

PART 1: PURPOSE AND OVERVIEW

- A. Chief Academic Officer for NMSU: The executive vice president and provost, as the chief academic officer for the university system (*See* RPM, Policy 6.00) delegates the responsibility for holding students accountable in instances involving student academic misconduct to the officials identified in the Student Academic Code of Conduct.
- B. Companion Rule 5.10 - Academic Integrity: This rule must be read in conjunction with Rule 5.10 - Academic Integrity, which sets the essential expectation for academic honesty throughout the university system, provides definitions, roles and responsibilities, and addresses general process issues such as confidentiality, protection from retaliation, avoidance of conflict of interest, timeliness, types of sanctions, and level of Evidence required to prove an academic integrity violation. Rules 5.10 and 5.11 and appendices are collectively referred to as the Student Academic Code of Conduct.
- C. Overview of Rule 5.11 Procedures: This rule applies when faculty, academic administrators or the registrar's office officials observe, suspect or receive a third party report about possible academic misconduct. It provides a fair, expeditious and streamlined process by which allegations of academic misconduct will be resolved. *See* Flowchart attached as ARP Appendix ____, which diagrams the procedural steps, including initial response, fact-finding investigation, evaluation of the facts and determination of level of sanction, presentation to student for acceptance of responsibility or request for hearing, and the hearing and final review processes through final decision.

PART 2: INITIAL RESPONSE TO ALLEGATION

- A. Anonymous Reports: Anonymous complaints must be investigated. The anonymity of the reporter may affect the ability to investigate, but does not preclude an investigation. Reporters may be assured that confidentiality will be maintained to the extent possible; however, due to the need to interview witnesses and report to supervisors, absolute confidentiality is not possible. All university personnel and students involved in investigative, disciplinary, hearing or final review processes are required to maintain confidentiality. *See* Also Rule 5.10, Part 8 (Confidentiality).
- B. Determination of AI Investigator: To determine who should investigate an alleged occurrence of academic misconduct will depend upon whether it occurs in the context of a course or academic program, or whether it occurs more generally within the university. *See* Rule 5.10, Part 4, Definitions D. and L. Typically, the faculty member in coordination with academic administration will investigate, because the majority of the cases involve Course/Program Level Academic Misconduct.
- C. Use of Academic Misconduct Report Form: The [Academic Misconduct Report Form](#) is to be used by the AI Investigator to facilitate the investigation and subsequent administrative action. No later than five Days of learning of the possible academic misconduct, the AI Investigator should document the pertinent facts and allegations on the form and confidentially transmit a copy of the partially completed form to the Academic Conduct Officer.
- D. Determination of Applicable Process: Sometimes, Rule 5.94.10 (Allegations of Misconduct in Research) or Rule 6.50 (Degree Revocation or Expulsion from University) may be implicated, which rules provide distinct investigation and hearing processes. The Academic Conduct Officer, in consultation with the Office of General Counsel as necessary, will assist the AI Investigator to determine the applicable rule at any stage of the investigation, typically after some fact finding.
- E. Notification to Student: Unless one of the exceptions in the subsections below applies, the Academic Conduct Officer will notify the involved student(s) about the allegations either in person or via secure official NMSU email. Notice (in the form of the partially completed Academic Misconduct Form) will be given no later than five Days from the Academic Conduct Officer's receipt of the allegations from the AI Investigator. The notice must refer the student to Rules 5.10 and 5.11
 - 1. Notice need not be provided to the student if the Academic Conduct Officer concludes that even if the allegations asserted on the academic misconduct form were true, that the facts would not constitute a

violation of academic integrity. In such circumstances, the Academic Conduct Officer will close the matter and notify the AI Investigator, and forward the documentation to the Dean of Students.

