May 12, 2021

To: Elizabeth Watkins, Provost & Executive Vice Chancellor  
Daniel Jeske, Vice Provost of Academic Personnel and Vice Provost of Administrative Resolution

From: Jason Stajich, Chair, Riverside Division

RE: 3rd Round-Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR

Dear Elizabeth and Dan,

I write to provide the consultative feedback regarding the third-round review of the proposal regarding the Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR. During their April 26, 2021 meeting, Executive Council received and discussed the comments of consulted committees and had no additional comments. However, Council would like to see the final job description and better understand with what exactly the incumbent would be responsible. Council wishes to convey that consultation process regarding this new position - that is highly impactful to UCR faculty - was lacking and that the current description of the job leaves too much room for interpretation.

I hope this feedback is helpful and welcome continued dialogue regarding this critical position.
February 23, 2021

Jason Stajich, Chair of Riverside Division
Faculty Senate

1. Introduction

On Monday January 25, 2021 Interim Provost Tom Smith and VPAP/Acting VPAR Daniel Jeske met with the academic senate executive council to discuss a draft response from the administration to the second round of senate review on how administrative resolution might be structured going forward at UCR. The discussion addressed many questions that still remained after the first round of review by the senate. This memo more formally responds to concerns that persisted through the second round of review and presents three adjustments to the proposal aimed at alleviating some of the biggest of those concerns. Namely,

i. Retain the title of the position as Vice Provost of Administrative Resolution (VPAR)
ii. Retain the reporting line of the VPAR to the Provost
iii. Commit to re-establishing the VPAR as a 1.0 FTE position if the proposed 0.5 FTE proves to be unmanageable for the campus needs.

It is important to note that one key aspect of the proposal that has not been adjusted may still be a concern to some, but not all, of the senate committees. Namely, when APM-016 disciplinary sanctions are imposed upon a faculty member as the result of the Appendix 5 process, that information will be reviewed by the VPAP, Dean, Provost and Chancellor and may be used to deny a M/P advancement. Details about how that will be done are described in Section 2. Section 3 of this memo is a response to concerns that may still exist with the proposal despite the adjustments to items (i)-(iii), and then Section 4 provides detailed responses to each Senate review committee.

2. Connecting Imposed APM-016 Disciplinary Sanctions to M/P Reviews

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, Regent’s Policy 1111: Policy on Statement of Ethical Values and Standards of Ethical Conduct, and the forthcoming anti-bullying policy. 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 and signal that violations for APM-015 are eligible for consideration in the M/P review process.
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. Within the context of the adjusted items (i)-(iii) listed in Section 1, the proposal for administrative resolution at UCR also links imposed APM-016 sanctions to the M/P process as follows:

- When an M/P file reaches the VPAP, the VPAR is queried for a report on disciplinary proceedings involving the candidate that have transpired during the current review period, and that resulted in imposed APM-016 sanctions via the Appendix 5 process.
- If there is at least one such incident in the report during the review period, all other incidents that have resulted in imposed APM-016 sanctions via the Appendix 5 process during the career of the candidate are included in the report in order to help identify patterns of improper behavior. Otherwise, if there are no incidents that have resulted in imposed APM-016 sanctions via the Appendix 5 process during the review period (irrespective of whether there are incidents prior to the review period) there is no report provided by the VPAR and the M/P review proceeds as normal.
- If there is a report prepared by the VPAR, it is sent to the VPAP with a copy to the candidate. The candidate is offered the option to provide a rebuttal letter that is sent to the VPAP.
- The VPAP will coordinate a discussion with the Dean, Provost and Chancellor to weigh the imposed APM-016 disciplinary action(s) that are in the report and determine, by consensus, if the M/P should be denied on the basis of problematic behavior. Factors that would go into that determination would include when the problems occurred, the type of problems they were, how severe the problems were, and how pervasive the problematic behavior has been with the candidate.
- If the M/P is denied due to problematic behavior, the candidate is offered the opportunity to retroactively defer the merit file, in which case the Department Chair and CAP are informed that the candidate withdrew the file. In the case where the M/P action is the review of a mandatory quinquennial file, the outcome will be marked as unsatisfactory. A 7th year promotion file for an assistant professor would not be denied on the basis of problematic behavior because egregious behavior that might support denying tenure at this stage would have been dealt with earlier by seeking termination as the APM-016 sanction.

The proposed process to link imposed APM-016 sanctions to the M/P process as described above would commence with files put forward beginning Fall 2021. The process would be broadly discussed with the campus between now and then and included in revisions to The Call.

3. Responses to Areas of Concerns

In what follows, the concerns extracted from the Senate committee reports that may still exist despite the adjustments of items (i)-(iii) in Section 1 are addressed.

a. Does the connection between problematic behavior and M/P go far enough?
Response: It’s a small step but a first step. In terms of a link between problematic behavior and the M/P process, we are going from nothing to something, and that at least brings accountability for the most egregious behaviors, and creates an opportunity for future consideration for expanding the connection in various ways.

b. Concern about 0.5 FTE

Response: Increased use of early resolution efforts within the departments is expected to help reduce the workload of the VPAR. If it is observed that 0.5 FTE is not sufficient, the administration is open to making an adjustment. Additional reasons for wanting to at least try 0.5 FTE include the acute budget shortfall and the need to reduce expenditures on the campus and the possibility of attracting a larger and more diverse pool of candidates who might be more interested in a 0.5 FTE appointment than a 1.0 FTE appointment. It is also noted that as recently as 4 years ago the VPAR appointment was 0.5 FTE.

c. Why are other UC structures relevant to UCR?

