

### Proposed Re-Write of the Student Academic Code of Conduct

Rule 5.10 below is one part of a substantive revision to the academic misconduct policy presently housed in the Student Handbook. This re-write was developed by a task force consisting of ASNMSU representatives, faculty, academic administration and university counsel. Substantive changes include the creation of duties for an Academic Conduct Officer (ACO) who will oversee the processes in the revised rule and to serve as a resource to both students, faculty, and academic administrators. (This position may be a funded FTE but may also filled by assignment by the provost to an incumbent faculty member.) One of the primary revisions is to allow department heads and other academic administrators within the college to be involved as the case progresses, with independent reviewers serving in roles as hearing and appeal officers. Type I sanctions may be appealed to a Formal Hearing Panel. Type II sanctions may be appealed first to the Formal Hearing Panel, with a final on-the-record review by the Provost. The use of warnings will be permitted and will be documented so as to not permit students in different colleges to be repeat offenders without consequence. The notation of academic misconduct on one's academic transcript as a sanction is now also expressly included as a Type II Sanction. **Rule 5.11 provides the procedures for responding to allegations of a violation of academic integrity. Rule 5.11 also has two Appendices: A Synopsis of the Process and a Flowchart.**

*[AAG 040617; Academic Track; Review Groups: ADAC, ADC, ASNMSU, CC Presidents' Council, and VP SAEM; Feedback requested by June 30, 2017 to [ketelaar@nmsu.edu](mailto:ketelaar@nmsu.edu) and [lisawesq@nmsu.edu](mailto:lisawesq@nmsu.edu)]*

### **Rule 5.10 - Student Academic Code of Conduct: Academic Integrity v040717**

#### **PART 1: PURPOSE**

NMSU strives to cultivate an academic environment in which student scholarship thrives and is governed by rigorous academic standards. The Provost, as the Chief Academic Officer for the NMSU System has delegated responsibility for student academic discipline to the officials identified in this Rule and in Rule 5.11 - Procedures for Responding to Allegation(s) of Student Academic Misconduct, collectively referred to as the university's Student Academic Code of Conduct. One goal of the Student Academic Code of Conduct is to resolve disputes at the lowest administrative level possible, without compromising the student's right to due process. A fair and timely fact finding process is provided when a student is suspected of or accused of academic misconduct. If the facts found indicate a violation of this rule, the student will be informed of the charge and the evidence supporting such charge, and may elect to contest the charge through the processes provided in Rule 5.11. Upon a determination or admission of responsibility, a sanction commensurate with the severity of the violation will be imposed. A flowchart is attached at **Appendix 5- X**, which diagrams the procedural steps for fact-finding upon initial receipt of allegation; presentation to student for acceptance of responsibility or request for hearing; and the hearing and appeal processes through final decision.

#### **PART 2: NOTICE**

The Student Academic Code of Conduct will be posted on the websites of the Office of the Dean of Students and the Graduate School, and may be published in the student handbook and academic catalogs by way of restatement, summarization, cross reference or electronic link. At the beginning of each academic semester or session for each course, each faculty member provides the expectations for academic performance required for the course on a syllabus. Each student is required to comply with the Student Academic Code of Conduct, applicable ethical and other standards required by the specific discipline, as well as the specific requirements stated on the course syllabus.

#### **PART 3: EXPECTATION OF HONESTY IN ALL ACADEMIC MATTERS**

NMSU students are expected to maintain high academic, ethical, and professional standards of conduct, which requires honesty in all academic matters. Academic dishonesty may take a variety of forms, including, but not limited to those listed below:

- A. 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.

- B. Misrepresentation: Misrepresentation, including non-disclosure when disclosure is required, in the completion of applications or other university records. An example of this would be concealment by a student who of the fact they attended another college of university and a failure to cause the registrar of that institution submit the required transcript, whether or not credit was earned.
- C. Plagiarism: The use of another person's work without acknowledgment, making it appear to be one's own.
  - 1. Any ideas, words, pictures, or other intellectual content taken from another source must be acknowledged in a citation that gives credit to the source.
  - 2. The prohibition of plagiarism applies irrespective of the origin of the material, including the Internet, another person's work, unpublished materials, or oral sources.
  - 3. Intentional and unintentional instances of plagiarism are considered instances of academic misconduct.
- D. 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; and
- E. Unauthorized Possession of Academic Material: Unauthorized possession of examinations, reserve library materials, laboratory materials, or other course-related materials.

