



AUDIT AND ADVISORY SERVICES

Human Resources – Employee and Labor Relations Audit Project No. 15-651

December 18, 2015

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December 18, 2015

John Wilton
Vice Chancellor
Administration and Finance

Janet Broughton
Vice Provost for the Faculty

Vice Chancellor Wilton and Vice Provost Broughton:

We have completed our audit of Human Resources – Employee and Labor Relations as per our annual service plan in accordance with the Institute of Internal Auditors' *Standards for the Professional Practice of Internal Auditing* and the University of California Internal Audit Charter.

Our observations with management action plans are expounded upon in the accompanying report. Please destroy all copies of draft reports and related documents. Thank you to the staff of Campus Human Resources, Campus Shared Services Human Resources and Academic Personnel Support, and the Academic Personnel Office for their cooperative efforts throughout the audit process. Please do not hesitate to call on Audit and Advisory Services if we can be of further assistance in this or other matters.

Respectfully reported,

Wanda Lynn Riley
Chief Audit Executive

cc: Executive Vice Chancellor and Provost Claude Steele
Assistant Vice Chancellor Jeannine Raymond
Assistant Vice Provost Heather Archer
Chief Operating Officer Peggy Huston
Director Deb Harrington
Director Anita Raman
Director Janet Speer
Chief of Staff Debbie Alanis
Senior Vice President and Chief Compliance and Audit Officer Sheryl Vacca
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University of California, Berkeley
Audit and Advisory Services
Human Resources – Employee and Labor Relations

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OVERVIEW

Executive Summary

Audit and Advisory Services (A&AS) completed our audit of Employee Relations (ER) and Labor Relations (LR) as part of our annual service plan for FY 2015. The overall objective of our audit was to assess the adequacy of procedures and controls designed to mitigate certain key risks associated with ER/LR activities.

Our audit included an assessment of procedures and controls as of March 2015 related to ER/LR activities for staff and selected non-senate academic positions and was focused on Campus Human Resources (CHR), Campus Shared Services Human Resources and Academic Personnel Support (CSS HR/APS), and Academic Personnel Office (APO) processes. Process areas in scope of our audit included

- formal and informal employee complaint/grievance reporting, escalation, and resolution, and
- supervisor initiated ER/LR issues such as counseling and disciplinary actions.

At the time of our audit, processes were not yet fully stabilized in the post CSS implementation environment and the campus was in progress of enhancing various human resources processes, including those related to ER/LR. In summary, we noted on-going opportunities to

- clarify roles, responsibilities and escalation protocols between CHR and CSS HR/APS related to the handling of ER/LR issues;
- implement standard CSS HR/APS protocols and tools for case tracking to enable effective status/resolution monitoring and knowledge transfer and consider opportunities to implement a campuswide case tracking system to facilitate the coordination of cases that affect more than one campus office and compliance with record management policies;
- enhance training and guidance regarding campus interpretation/implementation of related university policies to help support consistent handling of issues by supervisors and campus HR staff; and
- enhance communications to employees regarding campus ER/LR processes including whom to contact for specific categories of concern.

Management agrees with the observations noted and has developed action plans to address the underlying risks.

Source and Purpose of the Audit

A&AS completed our audit of ER/LR as part of our annual service plan for FY 2015. The overall objective of our audit was to assess the adequacy of procedures and controls designed to mitigate certain key risks associated with ER/LR activities.

Scope of the Audit

Our audit included an assessment of procedures and controls as of March 2015 related to ER/LR activities for staff and non-senate academic positions, excluding student and adjunct titles. The focus of our audit was on central campus versus individual department activities including CHR, CSS HR/APS, and APO. Process areas in scope of our audit included:

- formal and informal employee complaint/grievance reporting, escalation, and resolution and
- supervisor initiated ER/LR issues such as counseling and disciplinary actions.

Other process areas that are related to ER/LR, but that represent separate standalone processes and therefore were not included in our audit scope, included

- employee leave administration;
- disability accommodation;
- collective bargaining negotiations;
- external agency interaction and litigation support;
- Office for the Prevention of Harassment and Discrimination processes; and
- whistleblower investigations.

