



Vice Provost for Academic Personnel
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October 9, 2020

To: Jason Stajich, Chair of Riverside Division

From: Thomas Smith
Interim Provost and Executive Vice Chancellor

Daniel Jeske
Vice Provost of Academic Personnel
Acting Vice Provost of Administrative Resolution

Via: Cherysa Cortez, Executive Director of Riverside Division

1. Introduction

On August 10, 2020 Provost Tom Smith and VPAP/ Acting VPAR Daniel Jeske met with the academic senate executive council to discuss the senate review of a 6/30/2020 memo, “Proposed Transition of VPAR Role at UCR.” While the discussion addressed many questions raised about the proposed transition, three areas that needed further clarification were: the rationale for linking aspects of administrative resolution¹ to the M/P review process, additional implementation details of the proposed structure, and concerns that pertained to workload. This memo clarifies further the inquiry into these areas, and additionally provides point-by-point response letters to the comments provided in reports submitted by specific senate committees.

2. Rationale

In what follows, reference is made to Figure 1 which shows the proposed Associate Vice Provost of Administrative Resolution (AVPAR) position, reporting to the VPAP, and how the VPAP becomes involved in the administrative resolution process. During the Senate consultation process, questions arose about the rationale for moving away from the structure where UCR has a Vice Provost of Administrative Resolution (VPAR) that functions independently of the Academic Personnel Office (APO). As will be discussed below, the proposed structure is motivated from voices heard on our campus, from policy outlined in the APM, from interest in aligning with other UC campuses, and from the opportunity it presents to gain efficiency for cases that involve both non-senate and senate faculty.

¹ Throughout this memo the term *administrative resolution* refers to oversight of policies used to address allegations of faculty code of conduct (APM-015) violations by a senate faculty member, and to administer discipline to a senate faculty member.

2.1 Campus Voices

Currently at UCR, unless a disciplinary sanction of termination is imposed as a result of Faculty Code of Conduct (APM-015) violations, there is no defined process for the disciplinary sanction to impact the M/P process – a condition on our campus that has been described as a firewall between administrative resolution and the M/P review process. The UCR Appendix 5 process² is used to address allegations of violations of APM-015. Most of the cases that initiate Appendix 5 are resolved via informal resolution where the allegations are neither proved nor withdrawn, but terms are agreed upon to establish what is hoped to be a mutually acceptable path forward. For the cases that advance to a P&T hearing, the potential consequences (per APM-016) are not explicitly connected to the M/P process, a unique feature of UCR relative to the rest of the UC campuses.

The 2018-19 campus climate survey by the Senate Committee on Faculty Welfare points to a strong desire among faculty for problematic behavior, such as hostile and abusive conduct, to have consequences on the M/P review process. Particular concerns were raised on behalf of women faculty, junior faculty and URM faculty. The 2020 senate review of the proposed campus bullying policy also surfaced interest in having bullying behavior factor into the M/P process. In addition, the 2019-20 Campus Culture Task Force called for increasing the accountability across the campus for problematic behavior and listed the M/P review process as a potential tool. In response to Spring 2020 protests across the nation due to multiple police shootings of Black people, academic departments at UCR have shown solidarity by making calls that the university recognize and rectify bias, prejudice, and oppression. A key step in that direction would be to establish an accountability framework to address problematic behavior that undermines campus efforts to foster diversity, equity, and inclusion in our community.

2.2 APM Provisions

Justification for linking problematic behavior to the M/P review process can be found in APM-210. Specifically, APM-210-1a states, “In judging the fitness of the candidate, it is appropriate to consider professional integrity as evidenced by performance of duties,” and APM-210-1d states, “The criteria (referring to teaching, research, service, and contributions to diversity and equity) set forth below are intended to serve as guides for minimum standards in judging the candidate, not to set boundaries to exclude other elements of performance that may be considered.”

APM-210 Appendix A, Statement on Professional Ethics, is provided as a useful guide for such consideration and allows for other useful guides as well, such as the UCR Principles of Community and Regents Policy 1111: Policy on Statement of Ethical Values and Standards of Ethical Conduct. Each of these guides echo types of faculty code of conduct violations listed in APM-015 (e.g., disrespect, discrimination, harassment) that address standards for interpersonal behavior on the campus implying that violations for APM-015 are eligible for consideration in the M/P review process.

² Appendix 5 of the UCR senate bylaws is entitled, “Policies on Faculty Conduct and the Administration of Discipline.”

APM-210-1d also states, “Contributions in all areas of faculty achievement that promote equal opportunity and diversity should be given due recognition in the academic personnel process, and they should be evaluated and credited in the same way as other faculty achievements.” It goes on to say that, “Mentoring and advising of students *and faculty members* (added emphasis), particularly from underrepresented and underserved populations, should be given due recognition in the teaching or service categories of the academic personnel process.” As a result, the review criteria include the rewarding of positive mentoring as teaching or service and as such negative contributions to mentoring or promoting equal opportunity and diversity is relevant evidence to be considered in the M/P review process.

