# DESIGNING A CONFLICT RESOLUTION SYSTEM FOR THE UNIVERSITY OF HAWAII SYSTEM:

## ECONOMIC CONSIDERATIONS AND THE UNIONIZED CAMPUS

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In the past decade, the Alternative Dispute Resolution (ADR) movement has matured, with the emergence of newer types of conflict resolution methods in Universities in North America. Mediation, arbitration, ombuds offices, campus judicial systems, peer counseling, peer mediation and other varieties of student initiatives have all come into play on many campuses.

The final report (Barnes, 1999) brings together system wide comments, statistics, trends and finally recommendations for the University of Hawaii system based on the situation in 1998 and projections for the near future. The report will analyze each of the factors that come into consideration in the design of a dispute resolution system for the 10 campuses of the University of Hawaii system. Readers of this summary seeking more details on this study may wish to refer to the final report, projected as a working paper of **The University of Hawaii Program on Conflict Resolution (hereafter "PCR")** in 1999.

One aspect of the report that assumed a prominent role in analysis as this project evolved was the key role of unions in the dispute resolution process. We have recently learned that a minority of US campuses have unionized faculties; nevertheless many of the experiences at the University of Hawaii will be instructive to other campuses designing conflict resolution systems for the academic and the workplace environments of American universities in the new millennium.

To facilitate discussion and analysis, a number of likely scenarios are

set out, described, and analyzed in some detail as to the financial implications of each for the University and the other affected players, like the unions representing faculty and staff. The scenarios are analyzed to show the possible savings to the University system if each scenario were to be adopted. The scenarios also allow the reader to see the organic impact of various additions or variations of elements to the functioning of the dispute resolution system.

**Scope of Report**: This report addresses conflicts involving students, faculty and staff in the University of Hawaii (UH) system. Primary emphasis is on disputes connected to the academic mission: academic disputes and workplace disputes involving faculty, staff, and students.

**The Process**: The Program on Conflict Resolution (PCR) at the University of Hawaii has been involved in conflict resolution within the University of Hawaii system for the last 20 years. Periodically it has operated mediation programs, conducted mediation and facilitation trainings, conducted general conflict resolution seminars for department chairs, and now teaches conflict resolution courses within the University of Hawaii system. PCR is currently involved in curriculum design and innovation dealing with conflict resolution in the system wide curriculum.

In 1997 the various deans of students on the different campuses invited PCR to do a presentation on the different ways that ADR and conflict resolution systems could be brought into the campuses of the University of Hawaii. The group of deans was enthusiastic about promoting initiatives that would increase the capacity for good conflict resolution practice. Apparently they were also impressed by the types of initiatives represented by the Georgia University System initiative, upon viewing the videotapes and hearing more about the Regents initiative in Georgia.

The process being used here in Hawaii then moved to the second step: **data gathering.** A graduate student from Ohio State University, Andrea L.

Dowhower, came to Hawaii on internship assignment and was assigned the task of interviewing key dispute handlers on each of the ten campuses. Her study was conducted during the summer of 1997. The product of her study was a 125-page report. (**Dowhower report, 1997)** In this report she interviewed over 30 complaint handlers system wide, and then compiled the information. The outline of Dowhower s questionnaire questions is provided in **Appendix A** of this summary report.

Complementing the Dowhower report, Barnes as principal investigator at PCR compiled research data from the previous studies conducted by PCR, including previous reports on mediation programs, ombuds studies, and case study patterns from the extensive experience of PCR and the other agencies active with disputes and grievances in the UH system.

One parallel track investigated by Barnes and Karen Cross of the Program on Conflict Resolution was the federal agencies experience with ADR systems. Within the federal government many of the types of workplace conflicts we see in Universities are present. One federal response to the need for ADR was the Administrative Dispute Resolution Act of 1990 (ADRA), 5 U.S.C. sec. 571 et seq. A recent article on this act strongly suggests that implementation of the act <u>enables settlements at the lowest level</u>.

These ADR-connected settlements are the most efficient because they consume the fewest resources and resolve the dispute before the agency has expended employee time and money on it. This is consistent with Total Quality Management because it empowers the front line manager or employee to resolve the dispute. This is also consistent with Employee Empowerment (Bingham and Wise, 1994). Bingham and Wise also concur with our recommendations here that "a little training goes a long way." They recommend in their federal context that funds be given to the lead training agencies (ACUS and FMCS) to provide trainings that are free to recipient agencies. This approach is apparently working at the federal level.