Response: It is not so much “we need to align with other UCs,” but models that work well in similar environments should be considered. Their success is relevant to concerns about the changes being considered for our campus.

d. Suitability of Associate Professor for VPAR

Response: The campus does already have associate professors in 50% administrative appointments around the campus, including service as department chair (some of those even 100%) and Associate Deans. APM-241 applies to M/P reviews for faculty administrators at less than 50%, so the impact on progression through rank and step seems to be taken care of. In terms of having an authoritative presence, the main work of the VPAR is execution of policy and to explore negotiation of informal resolution without an expectation or requirement that it will work. It is the choice of an accused faculty to work, or not, with the VPAR on informal resolution. They will make that choice with the understanding that lack of informal resolution results the case proceeding to the Senate committee on charges for review as per Appendix 5.

e. Lack of consultation

Response: A consultative process lies somewhere between 100% Senate buy-in and the Administration ignoring all Senate feedback. The first proposal for administrative resolution at UCR was submitted to the Senate on 6/30/2020. The first Senate response was received 8/11/2020. The second proposal was submitted to the Senate on 10/5/2020, and reflected adjustments based on the feedback from the Senate. A campus announcement for an AVPAR search went out on 10/30/2020. Prior to that, an agreement between the Provost and the Senate Chair was made that the search would go forward, with final details of the position subject to adjustments based on further Senate feedback. An asterisk with a note that the final structure of the position is contingent on the outcomes of Senate consultation should have been included in the ad. Part of the motivation for the agreement between the Provost and Senate Chair was that beginning on 7/1/2020 the VPAP took on both jobs of VPAP and Acting VPAR and it was deemed reasonable to pursue a second round of consultation in parallel with trying to move things along to remove the dual role of the VPAP and VPAR, which was only meant to be temporary.
f. Concern about reducing/eliminating firewall

Response: UCR is the only campus with VPAR appointment and the only campus where disciplinary actions do not impact M/P (the firewall concept). The faculty welfare climate survey includes a call for accountability between problematic behavior and M/P reviews. The proposal is actually a small step in this direction as the firewall is largely left in-tact, coming into consideration only for the small number of cases where APM-016 sanctions have been imposed via the Appendix 5 process.

g. Concern that VPAP is too influential with use of disciplinary information

Response: The VPAP is not the sole decision-maker on how information about imposed APM-016 sanctions may be used. The proposal calls for a determination by the Dean, VPAP, Provost and Chancellor about if/how to use that information when considering an M/P advancement.

h. Concern about equity in the use of disciplinary information

Response: The Dean, VPAP, Provost and Chancellor, would take into consideration the severity and elapsed time of the behavior that led to imposed APM-016 sanctions when considering if/how to use that information when considering M/P advancement. Each disciplinary case is different, so it is difficult to enumerate specific conditions for what type of faculty code of conduct leads to what type of impact on M/P. But consistency in the process can be expected by having more than one person involved in making these judgments, and through the use of historical comparisons across the campus.

i. Concern about potential lawsuits

Response: Other UC campuses report that lawsuits do occur, but also declare that they will not capitulate to bad actors on their campus. In McGill v. Regents of University of California, 52 Cal. Rptr. 2d 466 (Cal. Ct. App. 1996), the California court of appeal examined collegiality in the context of the University of California's tenure criteria ("teaching, research and other creative work, professional activity, and University and public service" - 44 Cal.App.4th at 1787). In that case, a faculty member at UCI challenged the denial of tenure, asserting that the decision was based solely on his lack of collegiality. He argued that collegiality was not one of the listed criteria in the University's personnel review policies. However, the court of appeal disagreed, holding that it is "inescapable that collegiality is an appropriate consideration," (ld. at 1787, emphasis added). In so noting, the court specifically cited to the same passage in the AAUP Statement on Professional Ethics which is appended to the University's APM 210-1 as Appendix A. (Id. at 1787 & fn. 3).

j. Concern about identified conversations between VPAR and VPAP

Response: With the adjustments in items (i)-(iii) described in Section 1, there is no longer communication between the VPAR and VPAP until/unless APM-016 sanctions via the Appendix 5 process have been imposed during the current review period of a candidate.
3. Responses to Individual Senate Committees

COMMITTEE ON ACADEMIC PERSONNEL

Recognizes the relevance of faculty misbehavior and disciplinary sanctions for merit and promotion decisions.

Response: Very good.

Appreciates the VPAP’s responses about the last series of comments raised by CAP.

Response: Thank you.

VPAP will only be involved with those issues of faculty conduct that are upheld by the Senate Charges committee and when that decision is concurred by AVPAR. This raises some concerns that the issues of faculty conduct not reaching these stages would not bear any consequences on a merit advancement or promotion.

Response: Please see (a) in Section 3 of the main response.

An AVPAR may not carry as much authority and/or influence as a VPAR, lessening the AVPAR’s ability to facilitate informal resolutions; hence, an alternative plan of continuing to have a VPAR, but at reduced effort (e.g. 50%), should be considered.

Response: The position has been recast as VPAR.

COMMITTEE ON CHARGES

The revised plan indicates the VPAP can recuse and yield the responsibilities to the Provost if there is a perceived conflict. This may not be sufficient. A better solution might be one where the complainant can raise the concern about potential conflict. Also, it is not clear to the Committee what would happen if both the VPAP and Provost were conflicted out.

Response: The role of the VPAP has been changed according to the adjustment items (i)-(iii) and as discussed in Section 1 of the main response. Please also see Section 2 about implementation that further describes the modified role of the VPAP.

COMMITTEE ON DIVERSITY, EQUITY, AND INCLUSION

We consider the VPAR job very important for campus climate. If the demand is high enough to keep the person previously in the position busy at 100%, then the reduction to 50% will unavoidably bring down the quality-of-service provided to the campus community, many of whom legitimately need administrative resolution to pressing issues.

Response: Please see (b) in Section 3 of the main response.
We are still unclear as to why we need to align UCR VPAR structure with other UC campuses and how this would benefit faculty at UCR. In fact, we are concerned that this change would eliminate “firewall” between VPAP and VPAR procedures, which could create problems resulting in more grievances in relation to the M&P process.

Response: Please see (c) in Section 3 of the main response.

We do not believe it is appropriate to appoint an Associate Professor for this important position.

Response: Please see (d) in Section 3 of the main response.

It appears that the administration decided on the reorganization a-priori; this is farcical shared governance in which feedback is solicited but is not actually incorporated into the decision-making process. In fact, this was called out explicitly in the Climate Survey that just came out last week. If the administration’s plan is to ignore Senate feedback anyway, then this exercise is a waste of time. Potemkin shared governance is in some ways worse than the absence of shared governance.

Response: Please see (e) in Section 3 of the main response.

COMMITTEE ON FACULTY WELFARE

In the first round of review, the Committees main points of concern were related to the potential increase in workload for a 50% position and maintaining the firewall between the AVPAR and VPAP. The Committee continues to have great concern about the fact that the Administration plans to move forward with the AVPAR job search without an adequate description of the position and the process as it relates to merit and promotion files. The Committee requests an update on the status of the position description and process. The Committee believes that there could be an erosion of trust in the merit and promotion process if an adequately defined process is not established prior to the implementation of this transition.

