

The art of negotiating: Dealing with problems efficiently

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Negotiating for the needs of your child can be time consuming and frustrating. Many negotiations result in overt conflict, and conflict is costly in terms of time, money, and emotion.

There are a variety of ways you can deal with conflict:

- You can avoid it to preserve the peace but this usually weakens the relationship in the end and your needs are not met
- You can compromise or accommodate, which preserves the relationship, but this can result in a lose-lose outcome when no one gets what they wanted,
- You can compete but this usually results in a win-lose, or at best a tie, you may achieve your goal but weaken the relationship
- Or, you can collaborate.

Our premise is that collaboration, working together with the parties involved is the most effective and in the end, the least costly method for dealing with conflict. It has the greatest potential for achieving your goal while building the relationship. In short, collaboration has the best chance of achieving a win-win or all gain outcome.

Fisher and Ury (1981) have described a very effective method for dealing with conflict called Principled Negotiation. This was developed at the Harvard Negotiation Project and is described in the book "Getting to Yes" which is readily available and easy to read. This method emphasizes deciding issues on their merits rather than through a haggling process focused on what each side says it will or will not do. It suggests you look for mutual gain, not win-lose or even win-win, but all gain. Principled negotiation allows you to reach a gradual consensus on a joint decision efficiently without all of the costs that can occur when people dig into positions. It is likely that you may already be using some or all of the principles described in this method. But, if you are like most of us, it is very helpful to have these principles laid out in a structured manner so that it is easier to follow and use. Principled negotiation is an "all purpose" strategy. It is useful in all areas of your life, not just in negotiating for your child's needs.

There are 4 key elements to Principled Negotiation:

- separate the people from the problem
- focus on interests, not positions
- invent options for mutual gain
- insist on using objective criteria

Separate the people from the problem

Each person in a conflict has two kinds of interests, substance (that is, the issues(s) you are in conflict over) and, the relationship. Unfortunately, the relationship tends to get entangled with the problem

and we treat the people and the problem as one. So the first step in effective conflict resolution is to separate the relationship from substantive issues. Over the course of your child's care you will have relationships with a variety of people doctors, therapists, teachers, coaches etc. The goal of principled negotiation is to deal with the substantive issues while maintaining or building these relationships.

Focus on interests not positions

The second element in effective negotiation is focus on interests not positions. This principle underlies every form of mediation. In negotiating, ask "why" you want something. Why does the other person want what they say they want? These are your interests.

Your position is something you have decided upon. Your interests are what caused you to decide. Interests are what motivate people but they may not be easy to see on the surface. In negotiating you want to focus on interests to find issues that may be shared or compatible. But it is important to remember that agreement is often made possible exactly because interests differ.

Invent options for mutual gain

Interests are why you need what you are asking for. **Options** are ways to get what you need. The best outcome occurs when the interests of both parties are met. However most often people think the only solution is win/lose or compromise and split the difference. The more options you have and the more creative you are in brainstorming options the more chances you have for getting what you need. Separate inventing options from deciding on options. Some strategies for inventing options are:

- brainstorm as many ideas or options as possible
- be creative
- do not judge any suggestion

Insist on using objective criteria

When you are negotiating for your child most of the time both sides will say they want a "fair" solution. But what is fair? How do you decide? Look for external standards and use these external standards to support your interests. This is especially useful when there is a significant difference in power between the negotiators. An outside source helps to balance power. Possible standards might be:

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- scientific data
- expert opinion and experience
- Precedents
- accepted standard of care

Using objective criteria allows you to focus not on what the other party is willing to do but how the matter **should be decided**.

Preparation

I once had a very successful boss who would often tell me, "the better prepared I am before I go to Court, the luckier I am in the Court Room." I suspect his success had very little to do with luck. The best way to ensure you have a successful negotiation is to be prepared when you walk in the door

The Authors of "Getting to Yes" have provided a workbook for preparing to negotiate. The first thing they say to think about when preparing for a successful negotiation are interests, why do I want what I want, and why doesn't this other person want to give it to me. Questions you want to ask when thinking about your interests are; What do I care about? What am I worried will happen if I don't get what I want? The answers to these questions are your interests. Write them down, and then prioritize them. What do I care about most? What am I most afraid of? This way you know which "interests you can give on, and which you must hold firmly.

The next thing is to switch seats at the table. You need to think about what the other party's interests might be. Put yourself in their shoes. Ask those same questions from their point of view. One very good way to do this is to role-play. Have another person play you and you move to the other side of the table, then think about what you would want if you were sitting in their seat.

The next question to ask in preparing for a successful negotiation is "what do I do if we can't agree." In other words, what alternatives do you have if you can't come to an agreement with this person? The authors of "Getting to Yes" refer to this as your BATNA (Best Alternative To Negotiated Agreement). Knowing your alternatives will affect the way you negotiate. For example, if you go into a job interview and have three other offers with firm salary amounts, you will act differently than if you have no other offers and are two months behind on the rent.