The systems design process below has been successfully tested in a systems design training conducted by PCR in 1997 at Hickam Air Force base in

Honolulu. Participants at Hickam included civilian and military personnel and focused on all types of workplace disputes. PCR provided follow-up trainings to the Air Force to implement the dispute resolution system design pilot, bringing mediator training and dispute intake system consultation to their pilot.

The intermediate stage of the process for the University of Hawaii system is taking shape as the systems design process is being implemented. A number of general meetings of the dispute handlers at the University of Hawaii at Manoa have been held. One outcome of these meetings is a commitment among that group to three key design principles:

- the **Partnership Council** approach
- a **Systems Design** process
- the **Pilot Program** outcome for the design process

In this context, the term partnership council refers to a steering committee for the design process comprised of union representatives and key University management personnel. As of early 1999 we have organized the system design process and are now engaged in the design process, bringing in appropriate stakeholders. This summary study will outline the highlights of some of our findings here at the University of Hawaii. The next section will summarize the information as it has been organized in our master report to the partnership council, and thus indicate generally how the information will be presented to the University administration and Board of Regents.

**Listing of all conflict resolution options in universities**

a) Available options listed, all North American Universities
b) Option range at UH Manoa (largest campus located in Honolulu)
c) Options currently available in UH system (non-UH Manoa: ten campuses on 4 islands)

**Brief background/history of Dispute Resolution in UH system**

a) Types of ADR methods in place, other methods by department (1994 PCR study and others)
b) Comparison of methods (arbitration vs. mediation). Also research reports on grievance mediation effectiveness. (Feuille, 1997) and

(Brett, et al. 1996)

c) History of mediation programs and their effectiveness in University of Hawaii system (1994 PCR/Barnes study)

**The Current UH system: Strengths and Weaknesses**

a) strengths: UH Manoa (students, faculty, staff disputes)
- What is working: UH administration viewpoint
- What is working: unions' viewpoint (Barnes, 1998)

b) weaknesses: UH Manoa disputes (students, faculty, staff)
- What isn't working: UH administration viewpoint
- What isn't working: unions viewpoint (Barnes, 1998)

c) strengths and weakness: neighbor isle campuses, other O ahu, community college campuses (9 in all) (Dowhower report, 1997)

**The Impact of the Unions**

In summary, the faculty union at the UH Manoa campus reports that grievances are filed at the rate of about 1.2 grievances per hundred faculty per year. This is about average for educational enterprises nationally. However, after the two-step grievance process, apparently the arbitration option is exercised too often. 40% of all the grievances filed (8 of 22) go on to arbitration. This is about four times higher than the 9% - 10% average across all industries. The cost implications of this statistic are significant, since our University sources estimate that the cost of arbitrations is about $10,000 - $12,000 per side. Many key players recognize that more faculty grievance disputes are ending in arbitration than is optimal.

As seen in the four scenarios at the end of this paper, the overuse of arbitration (and probable attendant overuse of litigation) can be slowed or stopped at the source by having ADR education, mediation resources, and other options systematically available before these conflicts escalate. Additionally, the added benefits of the improvement of morale in the University system are being emphasized in the design of the ADR system. One early problem area seemed to be that the dollar savings to the University and the union by implementing ADR come at the (proportionately lesser) expense of the attorney fees paid to the attorneys for the union! The causal link in

this economic reality has already been communicated to the Program on Conflict Resolution via correspondence with the union attorneys.

**UH Subsystems - Options for Change and Factor Analysis:**

a) Objectives of optimum UH system - this is restated in the objectives on the last page of this summary.

