Establishing a quasi-ombuds program at a large university by adapting Ury, Brett, and Goldberg's dispute system design model: A practitioner's experience.

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ABSTRACT

A first of its kind quasi-ombuds program at a large university in the Southeastern United States was established in 2015, after a need was identified to supplement existing formal grievance processes with an informal alternative. Ury, Brett, and Goldberg's dispute system design model was selected, primarily because it is authoritative in the dispute system design field and secondarily because it has been successfully applied in another university setting. Three adaptations were made to suit the needs of the university: (1) adjusting the role of the design committee, (2) scaling down the diagnosis, and (3) scaling down the six design principles. The success of the program demonstrated the model can be successfully adapted by practitioners in the field to design an ombuds program.

This paper describes the establishment of a quasi-ombuds program at a large university in Southeastern United States as the main source for informal conflict management at the university. The term quasi-ombuds is used here to mean the program enshrined all of the principles of an ombuds program except independence because the institution was still journeying towards the concept of having an independent program. The university has an enrollment of over 28,000 students and more than 6,000 faculty and staff. The impetus for the program was a perceived need to provide alternatives to the university's existing formal grievance processes. The initiative's purposes were (1) to establish a program that offers informal conflict resolution services such as mediation, facilitation, and conflict coaching to faculty, staff, administrators, and student employees; (2) to offer programming on informal conflict management; and (3) to report to the institution on trends and patterns present in conflicts arising on campus.

As the candidate hired to establish and run this program, I chose to apply the design methodology presented by Ury, Brett, and Goldberg (1988) in *Getting Disputes Resolved*, which is "credited with being the first book written on designing dispute systems" (Conbere, 2001, p. 217). I expected to follow the four phases of the dispute resolution approach proposed in this book as stated by the authors. However, this turned out not to be the case, as I discovered the need to adapt the methodology to provide immediate informal conflict resolution services to faculty, staff, administrators, and student employees. This emerging need reflects the unique nature of conflict and governance in the university setting.

Conflict is an inevitable phenomenon in institutes of higher education (Malihah, Nurbayani, and Supriyono, 2015; Selter, 2011; Ennis, 2008; West, 2006; Warters, 2000; Holton, 1995; McCarthy, 1980); however, conflict resolution cannot always proceed as it does in corporate settings because of universities' differing governance structure, which is multifaceted and often entails "firm boundary maintenance between the department and the administration, as well as between one department and another" (Darkenwald, 1971, p. 408). The high costs associated with litigation have led many institutions of higher education to seek alternative, low-cost means of conflict resolution. An efficient dispute resolution program serves to prevent as well as to manage conflict effectively (Yarn, 2014; Barsky, 2002). Indeed, preventing conflict from arising in the first place is even better than resolving it. Hence, one objective in designing this system was to provide services that would prevent conflicts from escalating into formal grievances and causing seriously destructive impacts.

Institutions of higher education use various processes, procedures, and systems to manage conflict. Warters (2000) posited that mediation programs are useful because of the wide range of disputes they can address. Furthermore, offering mediation along with other conflict management processes "can provide a fair and flexible means of resolving conflicts within the institution, making successful resolution more likely" (p. 29). Ennis (2008) proposed negotiation, mediation, arbitration, and corporate discipline as four processes of conflict resolution for Christian institutions of higher education, where corporate discipline represents the final decision on the matter with no recourse to appeal.

Another common approach to managing conflict involves the use of a university Ombudsman, who advocates for a fair process and seeks to eliminate any presence or perception of bias while also utilizing other processes to assist parties to a conflict. In addition to intervening in individual cases, the university Ombudsman typically prepares annual reports on systemic issues, trends, and patterns observed in conflict situations and presents these reports to senior administrators (Leidenfrost, 2013). Collecting and analyzing data on conflict trends and patterns is important for any institution of higher education seeking to continuously improve its performance (International Ombudsman Association, n.d.). Accordingly, reporting on such trends and patterns was a required output of this initiative.

