

Bernie Mayer – Question and Answer

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AUDIENCE MEMBER: So I think -- I found all of your conversations very intriguing and a lot of it resonated with me. I think one of the things that, as a person from a family advocacy organization, that perhaps you alluded to a little bit at the beginning, but kind of the power imbalance issues and how the power imbalance so strongly affects each of the approaches that you talked about and many of the issues. For example, what are the implications for a family of raising a latent issue that may get the people at the table not to be able to help resolve an issue that they feel has to be resolved right now for the child? So that's one of the things that, as an organization that works with families every day -- and the families we work with are not the families that have the money to afford a lawyer that districts complain about, "Oh, that parent gets whatever they want because they just go run to their lawyer." But the parent who can't afford a lawyer. And so if there isn't -- something doesn't come out of that meeting, it's not going to happen.

BERNIE MAYER: Right. That's right. That's why sometimes they have to get whatever they can right there. But it is also what I mean by talking about you taking a long-term view of power. Because it's not just what they can get out of that meeting, but it's how over time do they build their capacity to have more power in the system? How do you as an organization over time build that capacity as well? So sometimes the best thing that can happen is they get -- they learn they have power if they handle it wisely in a particular intervention. And then that is a lesson they can take on into the future. But you know, I was struck by the fact that you said you got everything you wanted with your child, but that relationships were soured. And I think a large part of the issue is, how do we learn better and better to use power to encourage others not to use their power wisely? It's that we have to take an interactive understanding of power. And there is a power difference. But that doesn't mean parents aren't powerful, or potentially powerful.

AUDIENCE MEMBER: Yeah. And I think one other thing is the issue of assuming that everybody's coming to the table with good intentions. And that is often our experience, but not always our experience. And so how do you factor in the fact that there are sometimes people who are not coming to the table with good intentions?

BERNIE MAYER: Well, yeah. So I, over the 15 years or so -- maybe more. It was more like ten years or so that I was actually involved as a parent with the system, I would say 90% of the people came to the table sometimes clueless, but certainly with good intentions. But there were a couple of people who thought this whole thing is -- you know, this kid is just lazy and being coddled and, you know, they just need, you know -- maybe they were good intentions from their point of view too, but they surely didn't have good intentions towards us. And I do think that's part of the thing that we have to help people begin to understand. And one of the things is understanding the difference between people who really want to work with you, but may disagree with you, and people who just as soon would you would never darken their doorways again, and that would be what they think is best for kids. And it requires different strategies. And I think one of the ways people kind of spin away their power is to use power appropriate for one situation on another. So what you would want to do with somebody who really wants to work with you is very different from what you -- how you have to approach somebody who doesn't. But oftentimes people just see that immediate situation and they don't see that essentially what they're doing is establishing a long-term partnership with a system over many years. And what's it take to do that? And how not to focus everything on the one person or two persons there who are really unhelpful. But anyhow, yes?

AUDIENCE MEMBER: A lot of your stuff and a lot of your talk has centered around an implicit understanding of situations that we're involved in. If you were to, say, pick four points, what four points have to be explicitly made in the middle of conflicting situations? If you're sitting around the table with district administrators, with perhaps counsel, perhaps not, but trying to resolve issues around services for children, what in what you say has to be explicit? I mean, you're talking long-term. And long-term for, you know, for a teenager could be six months. But I mean, what do you have to get out on the table would you say most importantly?

BERNIE MAYER: I'm not sure I'm going to come up with four, but I'll -- maybe it'll be three or five. But I think one thing is that we're in an ongoing relationship. And we need to be a team in support of helping this be a good experience for everybody: for the kid, for the teachers, for the educational group. You know, we have to be a team. And so what is it going to take for us to be a team? And a team doesn't mean I do what you say. A team really means being a team. So that's one -- that's one thing. A second thing I would go -- I would say we have to think about is, how do we have ongoing, multiple channels of communication? Because I think if once a year IEP is not enough and that's when we get in there, how do we establish multiple channels of communication? And sometimes it's just building in one more. But how do you do it and who has to communicate? I mean, a thing I think we can often ask is, who's not communicating enough over time? Maybe it's not the parents and the teacher. Maybe they're communicating all the time. Maybe it's the special ed teacher and the principal are the -- or another teacher the kid's working with. So I think that's a second thing we need. I think a third thing is related to what this person over here said, is how do we help people use power effectively? And four is those dilemmas. How do we make the best decision we can, recognizing uncertainty and not falling into the trap of trying to get our way by pretending we have certainty when we don't? So was that four? That's close enough to four. Yes, you wanted to say something? I thought. No, okay. Yeah?

