

This chapter summarizes dispute resolution mechanisms used in various campus domains, organized roughly according to the degree of third-party influence and decision-making power involved.

Conflict Management in Higher Education: A Review of Current Approaches

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The following summary of conflict management mechanisms used in higher education is intended to provide readers with a good general overview of the field and a sense of some of the emergent trends. The work is informed by contacts developed in my role as chair of the Higher Education Committee of the National Association for Mediation in Education (NAME), and by the results of an exploratory study of conflict management in higher education (Holton and Warters, 1995) that surveyed the full range of campus services. Other valuable information sources include three national surveys of college-based campus mediation programs (Beeler, 1985; Warren, 1994; Warters and HeDeen, 1991), a national directory of law school mediation clinics (McDonald, 1994), a survey of university and college ombuds programs (Stern, 1990), and a national survey of student grievance handling procedures (Shubert and Folger, 1986). The mechanisms discussed are organized roughly according to the degree of third-party influence and decision-making power involved. High third-party power methods, such as the use of judicial boards or arbitration panels, are presented first, followed by a review of more informal and conciliatory approaches such as mediation.

Traditional Mechanisms for Handling Campus Conflict

In recent years there has been an increasing interest in campus conflict management approaches that come under the rubric of alternative dispute resolution. By way of discussing these alternative approaches, I look, first, at traditional mechanisms.

Resolving Disputes Involving Students. The range of dispute resolution approaches used with students has changed considerably over time, as colleges and universities have shifted their stance regarding student rights and responsibilities, and as the demographics of the student body has changed to include more adult learners. Until recently the trend in this area had been toward greater use of formal due process and courtlike procedures to ensure student rights and fend off possible litigation.

Student Conduct Committee Mechanisms. Prior to the 1960s, during the height of *in loco parentis*, few colleges and universities had clearly defined disciplinary action codes that provided students with a formal hearing and a process of appeal. However, in response to the student rights and student-as-consumer movement in the late 1960s and early 1970s, colleges and universities began to adopt codes of conduct and disciplinary procedures that more clearly and explicitly protected student rights. This trend was furthered by an increase in student-initiated litigation, and a series of federal regulations that specified guidelines for internal grievance hearings. All of these forces encouraged higher education institutions to provide more formalized mechanisms for resolving disputes internally.

Most colleges and universities now have detailed codes of conduct applicable to students. These conduct codes usually make a distinction between academic conduct issues and disciplinary conduct issues, providing somewhat different dispute resolution mechanisms for each. Academic conduct offenses that students may be charged with typically include issues such as cheating and plagiarism, which could ultimately warrant dismissal. Disciplinary conduct offenses often involve issues such as vandalism, violations of alcohol policies, harassment, and violations of noise policy. Alleged violators of college or university codes are required to participate in judicial proceedings initiated by the institution. These hearing processes vary somewhat in the degree to which they follow strict due process guidelines, depending on whether they take place in a public or private institution, and whether the offense is academic or disciplinary in nature.

Typically, student judicial processes begin with an opportunity for the student to admit responsibility for the conduct violation in a preliminary meeting with a designated administrative officer. The administrator then may assign a disciplinary action. If a student disagrees with the charges or the proposed sanction, the student usually is compelled to make his or her case in front of a panel of conduct board officers. These boards typically include specially trained representatives from both the administration and the student body, who together make a recommendation to the senior student affairs administrator regarding appropriate sanctions. The list of possible sanctions is often codified, and the board must pick from an approved list of options. In all of these processes, final decision-making authority usually remains with the senior administrator overseeing the academic or community conduct codes.

Student Grievance Systems. Students may also bring complaints against the college or university or its representatives. Grievances put forward by stu-

dents may include charges of discrimination, sexual harassment, and capricious or arbitrary enactment of rules or regulations, and grievances about grades, the quality of instruction, the adequacy of financial aid awards, and many issues related to life in the residence hall. Colleges and universities have developed mechanisms to respond to these types of disputes as well. Shubert and Folger (1986) provide a good overview of student grievance systems. As they indicate, procedures to resolve these kinds of disputes typically involve three steps, the first requiring the student to make an attempt to resolve the dispute with whom it originated, the second bringing in a third party (with varying degrees of emphasis on adjudication or mediation), and the third step involving a final appeals mechanism through which the president or another high-ranking administrator makes a final determination.

Approaches to Resolving Conflicts Involving Faculty and Staff

In addition to resolving conflicts with their student "clients," colleges and universities have had to develop systems for resolving disputes among their employees, both faculty and staff. These conflicts are handled somewhat differently depending on whether it is a faculty or staff issue and whether or not a union is involved, but they often share common characteristics. They involve a range of issues, including complaints about rank or pay, dissatisfaction with status or classification, disagreements over assignments, problems concerning evaluation, problems concerning nonrenewal of contracts, problems concerning reprimands or censure, and charges of harassment or discrimination (Ludeman, 1989). If a complaint is not resolved using informal methods, it may become a formal grievance. Faculty grievance procedures tend to be fairly similar across different institutions and involve a predictable series of steps (McCarthy, Ladimer, and Sirefman, 1984). (Methods used to address staff disputes are usually quite similar to those employed in faculty disputes; these are not detailed separately here due to space constraints.)