Response: Per the adjustment items (i)-(iii) described in Section 1 of the main response the position has been recast as VPAR reporting to the Provost. The role of the VPAP in the revised proposal is more clearly described in Section 2 of the main response. The search will be restarted with a modified job description.

COMMITTEE ON PRIVILEGE AND TENURE

While the majority of committee members approve the proposal for changing the position of VPAR to VPAP and the addition of the AVPAR position, all members believe that special care has to be taken in the handling of personnel files in the M/P process. Before delaying the M&P process, there should be a clear determination of probable cause (via UCR Appendix 5) that the abuse has occurred. Moreover, P&T recommends that the final decision to deny a M/P action be made by the Chancellor in consultation with the Provost.

Response: The adjustment items (i)-(iii) in Section 1 and the implementation Section 2 of the main response describe a revised proposal where the VPAP only comes to know about APM-016 disciplinary actions that were imposed during the review period. Furthermore, the final decision to deny an M/P action is now proposed as a consensus amongst the Dean, VPAP, Provost and Chancellor.
BCOE EXECUTIVE COMMITTEE

The BCOE Executive Committee strongly endorses the principle that disciplinary actions should be considered as part of the Merit and Promotion (M/P) process at UCR.

Response: Thank you.

The most serious concern is that the procedure being followed is contrary to the principles of shared governance within the University of California. This is not shared governance! Clearly, the Campus Administration has decided to move forward with this transition in complete disregard of the timeline provided for consultation with the Senate.

Response: Please see (e) in Section 3 of the main response.

This preempts all Senate feedback on the 2nd Round-Transition proposal presently under review by various Academic Senate Committees and College/School Executive Committees. The most significant of these are the reduction of the position from 1.0 FTE to 0.5 FTE, and the reorganization of the VPAR position to eliminate the “firewall” that presently exists between the distinct processes of disciplinary resolution and M/P at UCR, wherein the VPAR reports directly to the VPAP within the Academic Personnel Office (APO).

Response: Please see (b) and (g) in Section 2 of the main response.

The BCOE Executive Committee recommends that the AVPAR search, as currently constituted, be delayed or restarted. The search for a new VPAR/AVPAR should be carried out under the current administrative structure under which the firewall between the VPAR/AVPAR and VPAP/APO remains under place, until thorough consultation with the Division has been achieved and alternatives have been considered.

Given the current budget crisis, the BCOE Executive Committee is not opposed to preemptively reducing the FTE of the VPAR/AVPAR from 1.0 FTE to 0.5 FTE without further consultation. The position should be re-advertised as such, and all individuals who have applied under the current search should be given the option to continue with their applications or withdraw under the proposed search. Sufficient time should be provided to enable new applicants to apply as well, as the position’s appeal may be different, depending on the administrative structure proposed in the language of the announcement.

Response: The search will be restarted to reflect the adjustment items (i)-(iii) described in Section 1 of the main response.

There is no longer a “firewall” if the VPAR reports to VPAP. This firewall ensures that information regarding disciplinary actions be available to VPAP only after a disciplinary finding. This is no longer certain if the VPAR reports to VPAP.

Response: The VPAR will not report to the VPAP in the revised proposal. Also, please see (f) in Section 2 of the main response.

No change in administrative structure is needed for VPAP to have access to faculty disciplinary records during the M/P process subsequent to disciplinary finding.
Response: Under the current structure, the “firewall” prevents this from happening.

The proposed transition includes no accountability clauses whatsoever for the VPAP, and no mechanisms to ensure that the decision-making process is fair. Providing the VPAP with exclusive access to faculty disciplinary records concentrates too much power in one central location. This is not at all meant to be a critique of the current or previous VPAP, but speaks merely to the new powers granted to the VPAP in the M/P process. The first issue that the BCOE Executive Committee would like to raise is that of confidentiality within UCR’s existing disciplinary process and the implications for including disciplinary outcomes in the M/P process. At present, the disciplinary process is maximally confidential, which includes not only the accused, but complainants, witnesses, etc.

Response: The role of the VPAP has been changed according to adjustment items (i)-(iii) and the implementation plan described in Section 2 of the main response. See also (c) and (g) in Section 2 of the main response. While the UCR disciplinary process imposes confidentiality between discipline and the M/P process, this is unlike any other UC campus and it also impairs the call from the CFW climate survey to establish accountability for problematic behavior.

It is unclear why only the VPAP “needs to know” and why the disciplinary record should only be considered at the very end of the M/P process. For example, why not also expose the disciplinary record to Department Chairs, Deans, and/or members of the Committee on Academic Personnel (CAP)? Doing so would add a level of transparency to the M/P process vis-a-vis disciplinary procedures which is presently lacking in what is proposed. It appears that the current proposal aims to minimally impact confidentiality, but in doing so creates an opaque and otherwise thoroughly unaccountable power structure within APO.

Response: In the revised proposal it the Dean, VPAP, Provost and Chancellor that decide how to use information about APM-016 sanctions that are imposed during the review period. Please see Section 2 of the main response.

What mechanism ensures that all faculty members who have disciplinary infractions are treated fairly under what is proposed? For example, what if two faculty members have similar, and independent, disciplinary infractions on their record, and within a similar timeframe. What mechanism guarantees that the VPAP provides them with comparable sanctions in terms of M/P? For whatever reason, the VPAP could decide to deny one of the faculty members a merit/promotion, but grant it to the other? As there is no additional review beyond the VPAP’s decision, accountability is wholly lacking.

Response: Please see (h) in Section 3 and also Section 3 of the main response.

It is completely unclear how long a disciplinary sanction will impact a VPAP’s decision to deny M/P. Could a VPAP deny an M/P action multiple times for the same sanction?

Response: Please see Section 2 of the main response.

Could a VPAP deny an M/P action due to a much older sanction that exists within a faculty member’s disciplinary record?

Response: Please see Section 2 of the main response.
Are there different levels of sanctions with different levels of punishment? If so, is punishment specified in terms of years or M/P requests? Etc.

Response: Please see Section 2 of the main response.