AUDIENCE MEMBER: This goes back to the nature of conflict. Can one situation represent several aspects of conflict.

BERNIE MAYER: Always. Always. I mean, I think that's the problem. Somebody comes to us and says, "Does the kid belong in this kind of program or this kind of program?" It's representative. There's elements of it that are high impact. There's a latent issue there. There's an enduring issue there, which is different visions of what kids really need.

AUDIENCE MEMBER: [inaudible].

BERNIE MAYER: See, that's my point in a way is I don't advocate. I advocate that we be aware of that and that we don't, because of our predilections, unconsciously or intentionally automatically go in one direction. Sometimes the small fires are just what you can do. But they're not always. And sometimes when we put out the small fires all the time and then we

don't deal with a larger conflagration, which is a metaphor that I think I want to get off of, but at any rate that's in a way my point. Yes?

AUDIENCE MEMBER: I'd like to address what you said when you were talking about avoiding monetization and how then sometimes if you don't pause before you think and you go to a lawyer, that there will be kinds of issues that they address and therefore can't look at the other kinds of issues that really are important to acknowledge. Stuff like that. My question, and I am coming from a family or child perspective, is when the parents are value driven because it's emotional value driven, it's their child and it's not something they do professionally, it's not something that they are doing that they are paid to do, they're not going -- that they come home to their house, if you don't have any means of providing them with someone who takes their side and understands the whole picture because you're avoiding the monetization of the conflict because there's no other way of paying the lawyer, what can you do to, you know, even the playing field?

BERNIE MAYER: Well, I don't think you ever even the playing field. The playing field is inherently uneven. But I think that's a really good question. And actually, it's a profound question because the structure of how we provide services, advocacy services, is completely wrapped in with the monetization, if you will, of the problem. We don't have a very good -- and so if you want to go do -- if you feel you need to go to a lawyer in a medical malpractice thing, you'd better come up with a monetary claim because otherwise there's no means of paying the lawyer. It's a real big problem. And you know, I would advocate advocacy for services for parents that are not rooted in the private paying legal fee kind of framework because I think that's a problem for a lot of reasons. That institutionally is the kind of thing we need to look at. On the other hand, I can't wave my wand and make that happen. That's going to be a long-term conflict or issue in and of itself. It's a systemic issue. It's a structural issue. And it's in many different areas. I mean, you could look at it almost across the whole dispute intervention system in our society that that's a major problem. So you know, I wish I could say I had the solution for it, but what I do think is just asking the question is the right question. If I'm going to be represented by a lawyer, I'm going to say, "I know you need some -- we need to get some money here for this to be worth your while, but I don't want you to make that more important

than it is to me.” That is in a larger context. I don’t want the specific laundry list of services my kids -- to dominate the fact that what’s more important to me that I establish a kind of relationship and teamwork with a system that is critical to me. So in a way, the best answer to the question is a question itself. I mean, but boy is it a right on issue. I mean, you know the biggest -- am I out of -- how am I doing here? Oh, I’m in trouble. The biggest -- let me just say this one thing and then I’ll turn it over. The biggest issue of change in the American court system and Canadian court system is the rise of self-represented litigants. And it’s like, you know, in some courts, not just in family area, which has been for a while, but in small claims. And well, not just small claims. Civil cases more generally, it’s like 70% or something like that. My wife has a new research project to find out what’s really motivating people to do that. Everybody assumes it’s money, but it’s not just money. It’s also that people think they can do a better job for themselves than lawyers can. And why is it? Because I think people on some level get it that that’s what goes with going to lawyers. So I think that people may be more sophisticated about this than we think. All right, now I have to stop. I want to thank you very much for letting me kind of work with you on this, and I look forward to hanging out with you today.