2. If the Academic Conduct Officer concludes that due to the nature of the allegations, notification to the involved student(s) would impede the investigation (e.g. Evidence might be destroyed, Evidence of collusion might be compromised). In such circumstances, the Academic Conduct Officer will coordinate with the AI Investigator and provide notice with sufficient time for the student to be able to respond to the allegations during the investigation.
- F. Notification to Dean(s): When an investigation is commenced or at an appropriate time thereafter (*See* E. 2. immediately above), the Academic Conduct Officer will determine the appropriate deans to inform them that a case involving a student in their college or library is pending. The graduate dean will be notified for graduate students; the dean of students will be notified when an undergraduate student is involved.

PART 3: FACT FINDING INVESTIGATION

- A. Each Case is Different: Depending upon the nature of the allegations and complexity of each case, the time required for each investigation will vary. Complex cases may involve the gathering of documentation, interviewing third parties, assessing witness credibility, consulting with experts in the pertinent field, or pursuing other methods and techniques aimed at discovering relevant Evidence. Other cases may not be complex, nor involve an abundance of Evidence.
- B. Expeditious Investigation and Resolution: It is intended that these matters will be resolved as expeditiously as possible, typically within 15 Days after the AI Investigator informs the Academic Conduct Officer of the violation of academic integrity. Time extensions may be sought, particularly for complex cases, pursuant to Rule 5.10 Part 7.
- C. Interview of Student During Investigation: At the appropriate time(s), depending upon the nature of the case, the charges and the evidence will be discussed with the student, to give the student an opportunity to additional facts or to identify witnesses not yet interviewed who may have relevant information.

PART 4: EVALUATION OF FACTS AND DETERMINATION OF APPROPRIATE SANCTION

- A. Evidentiary Standard: Clear and Convincing Evidence must be found to conclude that a violation of academic integrity has occurred. (*See* Rule 5.10 Part 4, Definitions C. and F.)
- B. Educational Requirement: Any violation of academic integrity may result in a requirement to participate in the Academic Integrity Education Program (*See* Rule 5.10 Part 4, Definition A.), which may be in combination with a Level I or II sanction. (*See* Rule 5.10 Part 4, Definitions G. and H.)
- C. Determination of Appropriate Level of Sanction: The level of sanction for an offense substantiated by an investigation will depend on the severity of the offense. An offense is considered more serious when it is a second or subsequent offense. Level I sanctions are imposed for lesser offenses by undergraduate students. Level II sanctions are imposed for serious offenses, including repeat offenses by undergraduate students. Graduate students will receive a Level II sanction for any violation of the Student Academic Code of Conduct, even for a less serious or first offense.
1. The AI Investigator and Academic Conduct Officer must confer about the investigative findings and discuss whether they support a finding of an academic integrity violation, and if so, what type of sanction would be appropriate. If they do not reach consensus, the Academic Conduct Officer jointly with the AI Investigator will contact the appropriate dean(s) for guidance.
 2. If it is concluded that the facts do not support a finding of an academic integrity violation by Clear and Convincing Evidence, the matter will be closed and the Academic Conduct Officer will record the final disposition of the matter as “allegations not substantiated/case closed” on the Academic Misconduct Report Form. The Academic Conduct Officer will send a copy of the form to the student, with an invitation to meet to discuss, at the student’s discretion. Neither the fact of an investigation nor the lack of finding will be reflected on the student’s official academic record. .

3. If it is concluded that the facts support a finding of an academic integrity violation by Clear and Convincing Evidence, the AI Investigator will complete the Academic Misconduct Report Form indicating the facts found and the Level I Sanction to be imposed, or the Level II Sanction being proposed, attach copies or reference the supporting evidence (e.g. documentation or description of anticipated witness testimony), and send to the student, with a duplicate copy to the Academic Conduct Officer. The student must be informed that Level 1 Sanctions will be imposed unless the student requests otherwise at an Informal Meeting, but that Level 2 Sanctions are being proposed pending final resolution. The student is required to response on a form provided by the Academic Conduct Officer indicating one of the following:
 - a. The student accepts the findings and the sanction [*case will be closed and sanction imposed*];
 - b. The student accepts the findings, but contests the sanction [*case will be set for Informal Meeting*];
 - c. The student contests the findings, but accepts the sanction despite not agreeing with the factual findings [*case will be closed and sanction imposed*]; or
 - d. The student contests both the findings and the sanction [*Level 1 sanction will be imposed unless otherwise modified during the Informal Meeting; Level 2 sanction remains proposed and case will be set for Informal Meeting*].
4. If the student does not submit the written response within 10 Days, the Academic Conduct Officer will send the parties a notice of Informal Meeting.
5. If either party does not appear for the Informal Meeting and absent emergent or other circumstances beyond the person's control, the Academic Conduct Officer will close the matter in favor of the individual who appeared for the Informal Meeting.