Is it possible that a sanction could be so egregious that it prevents a faculty member from attaining higher rank throughout their career? If so, the presence of such a sanction would completely disincentive additional research output, attempts to improve teaching, or willingness to perform service.

Response: The only way a sanction of that type could be envisions is through termination proceedings via a P&T hearing, and then upheld by the Chancellor.

What mechanisms exist to ensure that some semblance of consistency is maintained from one VPAP to the next?

Response: Transitions to new VPAPs will be occur with significant overlap of time in the offices so that the culture of the structure can be explained and absorbed.

Faculty will be unaware of this possibility unless The Call is updated to make it clear that the VPAP has the right to view and use the disciplinary record in this way.

Response: The CALL will certainly be updated to explain the proposal outlined in Sections 1-3 of the main response. It is emphasized that the VPAP is not unilaterally making decision based on disciplinary records, but is doing so in conjunction with the Dean, Provost and the Chancellor.

Is this proposed structure robust to legal challenges if a faculty member chooses to file a lawsuit? These issues need to be thought through thoroughly before this could be implemented.

Response: Please see (j) in Section 3 of the main response.

The BCOE Executive Committee strongly believes that the way in which disciplinary actions impact M/P should be enshrined in policy, rather than being a seemingly arbitrary decision left up to one individual.

Response: The Dean, VPAP, Provost and Chancellor decide how to use information about APM-016 sanctions that are imposed during the review period. Please see Section 2 of the main response.

Within the flowchart, the VPAP’s role ends with submission of charges to the P&T Committee; however, it is unclear what happens after the P&T Committee deliberates. If the charge is upheld, what is reported to the VPAP, when is it reported, and how does it feed back into the VPAP’s role in the M/P process? Similarly, what happens if the charge is not upheld? What guarantee does the accused faculty member have that the process will not bias the VPAP during the next request for M/P?

Response: Please see the changes described in the adjustment items (i)-(iii) in Section 1 of the main response, and also please see Section 2 of the main response.
CHASS EXECUTIVE COMMITTEE

That none of the other UC campuses have a VPAR is not enough reason to create an AVPAR position in place of a VPAR.

Response: Please see Section (c) in Section 3 of the main response.

The established institutional location of the VPAR provides the occupant with insulation from direct administrative oversight and control in order to ensure neutrality in the assessment of charges and thus to maintain confidence of those interacting with the office. The proposed change creating a direct reporting line to senior administration eliminates this insulation and the perception of the VPAR’s autonomy without any discernible likely improvement of the functioning of the office.

Response: Please see (g) in Section 3 of the main response.

We do not see in the description of other UC’s procedure an absence of a firewall, complete or otherwise

Response: UCR is the only campus with a position of Vice Provost of Administrative Resolution (VPAR). The other UC campuses have their equivalent VPAP managing administrative resolution.

Members of the CHASS EC, however, agree with the concern voiced by many of the Senate committees that the removal of the firewall at later stages may threaten the integrity of the M/P process since the VPAP would have knowledge of issues in a given case.

Response: Please see (g) in Section 3 of the main response. Leaving the firewall completely intact is counter to having accountability for problematic behavior, and is not addressing the call for accountability we hear in the response to the Faculty Welfare Climate Survey.

Making the AVPAR position as an 0.5 FTE appointment seems unjustified. It not only leads to the appearance of a demotion in status (especially when combined with the proposed reporting structure), it also effectively and materially reduces the incentives for the VPAR to commit adequate time to review what are often complex, difficult, and highly contentious issues and disputes. The inescapable conclusion is that the proposal seeks to secure the same arduous, time-consuming labor for much less cost. We cannot be certain that “increased [emphasis added] use of early resolution efforts within colleges and schools will offload some of the work in administrative resolution.” Indeed, the work for an (n) (A)VPAR may increase significantly in the foreseeable future and thus UCR should retain a 1.0 FTE appointment for this position. The reasonably foreseeable consequence of this proposed change, if adopted, is that the job of the original VPAR will be done less diligently, less thoroughly, and more slowly.

Response: Please see (b) in Section 2 of the main response.

It is also possible that faculty with the requisite skills for this difficult and demanding position will be much less likely to serve once they conclude that the modified position is no longer worth the time, opportunity costs of reduced research, and stress associated with being in the middle of some of the most sensitive and conflictual situations that arise on the UCR campus.
Response: The type of person best suited for the role is one who wishes to impact in a positive way the climate of our campus. The 0.5 FTE appointment preserves balance to prospective candidates, and their progression in the M/P process is protected by APM-241.

If the administration does not think the VPAR does not add sufficient value to the charges process, it should eliminate the position entirely before it modifies it in ways that will likely undermine the performance and perceptions of the office.

Response: Eliminating it entirely is not feasible since there is vital work that needs to be done. Please see (b) in Section 3 of the main response.

CNAS EXECUTIVE COMMITTEE

The CNAS Executive Committee has no comment on this.

Response: Thank you.

SOM EXECUTIVE COMMITTEE

The proposal is well laid and the detailed responses to individual committee comments are commendable for their detail. SOM FEC has no additional concerns regarding the proposed incorporation of the VPAR roles under the VPAP’s umbrella and the creation of a separate AVPAR (0.5 FTE) position, or the principle of linking aspects of administrative resolution to the merit and promotions (M/P) review process.

Response: Thank you.

Thomas M. Smith
Interim Provost and Executive Vice Chancellor

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

cc: Sarah Miller, Assistant Director of Riverside Division
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 resolution\(^1\) 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.

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\(^1\) Throughout this memo the term \textit{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 process\(^2\) 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
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.
- 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.
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- 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.
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.
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.

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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.

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 intact, 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 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.
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,

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) position 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 cases that have reached the stage of being sent to Charges and/or P&T.
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.
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.
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 if 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.
August 5, 2020

TO: Dylan Rodriguez, Chair
Academic Senate

FROM: Lucille Chia, Chair
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 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.
EXECUTIVE COUNCIL

January 8, 2021

To: Thomas Smith, Interim Provost

From: Jason Stajich, Chair
Riverside Division

RE: 2nd Round - Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR

Executive Council discussed the second round of this proposal at its meeting on December 14, 2020. There was general concern about the workload of this new position and setting it as only a 50% position may not be sufficient appointment time depending on the workload.

