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October 12, 2023

To: Elizabeth H. Simmons, Executive Vice Chancellor of Academic Affairs
John Hildebrand Chair, Academic Senate, Professor, SIO Department
Olivia Graeve, Vice Chair, Academic Senate, Professor, Mechanical and Aerospace Engineering

From: The Senate-Administration Committee to Review the Institutional Reference Check Program

Robert E. Continetti, Senior Associate Vice Chancellor of Academic Affairs, co-Chair
Mikhail Belkin, Professor, Halicioğlu Data Science Institute, co-Chair

RE: Report of the Senate-Administration Committee to Review the Institutional Reference Check Program

The Senate-Administration Committee to Review the Institutional Reference Check (IRC) Program respectfully submits the enclosed report of its recent discussions and conclusions related to the charge of the IRC Pilot Program review committee, namely to undertake a study and provide a set of recommendations about how UC San Diego might adopt the pilot program and convert to a local policy.

The committee's activities included: a. reviewing current practices at UC San Diego, b. collecting policy and practice information as well as anecdotal information from our sister campuses, c. collecting survey data from stakeholder populations, and d. reviewing data related to a number of categories of information related to IRC requests made and collected at UC San Diego since the program's inception in 2019.

The committee met on three occasions to discuss the program and unanimously recommends the continuation of the IRC program, with some minor adjustments. We found that there was broad support for the program, and that it contributed to an improved climate at UC San Diego regarding our commitment to upholding our values regarding misconduct. The recommendations include proposed new language related to conducting institutional reference checks at UC San Diego. In addition, the committee recommends piloting a new, modified IRC program that would apply to a broader population of academic employees.

We ask that you consider implementing our recommendations.

Report of the Senate-Administration Committee to Review the Institutional Reference Check Pilot Program

October 12, 2023

Workgroup Membership

Faculty Representatives

Mikhail Belkin, Professor, Halicioğlu Data Science Institute, *co-Chair*

Elizabeth Lyons, Associate Professor, School of Global Policy and Strategy

Lei Ni, Professor, Mathematics

Anya Samek, Associate Professor, Rady School of Management

Eric Hekler, Professor, School of Public Health

Kerry McKenzie, Associate Professor, Philosophy

Administration

Robert E. Continetti, Senior Associate Vice Chancellor of Academic Affairs, *co-Chair*

Sorin Lerner, Professor and Chair, Computer Science and Engineering

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Preamble

On October 11, 2019, UC San Diego announced the implementation of the pilot Institutional Reference Check (IRC) program for appointments conferring tenure or security of employment. The program was announced for an initial period of 3-years and with the goal of gathering information about a candidate's conduct in their previous appointment that may be important to appointment decisions. Specifically, the purpose of the IRC is to ascertain whether the candidate has engaged in any substantiated misconduct at their previous institution. The pilot program announcement indicated that a Senate-Administration Workgroup would be convened to examine the results of the program and to consider converting the pilot program into policy to occur at the end of the second year.

Since its inception, the IRC program has conducted institutional reference checks on 97 candidates and sent 170 total requests to institutions world-wide. While the vast majority of candidates have cleared the institutional reference checks quickly and without incident, some checks have resulted in the identification of past conduct that required additional consideration.

Executive Summary

The Senate-Administration Committee to Review the Institutional Reference Check Pilot Program was empaneled on May 23, 2022. The committee was charged to undertake a study and provide a set of recommendations about how UC San Diego might adopt the pilot program and convert to a local policy. In particular, the committee was asked to:

- Review current UC San Diego IRC processes and practices;
- Review practices and policies at other UC campuses;
- Consider the benefits and costs of extending the IRC process to appointments without tenure or security of employment
- Consider smart practices from peer institutions and a literature review

The committee initially met on June 15, 2022 where the charge of the committee and the background of the program was discussed. The committee agreed that data from sister campuses as well as survey data should be collected in order to make appropriate recommendations. In addition, the committee was interested to know what outcomes resulted from the Institutional Reference Check Program. During the 22-23 academic year this information was assembled.

On May 5, 2023, the committee once again met, this time with data collected related to the number of IRCs conducted, the outcomes of the IRCs, the timeliness to complete the IRC, information from sister campuses, and survey data from those impacted by the

IRC program (including Department Chairs, staff, and the candidates). After reviewing the documentation the committee recommends transitioning the Pilot Institutional Reference Check program to a campus policy, with some minor adjustments. The committee also recommends a new pilot Institutional Reference Check program which will expand the program to include self-attestations to be submitted by additional academic populations.