#### **PART 4: DEFINITIONS AND ROLES OF INVOLVED NMSU OFFICIALS AND HEARING BODIES**

- A. Academic Conduct Officer: The Academic Conduct Officer may be a position to be appointed by the executive vice president and provost, or may be fulfilled through the provost's assignment of additional duties to an incumbent faculty member. This officer's duties will include serving as the chair of the Student Academic Conduct Board, and providing administrative support to this board and to those with hearing or appeal duties under the Student Academic Code of Conduct. The Academic Conduct Officer will serve as an important resource to provide procedural guidance for students, faculty and academic administrators in matters involving alleged academic misconduct. The Academic Conduct Officer will coordinate with the Office of Student Judicial Affairs regarding reporting obligations as they relate to student conduct generally.
- B. 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.
- C. Executive Vice President and Provost: The executive vice president and provost or designee provides the final administrative review of Type II academic misconduct matters, based on the record received from the Formal Hearing Panel.
- D. Formal Hearing Panel: A panel, consisting of members of the Student Academic Conduct Board designated by the Academic Conduct Officer on an ad hoc basis to hear cases of alleged academic misconduct resulting in Type I or Type II sanctions. In the case of Type I sanctions, the Formal Hearing Panel issues the final decision.
- E. Student: Each undergraduate and graduate student has a responsibility to report any observed or reasonably suspected academic misconduct to the cognizant faculty member or to the Academic Conduct Officer or other appropriate university official, as well as a duty to cooperate in any investigative or administrative proceeding as may be requested or required by those charged with administering the Student Academic Code of Conduct.
- F. Student Academic Conduct Board: The Student Academic Conduct Board is a standing university board from which smaller Formal Hearing Panels will be selected on an *ad hoc* basis by the Academic Conduct Officer. The Student Academic Conduct Board will consist of the following members, who will serve staggered terms as indicated below.
  - 1. Ten members of faculty, consisting of four tenured or tenure track faculty, two college faculty from NMSU-LC, and one faculty member from each community college, to be appointed by Faculty Senate to serve staggered three year terms;
  - 2. Three undergraduate students, to be appointed by the ASNMSU President and confirmed by the ASNMSU Senate to serve a one year term;
  - 3. Four community college students, to be appointed by each community college to serve a one year term;
  - 4. Three graduate students, to be appointed by the Graduate Student Council to serve a one year term;
  - 5. Five academic administrators with faculty rank, to be appointed by the Associate Deans Academic Council to serve staggered 3 year terms.

- G. **Student Advisor:** A person chosen by the student accused to provide consultation, guidance and/or support to the student through the various procedural steps outlined in the Student Academic Code of Conduct. If the student needs assistance in identifying someone to serve as advisor, the ASNMSU Supreme Court Justice will designate someone to serve in such capacity on the student's behalf. The student's advisor will not actively advocate or participate in the investigative, hearing, or appeal proceedings.
- H. **Student Judicial Affairs Coordinator:** One role served by this position is to report all student conduct matters, as required by law, on behalf of NMSU. The Student Judicial Affairs Coordinator will work closely with the Academic Conduct Officer. 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.
- I. **Types of Academic Misconduct:** If the alleged misconduct occurs in the context of a course or specific academic program, it is referred to as "Course/Program Level Academic Misconduct". The course faculty member will be the responsible university official to address it. If the alleged misconduct pertains more generally to a student or group of students' general academic standing (e.g. falsification of records, misrepresentation of prior academic work), it is referred to as "University Level Academic Misconduct". The Registrar or designee will be the responsible university official to address it pursuant to the same procedures that faculty and academic administrators follow for course level misconduct (*See* Rule 5.11 -Procedures for Responding to Allegation(s) of Student Academic Misconduct).

#### **PART 5: GOOD FAITH AND PROTECTION FROM RETALIATION**

All individuals involved in the processes outlined in the Student Academic Conduct Code must act with honesty of intention when reporting, investigating and taking administrative action relating to alleged violations. Individuals who believe they are being retaliated against because they have in good faith reported a suspected violation, investigated a claim of academic dishonesty, cooperated in an investigation, testified or provided other evidence during a hearing, conducted a hearing, imposed or proposed a sanction, issued a determination or decision, or otherwise taken action authorized by the Student Academic Code of Conduct, must report the retaliation promptly. If the claim is against a student, it should be reported to the Office of the Dean of Students. If the claim is against a faculty member or other employee, it should be reported to Human Resource Services-Employee and Labor Relations. Allegations of retaliation will be investigated independently and objectively; disciplinary action will be administered as warranted by the findings.