Based on the discussions, there was not a general consensus that these two positions should be separated. If merged, administration must be very transparent. It is a lot of work to merge the two, can more justification be provided for what is to be gained from this? Is this change simply to be more in line with other campuses?

There are continued concerns that firewalls between VPAP and VPAR are not adequately defined. The process is opaque. Maximizing confidentiality appears to be the purpose but the proposal makes it seem like only the VPAP has the power to negate things. Some committee members indicated the document seems to be out of date as the position description in the advertisement is different from the proposal text. It was echoed that the AVPAR position is still under Senate review, yet the job was advertised which does not seem to demonstrate shared governance.

Finally, there were concerns that the AVPAR position does not sound like a faculty leadership position and it also does not sound like anyone has applied. A concern is if an Associate Professor takes the position, they will not have the perspective or ability to realistically take on the role.

I attach responses from the Committee on Academic Personnel, Committee on Charges, Committee on Diversity, Equity, and Inclusion, Committee on Faculty Welfare, Committee on Privilege & Tenure, BCOE Executive Committee, CHASS Executive Committee, CNAS Executive Committee, and the SoM Executive Committee.
Thanks,
Jason

Cc: Cherysa Cortez, Executive Director, Academic Senate
To: Jason Stajich, Chair  
Riverside Division Academic Senate  

From: Yinsheng Wang, Chair  
Committee on Academic Personnel  

Re: [Campus Review] Proposal: 2nd Round-Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR  

CAP discussed the proposal on the “2nd Round-Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR”. CAP recognizes the relevance of faculty misbehavior and disciplinary sanctions for merit and promotion decisions, and CAP appreciates the VPAP’s responses about the last series of comments raised by CAP. After further discussion, CAP would like to share some additional thoughts about this transition:  

In the current updated plan, the VPAP will only be involved with those issues of faculty conduct that are upheld by the Senate Charges committee and when that decision is concurred by AVPAR. This raises some concerns that the issues of faculty conduct not reaching these stages would not bear any consequences on a merit advancement or promotion.  

An AVPAR may not carry as much authority and/or influence as a VPAR, lessening the AVPAR’s ability to facilitate informal resolutions; hence, an alternative plan of continuing to have a VPAR, but at reduced effort (e.g. 50%), should be considered.
COMMITTEE ON CHARGES

November 5, 2020

TO: Jason Stajich, Chair
    Riverside Division

FR: Richard Smith
    Chair, Committee on Charges

Re: [Campus Review] Proposed Transition of VPAR Role at UCR (2nd Round)

The Committee on Charges discussed the revised proposal regarding the Proposed Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR, which included a response to Charges July 31, 2020 memo on the initial proposal. The Committee had indicated concern about possible conflicts of interest and due process when a complaint is about an administrator, such as a department chair, who works closely with the VPAP and/or Provost.

The Committee remains concerned that the revised proposal, which is that the VPAP can recuse and yield the responsibilities to the Provost if there is a perceived conflict, may not be sufficient. The same concerns would apply to the Provost. A better solution might be one where the complainant can raise the concern about potential conflict. Also, it is not clear to the Committee what would happen if both the VPAP and Provost were conflicted out.
COMMITTEE ON DIVERSITY, EQUITY, & INCLUSION

December 1, 2020

To: Jason Stajich, Chair
Riverside Division Academic Senate

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

Re: 2nd Round-Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR

The Committee on Diversity, Equity, and Inclusion reviewed the Proposed Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR and had some substantial comments:

1. While the Committee appreciates the administration’s efforts to clarify several issues in this revision, we remained concerned about the proposed VPAR transition. Specifically:

   A. We consider the VPAR job very important for campus climate. If the demand is high enough to keep the person previously in the position busy at 100%, then the reduction to 50% will unavoidably bring down the quality-of-service provided to the campus community, many of whom legitimately need administrative resolution to pressing issues.

   B. We are still unclear as to why we need to align UCR VPAR structure with other UC campuses and how this would benefit faculty at UCR. In fact, we are concerned that this change would eliminate “firewall” between VPAP and VPAR procedures, which could create problems resulting in more grievances in relation to the M&P process.

   C. We do not believe it is appropriate to appoint an Associate Professor for this important position.

2. Perhaps more important, we are extremely concerned about the administration's seemingly ignoring potential feedback on the proposed AVPAR position. Obviously, the proposal has not been fully reviewed by the Senate, yet the administration is already advertising the position. We believe that this is not healthy for shared governance on campus for two reasons:

   A. It appears that the administration decided on the reorganization a-priori; this is farcical shared governance in which feedback is solicited but is not actually incorporated into the decision-making process. In fact, this was called out explicitly in the Climate Survey that just came out last week.

   B. If the administration’s plan is to ignore Senate feedback anyway, then this exercise is a waste of time. Potemkin shared governance is in some ways worse than the absence of shared governance.
At its meeting on November 17, 2020, the Committee on Faculty Welfare discussed the 2nd Round review of the proposed transition of Vice Provost for Administrative Resolution (VPAR) role at UCR. In the first round of review, the Committee’s main points of concern were related to the potential increase in workload for a 50% position and maintaining the firewall between the AVPAR and VPAP. The Committee reviewed the revised proposal and the specific responses to CFW’s points provided by the Provost. The Committee continues to have great concern about the proposed transition and the fact that the Administration plans to move forward with the AVPAR job search without an adequate description of the position and the process as it relates to merit and promotion files.

The Committee requests an update on the status of the position description and process. The Committee believes that there could be an erosion of trust in the merit and promotion process if an adequately defined process is not established prior to the implementation of this transition.
COMMITTEE ON PRIVILEGE & TENURE

December 3, 2020

To: Jason Stajich, Chair
    Riverside Division

From: Roya Zandi, Chair
      Committee on Privilege & Tenure

Re: [Campus Review] 2nd Round-Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR

The Committee on Privilege and Tenure reviewed the revised version of the Proposed Transition of Vice Provost for Administrative Resolution (VPAR) at UCR. While the majority of committee members approve the proposal for changing the position of VPAR to VPAP and the addition of the AVPAR position, all members believe that special care has to be taken in the handling of personnel files in the M/P process. Since some cases evaluated by P&T turned out to be frivolous accusations in the past, any delay in the merit and promotion process when a case has just been brought up to the committee needs to be done in a fair manner. Before delaying the M&P process, there should be a clear determination of probable cause (via UCR Appendix 5) that the abuse has occurred. Moreover, P&T recommends that the final decision to deny a M/P action be made by the Chancellor in consultation with the Provost.
November 30, 2020

TO: Jason Stajich, Chair
Academic Senate

FROM: Philip Brisk, Chair
BCOE Executive Committee

RE: 2nd Round-Transition of Vice Provost for Administrative Resolution (VPAR) at UCR

Dear Jason,

The BCOE Executive Committee reviewed the proposed 2nd Round-Transition of Vice Provost for Administrative Resolution (VPAR) at UCR in a meeting held on November 24, 2020. The discussion lasted approximately one hour, which is considerably longer than what the Committee typically allocates to Campus review items.