Our audit procedures included interviews with CHR, CSS HR/APS, and APO personnel and a small number of dean's office academic personnel analysts. We also reviewed relevant campus policies, procedures, and training/guidance materials. Our procedures were designed to evaluate the design (versus the operating effectiveness) of current processes to mitigate risks associated with the areas in scope of our audit and did not include a detailed review of specific, individual ER/LR cases.

Background Information

In January 2013, the campus began migrating selected human resources support activities to CSS HR/APS from individual departments. In addition to assuming responsibility for the processing of human resources transactions, through the position of the CSS HR/APS business partner (HR partner), an HR professional dedicated to designated campus units, CSS HR/APS also provides "advisory and employee relations support" to the campus. Responsibility for managing these activities is shared with CHR, with CHR managing high risk issues and/or formal complaints/grievances under university policies or bargaining agreements, and CSS HR/APS managing other issues and concerns.

Campus activities related to ER/LR are governed by various university policies and collective bargaining unit (CBU) agreements. Those policies and CBU agreement sections most central to the scope of our audit include

- Personnel Policy for Staff Members (PPSM) 70 Complaint Resolution and PPSM 62 Corrective Action, including campus implementing procedures for non-represented staff;
- CBU agreement sections pertaining to “Corrective Action/Discipline and Dismissal”, “Grievance Procedure”, and “Arbitration Procedure” for represented staff; and
- Academic Personnel Manual (APM) 140 Non-Senate Academic Appointees/Grievances and APM 150 Non-Senate Academic Appointees/Corrective Action and Dismissal for non-senate academic titles.

Summary Conclusion

At the time of our audit, processes were not yet fully stabilized in the post CSS implementation environment and the campus was in progress of enhancing various human resources processes, including those related to ER/LR. In summary, we noted on-going opportunities to

- clarify roles, responsibilities and escalation protocols between CHR and CSS HR/APS related to the handling of ER/LR issues;
- implement standard CSS HR/APS protocols and tools for case tracking to enable effective status/resolution monitoring and knowledge transfer and consider opportunities to implement a campuswide case tracking system to facilitate the coordination of cases that affect more than one campus office and compliance with record management policies;
- enhance training and guidance regarding campus interpretation/implementation of related university policies to help support consistent handling of issues by supervisors and campus HR staff; and
- enhance communications to employees regarding campus ER/LR processes including whom to contact for specific categories of concern.

Management agrees with the observations noted and has developed action plans to address the underlying risks.

SUMMARY OF OBSERVATIONS & MANAGEMENT RESPONSE AND ACTION PLAN

Roles and Responsibilities

Observation

Responsibility for managing employee relations activities is shared by both CHR and CSS HR/APS. High-level guidelines establishing the scope of each group's responsibility were mutually developed when CSS was first launched; however, these have not yet been fully adopted or operationalized across CSS HR/APS nor shared with the greater campus. Further, we noted a need to further clarify and document specific delegated authorities and criteria for escalation. For example, CSS HR/APS staff we spoke with indicated that it has not been clear whether CHR approval is required on counseling and disciplinary memos or if only notification is required. Absent explicitly delineated accountabilities and escalation protocols, there is a risk that the handling of issues may not be considered and approved by the appropriate level of management.

Management Response and Action Plan

Prior to issuing a disciplinary notice or layoff action, it is to be reviewed and approved by central HR. The purpose of that review is not only to provide guidance to the HR partners in drafting the notification, but to assess the risk of the proposed action. In early spring 2015, the AVC-HR began meeting monthly with the CSS HR/APS managers and supervisors to review the process for disciplinary actions to clarify roles and responsibilities. We have discussed the need for central HR approval and have agreement on escalating cases. Implementation of "triaging calls" is in progress so that cases can be more closely monitored.