2.3 Alignment with other UCs

Per APM-015, each UC campus develops their own procedures for processing allegations of violations of the faculty code of conduct. At all other UC campuses the portion of the Office of the Provost that handles the M/P review process is involved in the procedures. A review of local procedures and/or conversations with VPAP counterparts at other campuses revealed the following:

- At UCB, If the Vice Provost of Faculty (VPF) determines that allegations of misconduct are sufficiently substantial to warrant further disciplinary proceedings, the VPF shall designate an Academic Senate faculty member (or a committee of up to four faculty members) as an Investigative Officer (or Investigative Committee) to investigate allegations, wherever originating, of faculty misconduct.
- At UCLA, if there has been a determination of probable cause, the Vice Chancellor (of Academic Personnel) shall file a formal complaint, with relevant supporting materials, and provisions of Statewide Senate Bylaw 336 will go into effect. The Vice Chancellor will arrange for assignment of an attorney to present the case to the Privilege and Tenure Hearing Committee and will consult with the Chair of Privilege and Tenure on the format for presentation of the case.
- At UCM, the Chancellor will normally delegate to the EVC/Provost the authority to initiate disciplinary action (i.e., to initiate and monitor the investigation of the complaint and the process to determine probable cause).
- At UCSB, the EVC handles all disciplinary cases, working along with an Associate Vice Chancellor of Academic Personnel.
- At UCSC, in any case of discipline of a Senate faculty member, the Chancellor will normally delegate to the Campus Provost/Executive Vice Chancellor the authority to initiate disciplinary action.
- At UCSF, the Vice Provost of Academic Affairs oversees the administration of Faculty Code of Conduct investigations and makes recommendations of sanctions to the Chancellor. The Vice Provost has delegated authority to close cases where faculty misconduct is not found.
- At UCI, the VPAP is aware of all cases that advance to their equivalent of the UCR Charges committee and M/P files are held pending the outcome.

- At UCD, the Vice Provost of Academic Affairs is looped into cases that advance to their equivalent of the UCR Charges committee, and also holds M/P files pending the outcome.
- At UCSD, the Office for the Prevention of Harassment and Discrimination receive allegations and in cases where an investigation is made, an Investigative Report is sent to an appropriate Vice Chancellor, supervisor, or dean for appropriate action or discipline. Complainant and Respondent may request copy of Investigative Report.

It is reasonable to ask why UCR should be different by not having a defined process for connecting disciplinary sanctions to the M/P review process. Adopting the structure shown in Figure 1 puts UCR more in line with other UC campuses in this regard.

2.4 Synergistic Efficiency

Cases involving cross-complaints between senate faculty and non-senate faculty are not that uncommon. Currently the non-senate side of these cases is handled by the Director of Academic Employee Relations (DAER), a position situated in APO, and the senate side of these cases is handled by the VPAR. Situating the AVPAR within APO will facilitate contemporaneous communication between the DAER and AVPAR that will help in formulating and executing a path forward for resolving the case.

The DAER and AVPAR will be able to efficiently collaborate when revising or developing policies and procedures relating to administrative resolution. They will be able to speak to the campus, complainants and respondents in a unified voice and leverage the different areas of expertise that would otherwise be functioning more independently of one another.

3. Implementation

The proposed change in structure depicted in Figure 1 involves the VPAP as the final decision maker for probable cause for cases the AVPAR has determined probable cause. Since there are relatively few cases that are even sent to Charges, the VPAP will be out of the loop on a vast majority of the administrative resolution work carried out by the AVPAR. In particular, details of cases that are resolved with early resolution or informal resolution, for example by department chairs or the AVPAR, will be unknown to the VPAP.

For cases that the VPAP concurs with the AVPAR that the case should move forward to a P&T hearing, the VPAP determines the recommended sanction that goes along with the case to P&T. This is also the point that the VPAP would freeze decisions on M/P actions of the respondent until a P&T recommendation is made.

If a P&T hearing results in recommendations for sanctions that are upheld by the Chancellor, a disciplinary record of that outcome will be entered into the faculty's personnel file. Based upon the logic presented in Section 2.2, a disciplinary record may be used by the VPAP as part of the review of an M/P action, including justifying a recommendation to the Provost to deny the M/P action, but consideration will be given for the severity and the elapsed time since the sanction was imposed. If an

M/P action is denied due to consideration of the disciplinary record, the candidate will be informed that the disciplinary record was the reason for the denied action. In addition, the Chair, the Dean and CAP will be informed that the M/P action was denied for “an undisclosed administrative reason.”

4. Workload

Early resolution efforts that reside outside of Appendix 5 were introduced during AY19-20 and provide the chairs and deans with a role to resolve conflict before it escalates to the formal Appendix 5 process. Over time, increased use of early resolution efforts within colleges and schools will offload some of the work in administrative resolution and will help substantiate the feasibility of a 0.5 FTE appointment for the AVPAR.

There are also a variety of commitments on the campus, such as search committees, leadership meetings, task forces, and workshops that in the past have involved both the VPAR and the VPAP. With a AVPAR reporting to the VPAP, efficiency can be gained by having the VPAP represent both parties in some of these commitments, thereby reducing transferred workload to a 0.5 FTE AVPAR. Efficiency will also be gained by having the VPAP available to mentor incoming AVPARs on how administrative resolution procedure and policies work within UC and UCR. The initial jumpstart and ongoing consultative access to the VPAP will substantially help the AVPAR work efficiently.

There are two logistical practicalities about a 0.5 FTE AVPAR that also contribute motivation for making the change to 0.5 FTE. The first practicality is that a 0.5 FTE position will lead to a larger and more diverse pool of interested candidates since it allows potential candidates to explore their interest in an administrative position within more flexible constraints. A second practicality relates to the budget crisis our campus is facing which prompted thinking from all our corners of the campus about how to reduce spending. Provided that it shows itself to be feasible, appointing a 0.5 FTE AVPAR is a responsive action to the call for the campus to make strong efforts to reduce spending. If it should unexpectedly turn out that the workload for a 0.5 FTE AVPAR is unmanageable, then budget permitting, an option to increase to a 0.75 or 1.0 FTE AVPAR would be considered.

