



Academic Senate

August 11, 2020

To: Thomas Smith
Interim Provost & Executive Vice Chancellor

From: Dylan Rodriguez, Chair 
Riverside Division

CC: Daniel Jeske
Vice Provost for Academic Personnel & Interim Vice Provost for Academic Resolution

Re: Proposed Transition of Vice Provost for Administrative Resolution (VPAR) at UCR

I am pleased to offer the attached Senate standing committee responses to the proposed transition of the Vice Provost for Administrative Resolution (VPAR) position at UCR. The Senate Executive Council conducted a thorough discussion of this proposal during its regular meeting of August 10, 2020. In addition to reiterating some of the overlapping points in the attached memos, Executive Council members stressed several concerns emerging from potential conflicts of interest, implicit bias, and insufficient “firewalling” that might emerge if and when the responsibilities of the VPAR and Vice Provost for Academic Personnel (VPAP) are contained in one administrative office.

The Executive Council’s discussion with VPAP/interim VPAR Daniel Jeske on August 10 was fruitful in raising and considering these and other concerns. The provision of an alternate organizational chart for the proposed transition was particularly helpful in facilitating an alternate plan for implementing such a change. I trust that the attached consultative correspondence, along with anticipated ongoing conversations with Executive Council, will constructively inform this proposed transition plan.

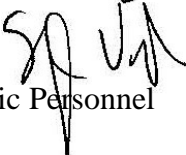
Peace
dylan



COMMITTEE ON ACADEMIC PERSONNEL

July 22, 2020

To: Dylan Rodriguez
Riverside Division Academic Senate

From: Sherryl Vint, Chair 
Committee on Academic Personnel

Re: [Campus Review] Proposal: Proposed Transition of Vice Provost for
Administrative Resolution (VPAR) at UCR

At its meeting on July 15, 2020, CAP considered the proposed policy on the transition to an Associate Vice Provost for Administrative Resolution, with some of the work of this position moving to the Vice Provost for Academic Personnel. The proposal indicates that such a structure is consistent with the practices at other UCs. The Committee respectfully requests further details on the procedures for such matters at other UC campuses. The Committee appreciates that it would be only in a minority of cases wherein the VPAP would have detailed knowledge related to ongoing disciplinary matters at the same time that a personnel action is being considered for a file. However, the Committee is concerned that this change in the policy (wherein the “firewall” between procedures would no longer apply in this minority of cases) could thereby create a perception of bias and may result in more grievances in relation to personnel actions. Finally, the Committee was unclear as to why this change was deemed necessary for our campus and respectfully requests further details on the rationale for the change.



COMMITTEE ON FACULTY WELFARE

August 4, 2020

To: Dylan Rodriguez
Riverside Division Academic Senate

From: Abhijit Ghosh, Chair
Committee on Faculty Welfare

Re: [Campus Review] Proposal: Proposed Transition of Vice Provost for
Administrative Resolution (VPAR) at UCR

The Committee on Faculty Welfare (CFW) met remotely on July 14 and discussed the proposed transition of Vice Provost for Administrative Resolution (VPAR) at UCR. The proposed changes have a long-term impact on the faculty welfare in this campus.

This proposal eliminates the VPAR position completely and creates a 50% Associate Vice Provost for Administrative Resolution (AVPAR) position. Hence, a significant amount of workload and decision-making power are transferred to the Vice Provost for Academic Personnel (VPAP), who also deals with the merit and promotion files of faculty. The CFW is concerned whether this will create an unreasonably high workload for the VPAP. An example of an unintended consequence is that the merit and promotion files and/or the Title IX investigations may not get the level of attention they deserve.

In addition, the firewall between the AVPAR and VPAP is incredibly important as the VPAP deals with merit and promotion files of faculty. There are concerns that the firewall may be removed too soon as proposed. In other words, getting rid of the firewall as soon as the informal resolution process is completed with a negative outcome, is too early. This allows the VPAP to step in even if NO probable cause is determined by the committee on Charges in the subsequent steps. In this scenario, the VPAP will be familiar with files with NO probable cause, while evaluating the merit and promotion file of the same faculty. While we have utmost respect for our current VPAP, an implicit bias cannot be ruled out in future.