#### **PART 6: TIMELINESS**

Faculty and academic administrators with responsibility under the Student Academic Code of Conduct will perform their duties as expeditiously as possible. Unless a request for extension of time is granted with notice to the involved parties, the time deadlines set forth in the code will apply. Written requests for an extension of a deadline will be granted liberally by the Informal Hearing Officer or Formal Hearing Panel chair with the mutual consent of the parties or when reasonable cause is shown. The first request for an extension by either party should be granted. For a second or subsequent request for an extension from the same party, if another involved party opposes the request, the appropriate hearing official or hearing panel chair will hear from the parties in person or on the phone together and decide whether to grant or deny the request. A deadline to issue a decision by a hearing official may, for good cause, be extended by a reasonable period of time by the official, with notice to the involved parties and a new date by which the decision will be issued.

#### **PART 7: CONFIDENTIALITY**

An allegation of academic dishonesty is a serious matter, and may cause harm to a student's prospective academic or professional career. The internal investigation, hearing processes, and sanctions imposed, if any, will be administered using discretion and kept confidential within the 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. If other students are involved (e.g. as a witness), they will be counseled to maintain confidentiality.

#### **PART 8: FAIRNESS AND AVOIDANCE OF CONFLICT OF INTEREST**

- A. NMSU officials will perform their duties required by the Student Academic Code of Conduct in a thorough and impartial manner. No individual involved in an alleged violation of the Student Academic Code of Conduct shall seek to directly or indirectly influence the outcome or obtain relief from an NMSU official.

- B. Actual and perceived conflicts of interest will be brought to the attention of the Academic Conduct Officer for resolution as early as possible in the proceeding. The Student Academic Conduct Board has numerous members from across the NMSU system to be able to provide a peer review panel, as well as to facilitate the selection of disinterested members to serve on the Formal Hearing Panel to provide a fair and impartial review. If an alleged conflict is not raised or resolved prior to the start of a proceeding, then all parties will be made aware of the issue and will be entitled to give 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 the fairness of the hearing process. If the person alleged to have a conflict of interest will not voluntarily recuse themselves from an official role or duty, a decision will be made by the others on the panel or by the Student Academic Conduct Board, as appropriate. The issue to be decided will be whether a reasonable person would believe that the facts presented would render the person accused of having the conflict to be unable to serve impartially.

### **PART 9: NMSU MUST PROVE VIOLATION BY CLEAR AND CONVINCING EVIDENCE**

To prove a violation of the Student Academic Code of Conduct, the evidence (facts presented through documentation, witness testimony, video or audio recording, or other form of evidence) must be found to be clear and convincing. "Clear and convincing evidence" is defined as that which makes it highly probable or reasonably certain that the alleged misconduct occurred. To prove a fact by clear and convincing evidence requires evidence stronger than a "preponderance of the evidence" (the greater weight of the evidence) and less than "beyond a reasonable doubt" (the standard for criminal cases tried in court); the evidence must instantly tilt the scales in the affirmative when weighed against the evidence in opposition.

Rule Administrator:	Office of Assoc. Vice President and Deputy Provost
Scope:	NMSU System
Effective Date:	<i>[UGC will complete]</i>
Revision History:	<i>[UGC will complete]</i>
Cross References:	See ARP, Rule 5.11 - Procedures for Responding to Allegation(s) of Student Academic Misconduct; See ARP Appendices XX- A-D (SACC Process flowchart, SACC Examples of Plagiarism) See Rule 5.94.10 for procedures to address allegations of misconduct in research context See Academic Catalog for procedures to file Grade Appeal or Student Grievance versus Faculty See <a href="https://eoo.nmsu.edu/">https://eoo.nmsu.edu/</a> for procedures to file discrimination complaint; See Student Social Code of Conduct for procedures relating to non-academic misconduct.

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*[AAG 040617; Academic Track; Review Groups: ADAC, ADC, ASNMSU, CC Presidents' Council, and VP SAEM; Feedback requested by June 30, 2017 to [ketelaar@nmsu.edu](mailto:ketelaar@nmsu.edu) and [lisawesq@nmsu.edu](mailto:lisawesq@nmsu.edu)]*

### **Rule 5.11 -Procedures for Responding to Allegation(s) of Student Academic Misconduct**

v040717

#### **PART 1: PURPOSE AND OVERVIEW**

This rule should be read in conjunction with Rule 5.10 - Student Academic Code of Conduct- Academic Integrity. This rule provides the procedures by which alleged academic misconduct must be resolved within the NMSU system, and clarifies that a serious allegation such as cheating or plagiarism must receive serious consideration in a fair and objective manner. These procedures provide guidance for faculty and academic administrators, who suspect or receive a third party report of possible academic misconduct, to facilitate the fact finding investigation, evaluation of the facts and decisions relating to sanctions. The rule provides a fair, streamlined and expeditious process that students can likewise follow when confronted with an accusation of academic misconduct. The rule differentiates between undergraduate students and graduate students, and between lesser and more serious offenses with regard to the type of sanction to be imposed. A repeated lesser offense and a single serious offense will receive stricter sanctions than first time or less serious offenses. Once the facts have been determined and a sanction decided upon, these procedures provide for a final resolution through informal and formal hearings, subject to the right to an appeal to the executive vice president and provost who will provide a final review based on the record.