Data Examined

Number of IRCs Conducted and Outcomes

The committee considered data collected on IRCs between from 2019 until 2023. Of the 97 candidates for whom an IRC was conducted, 3 cases were identified that required additional discussion. Of these, 2 were not cleared for hire.

Time to Complete the IRC

Available data indicates that the process has taken as little as one day and as much as several months. However, the vast majority of outcomes have been issued within 1-3 weeks of receiving the request.

Survey Data

The committee sent survey requests to the following three populations:

- Staff who were involved in requesting an IRC
- Faculty who Chaired the Department when and IRC was conducted for a potential faculty hire that conferred tenure or security of employment
- Current faculty for whom an IRC was conducted.

Questions ranged from logistical implications (i.e., did the IRC process slow down the hiring process), to how the IRC program was viewed or perceived by those involved, to whether or not survey respondents felt that the program provided value. Below is a summary of key concepts and data points:

Questions were developed to address the initial concerns raised when the program was contemplated.

Delay in hiring

11% of respondents indicated that there was likely a delay in hiring as a result of the IRC. The remainder said that there was either no delay, likely no delay, or they did not know. Those commenting on the length of the delay said that they were unsure of the

length or that it was less than a few weeks. Nobody reported that a delay resulted in the faculty member accepting an offer at another institution.

Declining to apply due to the IRC

All three populations were asked if they either declined to apply or were aware of any individual that declined to apply due to the IRC. No faculty candidate reported being deterred from applying due to the IRC. **Of 33 total responses, only 1 individual indicated that they were aware of someone declining to apply due to the IRC.** By contrast, there were at least **4 candidates** that indicated that they **applied** to UC San Diego because they were comforted that UC San Diego employed the IRC program.

How far back an IRC should be conducted

83% of respondents indicated that the IRC should review activities in the last 5-10 years.

Type of employers to be contacted

The current IRC program focuses on academic positions at past academic institutions. Survey data indicated that **~60%** of respondents believe the program should be expanded to include **any position in academia or industry.**

International Institutions

90% of respondents indicated that the IRC process should either be exactly the same, or the same but with a limitation to the time expended in obtaining the IRC given the potential difficulties in obtaining a response in these cases.

Expanding to ask about investigations that are ongoing

The survey asked all three constituencies if the program should be expanded to include current investigations. This was the most divisive question, with **44.44%** indicating that UC San Diego **should not ask this question.**

Themes in the comments

While most people were supportive of the IRC program, some concerns were expressed in the comments. Below are the most common themes.

- Stress on candidate: Delays and alerting current institutions before candidate is ready
- Concerns about the lack of information provided by prior institution (making the IRC pointless)
- Increased confidence by candidates that UC San Diego takes this issue seriously
- Identifying issues with candidates prior to hire
- UC San Diego should allow for redemption

- Multiple comments supporting the program

Analysis of the survey:

Several concerns brought up in the survey results and comments were discussed and evaluated.

1. **Hiring Delays.** Although there were comments related to timing, these were most often expressed as a “worry” about delay, with only one respondent actually indicating that a delay occurred. The committee discussed the process and determined that when properly adhered to, the process is likely not to cause delay because it is done in parallel with faculty negotiations and file preparation.
2. **Alerting the current institution.** There was one individual that expressed dismay over their current institution being notified of their potential hire before that individual was comfortable with us doing so. This is a valid concern that can be addressed with proper training and counseling at the time that the IRC is conducted
3. **Non-response or lack of supplying information.** Worries were expressed around institutions either not responding to IRC requests or responding that they would not provide the information. Data indicates that this occurs infrequently. When it does occur, it is possible to address this on a case-by-case basis via a self-attestation provided by the candidate. These rare cases are reviewed by the Sr. AVC to determine whether or not the self-attestation would be appropriate. No appointment has been prevented as a result of a prior institution not supplying the requested information.
4. **Deterrent to applying.** The concern that some otherwise qualified individuals might not apply to UC San Diego due to the IRC process. Survey data indicates that the opposite is true, that candidates were more comfortable applying to UC San Diego knowing that the campus is committed to creating a safe environment. The committee also discussed that individuals who have a history of misconduct might self-select out of applying, thereby decreasing the chances that UC San Diego would unknowingly make an offer to an individual with a history of misconduct.
5. **Redemption.** Concerns were raised both by the survey respondents and the committee around UC San Diego’s attitude towards redemption and whether or not a unilateral decision would be made if a finding of misconduct was determined. Findings of misconduct are rare, however when they are indicated there is an interactive process with the candidate and stakeholders before a final determination is made, mitigating this concern.