Lets take an example. Your want your pediatrician to give you a referral to a specialist, and he won't do it. If you can't come to an agreement with this doctor, what are your alternatives?

You can get another doctor. But what if your insurance plan only has three pediatricians, and they are all partners. You could change plans. You could see a private physician who you will have to pay for. The point is you need to know when you sit at the table what your alternatives are and how realistically attractive they are. Something that may come up when you are researching options is that you find your best alternative is better than anything you could get out of this negotiation. Lets say you call around to see what other doctors are available on your plan and find one who is world famous in handling children with VCFS and she agrees you need a referral. Your BATNA is now more attractive than your best outcome from negotiation could bring.

Like interests, you also need to think about the other person's BATNA. It may be that the pediatrician's alternative to agreeing with you is that he has one less difficult patient to deal with. On the other hand, a school district negotiating on speech services might lose money if you move to another school, so they may negotiate differently.

One quick point about BATNA, be realistic about what you will really do.

The way some people think going into a job interview is "I can go back to school, or take a year off and go to Paris, or work for my uncle at the grocery store, or move in with my parents until I find a job." Thus they think they have lots of options and enter the job interview with that mind set. But, the truth is, you only get to do one of these things. So look for your best realistic alternative that you will follow through on if this negotiation fails, then take it with you to the table and act accordingly.

Options are the ways to satisfy your interests. The important thing to remember here is that we want as many options as possible. Don't filter. Don't say, "Oh that won't work," because a really crazy idea may lead you down a path you hadn't thought of before, which may be the path to the answer. When you begin to think about options write them down. Remember to separate the creative process, finding options, from the decisional process, choosing options. Just because you think of an option doesn't mean you have to do it. In this step, you want to seek out creative people for possible options, the friend who is always coming up with crazy ideas. Find people outside your experience, perhaps other parents who have been through this process before. Get as many options as possible. The person you want to stay away from at this time is the person who says, "Oh, that's Black and White, there is only one option."

Once you have options in mind, you then start to prioritize them. To do this, get out your list of interests you made be-

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fore. The most successful negotiations are those where everyone feels like their interests have been met. So it follows that it is easier to come to agreement on shared interest. Look at the interests you and the other party have in common, then look for options that meet those interests. These are often the most attractive options and usually very effective starting points in a negotiation.

Looking for objective standards helps add legitimacy to the agreement.

If you can say to the other party, "This isn't what I'm saying, this is what experts say," they are much more likely to listen. If you can find independent data on which both you and the other party can base your agreement, both sides are much more likely to be satisfied with the end result. Remember, "Data is Power," and if you have lots of data to back up your options, then it will be much harder for them to disagree with you. This is especially useful when there is a large power differential between the parties. When you find a standard you think you and the other party can agree on, write them down.

Where do you find these Independent data? This Foundation is called the VCFS Educational Foundation. Everything you learn here is ripe for use in negotiations. The Internet is another huge source of information. There are parents support groups, chat rooms, medical journals, newspapers, university libraries all with legitimate, independent information to rely on for objective standards. If you don't have the Internet at home, try the library, or the local Internet café. Local community colleges or computer stores offer great classes to help you access this information.

The law can also provide standards to shape an agreement. If there are minimum requirements for care of your child, you should know these and have them available. If there are policies and procedures for your school district, insurance carrier etc... learn as much as possible so that they can be used to structure an agreement.

Once you have done all your homework, have your interests in mind, have a list of options to offer, and have objective standards to back up your options. Now you are ready to sit at the table.

When you're at the table:

Interests – Be prepared to share your interests and be open to theirs. If they know why you want what you want the other party is more likely to work to get it for you.

Conversely, even though you have thought about their interests, there may be other factors that influence their thought process of which you are unaware. Be prepared to ask why they are taking a particular position, and listen to the answer.

Options – Date your options, don't marry them. Sometimes when you put a lot of work into an idea, you become attached to it, like it is your child. The purpose of brainstorming is to increase the number of options, so if you stick to the ones you have when you walk in, you are defeating the purpose. Have options available, but be creative and open to participating and developing new ones as you negotiate.

Standards – Shield and sword, not bomb. Be careful not to overwhelm the other party with data. Arriving at a meeting with a file cabinet on your back is the quickest way to turn off the other party (bomb). Instead, summarize the contents and provide the source. It is much more accommodating to arrive at a meeting with a small folder rather than boxes of information. Then use the data to back up your points (shield) and to question options you disagree with (sword).

Memorialize – When you are done, write the agreement down. Explain that this is not a matter of trust, but to minimize any future misunderstanding about the agreement. If only a partial agreement is reached, write the things you agree on, then list the items on which you are still negotiating. Every one signs it, every one gets a copy, and everyone feels like they have had a part in the process.

When all else fails, Mediate – If you come to an impasse, suggest a neutral third party might help get things going again. Most communities have a dispute resolution service for minimal cost where trained mediators can help parties manufacture agreements.

References:

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