#### **PART 2: DETERMINATION OF TYPE OF ALLEGED ACADEMIC MISCONDUCT**

In the event of an allegation (e.g. report by third party) or other suspicion (observation by a faculty member) of cheating or other type of academic misconduct, the appropriate NMSU official must address it in accordance with this rule. To determine who should investigate the allegation depends on whether it occurs in the context of a course or academic program, or whether it occurs more generally within the university:

- A. Course/Program Level Academic Misconduct: Course/Program Level Academic Misconduct may include allegations such as plagiarism on a course assignment, cheating on an exam, or alteration of a faculty member/academic administrator's grade book. For course level academic misconduct, the course faculty member/academic administrator is the responsible official who receives or initiates the allegation of academic misconduct; confers as needed with departmental or college immediate supervisors; determines whether the academic misconduct at issue is governed by this Rule or by Rule 5.94.10; and if governed by this Rule, conducts the fact finding investigation and pursues appropriate sanctions in coordination with the Academic Conduct Officer.
- B. University Level Academic Misconduct: University Level Academic Misconduct pertains more generally to the student's general academic standing and may include allegations such as falsification of university records,

misrepresentation of previous transcripts or degrees, or forgery. For university level academic misconduct, the Registrar or designee is the responsible official who takes action, in the same fashion set forth herein for faculty member/academic administrators with regard to course/program academic misconduct.

**PART 3: INITIAL RESPONSE TO ALLEGATION: FACT FINDING INVESTIGATION** (*See Also* Rule 5.10)

The faculty member/academic administrator or registrar/designee, as determined to be appropriate (*See* Part 2 above) will follow the procedures set forth in this rule to resolve issues involving alleged student academic misconduct.

- A. Refer to the Academic Misconduct Report Form: It is the responsibility of the faculty member/academic administrator or registrar/designee, as appropriate, to ensure that a fair, prompt, confidential fact finding process occurs; and to coordinate these efforts with the Academic Conduct Officer. The [Academic Misconduct Report form](#) provides a checklist to facilitate the investigation and subsequent administrative action. The faculty member/academic administrator or registrar/designee, as appropriate, will complete the form and transmit it to the Academic Conduct Officer within five days of learning of possible academic misconduct.
- B. Confidentiality/Anonymity: Anonymous complaints will be investigated; the anonymity of the reporter may affect the ability to investigate, but need not preclude an investigation. Confidentiality will be maintained to the extent possible; however, due to the need to interview witnesses and report to supervisors, absolute confidentiality cannot be ensured. All university personnel and students involved in the investigative, disciplinary and review or appeal hearing processes are required to maintain confidentiality.
- C. Notification to Accused Student: Unless the Academic Conduct Officer deems a matter to not be actionable even if the allegations asserted were true (e.g. even if true, they would not support a finding of a violation of the Student Academic Code of Conduct), or that notification would impede the investigation, in the professional opinion of the Academic Conduct Officer, the student must be notified about the allegation within three business days from the date the Academic Conduct Officer received the Academic Misconduct Report form from the faculty member/academic administrator or registrar/designee, as appropriate. The notice must be given to the accused student confidentially either in person or via secure official NMSU email. The notice must include a copy of Rules 5.10 and 5.11 and the Academic Misconduct Form.
- D. Notification to Cognizant Deans: If an investigation is commenced, the Academic Conduct Officer will send an informational notice regarding the pending matter confidentially to the attention of the appropriate deans, which may be sent by secure official NMSU email. These deans would include the cognizant course dean; the dean of students for undergraduate students or the dean of the Graduate School, for graduate students.
- E. Fact Finding and Informal hearing: The faculty member/academic administrator or registrar/designee, as appropriate will investigate the alleged facts, including interviewing the accused student, and will attend the Informal Hearing with the student, when convened by the Academic Conduct Officer.
  1. Depending upon the nature of the allegations and complexity of each case, the time required for the investigation may 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. It is intended that these matters will be resolved as quickly as possible; however extensions of time may be permitted for more complex cases or extenuating circumstances. *See* subsection E. 4. below.
  2. The evidence collected will be shared with the accused student prior to any determination of the student's culpability and prior to the proposal or imposition of any sanction.
  3. The investigation and fact finding phase will include an informal hearing prior to or during which the accused student will be notified about the evidence relating to the allegations and will be given the right present the student's position and any evidence in support of the student's position.
  4. The informal hearing will be held between the accused student, the individual faculty member/academic administrator or registrar/designee, as appropriate, who made or received the allegation, and the Academic Conduct Officer no later than fifteen business days from the date the student was first notified about the allegation, unless an extension of time (may be requested by any involved party) is approved by the Academic Conduct Officer.

