

Best Practice: Tools and Tips for Divorced Parents and Divorce Professionals

Mark R. Otis, Ph.D.

Dallas, Texas

<http://aeschylus-otis.blogspot.com/>

November 27, 2011

Look behind positions to find mutual interests.

At a meeting with divorcing parents and their lawyers, I listened to the couple describe their impasse. The mother wanted to move with their children to another state; the father wanted the children to remain in their present community. They argued back and forth—sometimes directly, sometimes through their lawyers—but never budging from their positions.

I quickly understood why they were stuck. They had defined the problem as a *conflict* of positions, thus they were trying to resolve it by *agreeing* upon a position. Dad's way? Or Mom's way? But talking about positions often leads to an impasse – particularly when positions cannot be compromised.

Conflicts about positions, however, usually reflect differing underlying interests. In this instance, the mother wanted to put physical distance between them in order to minimize their frequent arguments. The father said bickering was just part of being divorced. He wanted the children to stay so that he could remain a central figure in their lives.

Where the mother was concerned about the effect of their ongoing disagreements upon the children, the father was concerned about the effect of his absence upon the children. The mother wanted emotional peace for herself and the children. The father wanted to remain fully involved in the children's lives.

Their desires and concerns reflected their respective **interests**. Their interests lead them to opposing positions:

Mom: *I want to move the children.* Dad: *I want them to stay put.*

Having taken opposing positions, they also assumed they had *competing* interests. The mother angrily asserted: *He wants me to stay in order to control me.* The father countered: *She wants to move in order to make me a less important parent.*

But looking behind opposing positions often reveals mutual interests that can be the basis for a more productive discussion and creative problem-solving. Consider the interests they had in common:

- Both wanted to support their children's emotional health and security: One by reducing the conflict and the other by remaining fully involved.
- Both wanted to avoid the emotional and financial cost of litigation.
- Both wanted to put their energies directly into the children rather than into conflict with each other.

So what could they do? The first step was to change the tenor of the conversation by shifting away from a discussion about positions to a discussion about shared interests. Doing so injected optimism into the discussion and greater mutual understanding. Their agreement? The mother and children stayed in their present community; the father agreed to attend a week long negotiation seminar at Harvard's Program on Negotiation.

Look for common interests behind opposing positions to break an impasse.