b) **Systems design process**: a recommended subsystem option (Appendix B, Cross 1998)

c) Option - **Education and curriculum** subsystem: As the system design process moves forward, PCR and the Dean s office on our main campus are beginning to look very closely at the education and curriculum component of the final system. As we review the article in the CNCR conference report by Howard Gadlin, we are struck by the increasingly important role that education plays in preventing, managing and reframing conflict on campus. As the student populations become more diverse in reflecting the US population, and as the faculty roles become more complex and technologically-driven, we will have to rely more and more on such programs as the Conflict Management Program (CMP) at UCLA as vehicles to reach the students first, and also to reach the faculty and staff. More institutionalized programs are needed to maximize impact on the whole campus, since writing grants and organizing each CMP-type program is rather labor intensive and does not efficiently reach the whole community. Thus, the CMP model needs to evolve some more to expand its impact to meet the broad needs of all universities as they become more diverse. The University of Hawaii recognizes the need to provide this training and expertise to the whole university, and we are proposing that a course or even two on ethnic conflict, peacemaking across cultures and/or intercultural mediation become part of the core curriculum required of all students graduating from our institution. Even with an optimal curriculum, our scope must yet broaden to include all effective ways to manage disputes.

Each person, whatever their ethnicity or disability, gender or age, is

entitled to equivalent services, education and access to resources within the University system. Therefore the official university representatives and dispute handlers must present a diverse face. A diverse panoply of dispute resolution options should be offered to the University community, following the suggestions of Mary Rowe in her articles.

d) Option: **Mediation subsystem** installed

- Internal mediation system (+) and (-)
- External mediation system (+) and (-)
- Single mediator vs. comediation system
- Peer mediation programs, Universities (+) and(-)
- Comediation systems and the Hawaii model **(See comediation video, PCR 1997 appendix C**

e) Option: **University ombuds office**(s) as subsystem

- Positive benefits of ombuds office
- Negative aspects of an ombuds office
- Cost-benefit analysis of an ombuds office in UH system

The CNCR conference in Georgia has helped to promote dialogue around assessing ombuds offices' impact on campuses by bringing the expertise of the campus ombuds community to bear on conflict resolution systems practices as could be applied in universities. Three examples come to mind that are most helpful to us in Hawaii. The office structure at the ombuds office at UCLA is already addressing concerns about diversity in the campus conflict managers. A diverse group of practitioners staff the UCLA ombuds office, which is a significant step forward compared to many campuses. This must reinforce the impact of this CMP program as the campus addresses ethnic conflict. If the main office managing the flow of conflict into the system is "walking the walk" with a diverse staff, the first step is taken to address Gadlin s and our overall concerns with campus ethnic issues.

Mary Rowe's sterling analysis of harassment disputes in a systems analysis provides light and direction in a very difficult and frustrating area for Universities. Her cost analysis and overall detailed analysis of successful ombuds roles in multiple institutions is most helpful.

Finally, Marsha Wagner points out the value of the feedback loop to the University system that is orchestrated by the functional ombuds office. She describes a partnership between ombuds offices and the systems designer as another tempting option for consideration.

Ombuds offices have continued to spread into more and more university campuses. Since this paper focuses on economic impacts, Mary Rowe's 1993 article is most useful. In this article she concludes conservatively that an ombuds office **adds a value** of approximately $600,000 per year, 3 to 6 times the cost of the office. This number is broken down in her article to itemize savings in productivity, management time, personnel savings, lowered student attrition, legal costs, and several other important areas of savings, such as recovery of stolen goods and cash.

It is the opinion of this author that the ombuds office as a multi-door dispute intake center combined with a mediation program is an optimal and synergistic way to provide ADR services to a University. Universities of the size of University of Hawaii with mediation centers report caseloads in the range of 20 to 160 per year. Ombuds offices for comparable sized state Universities might handle 500 to 600 cases a year. These rough statistics are starting to show that only 1/5 of all disputes coming through the various dispute handlers in a University are suitable for mediation (See Barnes, 1994 report citing Ohio State and University of Oregon statistics). Mediation itself is a fast, inexpensive, win-win option and so it should be made available as early as possible, wherever possible. It is thus argued that combining these two functions synergistically should give the University the most efficiency in the return of its expenditures to staff an ADR office. The intakes will be most efficiently channeled to the most appropriate dispute resolution mechanism.

f) Option: **Student judicial/advocacy offices** as subsystem

The University of Hawaii has limited experience with student

judicial programs and with students as advocates. We look forward to learning from the experiences of other campuses. No doubt this is an important part of the overall dispute resolution and education process.

g) Option: **Training** subsystem, and education in ADR

- Positive aspects of this approach
- Negative aspects of this approach

At the University of Hawaii we have found many educational needs in the area of conflict resolution skills that cannot be only addressed by course offerings. Faculty and staff often prefer a 5 to 30 hour workshop format offered in evenings or over several weekends as opposed to attending courses to gain mediation skills. Often, a dysfunctional department may not tolerate a mediation intervention but is willing to address its problems in the form of a conflict resolution and team-building training for the whole department. Thus, training is a subsystem option that needs to be planned for and built in to our system design. We are paying close attention to training needs of the whole system in our design.