5. Notice of the date of the fact finding Informal hearing will be given either in person or via correspondence to the involved faculty member/academic administrator or registrar/designee, as appropriate, and to the student via secure official NMSU email at least 3 business days in advance of the hearing.
6. The testimony and other evidence contributed by all parties, including the student, must be considered at the fact finding informal hearing and preserved in the record.
7. The faculty member/academic administrator or registrar/designee, as appropriate, with the assistance of the Academic Conduct Officer, may reach a mutually satisfactory resolution with the student charged with academic misconduct. The Academic Misconduct Report form or a supplement thereto must be used to document the mutual resolution and must be signed by both parties.

#### **PART 4: EVALUATION OF FACTS; DETERMINATION OF APPROPRIATE SANCTION, IF ANY**

If the student and faculty member/academic administrator or registrar/designee, as appropriate do not mutually resolve the matter during the fact finding and Informal Hearing, the Academic Conduct Officer will issue a Determination within three business days from the Informal Hearing. The Determination must state the facts found by the Academic Conduct Officer, from the evidence presented and in the hearing record, and if a conclusion is reached that the Student Academic Code of Conduct was violated, the facts cited must constitute clear and convincing evidence of the violation.

- A. If the facts found do not support a finding of a violation of the Student Academic Code of Conduct by clear and convincing evidence, the matter will be closed and the student shall not suffer any adverse consequences as a result of having been investigated. The Academic Conduct Officer will record the final disposition of the matter as “Case Closed/Not Substantiated” on the Academic Misconduct Report form and send a copy to both the student and the faculty member/academic administrator or registrar/designee as appropriate, informing that the case is closed and there is no sanction.
- B. If the facts found support a finding that there has been a violation of the Student Academic Code of Conduct by clear and convincing evidence (*See* Rule 5.10, Part 9), the Academic Conduct Officer will issue a Determination in writing setting forth the facts found and any sanction to be imposed. The Academic Misconduct Report form will be used to record the final disposition of the matter. The Academic Conduct Officer will send both the student and the faculty member/academic administrator or registrar/designee as appropriate, a copy of the Determination and the Academic Misconduct Report form. The student must comply with the sanction, and 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.) Unless the disciplinary sanction specifically provides otherwise, the imposition of a sanction does not prevent a student from attending classes they are currently enrolled in or completing extracurricular commitments.

#### **PART 5: TYPES OF SANCTIONS**

- A. Nature of Offense Determines Type of Sanction: The sanction for an offense substantiated by an investigation will depend upon whether it is a student’s first offense, and/or whether it is a serious offense. Type I sanctions are imposed for lesser offenses by undergraduate students; Type II sanctions are imposed for serious offenses, and for repeat offenses by undergraduate students. Graduate students will receive a Type II sanction for any violation of the Student Academic Code of Conduct, even for a less serious offense.
  1. Type I sanctions are limited to:
    - a. Issuing of a verbal warning (documented and signed as received by the student);
    - b. Requiring the student to participate in the Academic Integrity Education Program;
    - c. Requiring the student to re-do an academic assignment;
    - d. Imposing a failing grade on an assignment; or
    - e. Reducing the final grade in course by one letter grade.
  2. Type II sanctions are limited to:

- a. A written reprimand;
- b. Requiring the student to participate in the Academic Integrity Education Program;
- c. A failing grade in the course;
- d. Disciplinary probation for a specified time period;
- e. Disciplinary suspension for a specified time period;
- f. Disciplinary dismissal for a specified time period; or
- g. A notation of academic misconduct on the student's official transcript.