CSS HR/APS is responsible for operationalizing process changes in CSS. CSS will have to work on developing processes internally in tandem with CHR to ensure consistency, continuity and oversight. CSS is in the process of hiring an HR operations leader and as such, the timeline for development and implementation will be at the end of the fiscal year 2016. Some of this work will begin with the design of ServiceNow.

In the meantime, by February 1, 2016, written communication will be sent to CSS HR/APS and other campus stakeholders clarifying the process and requirements to be followed going forward.

Case Tracking and Records Management

Observation

We noted that CSS HR/APS does not currently have standard protocols for tracking the employee relations activities that HR partners are managing. CSS HR/APS managers generally rely on HR partners to bring issues to their attention and documentation is generally maintained by individual HR partners in their working files. More formal tracking of issues by management

would help facilitate issue management and ensure timely escalation, appropriate resolution, and the proper disposition of working file documentation.

In addition, depending on the individual situation, there are multiple campus offices beyond CSS HR/APS and CHR that are potentially involved in the handling of employee-related concerns. These offices include the Office for the Prevention of Harassment and Discrimination, the Campus Director of Investigations, the Office of Risk Services, and the Office of Legal Affairs. Currently, each office uses different tools/systems for tracking activities and cases, with limited coordination of case management. As a result, different offices may be involved in a single case at one time or a single employee may file separate complaints with different offices. To help facilitate case management and coordination across the responsive units, management may wish to consider implementing a more coordinated case management system, such as a central database for campus use, with access restricted to certain records/data fields on a need-to-know basis. Such a system would likely also help facilitate compliance with records management policies, internal operational consistency, and external agency audits.

Management Response and Action Plan

Both central HR and CSS HR/APS are reviewing automated solutions to case tracking and case management. Systems being evaluated include: ServiceNow, Simplicity, and Labor Soft. There is a nexus of case work with multiple campus units all using different systems. It is unlikely that a single solution is on the near horizon. Given the need for reporting on multiple variables and the ability to store large amounts of historical data, it is also unlikely that the best solution is a spreadsheet. We are trying to move out of that mode and into something more robust and more easily maintained.

Until we complete the assessment of automated options, we are not ready to make a decision on the appropriate system. Among the requirements are that those in central HR employee and labor relations working the escalated cases have joint access to logs and files, and central HR and CSS HR/APS staff have the appropriate level of access to information about cases they are jointly working. Above all, we need to be able to generate management reports that help identify overarching issues that are emerging. The assessment and a decision will be completed by April 1, 2016.

In the interim, effective July 1, 2016 CSS HR/APS managed concerns and cases will be tracked in ServiceNow to facilitate monitoring and oversight.

Consistency of Policy Interpretation/Case Handling

Observation

We noted opportunities for the campus to more effectively support consistent interpretation of human resources policies to reduce the risk associated with inconsistent handling of employee and labor relations concerns. We believe there is elevated risk because (1) CSS HR/APS partner staffing is not yet stabilized with significant ongoing turnover since the CSS HR/APS launch and (2) many HR partners are new to the campus and do not have prior higher education or represented labor experience. HR partners we interviewed cited anecdotal examples where

policy interpretation and implementation varies across HR partners and/or where policy requirements did not appear to be properly understood. Specifically, we noted the following:

- At the time of our audit, processes for CSS HR/APS consultation with CHR and APO regarding policy interpretation had not yet been clearly defined and did not appear to be functioning effectively.
- University PPSM policies for non-represented staff are typically written at a high level, establishing broad guidance around acceptable practices, and are intended to be supplemented by specific campus implementing procedures. The campus has published implementing procedures for certain PPSM policies and has also published other sources of policy/guidance on the CHR website. In addition, CSS HR/APS has developed procedures for their internal use. Although these various resources exist, our interviews with HR partners and review of these published materials suggest an opportunity for further delineation of the campus' implementation of policies, specifically to clarify what is required versus recommended (for example, whether counseling letters always be written before taking formal disciplinary action). Further, we noted that campus PPSM implementing procedures, including those in scope of our audit, have not yet been updated to reflect the campus transition to shared services.
- We understand that training for CSS HR/APS staff has been conducted, but has not been mandatory, so there is limited assurance that all HR partners have received the requisite foundational training. Further, HR training for unit supervisors and managers is optional. Current supervisor/manager training programs are comprehensive, but require a significant time commitment, which in the current campus environment may deter participation. Given the importance of preventing HR issues and/or minimizing their impact, ensuring that campus HR professionals and line supervisors/managers are trained on key areas of potential HR risk, developing a targeted (versus comprehensive) training curriculum may be warranted.

