



The Judiciary, State of Hawai'i

Testimony to the House Committee on Judiciary
Representative Karl Rhoads, Chair
Representative Joy San Buenaventura, Vice Chair

Tuesday, February 10, 2015, 2:00 PM
State Capitol, Conference Room 325

WRITTEN TESTIMONY ONLY

by
Andrew C. Hipp
Director, Center for Alternative Dispute Resolution

Bill No. and Title: House Bill No. 492, Relating to the Judiciary.

Purpose: Appropriates funds for the judiciary to enter into contracts with community mediation centers for mediation services.

Judiciary's Position:

The Judiciary supports the intent of House Bill No. 492 to appropriate funds for contracting with community mediation centers for mediation services. We do so, however, so long as it is not at the expense of any items in the Judiciary's current budget request. The Judiciary strongly supports the use of mediation and other forms of alternative dispute resolution (ADR) and welcomes any additional support from the Legislature.

Research shows that mediation and other ADR processes generally provide more satisfactory results, can resolve disputes in less time than a trial and can be far more economical. Although the Judiciary has already allocated \$400,000 in its budget to contract for these services, any increase in the funding for contracting for mediation and other ADR services would allow the Center for Alternative Dispute Resolution and our service providers to provide additional and/or enhanced services for the people of Hawai'i.



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We respectfully request, if the Legislature acts on House Bill 492 as proposed, that funding for this bill be in addition to the Judiciary's current budget request. Again, it is important that this not result in any decrease of items presently in the Judiciary's budget, as those items have been prioritized by the Judiciary.

Thank you very much for the opportunity to testify on House Bill 492.

MEDIATION CENTERS OF HAWAII, INC.

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February 7, 2015

TESTIMONY FROM: Tracey S. Wiltgen, Contract Administrator, Mediation Centers of Hawaii, Inc., and Executive Director, The Mediation Center of the Pacific, Inc.

TO: Representative Karl Rhoads, Chair
Representative Joy A. San Buenaventura, Vice Chair
Committee on Judiciary
Hawaii State Capitol, Room 325

Re: H.B. 492 Relating to Appropriating Funds for the Judiciary to Contract With the Community Mediation Centers Throughout the State

Hearing: Tuesday, February 10, 2:00 pm, House Committee on Finance

Dear Chair Rhoads, Vice Chair San Buenaventura and Members of the Judiciary Committee:

The Mediation Centers of Hawaii supports HB 492.

Mediation Centers of Hawaii (MCH) is a statewide nonprofit organization whose mission is to educate and empower the people of Hawaii to resolve conflicts peacefully by providing high-quality, accessible dispute resolution services. MCH serves the people of Hawaii through the collaboration of five community mediation centers located throughout the State: KEO Mediation Program of Kauai Economic Opportunity (Kauai); Ku'ikahi Mediation Center (Hawaii); The Mediation Center of the Pacific (Oahu); Mediation Services of Maui doing business as Maui Mediation Services (Maui); and Big Island Mediation Center doing business as West Hawaii Mediation Center (Hawaii). For the last twenty-four years, through these centers, MCH has provided Hawaii's communities with affordable and accessible dispute resolution services that empower people of all ages to resolve their disputes quickly. These five community mediation centers are the only dispute resolution options in the State for people in the low income and vulnerable populations.

Since its incorporation in 1991, MCH has opened more than 77,672 cases. Over the past three fiscal years (FY 2011-2014), an average of 3,168 cases per year were referred to MCH Centers, with 71% of those cases coming from the State justice system. Yet, despite this track record of success, over the years, funding for the centers has declined. In Fiscal Year 1991-1992, funding from the Judiciary's Center for Alternative Dispute Resolution (CADR) to MCH was \$528,529. Today the contract between CADR and MCH is \$400,000 and \$10,000 of those funds support the administration of the Family Court Volunteer Settlement Master Program in the First Circuit. Thus, the available funds to support community mediation and dispute resolution services is \$390,000 annually, which represents only 25% of the community mediation centers' total annual operating budgets.

Community Mediation Helps to Increase Access to Justice

Over the past fifteen years, mediation has become the favored process for addressing legal disputes of all types. While people with financial resources hire private mediators and dispute resolution professionals to resolve their disputes, the community mediation centers are the only option for making these services available to the low income and vulnerable populations. Thus, the community mediation centers play a key role in increasing access to justice by providing affordable and accessible mediation and dispute resolution services in areas such as family, divorce, custody and visitation of children of unmarried couples, landlord/tenant matters and more. Equally important is the fact that while the adversarial nature of the legal system oftentimes further damages the relationship of those in the dispute, mediation and other dispute resolution processes used by the community mediation centers, help to restore communication and improve relationships. These outcomes serve to reduce future conflicts, and ultimately strengthen families and the communities they live in.