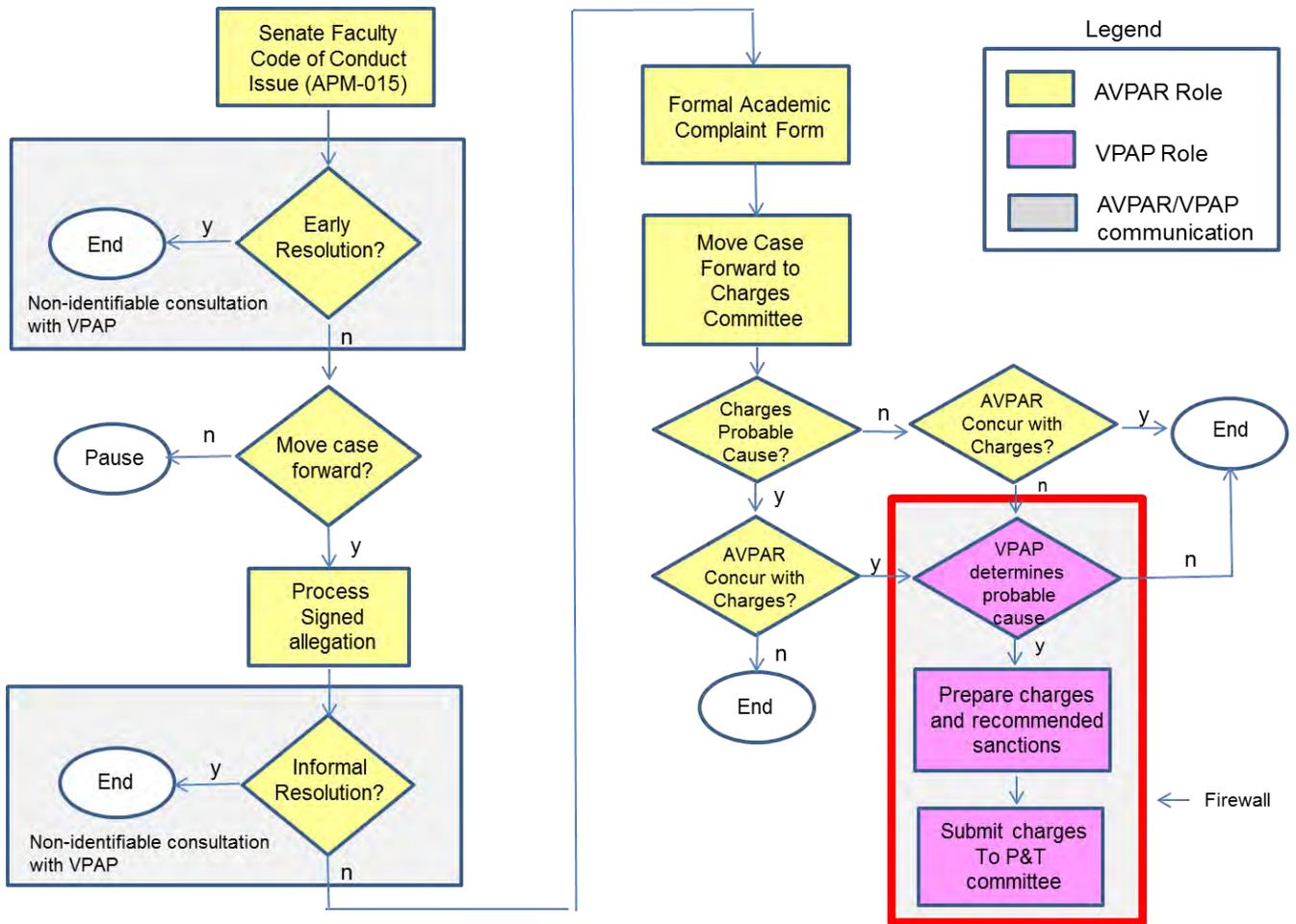


Figure 1. Proposed Structure for Administrative Resolution at UCR – AVPAR and VPAP Roles

Detailed Response to Committee on Academic Personnel

Comment: The Committee respectfully requests further details on the procedures for such matters at other UC campuses.

Response: Per APM-015, each UC campus develops their own procedures for processing allegations of violations of the faculty code of conduct. In all cases, the portion of the Office of the Provost that handles the M/P review process is involved in the procedures. For example, a review of local procedures and/or conversations with VPAP counterparts at other campuses revealed,

- At UCB, If the Vice Provost of Faculty (VPF) determines that allegations of misconduct are sufficiently substantial to warrant further disciplinary proceedings, the VPF shall designate an Academic Senate faculty member (or a committee of up to four faculty members) as an Investigative Officer (or Investigative Committee) to investigate allegations, wherever originating, of faculty misconduct.
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- At UCD, the Vice Provost of Academic Affairs is looped into cases that advance to their equivalent of the UCR Charges committee, and also holds M/P files pending the outcome.
- At UCSD, the Office for the Prevention of Harassment and Discrimination receive allegations and in cases where an investigation is made, an Investigative Report is sent to an appropriate Vice Chancellor, supervisor, or dean for appropriate action or discipline. Complainant and Respondent may request copy of Investigative Report.