Management Response and Action Plan

Peggy Huston and Jeannine Raymond currently co-sponsor a project which began in August 2015 to define HR generalist and recruiter competencies for all positions campus-wide, but specifically for CSS HR/APS. It is expected that the competencies will then drive training and clarify roles and responsibilities. The project should conclude by February 1, 2016.

The delivery method is yet to be determined but could include on site sessions, job aides, and online guides. Subject matter experts from central HR have already increased training on a variety of topics related to this finding. The challenge for CSS is prioritizing the training needs, finding the time for the HR partners to attend, and in the interim ensuring that policy changes are well communicated. Creative delivery methods will need to be explored.

Central HR is in the process of updating its website. The PPSM implementing procedures are among the content areas to be reviewed. The project to completely redesign the HR site started in summer 2015 and will continue over the next year, with an expected completion date of January 1, 2017. The site is one of the largest, if not the largest, site at the Berkeley campus so the undertaking is substantial.

Finally, the undertaking to harmonize CSS HR/APS processes and related documented procedures across all teams is targeted for completion by July 1, 2016.

Employee Awareness of ER/LR Processes

Observation

There are multiple potential channels for employees to report concerns and complaints related to their employment. Information for employees about the process for formally reporting job-related concerns is outlined in policies and bargaining agreements and resources are also provided on campus websites. In addition, staff employees in bargaining units are given copies of the collective bargaining agreement that includes procedures and location information for filing a complaint. However, based on our review of available information, and as highlighted in the *2012-2014 Staff Ombuds Office Biennial Report*, we noted an opportunity to more clearly communicate processes to employees and clarify which reporting channel to use for different potential issues. Although the CSS HR/APS first contact team can direct people, hand-offs and/or the need to contact an intermediary may deter reporting and impede early resolution. Early resolution of issues can help minimize their negative impact on employees and the related potential operational and compliance risks to the campus.

Management Response and Action Plan

Represented staff and academic employees are guided by their respective labor contracts and typically involve their union representative in the process. The labor contracts provide for a multi-step process that entails administrative consideration at the department and then campus levels before further escalation. Copies of grievance forms for each labor agreement are available on the HR web site. CHR is preparing a one-page instruction sheet to accompany the grievance forms with "how to" information reiterating where and when to file and options for more information. This should be done by the end of 2015. All labor relations is handled by central HR where our records shows that 80% of the grievances are resolved at one of those two levels. Staff who contact CSS through the first contact team are referred to their HR partner who can determine if the problem can be resolved within the parameters of the collective bargaining agreement before it becomes a formal grievance. Their HR partner will also advise the employee of their right to representation and how the employee can contact the union representative.

In the case of non-represented staff, CHR is updating PPSM 70 implementing procedures with crisper guidelines on how to move through the complaint process. This is targeted for completion by April 1, 2016. In addition, UCOP is planning on sending out for review PPSM 70 this upcoming fiscal year and this will provide the UC campuses the opportunity to draft a broader set of updates.

Even the most documented process will not alleviate the need for employees to contact CHR and/or an HR partner to gain further understanding of their ability to file a PPSM 70 complaint or a grievance under a labor contract. This is because employees still seek a "high touch" customer service experience and want to be heard prior to filing. HR is a facilitator, not an intermediary. Employees are informed during the on-boarding process and through the follow-up checklist about the process for seeking HR assistance and contacting their HR partner.

The CHR website addresses how to file complaint related to discrimination.

As part of the effort to ensure that the resolution process is aligned between CSS HR/APS and central HR, we will review the escalation process by April 1, 2016.