Sister Campus Practices

Below is a comparison of the IRC program at UC Davis, UC Irvine, UCLA and UC San Diego:

	UC Davis	UC Irvine	UCLA	UC San Diego
How far back to check	10 Years	10 Years	No Limit	No specification
Who are we asking?	Academic Institutions where candidate had faculty or research (non-postdoctoral scholar) appt	Academic Institutions where candidate had faculty appt	All previous employers	Academic Institutions where candidate had faculty appt
How many findings	0	2	0	3
Program Permanent?	Yes	Yes	Pilot	Pilot
Who	Asst IV and above and Lecturers /Senior Lecturers with Security of Employment	Appointments that confer tenure or security of employment	Appointments that confer tenure or security of employment <i>(note: this program was expanded to tenure track and potential for security of employment after the data was collect)</i>	Appointments that confer tenure or security of employment

Additional Considerations

The committee was also provided with the following considerations gathered from discussions with sister campuses:

- Are people self-selecting out by not applying? This is not possible to know, but it might explain the lack of findings for most candidates.
- Are we discriminating against academics if we don't check industry positions as well?
- The AAU Declaration about Sexual Misconduct indicates that AAU campuses will do background checks.
<https://www.aau.edu/aau-principles-preventing-sexual-harassment-academia>
 - *In making hiring decisions, request or require applicants to provide written consent to release personnel information from their prior employer of substantiated findings of sexual misconduct, consistent with applicable law;*
 - *Does this imply that we are to do this for all academic appointees?*
- Time burdens associated with administering the program.

- How to handle appointments where institutions will not provide a response or simply do not respond.
- How do we handle foreign institutions where there may be a language barrier or different laws in place?

The committee was also provided with 2 articles related to the topic of “Pass the Harasser.”

Committee Discussion and Recommendations

The committee’s robust discussion included strong support for continuing the IRC program, with some modifications, as well as a desire to expand it with a new pilot arm of the program.

The modifications to the current program include:

- Defining the time frame in which to conduct the IRC as the 10 years prior to the proposed date of hire.
- Including both past academic and non-academic appointments in the reference check process.
- Adding an attestation in cases which the individual’s past institution or employer will not provide information or does not respond in a timely manner.

The proposed pilot extensions of the program for consideration include:

- Expansion to all other academic recruitments via an attestation.
- Asking about ongoing investigations, but with a clear process to address any findings in order to provide the candidate with the necessary due process and the University the opportunity to make an informed decision.

In addition, the committee recommends the following to address concerns brought up by the survey:

- Additional regular training to stakeholders (i.e. Department AP Staff, Department Chairs) about the IRC process so as not to cause delay and to avoid institutions from being notified prior to the endorsement of the candidate. The cadence of the training should be at least yearly during the time of the year (January-May) when faculty candidates for recruitment are most likely to be identified. This could occur at the quarterly AP and Leadership briefings and be placed in monthly AP announcements, and added to recruitment training.

Conclusion

The IRC process, in most cases, appears to be working as intended and with only minor issues identified. Some modifications are needed to improve the mechanics of the program. The committee recommends converting the pilot program into policy with these modifications, while simultaneously launching a new pilot extension program that expands to other series with the use of a self-attestation.



UC San Diego

Policy & Procedure Manual

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PERSONNEL - ACADEMIC

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UC San Diego Institutional Reference Checks for Appointments with Tenure/Security of Employment

PPM XXX-XX Scope and Policy

This policy guides the establishment of an Institutional Reference Check (IRC) Program for academic appointments conferring tenure or security of employment.

The UC San Diego IRC Program is to ascertain whether a candidate proposed for appointment with tenure or security of employment has engaged in substantial misconduct at institutions of higher education where previously employed.

IRC applies to final candidates selected for appointment with tenure or security of employment regardless of prior UC employment history and regardless of employment consideration following an open recruitment or search waiver.

PPM XXX-XX Definitions

For the purposes of this policy, "Substantial Misconduct"¹ is defined as follows:

- a. Formal findings by an institution's Title IX Office (based on an investigation and written report) of violations of the institution's sexual violence/sexual harassment policy (or equivalent) and/or violations of an institution's consensual relationship policies.
- b. Formal findings by an institution's Research Integrity Office (based on investigation and written report) of violations of the institution's policies on research integrity.