Faculty Grievance Systems. Approximately one-third of the professoriat is represented by certified bargaining units in public and private, two- and four-year institutions (Douglas, 1989). Collectively bargained contracts typically specify what issues are grievable. These contracts usually encourage administrators and employees to attempt to resolve problems before a grievance is filed. Once filed, there is commonly a series of three or four steps that must be followed: In the first step, the grievant presents his or her evidence in support of the grievance to a representative of the institution's administration, along with a proposed solution. The president or his or her representative must make a reply within a set period of time. If the issue cannot be resolved at this level, an internal or external review panel is set up to make an advisory recommendation to the administration and the grievant regarding a resolution. The final step in the process is usually arbitration, which is discussed briefly below.

When there is no union contract, the situation is handled differently. While almost all institutions, especially public ones, still provide due process procedures, they may be less rigorous. These procedures commonly involve one or more peer committees that deal with complaints. These committees may be appointed by administrators, chosen by senates, or elected at large. These committees hear charges, examine evidence, and keep records. They rarely have authority to change personnel decisions on their own. Typically, their charge is to make a recommendation to a high-level management representative, who then may or may not choose to follow the recommendation. If and when an employee has exhausted the internally set-out grievance procedures, the employee may then choose to take a case to trial if he or she feels that the decisions are unfair or capricious.

Arbitration. The majority of faculty collective bargaining agreements now have grievance systems that culminate in the use of arbitration. The arbitrator is employed to render a binding decision as the final step in the grievance system. The American Arbitration Association handles the bulk of these cases, with public relations employment boards and the Federal Mediation and Conciliation Service also used to a lesser extent (Douglas, 1989). An arbitrator's decision may be appealed to a court of law, but usually only on procedural issues, as the courts have shown considerable restraint on issues involving academic judgment and peer review.

Litigation. Colleges and universities have for years lamented the increased use of litigation as a dispute resolution mechanism, and the rising costs associated with this approach. Litigious responses to campus conflict represent the most adversarial approach on our continuum of intervention modes, and they challenge the cherished collegial image of the academic life. When colleges and universities are sued by students, staff, or faculty, cases tend to focus on issues related to allegations of arbitrary and capricious action, breach of contract, denial of constitutional rights, discriminatory practice, and unintentional or intentional breach of a common-law duty that resulted in injury to the individual. Tucker (1992) provides a useful review of the legal issues that college and university administrators may face, as well as patterns that can be gleaned from recent court cases.

Mediative or Conciliatory Mechanisms for Handling Campus Conflict

Now that we have examined the most common quasi-judicial approaches to resolving campus conflicts, we can turn our attention to the use of mediative or conciliatory methods, which have increased in popularity in recent years. Mediation involves a neutral third party (or parties, as many colleges use comediators or panels of mediators) who assists disputants in finding a mutually satisfactory resolution to their conflicts. While many mediation programs now serve multiple constituencies, for discussion purposes I address student-

focused projects first, followed by faculty- and staff-oriented projects, and then those more clearly defined as multiconstituency.

Mediation of Student Disputes. Many student disputes involve other students or members of the local community. These disputes often involve parties who are interdependent, such as roommates, tenants and landlords, or dating couples, and they may focus on relationship concerns that do not in fact entail violation of any university policy. In the last fifteen years a trend has developed toward the increased use of mediation as a tool for resolving these types of student disputes (Warters, 1991), especially in cases that do not fit well within existing disciplinary mechanisms. Growth of these types of programs was propelled by the publication of *Peaceful Persuasion: A Guide to Creating Mediation Dispute Resolution Programs for College Campuses* (Girard, Townley, and Rifkin, 1985) and by a series of annual national conferences on campus mediation that began in 1990 at Syracuse University. This series of annual conferences has now merged with NAME, with that association's Committee on Higher Education as the sponsor.

Mediation programs are based in locations as diverse as counseling centers, ombuds offices, student government organizations, academic programs, research clinics, residential life programs, deans of students offices, campus judicial systems, off-campus housing offices, and student co-ops (Warters and HeDeen, 1991). The types of cases handled also vary widely, including student-student disputes (most often roommate cases), large group disputes, town-and-gown conflicts, sexual harassment cases, student-staff disputes, and even campus takeovers or shutdowns of campus buildings (Volpe and Witherspoon, 1992). Funding for centers varies greatly as well, with budgets ranging from pocket change to over \$100,000 per year.