The CFW recommends considering two potential solutions to address the issues. (1) Keep the VPAR position (as opposed to creating an AVPAR position), but at 50% and completely independent of VPAP, moving the majority of responsibilities to VPAR. This will keep VPAP's role minimal in the resolution process while maintaining full confidentiality. (2) Extend the firewall between AVPAR and VPAP until the committee on Charges determines a probable cause. Before this point, the VPAP should not play any role in the resolution process maintaining full confidentiality. Both solutions address the workload issue as well. Either one of these options could resolve this issue.

In addition, the CFW questions how the outcome of the resolution process (guilty or not guilty) may affect the merit and promotion file of the faculty concerned, which is a very important issue. It requires careful thoughts and discussions with the Academic Senate in the context of the current proposal.

COMMITTEE ON DIVERSITY, EQUITY, AND INCLUSION

July 20, 2020

To: Dylan Rodriguez
Riverside Division Academic Senate

From: Xuan Liu, Chair
Committee on Diversity, Equity, and Inclusion

Re: [Campus Review] Proposal: Proposed Transition of Vice Provost for Administrative Resolution (VPAR) at UCR

The Committee on Diversity, Equity and Inclusion reviewed the Proposed Transition of Vice Provost for Administrative Resolution (VPAR) at UCR. While the Committee welcomes the campus' efforts to reduce administrative position, we also urge the administration to preserve the structures necessary for improving the campus culture and climate. Until each of our colleges can count on our Deans and Dept Chairs we don't believe the importance of the VPAR will be going away anytime soon.

Our other concerns are summarized below:

1. The “problem” as presented (i.e. the current VPAR has been appointed VPAP) doesn't seem to need a solution. Appoint an interim VPAR and then have an appropriate internal search for a permanent VPAR using standard procedures. We don't consider the job is superfluous or otherwise expendable. If the demand is high enough to keep the person in the position busy at near-100%, then the reduction to 50% is arguably exploitative -- half the pay, but the full workload. This also means that there will be some unavoidable reduction in the quality-of-service provided to the campus community, many of whom legitimately need administrative resolution to pressing issues.
2. The proposal indicates that UCR may be the only UC campus with a VPAR position. That is not necessarily good or bad. What matters is whether or not the position is effective? Is the current VPAR overloaded? Is there a structural problem that could be overcome by this proposed reorganization? The most effective way to reduce VPAR's workload is to prevent escalation of cases at early stages. The campus should provide Dept Chairs and Deans necessary trainings so they can better handle these situations at their levels.
3. Since administrative resolutions are likely out of VPAP's purview, it is not clear what is being achieved by having VPAP and AVPAR both involved in those long and time-consuming resolution processes. In addition, administrative resolution is often associated with filing of grievances. Having two administrators each handling different stages of the same case likely complicate the process, leading to additional liability issues to the campus. Finally, informal resolution occurs at several stages of administrative resolutions, how would the proposed reorganization model enable a consistency of the process?

COMMITTEE ON CHARGES

July 31, 2020

To: Dylan Rodríguez, Chair
Riverside Division

From: Timothy Close, Chair
Committee on Charges

Re: [Campus Review] Proposal: Proposed Transition of Vice Provost for Administrative Resolution (VPAR) at UCR

The Committee on Charges discussed the subject proposal and offers the following feedback.