One of the better-known examples of design and implementation of a dispute resolution system in higher education is located within the University System of Georgia. In 1994, the Board of Regents of the system commissioned a study that included recommendations for implementing a conflict management system across its 34 constituent institutions (Yarn, 2014). The commission tasked with this mandate used the basic principles of dispute system design developed by Ury et al. (1988). The success of this system in Georgia speaks to the effectiveness of the methodology. The four phases of this methodology—diagnose, design, implement, and evaluate—typically require at least 12 months to develop to operational status, depending on capacity (Warters, 2000). In our case, the capacity consisted basically of one person (me), making some adaptations necessary. The three main adaptations concerned the role of the design team, scaling down the diagnosis phase, and scaling down the six design principles.

FIRST ADAPTATION: THE ROLE OF THE DESIGN COMMITTEE

The role of the design committee is to assist the designer by drawing on input from potential program users, in diagnosing the current situation, and designing a suitable conflict management system. It quickly became apparent that the role of the design committee as depicted by Ury et al. (1988), required some adaptation, because the mandate given by the university in this instance was not to overhaul the existing grievance system but to incorporate informal conflict resolution into the existing structure. Hence, the design committee was designated as a consultative entity and called an advisory council. The Council had two functions. The first was to secure support and buy-in from stakeholders, especially those who were not involved in the discussions that resulted in the decision to establish the conflict management program. According to Ury et al. (1988), "If the parties are not involved in the [design] process, they are less likely to approve the product, no matter how good it is from an objective point of view" (p. 69). The second purpose was to obtain input on particular design considerations such as the scope of the program, what cases would be accepted, and the range of services that the program would offer.

The members of the advisory council represented 10 relevant constituencies: (1) Faculty Senate, (2) Staff Senate, (3) Office for Equity and Diversity, (4) Office of Institutional Integrity, (5) Office of University Counsel, (6) Employee Relations, (7) Human Resources, (8) the School of Medicine, (9) Dean of Students' Office, and (10) Office of Student Rights and Responsibilities. It was crucial to engage all these stakeholders from different functional units to ensure adequate representation of the needs and concerns of each unit.

SECOND ADAPTATION: SCALING DOWN THE DIAGNOSIS

For Ury et al. (1988, p. 21), the diagnosis component of the dispute resolution system answers three types of questions: what (types of issues), how (methods used to address issues), and why (reason for choosing one process over another). However, in the present context, the diagnosis phase focused on mapping out the procedures currently in use and then determining existing service gaps by interviewing key constituents and administering a survey. These three methods produced ample information about the potential consumers' perception of the existing conflict management resources at the university. The stakeholder interviews also served as the first announcement of the anticipated availability of the program.

MAPPING THE CURRENT PROCESSES IN USE

Conceptually, conflict resolution can be understood in three ways: through interests, rights, or power. The interest-based approach focuses on what the parties care about; the rights-based approach concentrates on ascertaining whose claim is right; and the power approach focuses on who has the ability to influence events by executing an action detrimental to the other party or by

threatening to do so—for example, when a supervisor threatens to fire an employee unless a change in behavior occurs (Ury et al., 1988).

The university already had seven different formal grievance processes and procedures in place; each one was applicable to particular constituencies and different categories of grievances. These processes and procedures included the following: (1) provisions described in the faculty manual; (2) procedures for staff subject to the State Human Resources Act; (3) procedures for staff exempt from SHRA; (4) the Notice of Nondiscrimination and Affirmative Action Policy, which was enforced by the Office for Equity and Diversity; (5) Student Affairs procedures; (6) procedures implemented by the Dean of Students; and (7) a separate set of guidelines used at the School of Medicine. All seven were rights-based processes associated with fulfilling either a federal or a state requirement.

It is quite possible that administrators of these processes sometimes used informal approaches to assist involved parties in resolving situations that did not yet fall under the purview of their formal procedures. However, the mapping of procedures revealed the pressing need for the development of a centralized, interest-based conflict management resource. Disputants are more likely to become entrenched in their positions when they have no access to an informal conflict management option. Since rights-based approaches to conflict management had become the procedural norm at the university, gaining widespread acceptance of the proposed informal conflict resolution program was going to take some time. Strong institutional support and extensive promotion were seen as important ways to achieve the desired broad awareness and acceptance.