The BCOE Executive Committee strongly endorses the principle that disciplinary actions should be considered as part of the Merit and Promotion (M/P) process at UCR.

However, the BCOE Executive Committee disagrees with a number of issues in the 2nd Round-Transition proposal and strongly believes that they should be reconsidered prior to implementation.

Lack of Regard for Shared Governance

The most serious concern is that the procedure being followed is contrary to the principles of shared governance within the University of California.

- A search for the new Associate Vice Provost of Administrative Resolution (AVPAR) has already been announced. The position has already been reduced from 1.0 FTE to 0.5 FTE. The decision has already been made that the AVPAR will report to the VPAP.
- This preempts all Senate feedback on the 2nd Round-Transition proposal presently under review by various Academic Senate Committees and College/School Executive Committees. The most significant of these are the reduction of the position from 1.0 FTE to 0.5 FTE, and the reorganization of the VPAR position to eliminate the “firewall” that presently exists between the distinct processes of disciplinary resolution and M/P at UCR, wherein the VPAR reports directly to the VPAP within the Academic Personnel Office (APO). The deadline for the BCOE Executive Committee to submit its report to the Division is December 1, 2020.

This is not shared governance! Clearly, the Campus Administration has decided to move forward with this transition in complete disregard of the timeline provided for consultation with the Senate. Coincidentally, this dovetails with the release of the UCR Academic Senate Committee on Faculty Welfare’s Report on the Faculty Campus Climate Survey 2019. Within that report, the first major finding was:

2.1 Campus administrators’ lack of consultation with faculty (regarding funding and hiring priorities, campus growth, allocation of resources, etc.) imperils UCR’s research and teaching missions.
Among the various edited comments that spoke to the first major finding, we would like to point out the following:

Faculty are rarely consulted in decision-making; instead, we are asked to fill out surveys after upper administration has already made the decisions.

This action is a perfect example of this approach. The Division and College Executive Committees have been asked to report on a proposal after the upper administration has already made the relevant decision and started to implement it. While this letter is neither the time nor the place to address larger-scale concerns about Shared Governance, the path that the administration has taken here is indicative of larger problems at UCR.

The BCOE Executive Committee recommends that the AVPAR search, as currently constituted, be delayed or restarted. The search for a new VPAR/AVPAR should be carried out under the current administrative structure under which the firewall between the VPAR/AVPAR and VPAP/APO remains under place, until thorough consultation with the Division has been achieved and alternatives have been considered. Given the current budget crisis, the BCOE Executive Committee is not opposed to preemptively reducing the FTE of the VPAR/AVPAR from 1.0 FTE to 0.5 FTE without further consultation. The position should be readvertised as such, and all individuals who have applied under the current search should be given the option to continue with their applications or withdraw under the proposed search. Sufficient time should be provided to enable new applicants to apply as well, as the position’s appeal may be different, depending on the administrative structure proposed in the language of the announcement.

Elimination of the “firewall” between VPAR and VPAP

Beyond issues pertaining to shared governance, the BCOE Executive Committee strongly believes that the firewall between the VPAR and VPAP/APO should remain in-place and that the VPAR should not report directly to the VPAP:

- There is no longer a “firewall” if the VPAR reports to VPAP. This firewall ensures that information regarding disciplinary actions be available to VPAP only after a disciplinary finding. This is no longer certain if the VPAR reports to VPAP.
- No change in administrative structure is needed for VPAP to have access to faculty disciplinary records during the M/P process subsequent to disciplinary findings.
- The proposed transition includes no accountability clauses whatsoever for the VPAP, and no mechanisms to ensure that the decision-making process is fair. Providing the VPAP with exclusive access to faculty disciplinary records concentrates too much power in one central location. This is not at all meant to be a critique of the current or previous VPAP, but speaks merely to the new powers granted to the VPAP in the M/P process.

The first issue that the BCOE Executive Committee would like to raise is that of confidentiality within UCR’s existing disciplinary process and the implications for including disciplinary outcomes in the M/P process. At present, the disciplinary process is maximally confidential, which includes not only the accused, but complainants, witnesses, etc.

Depending on the specifics, other individuals who may “need to know,” such as Deans, may or may not become aware of the outcome. Under the current proposal, the VPAP becomes unique in terms of who “needs to know” about disciplinary outcomes for M/P procedures. It is unclear why only the VPAP “needs to know” and why the disciplinary record should only be considered at the very end of the M/P process. For example, why not also expose the disciplinary record to Department Chairs, Deans, and/or members of the Committee on Academic Personnel (CAP)? Doing so would add a level of transparency to the M/P process.
vis-a-vis disciplinary procedures which is presently lacking in what is proposed. It appears that the current proposal aims to minimally impact confidentiality, but in doing so creates an opaque and otherwise thoroughly unaccountable power structure within APO.

**Issues of Fairness and Completeness of Information**

Assuming that this proposal passes, there are a number of questions about fairness, consistency, and how this proposal should be implemented. For example:

- What mechanism ensures that all faculty members who have disciplinary infractions are treated fairly under what is proposed? For example, what if two faculty members have similar, and independent, disciplinary infractions on their record, and within a similar timeframe. What mechanism guarantees that the VPAP provides them with comparable sanctions in terms of M/P? For whatever reason, the VPAP could decide to deny one of the faculty members a merit/promotion, but grant it to the other? As there is no additional review beyond the VPAP’s decision, accountability is wholly lacking.