1) UCR Division Bylaw 8.7 includes the following description of the role of the Committee on Charges:

"8.7.3 It is the duty of this committee to:

"8.7.3.1 Receive in writing, through the Chancellor or Chancellor's designee, unresolved complaints regarding Faculty conduct, as per procedures described in SBL336 and UCR Division Appendix 5; (Am 29 Nov. 2011)

"8.7.3.2 Determine whether the allegations in the complaint, if true, would constitute a violation of University policy regulating individual Faculty conduct; and

"8.7.3.3 If answered negatively, recommend to the Chancellor that all references to the complaint shall be expunged from all records except that of the Charges Committee;

"8.7.3.4 If answered affirmatively, request from the Chancellor any supporting evidence already developed and conduct an inquiry to determine if there is probable cause to warrant a disciplinary hearing before the Committee on Privilege and Tenure. The findings shall be submitted to the Chancellor. (Am 31 May 79) (Am 29 May 12)"

2) The Committee is concerned that in matters involving a complaint against an administrator, such as a school dean or associate dean, transfer of resolution responsibility to the VPAP may deprive the complainant of due process or breach the confidentiality of the complaint review process. In this aforementioned case, which person will be responsible?

3) Figure 1 in the proposal bundles the two-step, iterative determination process described in 8.7.3.2 ("...if true, would constitute...") and 8.7.3.4 ("...probable cause") into one step. It may be better to represent the two determination steps as they chronologically occur.

4) It was not clearly stated in the proposal the reason for the change in the duties of the VPAR/AVPAR/VPAP in disciplinary matters. It was also not stated whether the intention is for a very temporary change during a brief transition period or whether the proposed changes are intended to be longer-term. One wonders whether the proposed adjustments of duties might be pragmatically driven, for example given the transition of Professor Jeske from the VPAR to the VPAP position or perhaps to reduce costs by reducing the VPAR position from a 100% appointment again to a part-time position.

5) This feedback from the Committee on Charges should not be taken as “approval” nor “disapproval” of the proposal, but only as comments related to the functions of the Committee on Charges.



COMMITTEE ON PRIVILEGE & TENURE

August 3, 2020

To: Dylan Rodríguez, Chair
Riverside Division

From: Luca Ferrero, Chair
Committee on Privilege & Tenure

Re: Proposal: Proposed Transition of Vice Provost for Administrative Resolution (VPAR) at UCR

As its meeting on July 8, 2020, the Committee on Privilege and Tenure reviewed the Proposal for the Proposed Transition of Vice Provost for Administrative Resolution (VPAR) at UCR. During the course of its review the committee noted several concerns as well as a need for further clarification on some aspects of the proposal.

Concerns

Under the current model, the VPAR and VPAP (Vice Provost for Academic Personnel) have a clearly defined firewall between the disciplinary process and the merit & promotion (M&P) process. The proposed transition provides a firewall in the earlier stages of administrative resolution, but P&T is concerned that the firewall is removed at the later stages of the disciplinary process. The VPAP, now responsible for bringing disciplinary charges along with the recommended sanction, will be aware of issues raised outside of the M&P process (including confidential ones) that could affect the VPAP current or future M&P decisions.

P&T believes the intermingling of these functions will impair the fairness and/or create the perception of unfairness in the M&P process. The problem is not restricted to a faculty who is respondent in a disciplinary action but it could extend to any faculty member who plays some role in a disciplinary hearing (including the roles of witnesses or victims of misconduct), because the VPAR might become privy to information during the hearings that might either impair and/or create the perception of unfairness in contemporaneous or future M&P processes related to all the faculty members involved in the disciplinary proceedings.

The commingling of the roles also raises the chances that members of the Senate might challenge the outcomes of M&P decisions through the grievance procedures. There is also the risk that faculty might be discouraged from bringing forward potential misconduct if they suspect that their allegations might end up affecting, however indirectly, the outcome of their M&P processes on account of the information that might become available to VPAR/VPAP during the disciplinary process.

The proposal indicates that the “VPAP will hold, as applicable, current M&P files for the Respondent in a disciplinary action until the case is resolved either through informal resolution or through a recommendation on disciplinary sanctions,” which P&T believes may create the perception that VPAP/VPAR might use their control of the final stage of the M&P process as a bargaining chip in the negotiation of an informal resolution in an ongoing disciplinary action.

An additional concern arises regarding the possibility that the outcome of a disciplinary action might be taken into consideration in and potentially interfere with the M&P review. As discussed more extensively in the request for clarification below, the elimination of the firewall between VPAR and VPAP might raise issues about procedures and confidentiality in the handling of personnel files in the M&P process.