Based on a review of program survey results (Beeler, 1985; Shubert and Folger, 1986; Holton and Warters, 1995; Warters and HeDeen, 1991) and consultations with people starting new programs, my current estimate is that there are approximately one hundred college and university campuses in North America with distinct mediation projects in place to serve students, and the number is growing. Approximately two-thirds of these initiatives involve mediation centers or programs that have their own budgets and staff (albeit rather small). The other third represents mediation options that have been added to existing judicial systems without necessarily being designated as separate mediation programs. These figures do not include ombuds programs or mediation clinics based in law schools, which represent an additional, significant area of mediation work.

Mediation of Faculty Disputes. Most colleges and universities have established formal grievance systems for addressing disputes involving faculty. Many of these systems specifically build in steps known as "mediative efforts" wherein a panel of appointed faculty attempts to mediate a dispute by investigating the issues and working with parties in order to formulate an acceptable resolution. McCarthy, Ladimer, and Sirefman (1984) provide actual examples

of grievance policies that include mediation steps. The American Association of University Professors also supports mediation and, in a given case, may involve representatives from its local chapter office, who after review of the case may assist in the mediation efforts.

Mediation of Staff Disputes. Many employee assistance programs regularly provide informal conciliation services, as do university and college ombuds offices. Specialized mediation services for employee conflicts seem to be growing in number as well. Most of these projects are relatively new and usually involve the training of a core group of staff who are then available to mediate disputes. New techniques are being tested in this area to address the influence of workplace cultures and hierarchical structures on maintaining agreements after mediation.

Ombuds Programs. Perhaps the most enduring and successful multiple-constituency model for resolving campus conflicts is the college ombudsperson. The ombuds role emerged on North American campuses in the late 1960s. Although the early programs primarily handled student complaints, the majority of offices today have expanded their focus to include the handling of faculty, staff, and administrative problems as well (Stern, 1990).

An ombuds program is specifically designed to handle conflict situations through a combination of fact finding, mediation, and conciliation. By the very nature of the office, the ombudsperson does not exercise any administrative powers. He or she is not in a position to command behavior of administrative officials or faculty members, or to reverse their decisions. Instead, the powers of the office are derived from the ombud's authority to access administrative records and files, to investigate policies and decisions against which grievances have been registered, to negotiate among parties involved for an agreeable settlement of the problem, and, when warranted, to publicize certain patterns of conflict so as to facilitate change in policy and procedure.

Off-Campus Services. An interesting extension of the growth of campus dispute resolution initiatives has been the development of a host of projects that reach beyond the campus walls. Some of these programs focus on landlord-tenant disputes and are affiliated with the off-campus housing offices, while others are jointly sponsored with local municipalities. Other campus projects work to smooth town-and-gown relations through proactive problem-solving meetings with neighbors in problematic neighborhoods.

Another important outreach effort involves college and university mediation programs working in collaboration with local elementary and secondary schools and community colleges to develop and support peer mediation and conflict resolution training programs at other levels of the education system. A third increasingly common model involves law school mediation clinics staffed by law students in training. A recent roster developed by the American Association of Law Schools Alternative Dispute Resolution Section (McDonald, 1994) lists more than thirty law schools that currently have or are developing mediation clinics that mediate cases referred from local courts or police.

While most of these programs work strictly with court-referred cases, some programs are offering specialized services for conflicts arising within city housing projects or other community settings.

Trends in the Field

As alternative dispute resolution work on college campuses develops, a number of trends are emerging that signal a maturation of the field. These include the development of various dispute resolution consortiums, such as the Colorado Conflict Resolution Consortium and Clearinghouse (based at the University of Colorado) and the new City University of New York Dispute Resolution Consortium. In a similar vein, a resolution to support and encourage alternative methods of dispute resolution was recently passed by the Board of Regents of the University of Georgia, and a blue-ribbon committee was established to bring forward recommendations for the enhancement of alternative dispute resolution methods for students, faculty, and staff across Georgia's entire state system of thirty-four institutions.

In addition to these larger-scale organizing efforts, there is also increased use of internet discussion groups such as CCRNET (campus conflict resolution network) as a networking tool among campus dispute resolvers, and there are now regional meetings of campus mediation programs to supplement annual national gatherings. There is increasing availability of college and university conflict resolution training for staff and faculty, and a growing emphasis on preparing campus mediators to handle more complex conflicts involving issues of culture, race, and gender. Some programs are also now moving beyond interpersonal disputes and are beginning to intervene in larger group conflicts involving various campus constituencies. There is also the continuing spread of mediation techniques to previously undeveloped areas such as community colleges and local communities. Finally, there appears to be a gradual move toward institutionalization of mediation as a preferred mode of dispute resolution on campus, signified by the gradual development of campus grievance policies that include mediation in their basic procedures.

Conclusion

Clearly, there has been considerable growth and development in the area of campus conflict resolution. We need as well a comparable increase in the research on and documentation of campus dispute resolution efforts, and a refinement and integration of campus dispute resolution systems. While the ivory tower will never be free of conflict, it certainly has the potential to become one of the most well managed areas of conflict activity, wherein the true value of conflict can be discovered, and the painful costs of conflict poorly handled can be minimized.

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