PART 5: INFORMAL MEETING

The purpose for the Informal Meeting is to bring the parties together to discuss the facts which support the finding of an academic integrity violation and the sanction, findings and sanction, explore possible resolution, and inform about the next steps in the process.

A. Mutual and Final Resolution:

1. If after discussion, the student elects to accept responsibility for the findings and the sanction, or disputes the facts yet accepts the sanction, an informal resolution will be documented on the Academic Misconduct Report Form or a supplement thereto, and must be signed by the parties.
2. If as a result of the discussion, the student provides evidence not available previously during the investigation or other mitigating facts that warrant modification to the findings or to the sanction, this will be documented by addendum to the Academic Misconduct Report Form. If the student accepts the sanction after modification to either the findings or to the sanction, the parties shall sign the addendum indicating their approval for the matter to be closed without further hearing.

B. Partial Mutual Resolution: If the addendum modifying the Academic Misconduct Report Form as indicated above only partially resolves the dispute, the addendum signed by the parties must clarify the remaining issues to be heard.

C. Level I Sanction or Findings Contested: If the findings or a Level 1 Sanction is contested, the Academic Conduct Officer will set the matter for hearing. Additionally, the Academic Conduct Officer may consider and grant any specific request that might be made relating to the timing or logistics of the imposition of the Level 1 Sanction, after hearing the position of each party relative to such request.

D. Level II Sanction or Findings Contested: If the findings or a Level II Sanction is contested, the Academic Conduct Officer will set the matter for hearing.

E. Coordination regarding Hearing Date: If the matter is contested, before the Informal Meeting is adjourned, the Academic Conduct Officer will obtain the parties' availability for the hearing to be set with a Hearing Panel.

