evidence will be used by the ad hoc committee. The chair will control the conduct of the hearing and will rule on the admissibility of any disputed evidence and may exclude any evidence which, by its nature, would appear to be untrustworthy, irrelevant, or redundant.

9. The ad hoc committee will present written findings of fact to the dean. These findings will state whether the charge(s) against the accused were substantiated by clear and convincing evidence and will also set forth the specific pertinent factual findings established by the evidence. The ad hoc committee will not make recommendations concerning possible sanctions.
 10. The ad hoc committee's findings will be by majority vote and will be reported to the dean, in writing, within 10 working days of the conclusion of the hearing.
 11. Following the hearing and upon receipt of the formal, written advice of the ad hoc committee, the dean will decide upon the disposition of the case and, if appropriate, recommend the imposition of sanctions. Within 5 working days of the receipt of the ad hoc committee's report, the dean will forward the record, and the dean's decision and recommendations to the executive vice president and provost.
 12. Within 5 working days following receipt of the disposition and recommendation from the dean, the executive vice president and provost will submit a recommendation as to sanctions, if any, together with the reports of the ad hoc committee and the dean, to the president of the university.
 13. The president will make a decision regarding the imposition of any sanction or penalty. This decision will be rendered within 5 working days following receipt of the recommendation from the executive vice president and provost. The decision will be delivered to the accused in person or by certified or registered mail, return receipt requested.
- B. Appeal to Board of Regents: The decision of the president may be appealed, in writing, to the Board of Regents. In the event the accused wishes to exercise such appeal, the accused will, within 20 days of the date the decision of the president is mailed to the accused, provide the executive vice president and provost with written notice of appeal to the board. This notice will be forwarded to the president. The president will then forward the notice, a copy of the president's written decision, and the record of proceedings, including the evidence presented to the ad hoc committee, to the board. An appeal to the Board of Regents will be considered by the board at its next regularly scheduled meeting:
1. The Board of Regents will allow oral arguments by both the general counsel and counsel for the accused, or by the accused, not to exceed 30 minutes in length for each side.
 2. The accused, and general counsel, may present written arguments to the board, by service upon the executive vice president and provost, not later than 10 working days prior to the time that the board will hear oral arguments.
 3. The general counsel for the university will be allowed to present its argument first, and to reserve any portion of the allotted 30 minutes for rebuttal following the accused's presentation.
 4. The Board of Regents, by majority vote, in open session, may affirm the action of the president, modify such action, or dismiss the allegations against the accused.
 5. The decision of the Board of Regents will be reported, in writing, to the accused (by certified or registered mail, return receipt requested) within 30 days following oral argument, with a copy to the ad hoc committee.
 6. The decision of the Board of Regents will be final.

PART 10: PETITION FOR REMOVAL OF SANCTION NOTATION ON TRANSCRIPT

[not sure where the group is at on this (?)]—seemed that a consensus was that if academic misconduct was serious enough misconduct to warrant notation on the academic transcript, then should stay on... one option may be that for Type I Sanctions, the sanction itself may be “exchanged” for participation in and completion of a heightened or additional layer of some educational requirement relating to Academic Integrity (since the revisions made above now require both education AND a sanction whenever there is a finding of a violation).

Rule Administrator:	Office of Assoc. Vice President and Deputy Provost, through Academic Conduct Officer
Scope:	NMSU System
Effective Date:	[UGC will complete]
Cross References:	See Flow Chart at ARP Appendix 5-A
Revision History:	

DRAFT