**Selected other campus models for dispute resolution**

1) Brigham Young
b) University of Massachusetts
3) Harvard
d) George Mason
5) Georgia system
f) UCLA
g) California system
h) National trends in dispute resolution on campuses

**Ethnic Disputes, Cultural and Diversity Considerations:**

The University of Hawaii has arguably the most ethnically diverse student body in the United States. Howard Gadlin claims UCLA as the most ethnically diverse research university in the country. We greatly admire Howard so we won’t quibble with his claim, but point out that our University of Hawaii student body can be seen as wholly composed of many minority populations: 23% Japanese, 12% Chinese, 13% Filipino, 10% Hawaiian/part

Hawaiian, 10% Caucasian, 5% Korean, 19% mixed-race, and 6% African American, Native American, Samoan, Puerto Rican and others. Perhaps this breakdown demonstrates the minority-status future of every ethnicity in the future of the United States. Demographers project our largest grouping in the NEXT generation in Hawaii will be cosmopolitan (racially mixed).

The ethnic reality at our University, and perhaps at some other schools as well, is that the faculty of the main research campus particularly are clearly weighted towards a reverse-image picture of our student body. Instead of 78% non-Caucasians in the student body and a slight predominance of females, the faculty is 78% Caucasian, and predominantly male. With the advent of the Hawaiian sovereignty movement and critical race theory, it was only a matter of time until some major disputes would open these fault lines.

One building, Porteus Hall, triggered a huge media debate in 1997-1998 with demonstrations and petition drives by student leaders to change its name (since the Porteus in question who the building was named after espoused theories of racial dominance or inferiority of certain ethnic groups in Hawaii several decades ago). The administration ultimately bowed to public opinion and changed the building name to the generic and safer Social Sciences Building.

Periodic skirmishing in the classrooms reminds us that all is not really paradise on the campuses in Hawaii. Native Hawaiians challenge the teachings of white professors on historic Hawaiian events and practices. Hawaiian language is becoming a requirement for faculty hiring in certain fields, and pressures are building to increase exponentially the capacity to teach the Hawaiian language in many different contexts.

Tensions exist between local students (Asian and Pacific Islanders combined are the true student majority) and recent immigrants from any part of the Pacific rim, but especially military or recent mainland haole arrivals occasionally bump into locals with cultural misunderstandings and conflicts result. Often these recent arrivals (especially haole/Caucasian) experience

culture shock because they have never even thought about being a minority and what it must be like, and all of a sudden here they are! Instantly, minority status has arrived! However, we suspect that Hawaii's laid-back image on the mainland does have a kernel of truth, and that many of our conflicts play out in subtle political moves more in tune with Asian values than in overt verbal conflict of the Western urban culture. We in Hawaii really believe that this state and our culture is truly unique, that we will deal with conflict our own way. Bigger or more mainland is not necessarily better. Maybe mainland USA values used to be looked up to and admired in the last generation, but such is not always the case today.

Some of us in the field of culture and conflict resolution have begun to pull together some attempts to address these subtle and difficult issues in the Hawaiian context, such as via the development of the Pacific Model of Mediation and Facilitation (Barnes, 1994) being synthesized by PCR practitioners and others around the Pacific. Other, new Hawaiian culture-based facilitation models like Aelike (Native Hawaiian consensus/facilitation model) provide new ways to facilitate these delicate conversations.

Faculty and staff are not exempt from the tensions surrounding gender inequities, racial imbalance of faculty favoring Caucasians and males, problems of the lower levels of untenured or part-time faculty and lecturers, and workload discrepancies across the university system. One response of our University system design team has been to articulate an aspirational goal for the design of the dispute resolution system - a Statement on Ethnic and Cultural Aspects of the University of Hawaii. Secondly, we have articulated a Statement on Civility defining what civil behavior will be for the University of Hawaii community. Embedded in the Statement of Civility is the concept of the "aloha spirit" with all its cultural implications and concepts. This movement to redefine and reassert aloha spirit enjoys wide support from all age groups and populations in Hawaii.