A final concern arises regarding the split between the role of the VPAR and the new role of AVPAR. According to the proposal, the new AVPAR would not be involved in disciplinary hearings. This would deprive them of a very valuable experience, which would be helpful in their handling of the earlier stages of the disciplinary process, including their role in attempting informal resolutions.

In addition, according to the present proposal, if a disciplinary action were to proceed to the hearing stage, first-person knowledge and direct experience of previous negotiations would be lost. Negotiations on these matters are often lengthy and delicate. The prospect of restarting the negotiation process with a new Chancellor representative might make negotiation longer by duplicating steps that have already been made at earlier stages, which in turn might hinder its eventual success.

Requests for Clarification

What is the motivation for the proposed change? Have there been any problem with the current process and the role of the VPAR that needs to be addressed?

On Page 4, the proposal discusses how the outcome of a disciplinary action might affect the M&P process. The proposal indicates that a merit file might be held pending the conclusion of a disciplinary action. What are the rules and procedures that allow for the suspension of the processing of an M&P file?

The proposal says that “As appropriate per section II.A.5 of The Call, the outcome of the case will be considered in the M&P review to the extent it has a bearing on achievements in teaching, research, and service.” However, section II.A.5 of the The Call makes no explicit reference to the outcomes of a disciplinary action. Proceedings from a disciplinary action are supposed to be strictly confidential and it is our understanding that they should not be made available to the VPAP for any of their decisions on personnel matters. Is there any proviso in the The Call that allows for the breach of confidentiality for the purposes of the M&P action?

Relatedly, because of the need to ensure fairness in the personnel action, would the candidate be informed that additional material from the disciplinary action might be inserted into their file and that the VPAP/Provost/Chancellor may consider in determining the outcome of the M&P outcome? Would the candidate be provided with the opportunity to offer a rebuttal to additional material that might be

inserted in their personnel file and that might bear on their achievements in teaching, research, and service?

Would other reviewing bodies (such as Department, Dean, and CAP) be made aware that additional material has been added to the personnel file as a result of a disciplinary action? Wouldn't this communication be in violation of the strict confidentiality of the disciplinary process?

Does the proposal specify how to handle grievances and/or disciplinary complaints in which the VPAP or VPAR are the respondents?

July 31, 2020

TO: Dylan Rodriguez, Chair
Academic Senate

FROM: Philip Brisk, Chair
BCOE Executive Committee



RE: Proposed Transition of VPAR Role

Dear Dylan,

On July 23rd, the BCOE Executive Committee reviewed the proposed transition of the VPAR role, as outlined by the Provost's memo dated June 30th 2020. The BCOE Executive Committee felt that the memo did not clearly articulate the rationale for this proposed transition and left important key details out. The BCOE Executive Committee requests that an updated memo be provided with additional information that can provide clarification on several key issues.

Our first concern is that the rationale for the proposed transition is unclear. Section 1 of the memo ("Problem to be Solved") provides historical background about the VPAR position, but does not clearly articulate problems or shortcomings of the present administrative organization. Without going through the section line-by-line, there appear to be three interrelated factors, which I will enumerate, and attempt to address, here:

(1) UCR is the only UC Campus to have a VPAR: this alone is not necessarily a problem. The relevant question is whether the VPAR position, as presently constituted, and in the context of the current administrative structure, is a net positive for UCR. Being different is not necessarily a negative.

(2) Limited interaction between the VPAR and VPAP: According to the memo, the only interaction between the VPAR and the VPAP under the present administrative organization occurs when the VPAP inquires about disciplinary issues when considering faculty candidates for administrative appointments on campus. This is presented as a statement of fact, which is not in dispute. Given the title of Section 1 of the memo, it appears that this is a problem/weakness to be corrected, but that goes unstated and without qualification. The memo could benefit from clarification about how or why this is a problem that needs to be corrected; examples, either real (with appropriate anonymization) or hypothetical of problems that arise from this situation would be helpful. It is also somewhat unclear if this communication protocol is limited by regulation or policy, or if it is simply how the positions have worked in practice.