- It is completely unclear how long a disciplinary sanction will impact a VPAP’s decision to deny M/P:
  - Could a VPAP deny an M/P action multiple times for the same sanction?
  - Could a VPAP deny an M/P action due to a much older sanction that exists within a faculty member’s disciplinary record?
  - Are there different levels of sanctions with different levels of punishment? If so, is punishment specified in terms of years or M/P requests? Etc.
  - Is it possible that a sanction could be so egregious that it prevents a faculty member from attaining higher rank throughout their career? If so, the presence of such a sanction would completely disincetive additional research output, attempts to improve teaching, or willingness to perform service.

- What mechanisms exist to ensure that some semblance of consistency is maintained from one VPAP to the next?

There are also general concerns about faculty awareness that the VPAP could leverage the disciplinary record to deny an M/P request. For example, faculty will be unaware of this possibility unless The Call is updated to make it clear that the VPAP has the right to view and use the disciplinary record in this way. Is this proposed structure robust to legal challenges if a faculty member chooses to file a lawsuit? These issues need to be thought through thoroughly before this could be implemented.

The BCOE Executive Committee strongly believes that the way in which disciplinary actions impact M/P should be enshrined in policy, rather than being a seemingly arbitrary decision left up to one individual. The Committee recognizes that this may be difficult, as disciplinary actions vary in terms of levels of egregiousness and harm done to impacted members of the campus community. That said, a policy solution is without question preferable to creating a concentration of power with no mechanisms for accountability.

The BCOE Executive Committee would also like to point out that having the AVPAR report directly to the VPAP goes much further than what is outlined in this proposal. Under this reporting structure, it is almost certain that the VPAP would or could become aware of ongoing disciplinary proceedings that have not yet been resolved, and there is concern that this knowledge could bias the VPAP’s decision-making; disciplinary proceedings should not impact the M/P process until they are resolved, and it seems like the elimination of the firewall and/or other guardrails under this proposal increases the likelihood that this might happen.
Another concern is that the flowchart shown in Figure 1 is incomplete. This is perhaps indicative of a more general problem with the proposal, which is that it doesn’t clearly separate the proposed reporting structure (AVPAR to VPAP) with separate mechanisms to provide the VPAP with access to disciplinary files for consideration during M/P. Within the flowchart, the VPAP’s role ends with submission of charges to the P&T Committee; however, it is unclear what happens after the P&T Committee deliberates. If the charge is upheld, what is reported to the VPAP, when is it reported, and how does it feed back into the VPAP’s role in the M/P process? Similarly, what happens if the charge is not upheld? What guarantee does the accused faculty member have that the process will not bias the VPAP during the next request for M/P?

In summary, the BCOE Executive Committee believes that disciplinary sanctions should be taken into consideration within the M/P process; however, there are a number of questions and concerns about the current proposal that should be addressed before it is implemented, to ensure that there is some semblance of transparency and accountability. The fact that campus administration has decided to start implementing parts of this proposal while it is under review is also troubling, in a far more general sense.
November 30, 2020

TO: Jason E. Stajich, Chair  
Riverside Division Academic Senate

FROM: Lucille Chia, Chair
CHASS Executive Committee

RE: Review of the Second-round of the proposal for the Transition of VPAR Role at UCR

The CHASS EC welcomes this second opportunity to review the role of the transition of the VPAR role at UCR. The EC finds the proposal problematic for several reasons.

1. Sec. 2 of the Oct. 9 letter from the Interim Provost and the Vice Provost of Academic Personnel cum Acting Vice Provost of Administrative Resolution points out that many recent issues need greater consideration in the merit and promotion (M/P) review process—issues such as “problematic behavior, such as hostile and abusive conduct.”

   It is not clear, however, why greater consideration of these issues requires the creation of an AVPAR position in place of a VPAR. The detailed responses in the Oct. 9 letter to the concerns of various Senate committees do not address this question satisfactorily. That none of the other UC campuses have a VPAR is not enough reason to create an AVPAR position in place of a VPAR.

   The established institutional location of the VPAR provides the occupant with insulation from direct administrative oversight and control in order to ensure neutrality in the assessment of charges and thus to maintain confidence of those interacting with the office. The proposed change creating a direct reporting line to senior administration eliminates this insulation and the perception of the VPAR’s autonomy without any discernible likely improvement of the functioning of the office. Indeed, interposing an administrator with less formal autonomy from the rest of the administration in a quasi-adjudicatory role in the faculty discipline process may raise issues of shared governance and consistency with the Divisional Bylaws.

   Furthermore, the letter describes briefly how other UC’s process allegations of violations of the faculty code of conduct (pp. 3-4), but these differences suggest each UC is sufficiently different that the letter’s proposal would not necessarily bring UCR closer to other UC’s processing of such charges.

2. One issue of great concern is the “firewall” between the VPAP and the (A)VPAR. The letter notes that “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.”
We do not see in the description of other UC’s procedure an absence of a firewall, complete or otherwise. And in any case, is this something UCR should emulate?

As for Fig. 1 (letter, p. 6), presumably the “Non-identifiable consultation [of the AVPAR] with VPAP” is part of the firewall at the earlier stages of the administrative resolution procedure. Members of the CHASS EC, however, agree with the concern voiced by many of the Senate committees that the removal of the firewall at later stages may threaten the integrity of the M/P process since the VPAP would have knowledge of issues in a given case.

3. Making the AVPAR position as an 0.5 FTE appointment (p. 5 of the Oct. 9 letter) seems unjustified. It not only leads to the appearance of a demotion in status (especially when combined with the proposed reporting structure), it also effectively and materially reduces the incentives for the VPAR to commit adequate time to review what are often complex, difficult, and highly contentious issues and disputes. The inescapable conclusion is that the proposal seeks to secure the same arduous, time-consuming labor for much less cost.

Given all the issues noted in Sec. 2 of the letter and the growth of UCR, we cannot be certain that “increased [emphasis added] use of early resolution efforts within colleges and schools will offload some of the work in administrative resolution.” Indeed, the work for a(n) (A)VPAR may increase significantly in the foreseeable future and thus UCR should retain a 1.0 FTE appointment for this position.

4. The reasonably foreseeable consequence of this proposed change, if adopted, is that the job of the original VPAR will be done less diligently, less thoroughly, and more slowly. It is also possible that faculty with the requisite skills for this difficult and demanding position will be much less likely to serve once they conclude that the modified position is no longer worth the time, opportunity costs of reduced research, and stress associated with being in the middle of some of the most sensitive and conflictual situations that arise on the UCR campus. If the administration does not think the VPAR does not add sufficient value to the charges process, it should eliminate the position entirely before it modifies it in ways that will likely undermine the performance and perceptions of the office.