**Some Early Conclusions/Hypotheses of the University of Hawaii Report**

Each part of the University of Hawaii system has evolved its own method for resolving disputes, usually based on traditional methods used nationally such as academic grievance committees, faculty grievance processes, labor arbitration, counseling, EEO processes, civil rights processes, administrative actions, student conduct codes, academic committees and litigation. However, all 10 campuses are unified administratively for budgetary and personnel policies, so we should be able to achieve a system-wide impact more easily than in some other states with more diverse campus types and geographies.

Certain portions of the grievance handling and dispute resolution systems as they affect students are working reasonably well. However, it seems probable that a significant number of student disputes and grievances go unreported and are therefore invisible to the official levels of the university. This is still somewhat controversial when applied to student disputes in our University, since we have two advocacy offices and a proactive Dean of Students at the main campus. If we suggest that statistically in comparison with campuses with ombuds offices on the continent we might expect 300 or 400 more intakes per year of student disputes than exist in the current offices, I think the existing dispute handlers would have a hard time accepting that there is this order of magnitude of invisible disputes.

The current system has no comprehensive data collection agent for disputes and dispute handling system-wide, it provides insufficient ADR alternatives, and often offers inappropriate alternatives for resolving the disputes that exist. The current system is often based on expensive non-consensual adversarial methods of dispute resolution for many categories of disputes ill-suited for the existing agencies and institutions.

Specifically, it appears that arbitration and litigation are utilized too much at faculty and staff levels, often inappropriately with resultant burdensome costs to the UH system. Utilizing the ADR design process and implementing its planning product can save the University a sizeable and significant amount of dollars in conflict resolution, just at UH Manoa alone.

Savings in the time of key administrators and improvement in morale can be predicted with new system at UH Manoa. Savings on a smaller scale are possible in the campuses of the rest of the UH system. As all these ideas came into focus in the various meetings, a consensus emerged that we would focus on the University Hawaii at Manoa campus and focus on unionized faculty and staff first in the provision of ADR services. The partnership is now considering a mediation system to be introduced into the union complaint and grievance handling systems.

Faculty disputes at the Manoa campus have increased dramatically, in almost every measurable dimension since 1990. The increasing number of lawsuits pending against the University of Hawaii, the number of arbitrations filed, union complaints, departmental problems and conflicts; the large increase has meant huge workloads for EEO, UH administrators who work with grievances, dis-proportionate focus on adversarial processes like arbitration and litigation, and grievance systems that are unable to optimally resolve the conflicts that are brought to them. PCR has spent most of its caseload effort in the last 3-4 years working with faculty and staff disputes, many involving whole departments or large research units on campuses, facilitating and mediating multiparty as well as two-party disputes. By default, faculty are currently channeled to arbitrary conflict resolution methods (arbitration and litigation) because these are the structural mechanisms currently available to them, not because they are the most appropriate avenues for all cases. Attendant to this is a lowered level of morale in many departments of the university.

Mediation systems are very effective in a significant number of disputes. Mediation is an inexpensive and reasonably timely option for many disputes on university campuses. However, ombuds statistics and caseloads show that there is an even wider universe of misunderstandings, potential grievances and disputes on campuses that are not effectively addressed by mediation. Ombuds offices, student judicial boards, peer advisory and other

programs can address many of those problems. Our preliminary studies show that ombuds offices will effectively deal with a much greater volume and a variety of cases than will a stand-alone mediation center placed in the same locus in the same institution. Each of these options has positive aspects and also has some drawbacks.

**Recommendations for the University of Hawaii System**

This report will make recommendations in two parts. First, we will provide process suggestions for the University to decide what to do about ADR on campus. Next, we will analyze four possible likely combinations of options that the partnership group might consider as a result of this planning process, and provide projected economic and other impacts of each choice.

**RECOMMENDATION: CONFLICT DESIGN PROCESS OPERATING OUT OF A PARTNERSHIP GROUP WHICH REPRESENTS ALL ELEMENTS OF THE UNIVERSITY SYSTEM**

In the two page outline attached in **Appendix B**, we outline the steps to follow in designing our process at the University of Hawaii.