With added funding, the community mediation centers would be able to play an even greater role in helping to increase access to justice by helping more: divorcing couples negotiate the terms of their divorce without fighting; unmarried couples with children agree on time-sharing and co-parenting plans that focus on the needs of their children; landlords and tenants to negotiate payment plans that would enable the tenants and their families to remain in their homes; and families agree on family plans to support the needs of an elderly family member.

Mediation and Family Conferencing are Key Goals in the Hawaii State Plan on Alzheimer's Disease & Related Dementias

A key goal of the community mediation centers is to create innovative programs that address pressing community needs, particularly for those in the low income and vulnerable populations. A current critical need in Hawaii is helping families talk and make plans and decisions together to support elderly members. The growing elder population and limited resources to support this population has placed huge strains on families. Family conflicts related to caring for an elderly member, particularly if that person has Alzheimer's disease or a related dementia, adversely impact everyone in the family. It is for this reason that the Hawaii State Plan on Alzheimer's Disease & Related Dementias has included mediation and family conferencing as one of its targeted goals.

When families don't talk about issues impacting an elderly family member, the needs of the elderly member are often not addressed or are not addressed in a timely manner, particularly when they are in the low income population. The elderly person may not be eating, taking medication, or able to perform other basic life functions and cannot afford to hire someone to assist. Bringing family members together through mediation or other dispute resolution process, enables them to discuss the situation, access available resources, and agree on plans that can help to ensure that the elderly family members receive the assistance they need.

To address these needs, the Mediation Center of the Pacific created the Kupuna Pono Program. This unique Program provides culturally sensitive processes for families from diverse backgrounds, to discuss their issues and simultaneously incorporate the recommendations of healthcare personnel and/or other professionals into a customized plan to support the elder.

Through the Program, families are more quickly able to agree on appropriate next steps to support their elder member including transitioning from medical discharge to home or assisted living, maintaining the dignity of the elder person, strengthening the family relationship, and eliminating the need for guardianship proceedings or other legal interventions.

While this Program is still in its formative stages, it has already demonstrated success with assisting families caring for an elder member. Because it is unlike any other program and is designed to meet the unique demographics of Hawaii, the Mediation Center has already received requests for the services on other islands. Unfortunately, it is currently only available on a limited basis on Oahu. Only with additional funding will the Program be able to grow and be extended to the neighbor islands. With the funding sought through HB 492, the Kupuna Pono Program would be made available to all families throughout the State through the community mediation centers.

Community mediation is a critical resource in Hawaii. Additional funding support through HB 492 will enable the community mediation centers to help more of Hawaii's people work through their differences quickly, without the need for formal legal services.

The many opportunities provided by the community mediation centers to prevent and resolve disputes quickly and affordably through culturally sensitive processes are a vital resource for Hawaii's residents. The services can mean the difference between: adult siblings creating a mutually agreeable plan to support an elderly parent vs. battling it out in an adult guardianship proceeding and permanently damaging their relationship; or a couple finalizing a divorce amicably vs. the escalation of emotions and potential violence. With additional funding, the community mediation centers would be able to assist many more people, particularly those in the low income and vulnerable populations, including the elderly and their families.

Your favorable approval of HB 492 is essential to grow community mediation in Hawaii.

Sincerely,



Tracey S. Wiltgen
Contract Administrator

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Spiegel	Individual	Support	No

Comments: HOUSE OF REPRESENTATIVES THE TWENTY-EIGHTH LEGISLATURE REGULAR SESSION OF 2015 COMMITTEE ON JUDICIARY Rep. Karl Rhoads, Chair Rep. Joy A. San Buenaventura, Vice Chair Measure Title: RELATING TO THE JUDICIARY. Report Title: Judiciary; Community Mediation Centers; Appropriation (\$) Description: Appropriates funds for the judiciary to enter into contracts with community mediation centers for mediation services. Companion: SB295 Testimony in favor of HB492: As the original founder of West Hawaii Mediation Center in 1987 and as the Center's current interim Executive Director I would like to encourage passage of HB492. Community mediation centers such as West Hawaii Mediation Center provide an important community service by facilitating and mediating resolution of disputes in our communities at a very low cost to the parties while taking cases out of the overburdened judicial system. It is in the best interest of the Judiciary and the community at large to provide funds for this worthy service. Respectfully submitted, Richard Spiegel Interim Executive Director West Hawaii Mediation Center 808-885-5525 ed@whmediation.org www.whmediation.org