Comment: 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.

Response: The models at other UC campuses, summarized above, suggest that even in the complete absence of a firewall between allegations of faculty code of conduct and the M/P process the risk for grievances is manageable.

Comment: 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.

Response: Please refer to Section 2 of the general response letter.

Detailed Response to Committee on Faculty Welfare

Comment: 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.

Response: Because a vast majority of the administrative resolution cases are resolved before the need to go to Charges, it is expected that the incremental workload of the VPAP will be manageable. For administrative resolution work the VPAP does engage in, the AVPAR will be available to help with details.

Comment: 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.

Response: A modified flowchart included as Figure 1 in this response reflects this comment.

Comment: 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.

Response: Please refer to Section 3 of the general response letter which provides more detail on implementation of the proposed structure.

Detailed Response to Committee Diversity, Equity and Inclusion

Comment: 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.

Response: Deans and Department Chairs play an increased role through the early resolution process that was introduced in AY19-20. It is expected that increased involvement by the Deans and Chairs can reduce the workload for the AVPAR. If this turns out not to be the case, the 0.5 FTE appointment for AVPAR can be revisited.

Comment: 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 procedure. 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.

Response: A gain in efficiency in the office of administration can be anticipated through the combination of increased use of the early resolution process that involves Deans and Chairs, and the offloading of campus service commitments such as search committees, leadership meetings, task forces, and workshops that in the past have involved both the VPAR and the VPAP. In the proposed structure where the AVPAR is within APO, the VPAP can represent APO and fill-in the AVPAR as appropriate.

Comment: 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.

Response: Mention of the other UC campuses was intended to open up consideration to if and why UCR should have a structure that is fundamentally different from other UC campuses. A review of local procedures and/or conversations with VPAP counterparts at other campuses revealed,

- At UCB, If the Vice Provost of Faculty (VPF) determines that allegations of misconduct are sufficiently substantial to warrant further disciplinary proceedings, the VPF shall designate an Academic Senate faculty member (or a committee of up to four faculty members) as an Investigative Officer (or Investigative Committee) to investigate allegations, wherever originating, of faculty misconduct.

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- At UCSD, the Office for the Prevention of Harassment and Discrimination receive allegations and in cases where an investigation is made, an Investigative Report is sent to an appropriate Vice Chancellor, supervisor, or dean for appropriate action or discipline. Complainant and Respondent may request copy of Investigative Report.

As the campus gains more experience with the early resolution process (refer to Figure 1) that was instituted in AY19-20, it is anticipated that there will be a reduction in the number of cases that get escalated to the AVPAR.

Comment: 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.

Response: The purpose of bringing the VPAP into the cases that proceed to a P&T Hearing is to link imposed sanctions from the Appendix 5 process to the merit and promotion process. Please refer to Section 3 of the general response letter for more details on implementation.

Comment: 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.

Response: When the VPAP becomes involved in a case the AVPAR will be available for consultations, which will minimize if not eliminate any chance of an inconsistent interpretation of the facts or any misstep in following procedures.

Comment: Informal resolution occurs at several stages of administrative resolutions, how would the proposed reorganization model enable a consistency of the process?

Response: When the VPAP becomes involved with informal resolution stages of a case, the AVPAR will be available for consultations which will preserve consistency.

Detailed Response to Committee on Charges

Comment: 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?

Response: In the proposed model (Figure 1) the VPAP makes the final determination on probable cause. When probable cause is the determination, the VPAP submits charges to the P&T committee. If there is a conflict of interest where the VPAP is unable to use objectivity in this role, the responsibilities can be yielded to the Provost. Allowing the VPAP to declare conflict of interest in this stage is similar to what exists now for declaring conflict of interest with respect to files in the M/P process.

Comment: 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.

Response: The new Figure 1 in the general response letter shows the two-step process for determining probable cause.

Comment: 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.

Response: Please refer to Section 2 in the general response letter.

Detailed Response to Committee on Privilege and Tenure

Comment: 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.

Response: Unless the disciplinary sanction imposed is termination there is currently no defined process for the sanction to impact the M/P process – a condition on our campus that has been described as a firewall between discipline and the M/P. The recent climate survey by the committee on faculty welfare points to this as a shortcoming on our campus. The recent senate review of the proposed campus bullying policy, “Prohibition on Bullying and Abusive Conduct by Employees and Non-Affiliates,” also prompted thinking by some of the review committees about how the policy for that type of problematic behavior could be linked into the M/P review process. The proposed model (Figure 1) addresses that in a way that aligns more with the procedures used at the other campuses.

Comment: 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.

Response: The climate survey conducted by the committee on faculty welfare suggests there is substantial support across the campus for introducing accountability for problematic behavior into the M/P review process. The proposed structure in Figure 1 is a modest step in that direction that will likely have more impact as a deterrent for problematic behavior than as a tool for interrupting M/P actions.

Comment: 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.

Response: The models at other UC campuses, summarized in section 2.3, suggest that even in the complete absence of a firewall between allegations of faculty code of conduct and the M/P process the risk for grievances is manageable.

Comment: 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.

Response: While there might be cases such as described, the counter argument is that are many faculty who want to have substantiated (via Appendix 5) problematic behavior addressed through the M/P process. Clear procedures, executed with integrity, will give complainants confidence to bring forward legitimate complaints and very importantly will also serve as deterrents to problematic behavior.