In brief, the steps in our process are:

- Identify stakeholders
- Assess the current system
- Clarify the dispute resolution goals
- Get buy-in
- Set a timeline to implement the pilot project. Get agreements and specific commitments to make the process/program work.
- We recommend a pilot project be established and a budget also be attached to the project.

Immediately below we present 4 scenarios for consideration: (Barnes, 1998)

**Scenario 1: Status quo:**

In order to assess the other scenarios against a benchmark, we must consider the outcome if we do nothing. Here are the expenses to the University per year in 1999 (and 2000) if we continue on with the status quo.

| TYPE OF COST | ANNUAL COSTS TO UH |
|---|---|
| Cost of 8 arbitrations with faculty/staff | 250,000 |

| | |
|---|---|
| Cost of settling litigation with UH p.a. | 300,000 |
| Management loss of productivity | 200,000 |
| Cost to one campus to do ADR training | 3,000 |
| Student attrition value (lost tuition, etc.) | 50,000 |
| Personnel losses - faculty leaving, etc. | 100,000 |
| Union's litigation and arbitration costs | 350,000 |
| Attorney costs at Attorney General's | 1,000,000 |
| Total cost of status quo per year | 2,253,000. |

**(figures come from public statements of University President, articles by Mary Rowe, MIT Ombuds officer on productivity loss and student attrition losses, and our own research)**

The impact of the status quo approach on morale would be substantial. Coupled with the poor economic forecasts for Hawaii in the next two years, we would project a lower overall morale and a worsened workplace atmosphere on all campuses if the status quo persists. The morale deterioration is already evident, as the pressures from Hawaii's declining economy are transmitted to the various parts of the University system. Faculty and students are leaving some campuses.

**Scenario Two:**

**Training and workshops**: Here we assume the University of Hawaii system decides to only implement the training/workshops subsystem as The New System.

| TYPE OF COST | ANNUAL COSTS TO UH |
|---|---|
| Cost of 4 arbitrations with faculty/staff | 120,000 |
| Cost of settling litigation with UH (annual) | 250,000 |
| Management loss of productivity | 100,000 |
| PCR contracts for system-wide annual ADR trainings/workshops | 100,000 |
| Student attrition value (lost tuition, etc.) | 30,000 |
| Personnel losses | 90,000 |

| | |
|---|---|
| Union's litigation, settlements & arbitration costs | 250,000 |
| Attorney cost at Attorney General | 800,000 |
| Total cost of scenario 2 per year | 1,740,000 |

In scenario two the overall system is slowly adopting mediation and interest-based dispute resolution, with mediation becoming available on all campuses in limited forms. The model for mediation programs is similar to the one in place at Kapiolani Community College. The numbers of arbitrations are decreasing fairly rapidly and management time is being freed up for more constructive work. For many students, disputes are still going unaddressed. Morale is improving slightly due to more positive modes of conflict resolution in the system.

Net annual system savings to UH and the Unions under scenario 2 :

**500,000.00**

**Scenario 3: Mediation systems available system wide on a funded basis plus trainings for all campuses system wide**

| TYPE OF COST | ANNUAL COSTS TO UH |
|---|---|
| Cost of 2 arbitrations with faculty/staff | 60,000 |
| Cost of settling litigation with UH, annual | 150,000 |
| Management loss of productivity | 50,000 |
| PCR contracts for 8 ADR trainings | 100,000 |
| Cost of ADR coordinator(s) plus the cost of compensating mediators for certain complex cases | 70,000 |
| Student attrition value (lost tuition, etc.) | 25,000 |
| Personnel losses | 50,000 |
| Union's litigation and arbitration costs | 100,000 |
| Attorney billables at Attorney General | 500,000 |
| Total cost of scenario 3 per year | 1,105,000 |

In scenario 3, mediation and grievance mediation are in place. The arbitration

bills are now reduced drastically since the faculty and staff arbitration filings are down to the national average of 2 arbitrations per year. Student attrition still hasn't quite leveled off. Since each campus has mediation capability, the number of overall disputes and grievances is dropping dramatically. Morale is leveling off and even improving a bit. The Unions and UH administration now are **saving over a million a year** compared to the status quo. Both the union and the UH administration are happy campers. The union's lawyers are perhaps less so, looking at their reduced arbitration and litigation billings per year.