PART 6: HEARING TO CONTEST FINDINGS OR SANCTION

- A. **Notice of Hearing:** The Academic Conduct Officer will send notice of the hearing to the student and to the AI Investigator within five Days of the Informal Meeting, to take place no later than twenty Days from the date of that meeting, unless agreed to otherwise by the parties. The notice of hearing must be delivered via secure official NMSU email, or as otherwise agreed to by the parties. The notice must identify the date, time and location for the hearing. It must also identify the members of the Hearing Panel by name and job title, to facilitate early resolution of conflicts of interest.
- B. **Pre-Hearing Exchange of Evidence:** No later than 5 Days prior to the hearing, the parties must electronically submit to the Academic Conduct Officer and to the other party a list of witnesses and copies of the documentation they intend to present at the hearing. The Academic Conduct Officer will distribute to the Hearing Panel. If either party needs assistance in obtaining the cooperation of a witness who is either a student or an employee, the Academic Conduct Officer will work with either the Dean of Students, Graduate School Dean or Human Resource Services to ensure that the witness is notified and arrangements made for the witness to attend the hearing. Telephonic or other electronic participation should be permitted for the convenience of the witness.
- C. **Hearing must be Recorded:** The Hearing Panel and the Academic Conduct Officer must coordinate to ensure that the Evidence presented by all parties is preserved for the record, by audio or other method of recording. Documents should be identified for the record by the party who submitted the evidence. The university is not responsible to produce transcripts of the hearings, but the Academic Conduct Officer will provide a copy to the parties upon request.
- D. **Burden of Proof:** The burden of proving the academic conduct violation by Clear and Convincing Evidence is on NMSU. The AI Investigator or other academic investigator, on behalf of NMSU, must present the Evidence to the Hearing Panel first. Time will be reserved to allow NMSU to rebut Evidence presented by the student. The Hearing Panel must allot sufficient time to each party to present their case, and may set reasonable limitations as needed to maintain order and to complete the hearing in a reasonable amount of time, based on the complexity of each case.
- E. **Presentation of Evidence by the Parties:** The parties may each present evidence to the Hearing Panel in the form of documentation, witness testimony, their own testimony, as well as in the form of questions to the other party relating to their evidence or testimony or questions to the witnesses called by the other party. The Hearing Panel may but is not required to ask questions of the parties and the witnesses. Student Advisors (*See* Rule 5.10, Part 5. G.) must not actively advocate during the hearing.
- F. **Maintaining Order During Hearing:** The Hearing Panel members, or Hearing Panel chair if one is identified, or the Academic Conduct Officer are authorized to take action to maintain order and decorum during the hearing, and may recess as may be necessary or requested by the parties.
- G. **Deliberations Outside Presence of Parties:** At the conclusion of the hearing, the parties will be excused, and the Hearing Panel will deliberate and reach a majority decision. Absent a time extension (*See* Rule 5.10 Part 7), the Hearing Panel will issue its decision in writing within ten Days following the date of the hearing.
 - 1. If the Hearing Panel finds an academic integrity violation, the decision must describe the Clear and Convincing Evidence in the record which supports the panel's findings and the sanction. A sanction imposed or proposed and contested by the student shall not be increased in severity by the Hearing Panel.
 - 2. If the Hearing Panel finds insufficient evidence to support the charges, the Hearing Panel must describe the lack of Clear and Convincing Evidence. If the Hearing Panel finds insufficient evidence to support the charge and a Level I Sanction had already been imposed, the Hearing Panel must direct that the sanction be reversed. (Level II Sanctions should not have been imposed yet.)
- H. **Decision Final for Level I Sanction:** For Level I Sanctions (*See* Rule 5.10 Part 4. Definition G.), the Hearing Panel's decision is final.
- I. **Decision with Level II Sanction Must Advise of Right to Final Review:** In cases where the Hearing Panel imposes a Level II sanction (*See* Rule 5.10 Part 4. Definition H.), the decision provide a reference to the parties' right to seek a final review of the findings or sanction consistent with Part 7 below.

PART 7: RIGHT TO FINAL REVIEW OF LEVEL II SANCTION BY EVP/PROVOST (OR DESIGNEE)

- A. Initiation of Final Review: A student or the AI Investigator may request a final review by the executive vice president or designee in matters involving Level II Sanctions by submitting a request for final review, attaching a copy of the Hearing Panel's decision, to the Office of the Executive Vice President and Provost within 5 Days after receipt of the decision. A copy of the request for final review must also be sent to the Academic Conduct Officer and to the other party.
- B. ACO Assembles Hearing Record for EVP/Provost: Upon receipt of the request for final review, the Academic Conduct Officer will assemble the hearing record (the Academic Misconduct Form, documentation presented by the parties and the recording of the hearing and deliver to the Office of the Executive Vice President and Provost. If the Academic Conduct Officer cannot provide the record within ten Days after receipt of the request for final review, the parties and the provost or designee must be notified about the need for additional time, and must notify all parties in writing when the hearing record has been delivered.
- C. EVP/Provost Review and Final Decision: The executive vice president and provost or designee will review the hearing record and issue a written final decision on behalf of the university within 20 Days after the date of receipt of the hearing record, absent notification to the parties that an extension of time is necessary, in which case the parties will be kept apprised of the status on a weekly basis until the final decision is issued. The provost or designee may uphold, reverse or modify the Hearing Panel's decision, based on Clear and Convincing Evidence in the record or based on substantial procedural error having the potential to materially affect the outcome of the hearing. The final decision will be issued to the parties, with a copy to the Academic Conduct Officer, confidentially via hand-delivery or secure official NMSU email and U.S. Mail.