PPM XXX-XX Procedures

IRC applies to final candidates selected for appointment with tenure or security of employment regardless of prior UC employment history and regardless of employment consideration following an open recruitment or search waiver.

¹ IRC does not include a criminal background check.

1. All job ads for academic positions conferring tenure or security of employment at UC San Diego will include following statement providing notice to applicants that an IRC will be conducted on all final candidates prior to hiring.

“The University of California is committed to creating and maintaining a community dedicated to the advancement, application, and transmission of knowledge and creative endeavors through academic excellence, where all individuals who participate in University programs and activities can work and learn together in a safe and secure environment, free of violence, harassment, discrimination, exploitation, or intimidation. With this commitment, UC San Diego requires all candidates of ladder rank faculty tenured or security of employment searches to complete, sign, and upload the form entitled “Authorization to Release Information” into RECRUIT as part of their application. If the candidate does not include the signed authorization with the application materials, the application will be considered incomplete, and as with any incomplete application, will not receive further consideration. Although all applicants for faculty recruitments must complete the entire application, only finalists considered for positions with tenure or security of employment will be subject to reference checks.

2. Applicants to academic positions conferring tenure or security of employment at UC San Diego will be required to upload a signed “Authorization to Released Information” form within the UC Recruit System. A sample form can be found in [Appendix XXX](#).

If a candidate does not submit a signed authorization via UC Recruit, the submitted employment application will be considered incomplete and the candidate will not receive additional employment considerations for the related employment opportunity.

3. Upon a department’s identification of a first-choice candidate, the candidate will be notified prior to the initiation of the actual IRC process.

The identified first-choice candidate will be asked if they wish to proceed with the IRC process or may choose to withdraw their application, in which case, no further action will be taken.

If the first-choice candidate wishes to proceed, Academic Personnel Services (APS) will contact the academic personnel office (or equivalent) at the candidate’s previous institutions of employment. Please note, the IRC process may occur concurrently with department-candidate negotiations or after initial appointment terms have been determined.²

² At no point should a formal offer of appointment conferring tenure or security of employment be made if the IRC process has not been finalized.

Upon initiation the IRC process, UC San Diego APS will provide the candidate's previous institutions of employment a signed copy of the "Authorization to Release Information" form and request information regarding any substantial misconduct related to teaching, research, services, and (if applicable) clinical care.³

4. UC San Diego APS will ask a consistent set of question to each of the candidate's institutions of previous employment and may ask follow-up question relevant to the information received.

Inquiries will be limited to substantiated findings of misconduct and associated discipline related to teaching, research, services, and (if applicable) clinical care.

In accordance with the signed "Authorization to Release Information" form, UC San Diego is entitled to the requested information even if previously classified as "confidential." This includes any materials that have been sealed or agreed to be withheld pursuant to a prior agreement or court proceeding.

5. UC San Diego APS will assemble an individualized assessment of any received information to include the nature of any misconduct, the length of time passed, any correction actions taken, and any explanation/s offered by the candidate.

Collected materials will be packaged and forwarded to the Sr. Associate Vice Chancellor, Academic Affairs (Sr. AVC-AA) for review. The Sr. AVC-AA will consult with the Executive Vice Chancellor (EVC), the relevant School Dean and Department Chair to determine whether a candidate is still eligible for employment consideration.

Factors to be weighed in considering whether an offer of employment can be issued will be the nature of the violation and the time when it occurred.

If a final determination is made that a candidate is not eligible for employment, the relevant UC San Diego Department Chair and the candidate will be notified, and a department's second-choice candidate may be considered, subject to the RIC process.

The specific details that resulted in a candidate's ineligibility for employment at UC San Diego will remain confidential; however, the relevant Department Chair will receive appropriate assistance from APS to proceed with a second candidate if desired.

PPM XXX-XX Confidentiality

In order to protect a candidate's right to privacy, all collected information in connection with an IRC will be treated as confidential and retained in accordance with UC Policy.

³ APS will not contact the candidate's department unless there is no other office of record for a candidate's potential misconduct at an institution of previous employment.

Should a candidate be offered and subsequently accept an offer of employment with tenure or security of employment, any information received shall be securely maintained and held by UC San Diego Academic Personnel Services.

PPM XXX-XX Revision History

Month DD, YYYY

Policy Issuance