**Scenario Four: A core course with basic conflict resolution and mediation skills is taught on all campuses, for all students. A working ombuds office is established, with an integrated mediation system and grievance mediation available on all campuses. A multicultural ombuds staff and mediation teams are available (Hawaiian, Filipino, Japanese, Chinese, Samoan & other groups represented) Training in ADR available to all campuses each semester. Also, the localized assistant deans network is instigated.** *(this scenario also known as the comprehensive approach, or ...the WHOLE ENCHILADA scenario!!)*

The comprehensive scenario

| TYPE OF COST | ANNUAL COSTS TO UH |
|---|---|
| Cost of 2 arbitrations with faculty/staff | 60,000 |
| Cost of settling litigation with UH, annual | 50,000 |
| Management loss of productivity | 0 |
| PCR contracts for 8 annual ADR trainings | 100,000 |
| Cost of 10 new lecturers to teach ADR courses | 30,000. |
| Cost of 4 half time positions (2.0 fte to manage mediation systems- 40/yr) | 60,000 |
| Cost of 2 ombuds positions plus office staff (one ombuds at UHM, one for other campuses) | 200,000 |
| Student attrition | 0 |

| | |
|---|---|
| Union's litigation and arbitration costs | 50,000 |
| Attorney billables at Attorney General, or legal costs for an autonomous university | 200,000 |
| total costs | 750,000 |

Under the *comprehensive* scenario, the savings over the status quo would be $**1,503,000.** The vast majority of student complaints are now being tracked, referred and promptly and efficiently handled. Faculty disputes are for the most part resolved within departments by interest-based negotiation through skilled department chairs and other educational leaders, or by mediation. **Morale is UP**! A team atmosphere prevails on campus! Frustrated student peer mediators are joining the choruses of elementary school peer mediators in Hawaii, who complain that they can't find any disputes to mediate on their campuses, because the whole atmosphere at the schools has changed!***** Freshmen are flocking to UH Manoa and transferring to the campus as soon as possible to get into the more exciting course offerings in the upperclass courses at UH Manoa. **(*Quotes of elementary peer mediators in Hawaii from statewide elementary school peer mediation trainer Sue Chang, 1997 - a true story - this is happening!!)**

**Some Current Recommendations**

As we review the various options and subsystems, it is apparent that an overall dispute systems design process is needed. Each campus will have to participate actively for the whole system to be effective. Each campus will have different needs. The Board of Regents will have to be involved at the policy level to insure the project happens and that there is buy-in at lower levels.

Our systems design process will consider each of the subsystems we have identified in this paper, and it seems likely that many of the subsystems will

be included in the pilot program in one form or another. Another option that we did not discuss here is the need for a well-planned investigation unit with professionally trained investigators for more serious disputes. Also, each subsystem of arbitration processes and litigation needs to be subjected to a structural review and assessment in the design of the pilot as well. With recent steps toward more autonomy by the University, the legal staffing and costs of legal work will be scrutinized and assessed as well as a part of the dispute system design.

Our pilot project and system should be evaluated in line with our objectives. The system should resolve disputes at the earliest level, in the fastest and least expensive way. Usually the earliest level is also the lowest administrative level. The system should use interest-based processes where possible. We need to take into account the allocation of costs and motivational factors for disputants and dispute handlers in our design process.

The university community should gain the greatest educational benefit in the process of resolving disputes and grievances. We should model effective dispute management for society as a whole in the process of resolving our disputes. Our trainings should provide the best level of training to the widest population possible within the University community.

An ombuds office could assess, diagnose and request annual trainings of department chairs working with the Program on Conflict Resolution and the other dispute handlers in key areas (harassment, civil rights, EEO, etc.). The combining of a mediation system and an ombuds office appears to be one efficient and effective way to manage dispute systems. The UCLA system is an operating approach using this model. Such an office can provide an annual report to all sectors of the University on caseloads and conflict types (confidentiality-protected) which gives administrators valuable feedback on problem areas.

In the implementation of the system we need to insure that sufficient

resources are available to carry through the implementation and testing of the selected system(s). We need to be sure that budget and cost savings projections and implications are clearly stated and assessed.

Finally, sufficient and accurate evaluation systems need to be in place to determine if the pilot and subsequent systems are accomplishing our stated goals and are consistent with our stated principles. **As we say in Hawaii: Imua! Let us move forward!**

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