Borrowing from Figure 1, a big part of the issue appears to be the firewall between the VPAR and VPAP. If that is in fact the case, then it may make sense to focus on policy vis-à-vis the firewall, rather than fundamentally altering the administrative structure. In general, more information here is needed.

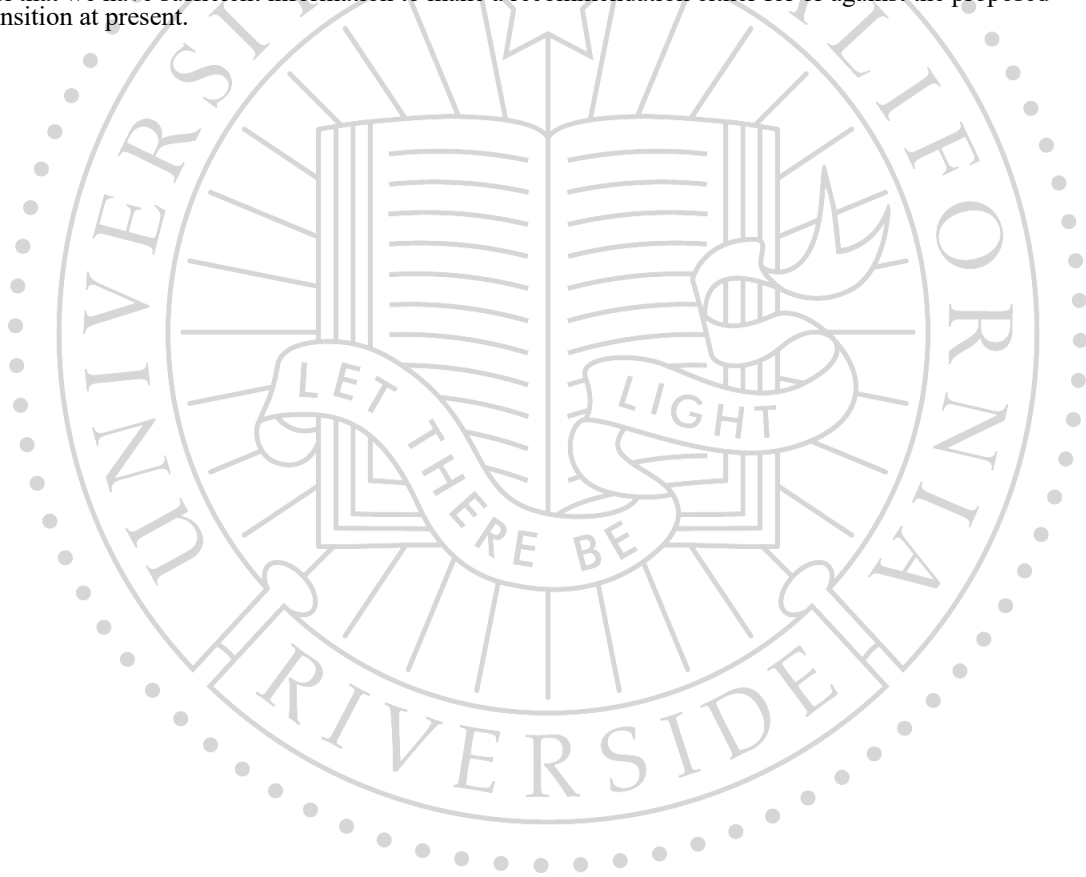
(3) The transition of the current VPAR (Daniel Jeske) to the VPAP position: Given the various policies surrounding Administrative Resolution and Academic Personnel, this transition should be handled carefully, and the memo does a good job of outlining the way that the transition will be handled, especially involving in-progress resolution cases. We appreciate the UCR administration's willingness to consult with the Senate and College Executive Committees on that matter; however, this is a one-time transition (future VPAPs may not be transitioning from the VPAR position) and does not constitute a problem that needs to be solved through administrative reorganization; updates of appropriate policies and regulations may be warranted if this unique transition exposes previously unforeseen loopholes or contradictions, but that is a hypothetical situation outside the scope of this particular issue.