#### **PART 6: RIGHT TO APPEAL TO FORMAL HEARING PANEL**

- A. Students or faculty member/academic administrator or registrar/designee, as appropriate, may appeal the findings or the sanctions imposed by providing Notice of Appeal, attaching a copy of the Determination subject of the appeal, and submitting to the Office of the Academic Conduct Officer within five business days from their receipt of the Determination.
- B. The Academic Hearing Officer must convene the Formal Hearing Panel to review the matter with both parties present within 15 business days from receipt of the Notice of Appeal, 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 matter is set for hearing.
- C. The Formal Hearing Panel chair must schedule the hearing and give the parties notice of the hearing at least at 4 business days prior to the date of the hearing.
- D. The Formal Hearing Panel will review the evidence submitted by the parties at the hearing, including hearing testimony from the parties, hearing testimony from witnesses who may be called, if any, and any other form of evidence.
- E. The hearing must be tape recorded.
- F. The Formal Hearing Panel will deliberate following the hearing to consider and weigh the evidence, to collaborate decide the majority's position within 15 business days, 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 Decision is issued.
- G. The Formal Hearing Panel will issue a written Decision with findings of facts supported by clear and convincing evidence to uphold, reverse or modify the Determination the faculty member/academic administrator or registrar/designee, as appropriate. A sanction appealed by a student will not be increased in severity on appeal.
- H. The Decision of the Formal Hearing Panel will be delivered to the involved student and faculty member/academic administrator or registrar/designee, as appropriate, by hand-delivery or by secure official NMSU email. In matters involving Type II sanctions (*See* Part 5 above), the Decision must include language to inform the parties of the right to seek a final review from the executive vice president and provost by filing a Notice of Appeal, and copy of Decision being appealed, with the Office of the Academic Conduct Officer within 5 business days from receipt of the Formal Hearing Panel's Decision.
- I. For matters involving Type I sanctions, the decision of the Formal Hearing Panel will be final.

#### **PART 7: RIGHT TO FINAL REVIEW ON THE RECORD IN MATTERS INVOLVING TYPE II SANCTIONS**

- A. In matters involving Type II sanctions, students or faculty member/academic administrators or registrar/designee, as appropriate, may appeal to the Executive Vice President/Provost for an on-the record review by submitting a Notice of Appeal, attaching the a copy of the Decision being appealed, to the Academic Conduct Officer within five business days from receipt.



- B. Upon receipt of the Notice of Appeal relating to a Type II Sanction, the Academic Conduct Officer will ensure that the formal hearing record (the Academic Misconduct Form, supporting documentation, documentation presented by the parties and audio recordings of the hearing), is in order. Absent the need for an extension of time for good cause to be decided by the executive vice president and provost with notice to the parties, the Academic Conduct Officer must deliver it confidentially to the Office of the Provost within ten business days from receipt of the Notice of Appeal.
- C. The executive vice president and provost will review the record and issue a written Final Decision on behalf of the university within fifteen business days from 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.
- D. The executive vice president and provost’s Final Decision will be based on clear and convincing evidence in the hearing record, and may uphold, reverse or modify the Decision of the Formal Hearing Panel.
- E. 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.

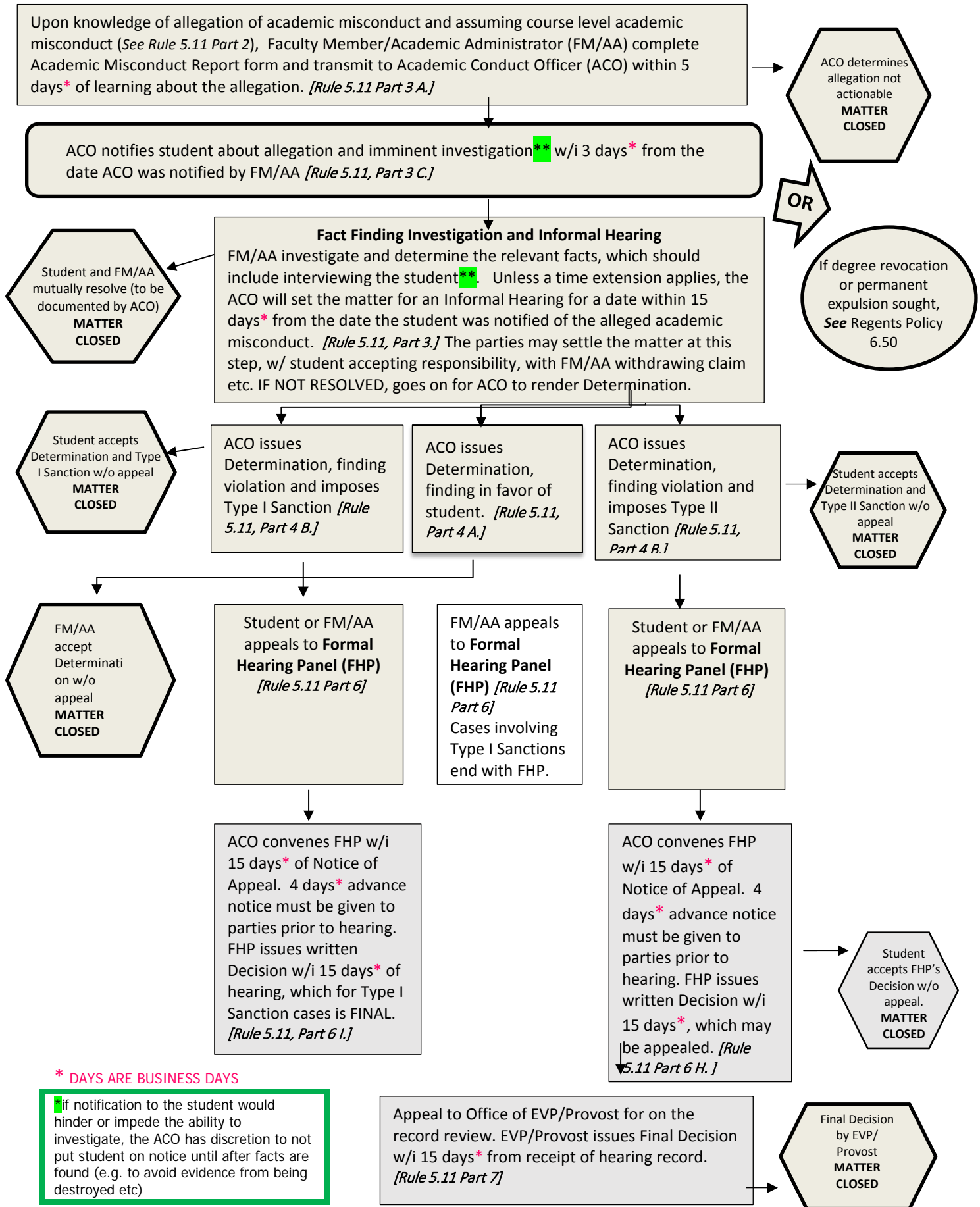
**PART 8: FINAL OUTCOME MUST BE REPORTED TO THE NMSU STUDENT JUDICIAL AFFAIRS OFFICER**