Comment: 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.

Response: The intent of holding the file is just to prevent a decision being made that is inconsistent with an outcome of the Appendix 5 process. Considering that the prospect of imposed disciplinary sanctions is already a significant incentive for a respondent to negotiate an informal resolution, the role in the negotiation of a delayed M/P action seems comparatively minor.

Comment: An additional concern arises regarding the possibility that the outcome of a disciplinary action might be taken into consideration 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.

Response: One of the intents of the proposal is to connect the outcome of a disciplinary action with the M/P process in those cases where APM-016 sanctions are imposed. The recent climate survey by the committee on faculty welfare points to this lack of connection as a shortcoming on our campus. The recent senate review of the proposed campus bullying policy, “Prohibition on Bullying and Abusive Conduct by Employees and Non-Affiliates,” also prompted thinking by some of the review committees about how the policy for that type of problematic behavior could be linked into the M/P review process. The proposed model (Figure 1) addresses that in a way that aligns more with the procedures used at the other UC campuses.

Comment: 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.

Response: As a consultant to the VPAP the AVPAR would have valuable indirect experience with the process.

Comment: 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's representative might make negotiation longer by duplicating steps that have already been made at earlier stages, which in turn might hinder its eventual success.

Response: The proposal in Figure 1 shows the AVPAR and the VPAP are in consultation with one another from the point at which the VPAP becomes involved with a case.

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

Response: Please see Section 2 of the general response letter.

Comment: 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?

Response: The proposal is for new procedures that allow the M/P file to be held pending the outcome of a disciplinary hearing, similar to what exists at other UC campuses. Please see Section 3 of the general response letter for additional details on implementation.

Comment: 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 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 Call that allows for the breach of confidentiality for the purposes of the M&P action?

Response: A better reference for the ability to set forth new procedures that link disciplinary sanctions to the M/P process (which exists at all other UC campuses) is APM-210-1a which states, "In judging the fitness of the candidate, it is appropriate to consider professional integrity as evidenced by performance of duties," and APM-210-1d which states, "The criteria set forth below are intended to serve as guides for minimum standards in judging the candidate, not to set boundaries to exclude other elements of performance that may be considered." In addition, APM-210-1d, states "Contributions in all areas of faculty achievement that promote equal opportunity and diversity should be given due recognition in the academic personnel process, and they should be evaluated and credited in the same way as other faculty achievements." "Mentoring and advising of students *and faculty members* (added emphasis), particularly from underrepresented and underserved populations, should be given due recognition in the teaching or service categories of the academic personnel process." Similar to the teaching, research,

and service criterion, a candidate's adverse contributions to promoting equal opportunity and diversity is relevant for consideration. The CALL is a document update annually, and represents local guidelines concerning the M/P review process. Changes according to the proposed procedure would be reflected in future versions of The CALL.

Comment: 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?

Response: Sanctions imposed from the Appendix 5 process are inserted into the faculty's personnel file. The candidate will be aware of this, having gone through the Appendix 5 process, and will have been heard in the process. The proposed structure would be widely socialized with faculty so that they understand the flowchart and implementation procedures.

Comment: 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?

Response: Please refer to Section 3 of the general response letter.

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

Response: If the AVPAR is the respondent the VPAP would handle the case. If the VPAP is the respondent the Provost would handle the case.

Detailed Response to BCOE Executive Committee

Comment: Our first concern is that the rationale for the proposed transition is unclear.

Response: Please see Section 2 of the general response letter.

Comment: 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.

Response: Reference to the other UC campuses provides context for the question if and why UCR should have a structure different from other UC campuses. Unless the disciplinary sanction imposed is termination there is currently no defined process for the sanction to impact the M/P process – a condition on our campus that has been described as a firewall between discipline and the M/P. The recent climate survey by the committee on faculty welfare points to this as a shortcoming on our campus. The proposed model (Figure 1) addresses that in a way that aligns more with the procedures used at the other campuses.

Comment: 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

Response: The proposal is a combination of a change in proposed structure and an articulation of policy. The policy part of the proposal is expressed more clearly in section 3 of the general response letter.

Comment: 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.

Response: The transition provides an opportunity to provide a revised structure as a response to the faculty welfare committee survey results that show a desire to link disciplinary sanctions to the M/P process.

Comment: 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.

Response: With the proposed model, there will no longer be a VPAR, but instead an AVPAR that will report to the VPAP. However, as Figure 1 shows the case details of the work of the AVPAR will be known to the VPAP only when the AVPAR determines probable cause. In this way, most of the pre-transition firewall remains in-tact, especially considering that few cases in the Office of Administrative Resolution advance to inquiry by the Charges committee. At the same time, by having the VPAP in the loop on cases that proceed to a P&T hearing (see Figure 1) the outcome of the hearing can be integrated into M/P actions. Please refer to section 3 in the general response for more details on implementation.

Comment: 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.

Response: One of the objectives of the proposal is incorporate into the M/P process the consequences of having sanctions imposed as a result of the disciplinary process that the campus follows (Appendix 5) for adjudication of alleged violations of the faculty code of conduct (APM-015). Please refer to section 2 for more details on rationale for the proposed structure.

Comment: 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.