Our second concern, which is in many respects the most important issue that we want to raise, is that the reporting structure and administrative organization that would result from the proposed transition is not shown anywhere. To which position will the VPAR report? This is particularly important, as the position to whom the VPAP reports will clearly know what is going on with Administrative Resolution cases; if the VPAR will directly report to the VPAP under the proposed transition, then the firewall will become illusory. One specific concern is that the VPAP may become aware of investigations that occur concurrently with merit and promotion cases; investigations should not impact merit and promotions until they have been resolved. We request clarification on this issue.

Somewhat more generally, the proposal seems likely to lower the firewall between the VPAR and the VPAP. This is not necessarily a good or a bad thing, but the objectives of doing so are unclear, as are anticipated outcomes. For example, if the objective is to improve campus climate, then the memo should clearly state that this is the case. Moreover, how would improvements be measured? Given the importance and sensitivity of the merit and promotion process, the proposed transition could benefit from mechanisms to assess success, with the option to revert to the current administrative organization in the event that unexpected externalities manifest.

Our third and final concern involves workload issues. The problem statement notes that the first two VPARs had 50% appointments, while the current VPAR is a 100% appointment. Given UCR's growth during that period, this change seems reasonable; however, what is proposed here is to reduce the VPAR to a 50% appointment. This decision needs to be based on a sound assessment of the current workload of the VPAR and expected adjustments of the workload due to the proposed reorganization. While it appears that the VPAP may absorb some of this workload, it is unclear if the VPAP has the capacity to do so. We recognize that the VPAR is a challenging position that can be emotionally taxing in many situations, and we think it is important that the appointment percentage reflect the reality of the workload; otherwise, a VPAR with a 50% academic appointment may suffer adverse impact on research and teaching.

To conclude, the BCOE Executive Committee would like clarification on these important issues; we do not feel that we have sufficient information to make a recommendation either for or against the proposed transition at present.



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EXECUTIVE COMMITTEE:
COLLEGE OF HUMANITIES, ARTS, AND SOCIAL SCIENCES

RIVERSIDE, CALIFORNIA 92521-0132

August 5, 2020

TO: Dylan Rodriguez, Chair
Academic Senate

FROM: Lucille Chia, Chair *Lucille Chia*
CHASS Executive Committee

RE: Proposed Transition of Vice Provost for Administrative Resolution (VPAR) at UCR

The CHASS Executive Committee discussed the Proposed Transition of Vice Provost for Administrative Resolution (VPAR) at UCR via email. The committee approves the proposal for changing the position of VPAR to VPAP and the addition of the position AVPAR.



July 20, 2020

To: Dylan Rodriguez, Chair
Riverside Division

From: Louis Santiago, Chair, Executive Committee
College of Natural and Agricultural Science

A handwritten signature in black ink that reads "Louis Santiago".

Re: Proposal: Proposed Transition of Vice Provost for Administrative Resolution
(VPAR) at UCR

The CNAS Executive Committee reviewed the Proposed move of the VPAR to the office of the VPAP and there were some substantive comments.

First, some committee members, while in favor of the proposal, question why we are why are actually appointing a new AVPAR now, as we will likely be instructing remotely for the full academic year and our budget is being cut.

Second, others pointed out that the main motivation appears to be that the other UC's have a different process, which they did not find convincing. The proposal lacked a description of how this would benefit UCR faculty and how it will affect the faculty.

There were also questions about how exactly the 'firewall' structure would work. On the one hand "The VPAP will be available to the AVPAR for consultation on administrative resolution in a non-identifying manner" while on the other "Implementing the plan as described above will both maintain the firewall between AR and M/P". Questions arose as to how we would ensure that, if a consultation does occur, no part of it will leak into the M&P process. In real cases the 'non-identifying' requirement may not be realistic if the VPAP is to provide any useful feedback.

Finally, it was unclear to whom the AVPAR would report, and it was thought that if it is to the VPAP, then the firewall claim would be even more questionable.