The Academic Conduct Officer will coordinate with the Office of Student Judicial Affairs to ensure that the university’s institutional reporting obligations are met. The documentation for the entire proceeding will be retained by the faculty member/academic administrator or the registrar/designee, 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.

Rule Administrator:	Office of Assoc. Vice President and Deputy Provost
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Cross References:	<p>See ARP, Rule 5.10 - Student Academic Code of Conduct - Academic Integrity</p> <p>See ARP Appendices 5- A, Student Academic Code of Conduct Process flowchart</p> <p>See Rule 5.94.10 (allegations of misconduct in research);</p> <p>See Undergraduate Catalog (undergraduate student grade appeals or grievances relating to instruction);</p> <p>See Graduate Catalog (graduate student grade appeals or grievances relating to instruction)</p> <p>See <a href="https://:eeo.nmsu.edu/">https://:eeo.nmsu.edu/</a> (discrimination complaint procedures);</p> <p>See Student Social Code of Conduct (non-academic misconduct violations and remedies)</p>

# Rule 5.11 Flowchart for Processes by which Allegations of Student Academic Misconduct are Investigated and Resolved

(See Administrative Rules and Procedures, Rules 5.10 and 5.11)



\* DAYS ARE BUSINESS DAYS

\*\*if notification to the student would hinder or impede the ability to investigate, the ACO has discretion to not put student on notice until after facts are found (e.g. to avoid evidence from being destroyed etc)

Appeal to Office of EVP/Provost for on the record review. EVP/Provost issues Final Decision w/i 15 days\* from receipt of hearing record. [Rule 5.11 Part 7]

## **Synopsis of Procedures for Responding to Allegation of Course Level Academic Misconduct**

*(See Administrative Rules and Procedures, Rules 5.10 and 5.11)*

### Step 1: Initiating Process - Transmission of Academic Misconduct Report Form to ACO

Upon identifying a potential instance of academic misconduct by a student at a course or program level, the faculty member confers with the departmental or college-level supervisor to determine which administrative rules guide the investigative process. ***No later than 5 days*** from learning of the possible misconduct, the faculty member/academic administrator must document the facts and circumstances relating to the suspected or reported alleged misconduct using the Academic Misconduct Report Form, sign and date the form, and submit the form to the Academic Conduct Officer (ACO). The student will be notified by ACO ***within 3 days of the ACO's receipt of the form***, unless the nature of the alleged offense is such that the ACO determines it would impede the investigation to do so.

### Step 2: Prompt Confidential and Thorough Investigation into Alleged Facts

The faculty member/academic administrator must promptly and confidentially investigate to ascertain the facts relating to the allegation. The requirement to maintain confidentiality should not prevent witnesses who might have knowledge from being interviewed, nor the seeking of procedural guidance from the Academic Conduct Officer or from supervisors. Each person involved with the investigation must maintain confidentiality. ***The investigation must be completed as quickly as possible, because the first informal hearing will occur within 15 business days from the date the ACO received the Academic Misconduct Report form.*** It is acknowledged that some cases will involve complex facts and that scheduling issues may slow things down; in this case, a time extension should be sought from the ACO. The faculty member/academic administrator write up the results of the investigation using the Academic Misconduct Report form, supplementing as necessary.