PART 8: IMPLEMENTATION OF SANCTIONS; INTERNAL AND EXTERNAL REPORTING DUTIES

- A. Timing for Imposition of Level II Sanctions: Level II Sanctions will be not be imposed until after the hearing and any final review has been completed. In the event the sanction involves a suspension or dismissal, implementation of the sanction may be deferred to the end of a semester, at the discretion of the executive vice president and provost or designee.
- B. Administrative Action Pending Completion of Sanction: The student must comply with any sanction imposed by acceptance of responsibility at the Informal Meeting or by imposition after hearing and/or final review. University officials may take administrative action necessary to ensure that the terms of the sanction are completed before the student will be permitted to continue formal studies or extracurricular activities at NMSU (register for next semester, receive certificates or diplomas etc.)
- C. Impact of Allegation/Investigation on Pending Studies: Unless the disciplinary sanction specifically provides for an interim suspension for campus safety reasons, the pendency of an investigation or proceedings under this rule will not prevent a student from attending classes they are currently enrolled in or completing extracurricular commitments.
- D. Findings Recorded in Office of Registrar: A finding of an academic integrity violation becomes part of the student's educational record maintained by the Office of the Registrar.
- E. ACO Reports Final Outcome to Dean(s): The Academic Conduct Officer will report the final outcome of each academic conduct matter to the relevant deans (e.g. course dean, major dean, library dean, honors dean, Dean of Students, graduate dean).
- F. ACO Reports Final Outcome to Dean of Students: In all cases, the Academic Conduct Officer will report the final outcome to the Office of the Registrar and to the Office of the Dean of Students, for purposes of coordinating the update necessary to the student's educational records, and also for compliance with the institution's student conduct reporting obligations.

PART 9: REQUESTS BASED ON NEWLY DISCOVERED EVIDENCE

- A. Requests Based on Alleged New Evidence: In addition to the provision at Part 5 B. above, whereby new evidence may be brought to the AI Investigator’s attention during the Informal Meeting and result in amendment to the Academic Misconduct Report Form, if a party claims to have discovered new evidence relevant to the case after the completion of the investigation or other step in the proceedings which the party claims would have altered the outcome reached as of that point, it will be submitted to the Academic Conduct Officer, with a specific request for action (e.g. request to re-open investigation, to re-open hearing or to set aside final decision).
- B. Review by ACO: The Academic Conduct Officer will consider whether or not that evidence reasonably should have been discovered previously, and whether the proffered evidence would have materially altered the outcome. The Academic Conduct Officer will allow the other party to provide a position statement on the request. After consideration of the position of each party, the Academic Conduct Officer is authorized to decide the appropriate procedural response and may consult with the Office of General Counsel prior to issuing a response to the parties.
- C. ACO Determines Relief: If the Academic Conduct Officer determines that the evidence proffered was not reasonably discoverable during the investigation, and is likely to materially alter the outcome, the Academic Conduct Officer may direct that the matter be stayed pending re-opening the investigation, re-convening the hearing or conducting a new hearing, depending upon the circumstances, to consider the additional evidence. If the final decision has been issued, the Executive Vice President and Academic Conduct Officer will confer prior to the issuance of the decision on the proffered new evidence.

Rule Administrator:	Executive Vice President and Provost
Scope:	NMSU System
Effective Date:	[UGC will complete]
Revision History:	[UGC will complete]
Cross References:	See Rule 5.10 - Academic Integrity See Appendices 5-? through 5-? (SACC Flowchart, Academic Misconduct Report Form and List of Examples of Academic Misconduct) See Rule 5.94.10 (allegations of misconduct in research); See Course Catalog (grade appeals or grievances relating to instruction); See https://:eeo.nmsu.edu/ (discrimination complaint procedures); See Student Handbook, Student Social Code of Conduct