Response: The VPAP will become involved only in the relatively small number of cases where the AVPAR has determined probable cause. A gain in efficiency in the office of administration can be anticipated through the combination of increased use of the early resolution process introduced into the administrative resolution process in AY19-20 and offloading of other service commitments on the campus such as search committees, campus leadership meetings, task forces, and workshops that in the past have involved both the VPAR and the VPAP. If it should unexpectedly turn out that the workload is unmanageable, the option to increase the 0.5 FTE AVPAR to 1.0 FTE is always available. Anonymized consultation with the VPAP in the earlier stages of a case will help the AVPAR manage the emotional aspects of the appointment, and APM-241 will apply during the M/P reviews of the AVPAR.

Detailed Response to CHASS Executive Committee

Comment: The committee approves the proposal for changing the position of VPAR to VPAP and the addition of the position AVPAR.

Response: Thank you for this feedback.

Detailed Response to CNAS Executive Committee

Comment: 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.

Response: Remote teaching will not impact the need for the work of the office of administrative resolution, and the proposed AVPAR replaces the VPAR.

Comment: 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.

Response: Mention of the other UC campuses was intended to open up consideration to if and why UCR should have a structure different from other UC campuses. Unless the disciplinary sanction imposed is termination there is currently no defined process for the sanction to impact the M/P process – a condition on our campus that has been described as a firewall between discipline and the M/P. The recent climate survey by the committee on faculty welfare points to this as a shortcoming on our campus. The proposed model (Figure 1) addresses that in a way that aligns more with the procedures used at the other campuses. The motivations for the proposal are discussed in more detail in section 2 of the general response letter.

Comment: 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.

Response: More detail on implementation has been provided in Section 3 of the general response letter. Referring to Figure 1, consultations between the AVPAR and VPAP prior to cases being returned from Charges with a probable cause recommendation would be based on the AVPAR discussing the conflict without providing names of individuals or departments. The objective of those consultations would be to talk through possible terms for informal resolution, to talk through applicable policies and procedures that might apply to the case, and to review any applicable precedents that might apply to the case. Referring again to Figure 1, if and when the VPAP becomes involved in a case the AVPAR and VPAP will transparently discuss the case so that the VPAP can make a final determination on probable cause and subsequently handle the case. Please refer to Section 3 of the general response letter for expanded details on implementation that include how the result of a P&T hearing would impact the M/P process.

Comment: 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.

Response: The AVPAR will report to the VPAP. Please refer to Section 3 of the general response letter for additional comments pertaining to repositioning the firewall to that stage.

1st Round Documents



Office of the Provost and Executive Vice Chancellor
900 University Avenue
4148 Hinderaker Hall
Riverside, CA 92521

June 30, 2020

Dylan Rodriguez, Faculty Senate Chair

SUBJ: Proposed Transition of VPAR Role at UCR

Dylan,

On July 1, 2020, the current Vice Provost for Academic Resolution (VPAR) will become the Vice Provost for Academic Personnel (VPAP), providing a need to address how administrative resolution work will proceed on the campus.

For the past 10 years UCR has operated with a Vice Provost of Administrative Resolution (VPAR) to handle disciplinary cases per the procedures described in Appendix 5 of the local [UCR bylaws](#), and is the only UC campus to have a VPAR. All other campuses embed administrative resolution into the academic personnel office (APO), with each campus doing it somewhat differently.

The attached document discusses a proposal for a proposed transition of the VPAR role at UCR for the Senate's review.

Thank you,

A handwritten signature in blue ink that reads "Thomas M. Smith".

Thomas M. Smith

Interim Provost and Executive Vice Chancellor

cc: Cherysa Cortez
Daniel Jeske

Proposed Transition of VPAR Role at UCR

6/30/2020

1. Problem to be Solved

For the last 10 years UCR has operated with a Vice Provost of Administrative Resolution (VPAR) to handle disciplinary cases per the procedures described in Appendix 5 of the local UCR bylaws. The first two VPARs (David Funder and Daniel Ozer) were 50% faculty administrator appointments. During the term of the third VPAR (John Andersen) the position changed to a 100% faculty administrator appointment. UCR is the only campus that has a VPAR. All of the other campuses embed administrative resolution into the academic personnel office (APO), with each campus doing it somewhat differently. At UCR, the only time that the VPAR discusses work pertaining to administrative resolution with the Vice Provost of Academic Personnel (VPAP) is to respond to inquiries about if there are any disciplinary issues of relevance to the candidacy of faculty for administrative appointments on the campus. On July 1, 2020, the current VPAR (Daniel Jeske) will become the VPAP. The problem that needs to be solved is how administrative resolution work will proceed on the campus. This memo discusses a proposal for a proposed transition of the VPAR role at UCR.

2. A Plan for July 1, 2020

The current VPAR, Dan Jeske, becomes the VPAP. A search committee for a faculty administrator to fill a 50% Associate Vice Provost of Administrative Resolution (AVPAR) would be formed. The search committee will consist of Dan Jeske, Kiersten Boyce, Katina Napper, and two faculty members to be recruited. All tenured faculty will be qualified to apply for the AVPAR position, with a preferred qualification being a Full Professor or Full Professor of Teaching.

3. A Plan for Prior to the Appointment of the AVPAR

Dan will continue to work as the VPAR until the AVPAR is appointed. Faculty members who have been involved in an administrative resolution case that Dan worked on as VPAR may, at their discretion, request that Dan recuse himself from the review of their M/P file. Dan will automatically recuse himself from reviewing M/P files of faculty with current cases, unless written request is received from the candidate by the Provost requesting that he remain part of the review.