### Step 3: Informal Hearing through Possible Mutual Resolution

***Within 15 business days from receipt of the Academic Misconduct Report form*** from the faculty member/academic administrator, the ACO sets an informal hearing with the student and faculty member/academic administrator to review the allegations, facts found, proposed sanction(s). ***The parties must receive at least 4 business days advance notice of the informal hearing*** and the student must be provided the Academic Misconduct Report Form with supporting documentation attached. Based on the facts discussed at the informal hearing, the student may accept responsibility and a proposed sanction, the faculty member/academic administrator may withdraw the claim based on facts presented by the student or based on insufficient evidence, or the parties may reach an otherwise mutually acceptable resolution. An example of this might be the student not admitting responsibility, but perhaps accepting a warning, to be documented by the ACO.

### Step 4: ACO Determination, Including Sanctions, Based on Facts from Informal Hearing

If the parties led by the ACO are unable to resolve the matter, the ACO will consider all evidence presented by the parties, and ***render a written Determination based on clear and convincing evidence within 3 business days from the informal hearing.*** If the ACO's conclusion is that the evidence presented was not sufficient (did not meet the required "clear and convincing evidence" standard) to support a finding of a violation of the Student Academic Code of Conduct, the student will be notified that the allegation was not substantiated by the evidence and that their academic record will not be affected by the proceeding. If the ACO's conclusion is that the evidence presented supports a finding of a violation of the Student Academic Code of Conduct by clear and convincing evidence, then the Determination will also provide the sanction to be imposed, which shall be commensurate with the seriousness of the violation.

A. **Type I Sanctions**, for less serious violations of academic integrity, include:

1. Issuing of an oral warning (documented and signed as received by the student);
2. Requiring the student to re-do an academic assignment;
3. Imposing a failing grade on an assignment.

B. **Type II Sanction**, for more serious violations of academic integrity, include:

1. Issuing a written warning;
2. Imposing a failing grade in the class;
3. Disciplinary probation or Disciplinary suspension;
4. Disciplinary dismissal for finite time period of time;
5. A possible notation of academic misconduct on the student's official transcript.

Step 5: Appeal from ACO's Determination to Formal Hearing Panel

The students or faculty member/academic administrator may appeal the findings or the sanctions imposed by providing Notice of Appeal and copy of the Determination being appealed, and submitting to the Office of the Academic Conduct Officer *within 5 business days* from receipt of the Determination. The Academic Conduct Office must convene a Formal Hearing Panel, consisting of members from the Student Academic Conduct Board *within 15 business days from receipt of the Notice of Appeal*, absent notification that a time extension is needed, in which case the parties will be kept apprised of the status on a weekly basis until the matter is set for hearing. The parties must receive advance notice of *at least four business days* prior to the hearing. The Formal Hearing Panel will review the evidence submitted by the parties at the hearing, including the testimony of the parties and their witnesses, if any. The hearing must be tape recorded. The Formal Hearing Panel will deliberate following the hearing and collaborate to issue a written Decision reflecting the majority's position *within fifteen business days from the date of the hearing*, 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 Decision is issued. The Formal Hearing Panel's Decision must be based on clear and convincing evidence, and may uphold, reverse or modify the Determination by the ACO, but must not increase a sanction appealed by student. **For Type I sanctions, the decision of the Formal Hearing Panel is final.**

Step 6: Appeal of Type II Sanctions to the Executive Vice President and Provost

For Type II sanctions, the student or faculty member/academic administrator may appeal to the Executive Vice President and Provost by submitting a Notice of Appeal and copy of the panel's Decision, to the Academic Conduct Officer *within 5 business days from receipt of the Decision of the Formal Hearing Panel*. Upon receipt of the Notice of Appeal relating to a Type II Sanction, the Academic Conduct Officer will organize the hearing record (the Academic Misconduct Form, supporting documentation, documentation presented by the parties and audio recordings of the hearing). *Within 10 business days from the date of receipt of the Notice of Appeal*, the ACO will deliver the hearing record to the Office of the Provost for an on-the-record review. If an extension of time is requested by the Academic Conduct Officer, it shall be made to the Executive Vice President and Provost, who shall grant it based on good cause. The Executive Vice President and Provost will review the record and issue a written final decision, based on clear and convincing evidence in the record, on behalf of the university *within fifteen business days from the date of receipt of the Notice of Appeal and the complete 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.