The proposal compromises the efficacy of and confidence in the VPAR and the process of faculty discipline. It should be abandoned.
23 November 2020

To: Jason Stajich, Chair  
Riverside Division

From: Theodore Garland, Jr., Chair, Executive Committee  
College of Natural and Agricultural Science

Re: Campus Review: Proposal: 2nd Round-Transition of Vice Provost

The CNAS Executive Committee has no comment on this.

Cheers,

[Signature]
November 20th, 2020

To: Jason Stajich, Ph.D., Chair, Academic Senate, UCR Division

From: Declan McCole, Ph.D., Chair, Faculty Executive Committee, UCR School of Medicine

Subject: SOM FEC Response to 2ND ROUND-TRANSITION OF VICE PROVOST FOR ADMINISTRATIVE RESOLUTION (VPAR) ROLE AT UCR

Dear Jason,

The SOM Executive Committee reviewed the revisions made in the 2ND ROUND-TRANSITION OF VICE PROVOST FOR ADMINISTRATIVE RESOLUTION (VPAR) ROLE AT UCR document. The proposal is well laid and the detailed responses to individual committee comments are commendable for their detail. SOM FEC has no additional concerns regarding the proposed incorporation of the VPAR roles under the VPAP’s umbrella and the creation of a separate AVPAR (0.5 FTE) position, or the principle of linking aspects of administrative resolution to the merit and promotions (M/P) review process.

Yours sincerely,

Declan F. McCole, Ph.D.
Chair, Faculty Executive Committee
School of Medicine
April 13, 2021

TO: Jason Stajich, Chair
    Academic Senate
FROM: Philip Brisk, Chair
      BCOE Executive Committee
RE: Third Round - Transition of Vice Provost of Administrative Resolution (VPAR) Role at UCR

Dear Jason,

The BCOE Executive Committee reviewed the 3rd round proposal for the Transition of the VPAR Role at UCR. The Committee supports the revision, but prefers the position to remain 1.0 FTE.

Some committee members were not 100% comfortable approving in principle a policy document that has not yet been produced. The document that the Committee reviewed was the 2nd round proposal, with a set of changes (akin to a diff file in computing) and a written response to the Committees that previously opined. A self-contained 3rd round policy document would have been easier to follow.
To: Jason Stajich, Chair
   Riverside Division Academic Senate

From: Yinsheng Wang, Chair
       Committee on Academic Personnel

Re: Proposal: 3rd Round-Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR

CAP reviewed the “Proposal: 3rd Round Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR”, and CAP considered that its comments raised during last round of review were satisfactorily addressed. CAP does not have additional comments to offer about this matter.
COMMITTEE ON CHARGES

April 5, 2021

TO: Jason Stajich, Chair
    Riverside Division

FR: Richard Smith
    Chair, Committee on Charges

Re: [Campus Review] Proposal: 3rd Round-Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR

The Committee on Charges has reviewed the 3rd Round-Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR Proposal and has no further comments.
April 15, 2021

TO: Jason Stajich, Chair
Riverside Division of the Academic Senate

FROM: Lucille Chia, Chair
CHASS Executive Committee

RE: Draft memo in response to the latest round of Senate review of the VPAR position

The CHASS Executive Committee approves the many changes made in the response by the Interim Provost and the VPAP/Acting VPAR to the second round of the Senate review of the draft memo on restructuring administrative resolution. The EC wishes, however, to express its doubts about selecting an associate professor for the position of VPAR, given the stakes of the position and the need for authority in executing its responsibilities.
17 April 2021

To: Jason Stajich, Chair
Riverside Division

From: Theodore Garland, Jr., Chair, Executive Committee
College of Natural and Agricultural Science

Re: Campus Review: Proposal: 3rd Round-Transition of Vice Provost

The CNAS Executive Committee has no comment on this.

Cheers,

[Signature]
COMMITTEE ON DIVERSITY, EQUITY, & INCLUSION

April 16, 2021

To: Jason Stajich, Chair
   Riverside Division Academic Senate

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

Re: [Campus Review] Proposal: 3rd Round-Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR

The Committee on Diversity, Equity, and Inclusion reviewed the proposed Transition of Vice Provost for UCR and supports the revisions in the third round of the proposal.
The Committee on Faculty Welfare met on March 16, 2020 to consider the Proposal for the Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR. The Committee finds that consultation on this proposal has been effective and details clarified such that the revised proposal addresses concerns about the firewall. CFW is in overall support of the proposal.
April 5, 2021

To: Jason Stajich, Chair
    Riverside Division

From: Roya Zandi, Chair
    Committee on Privilege & Tenure

Re: [Campus Review] Proposal: 3rd Round-Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR

The Committee on Privilege and Tenure reviewed the 3rd Round-Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR proposal at its meeting on March 18, 2021. The Committee felt its concerns regarding the establishment of the firewall were addressed. P&T emphasizes “administrative resolution” in the role of the VPAR in its distinction from and necessary relative autonomy from other roles, especially as concerns tenure and promotion. P&T is mindful that the VPAR role brings with it the perception of adjudicative process any time the VPAR is included in any proceedings.

The Committee emphasizes the recommendation that training on early resolution be provided to department chairs and deans so they can better address these issues at their levels (pg. 11).

The Committee notes the following sentence on Pg. 2, point 5 - “A 7th year promotion file for an assistant professor would not be denied on the basis of problematic behavior because egregious behavior that might support denying tenure at this stage would have been dealt with earlier by seeking termination as the APM-016 sanction.” As written, the Committee is unclear about the intended effect and requests further clarification on how it would be applied to 7th year promotion files for assistant professors.
The SOM Executive Committee reviewed *Transition of Vice Provost for Administrative Resolution (VPAR) Role at UCR* at the regular meeting on April 15, 2021. SOM FEC commends the response from the administration on resolution for the previously presented concerns of UCR Executive committees. SoM FEC is in agreement with the proposed VPAR position, and approve the amendments.

Yours sincerely,

Declan F. McCole, Ph.D.
Chair, Faculty Executive Committee
School of Medicine