4. A Plan for After the Appointment of the AVPAR

It is expected the AVPAR would be filled before the start of fall quarter. Onboarding activities for the AVPAR will be handled by Dan. When the AVPAR appointment is made the position of

VPAR on the campus will be retired and the division of work of the previous VPAR will be divided between the AVPAR and VPAP as depicted in Figure 1.

As shown in Figure 1, the AVPAR will handle intake and informal resolution efforts, per Appendix 5.3.2 and 5.3.3, for all new administrative resolution cases. The AVPAR will also coordinate early resolution efforts. Early resolution is an optional process that is used only with mutual consent from the complainant and respondent, and it is a process that occurs outside of Appendix 5 with the objective to resolve the conflict through dialogue that involves any and/or all of the Department Chair, Dean, AVPAR and Ombudsperson.

To match the workload of the AVPAR to the 50% appointment, other responsibilities such as campus committee service, VPAR involvement with student conduct appeals, and VPAR involvement with Title IX investigations will be transferred to the VPAP.

The VPAP will be available to the AVPAR for consultation on administrative resolution in a non-identifying manner (e.g., no names of individuals or departments) unless/until the cases move forward to the committee on Charges. Cases that do go to Charges, and probable cause is determined, the committee on Privilege and Tenure subsequent to that, will be handled by the VPAP. The VPAP will submit the formal academic complaint form (Appendix 5.3.4) to Charges, and will make the final decision on probable cause (Appendix 5.3.6). If the case goes to P&T, the VPAP will submit the disciplinary charges along with the recommended sanction (Appendix 5.3.6). Per Appendix 5.3.3 and UCR Bylaw 336.D, an informal resolution is permissible at any appropriate stage in disciplinary proceedings. To that end, the VPAP will work on informal resolution efforts for case that have reached the stage of being sent to Charges and/or P&T.

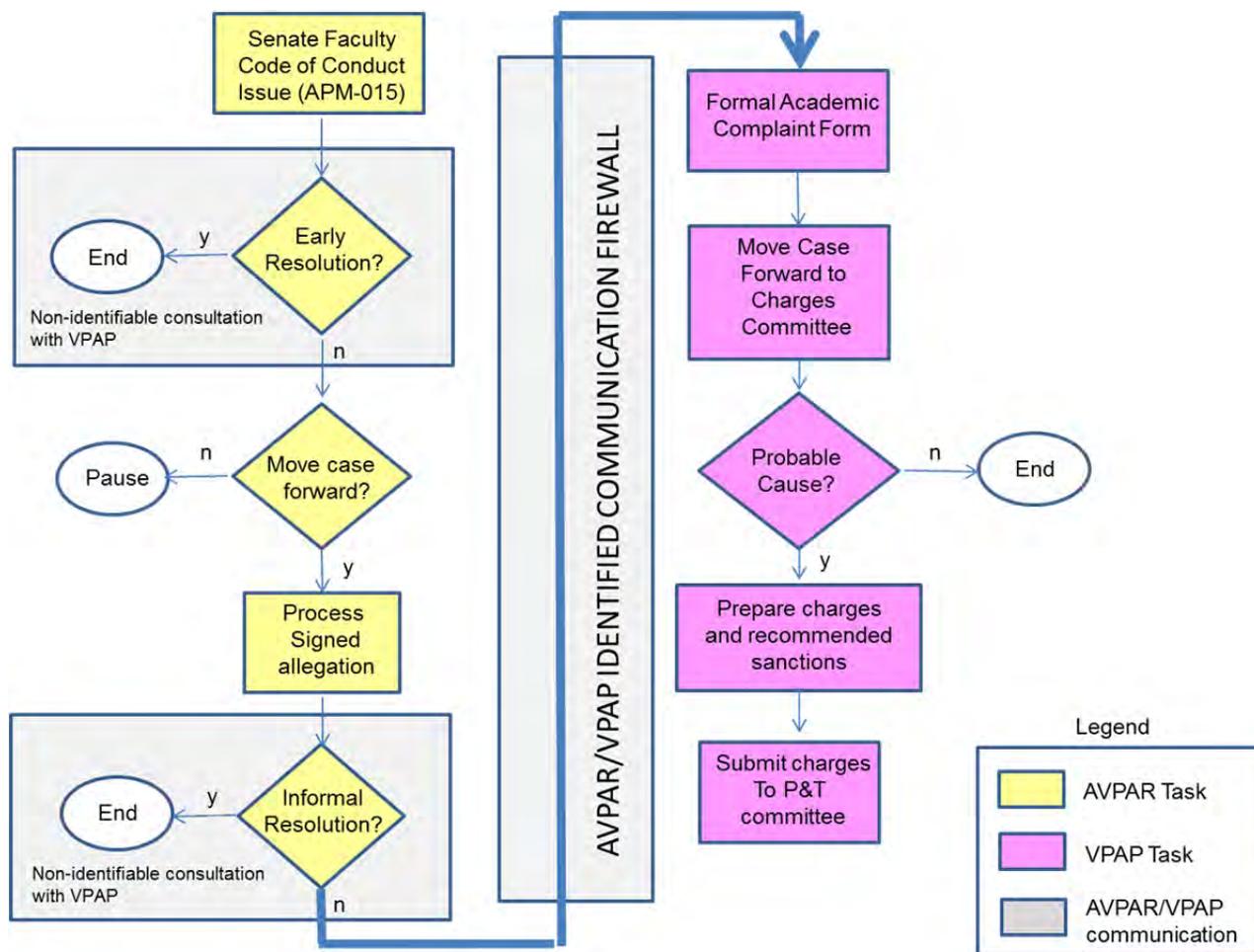


Figure 1. Roles of AVPAR and VPAP in Administrative Resolution

5. A Plan for the M/P Process

The administrative resolution cases that the VPAP becomes aware of in an identifiable manner are the small percentage of the cases where early resolution or informal resolution efforts have not succeeded. Such cases are forwarded to Charges for inquiry (Appendix 5.3.5), and possibly to P&T for a hearing (Appendix 5.3.7). For these types of cases the VPAP will hold, as applicable, current M/P files for respondents until the case is resolved either through informal resolution or through a recommendation on disciplinary sanctions (Appendix 5.3.8). 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.

