

## Resolving Disputes More Effectively



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### Positions Versus Interests

Imagine a bill has been introduced in your state that you think would be beneficial to CRNAs. You want to see the legislation passed, so you approach another healthcare professional association, who tells you they are opposing the legislation. Negotiation over, right? After all, you have opposing positions, so how could this be resolved? The problem is that you are focusing on positions—and as long as you have opposing positions, there can be no resolution. But perhaps you should ask the other association a key question—“Why?” That is, why are they opposed to the bill? Perhaps there is some way for you to address their concerns that doesn’t involve them fighting the bill, or perhaps there is a way to amend the bill so it still meets your needs, but no longer concerns them. In addition, you would want to ask yourself the same “why” question. Why do we want this bill passed? And is there some other way to meet our needs that wouldn’t meet opposition from the others?

Clinging to positions creates an either/or—especially if your positions are opposites—you both can’t get what you want. Focusing on interests and goals, however, gives the parties multiple potential options for arriving at a solution. Looking at both parties’ goals can also provide opportunities for mutual gains—rather than just dividing up what’s there, you might come up with a win-win solution. The key to being successful with this is to be able to pose honest questions to the other party and to listen to them in an impartial, non-judgmental way. Negotiators often view questions as a Socratic-style opportunity to persuade a party into accepting your view. This instinct must be avoided, as it leads to more talking than listening, and the listening is typically strategic in nature. This isn’t to say that there is no place for being strategic, but you first must honestly listen to what the other party wants before

Dispute resolution continues to be a vital skill for CRNAs, especially those involved in essential state healthcare policy leadership roles. In a previous article, we discussed contemporary negotiation theory and how to define when you have “won” a negotiation. This article will give tips on how to have a more productive bargaining session, focusing on interests and objective criteria.

you can formulate any solution with a chance of success.

Once you’ve established what their interests are, any offers you make should be phrased to show how your offer addresses their interests. And while it isn’t necessary to state that the offer meets your own interests, communicating what your interests are gives other parties the opportunity to develop creative solutions.

It can be helpful to think about what the opposite party’s interests might be before going into a negotiation, giving you an opportunity to preemptively think creatively about how you might offer to meet those needs. But remember, any prep work you do is still just guessing; you don’t know for certain what their goals are until they tell you.

A famous example of positions versus interests came in the 1970s with the Camp David Accords. Since 1967, Israel had occupied the Sinai Peninsula. Egypt wanted the land back, but Israel did not want the land returned to Egypt. You can’t have both positions fulfilled, so this would seem like an intractable problem. Luckily, wiser minds were involved and asked both parties why they were taking the position they had. Egypt viewed the matter as one of national sovereignty: They didn’t want land that they felt was part of Egypt occupied by a

foreign power. Israel saw it as national security: They didn’t want Egypt in the Sinai because they felt it would put a hostile military just a few miles away from their cities and population. Once the parties moved beyond positions and into interests, the solution became obvious. The land would return to Egypt (meeting their interest in sovereignty), but would be largely demilitarized, and Egypt would establish normal diplomatic relations with

Israel (meeting Israel’s interest in security). Only when negotiators asked for the concerns behind the positions was there any chance for resolution.

### Using Objective Criteria

People often view a negotiation as one party throwing out a number, the other party responding with a number, then they go back and forth until a compromise somewhere between the two is settled on. While this may be an entertaining thought, it isn’t really the most efficient way to achieve a good outcome. The numbers that are being thrown out in this scenario will be more useful if they are based on some sort of objective criteria. Why do you think the car you are haggling over is worth a particular amount? Do you have some sort of data to back up this claim? Why does your potential employer think the salary they are offering is fair? Can they show you research that would support this? There are many potential sources for objective criteria: online data, legal precedents, market value, and scientific

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research. It is not helpful to include subjective or emotional evaluations (I may love my car, but I don't expect the dealer to pay more for it when I trade it in because of that).

Once a party begins to use objective criteria, the negotiation often shifts to debating the merits of these external standards. Is the source of data believable? Does whatever is being negotiated over differ from the suggested criteria in some substantial way? The negotiation hasn't

ended, but you are now negotiating about something more substantial than numbers picked out of thin air. Rather than a battle of wills, the negotiation becomes a mutual search for fair evaluative criteria. It is preferable that any offer or counteroffer made in a negotiation should include some sort of objective criteria to indicate why the offer is fair.

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### Conclusion

People often express an unwillingness to engage in negotiations and dispute resolution because they feel the process is stressful, chaotic, and hostile. By focusing on interests over positions and introducing objective criteria, some sense, and opportunity for mutual gain, a fair outcome becomes possible. While there remains the possibility of negotiations turning hostile, these tools improve your odds of success. ■

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