



**COMMITTEE ON PRIVILEGE & TENURE**

August 3, 2020

To: Dylan Rodríguez, Chair  
Riverside Division

From: Luca Ferrero, Chair  
Committee on Privilege & Tenure

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

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

**Concerns**

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

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

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

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

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

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

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

### **Requests for Clarification**

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

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

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

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

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

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

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