DISCUSSIONS WITH KEY CONSTITUENTS

I interviewed 30 key constituents in the university community. Some of them were selected because of their leadership role, others because they were involved with administering the formal grievance procedures or had an interest in informal conflict resolution. These stakeholders gave their unfettered opinion of the current processes for handling conflict at the university. Seven prominent themes emerged from these interviews:

- Strong *need* for an informal conflict resolution program
- The *duration* of formal procedures was too lengthy
- The existing *processes* tended to be complicated
- The procedures were *adversarial* and did not foster collaborative problem solving
- *Cultural change:* there was a great need to change the current adversarial culture of conflict management
- *Institutional support* for the program would be essential
- A formal *policy* governing the program was not recommended, but respondents indicated that a statement of the university's support of it would be useful

This consensus on not adopting a formal policy was understandable, because policy adoption itself is an area of frequent conflict at institutions of higher education, as at many other organizations. Typically, policy decision-making responsibility is not confined to one entity but, rather, resides with multiple groups within the institution, which may have a shared vision but competing interests (Yarn, 2014). This situation results in the unintended consequence of tolerating policy-related conflicts as the time frame available for achieving resolution is too lengthy (Klingel and Maffie, 2011).

The themes gleaned from the interviews of key constituents informed decisions on the parameters of the services to be offered, such as ensuring that the procedures remained simple

and of relatively short duration. In addition, they confirmed that the effort to create a quasi-ombuds program or informal conflict resolution program was justified.

SURVEY

On November 6, 2015, I submitted a request to administer a conflict management assessment survey to the Survey Review and Oversight Committee (SROC) through the Institutional Planning Assessment and Research (IPAR) office of the university. The SROC approved this request on December 17, 2015, with a proposed administration date of February 2016. A random sample of 500 participants—250 full-time, permanent faculty and 250 staff—was selected. The survey was administered between February 3 and March 3, 2016, with three weekly reminder emails used to encourage responses.

To gather a rich dataset, the survey contained both closed-ended (quantitative) and open-ended (qualitative) questions. Its nine questions covered (1) the respondent's knowledge of the availability of any conflict resolution services, (2) their prior use of such services, (3) their willingness to use these services, (4) their thoughts on ways to improve the current dispute resolution system, and (5) their views as to what an ideal informal conflict resolution program should consist of. A secondary goal of the survey was to inform respondents about the planned new program. Although the sample was not statistically representative of the full complement of the faculty and staff of the university, I anticipated that the responses would provide a good indication of what the university community would want in an informal conflict management resource.

Of the 500 people invited to participate in the survey, 149 started it and 144 completed it, for a completion rate of 28.8%. Of the 149, 84 were faculty (56.4%) and 65 (43.6%) were staff members. Analysis of the results yielded five conclusions: (1) mediation and facilitation were the two services most likely to be used, (2) potential users of the program would like discussions to be kept confidential, (3) facilitators and mediators must be neutral and impartial, (4) flexibility in the delivery of services would be beneficial, and (5) the proposed services (mediation, facilitation, conflict coaching) would indeed meet the informal conflict management needs of the university community.

THIRD ADAPTATION: SCALING DOWN THE SIX DESIGN PRINCIPLES TO THREE

Ury et al. (1988, p. 42) proposed six design principles: (1) focusing on interests, (2) incorporating "loop-backs," (3) low-cost rights and power backups, (4) incorporating consultations, (5) ordering the procedures based on costs, and (6) motivating users. However, in the context of the informal conflict resolution of the university, I reduced this set to three: (1) focusing on interests, (2) ordering the procedures, and (3) motivating users and providing skills and resources. The other principles were not directly pertinent because the institutional prerogative in this instance was not to overhaul the existing formal grievance processes but to supplement them.

IMPLEMENTATION AND EVALUATION

Based on my interviews with the 30 key constituents and my mapping of current grievance processes, I concluded that the new program would add value to the institution. Consequently, I codified a prospective three-fold mission of the program:

- To educate members of the university community on conflict resolution, to empower them to resolve conflicts constructively;
- To provide services including mediation, conflict coaching, and other alternative dispute resolution services to members of the university community who seek assistance in resolving interpersonal conflict; and

- To serve as the centralized information repository for informal conflict resolution at the university.