Two significant features about the proposed VPAP involvement with administrative resolution are that it features a firewall between administrative resolution and academic personnel for the vast majority of the administrative resolution cases – namely those that resolve before going to

Charges where only allegations have been brought forward. On the other hand, the proposed VPAP involvement with cases that do advance to Charges aligns UCR with other UC campuses that pause the review process of M/P files until the case is resolved. For instance, at UCI the VPAP is aware of all cases that advance to their equivalent of the UCR Charges committee and M/P files are held pending the outcome. At UCD the equivalent of the UCR VPAP (called Vice Provost of Academic Affairs) is looped into cases that advance to their equivalent of the UCR Charges committee, and also holds M/P files pending the outcome. At UCSB, the EVC handles all disciplinary cases, working along with an Associate Vice Chancellor of Academic Personnel, and all M/P files are held until the issue is resolved appropriately. Implementing the plan as described above will both maintain the firewall between AR and M/P cases until a case goes to Charges and bring our process in line with the other UC campuses.



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.

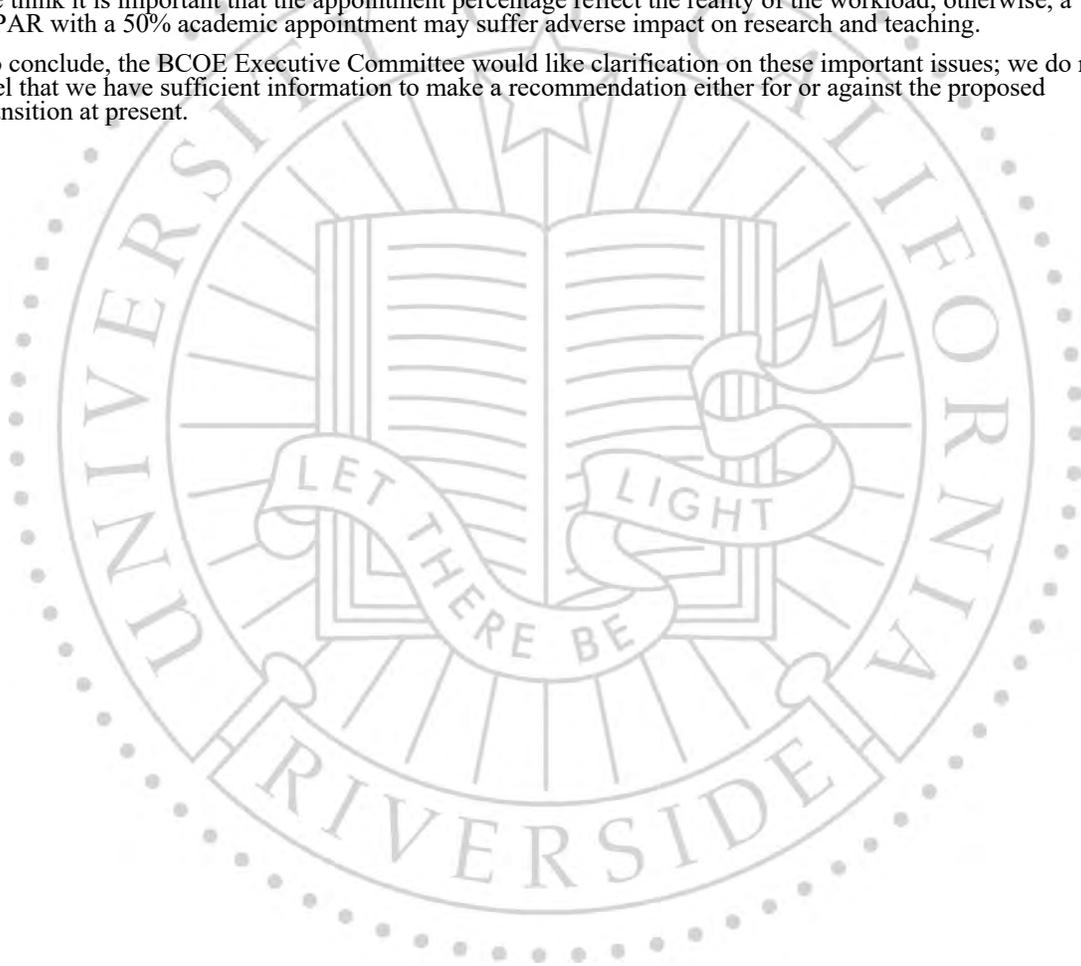
(3) The transition of the current VPAR (Daniel Jeske) to the VPAP position: Given the various policies surrounding Administrative Resolution and Academic Personnel, this transition should be handled carefully, and the memo does a good job of outlining the way that the transition will be handled, especially 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



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.