In addition, I codified standard operating procedures (SOPs) to mirror best practices of the profession, including confidentiality, informality, neutrality and impartiality, the voluntary nature of participation, and non-alignment (in lieu of independence). Non-alignment was used in lieu of independence to convey to visitors that the program operated without influence and input from the office where it was housed and also because there was, at the time, a reluctance on the part of the institution to attribute the principle of independence to the program.

The program had multiple points of entry (referral, phone, website, and email) to allow users to select one most suited to their needs and also to provide more "satisfying outcomes, more voice, and more sense of control" (Ury et al., 1988, p. 46). The program maintained a close partnership with various campus constituencies, in furtherance of its mission to provide an informal channel of conflict management. Visitors (people using the services) were referred to the program by other campus offices, but the program did not make formal referrals to other offices; instead, visitors were given descriptions of the available options so that they could make an informed choice as to how to seek redress for their concerns.

Two primary service channels, conflict prevention and conflict management, were offered. Conflict prevention services focused on equipping potential disputants with knowledge and skills to help them engage effectively in disputes. The services provided in this area included conflict coaching, meeting facilitation, workshops and training sessions, and lecture series with guest speakers. Another feature of conflict prevention implementation was the recruitment and training of mediators in different units across campus. The potential mediators were recruited by recommendation only. I solicited recommendations during my interviews with key stakeholders and, then, asked those recommended if they were willing to commit to fulfilling a mediator role for the program. If they had not previously received formal mediation training, they were asked to complete the 40-hour employment mediation training course offered by the State's Office of State Human Resources. Additionally, the candidates were expected to complete clinical mediation hours in the County District Criminal Court prior to mediating cases at the university. Mediation, facilitation, and conflict coaching—all interest-based conflict resolution processes—have a greater success rate than rights-based or power-based approaches.

I used multiple methods to promote the new program. First, I partnered with specialized resources such as the Human Resources department, Office for Equity and Diversity, Faculty Senate, and Staff Senate, and I provided them with descriptive brochures for distribution. I also created a website and used the internal listserv of the university to announce upcoming educational programming events. Additionally, promotional materials (brochure, pens, and water bottles adorned with the program website and phone number) were handed out during the weekly new employee orientation.

My main method of soliciting input on the effectiveness of the program was to ask the participants to complete a feedback form, which contained questions on participant satisfaction, quality of workshop content, and suggestions of future workshop topics. The feedback regarding satisfaction and content were positive. During the first six months of the program, I gave a feedback form to each participant receiving mediation, facilitation, or conflict coaching services; however, very few returned the forms. More frequently, program users sent me appreciative emails to tell me how beneficial the intervention had been for them. Hence, I stopped requesting feedback at the end of conflict coaching, facilitation, and mediation services. Conversely, I submitted an annual report of trends and patterns of conflict to the institution including recommendations for redress of systemic issues.

Within two years of the establishment of the program, more than 100 cases were handled; more than 30 workshops were delivered to a total of over 405 participants; and more than 1,500 people benefited from at least one of the service lines offered. Although the service was open to student employees, fewer than five student employees were referred to the program, and no student made use of any service.

FINAL THOUGHTS

Research and practice (Warters, 2000) have indicated that launching a conflict management program for an institution of higher education typically requires one year from the initiation of planning to the date when the doors open for service. Most of this time is spent on planning and design. At this university, the office staff during the design period consisted of one person. Limited staffing was an important consideration that affected decisions to adapt the model proposed by Ury et al. (1988). Moreover, this situation was unusual in that services were to be offered concurrently as the program was being designed. Purists in dispute system design might argue that the methodology used here differed substantially from that of Ury et al., but I believe most would agree that the model lends itself to adaptation, given the varying needs of institutions of higher learning and organizations. The success of the quasi-ombuds program during its three years of operation demonstrates its positive impact on the campus community and this led the institution to approve the establishment of a university ombuds program and the quasi-ombuds program became non-operational

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