



Ever wonder about the legal lingo you hear? Some terms you might become quite familiar with in your marital dissolution are:

- ? ISSUES
- ? INTERESTS
- ? POSITIONS
- ? PROBLEM SOLVING

More and more experienced family law attorneys and judges see the issues in a marital dissolution as requiring a problem-solving approach, preferring that to an adversarial approach where each side takes a position.

So what does the lingo mean?



An ISSUE in a marital dissolution is a disputed point or question which needs to be decided in order to transform one household into two.

Typically, an issue can be stated (or framed) in more than one way. For example, in a given case, the issue of spousal maintenance could be stated as follows:

Should A.B. pay spousal maintenance to C.D.?

How can you use the incomes of A.B. and C.D. to provide for both of their reasonable monthly living expenses?

The first example frames the issue as the legal determination of entitlement to spousal maintenance. The second example focuses on the interests of the parties.



INTERESTS are the needs that a person wishes to see satisfied in the resolution of an issue. In answering questions like, “why is this important to me/you?” or “what do I/you hope to achieve?” most people will respond by identifying one or more of their interests in an issue. It is common for divorcing parties to share some interests and to differ on others.

Continuing the example of A.B. and C.D. above, perhaps they agree some maintenance should be paid but they disagree on the amount. That is the issue. A.B. has a desire to minimize the amount; C.D. has a desire to maximize the amount. Those are conflicting interests. They both want to have “enough” money to live on. That is a shared interest.



POSITIONS are the specific solutions that a party proposes. A.B. might propose \$500 per month maintenance, and C.D. \$1,500 per month.

When an issue is framed by focusing on interests, parties tend to provide information that is helpful to understanding their points of view and begin to see multiple options that might resolve the issue. Often such framing narrows the issues.

For example, from an interest-based framing of the maintenance issue, the issues might narrow to: How much can we expect C.D. to

earn? How much does it cost for each of us to meet our basic needs?



Talking about interests often leads naturally to the use of a PROBLEM-SOLVING APPROACH by both sides to a marital dissolution.

The steps in problem-solving are well known:

1. Identify the problem. (ISSUES).
2. Find out the facts relating to the problem.
3. Develop criteria for a “good” solution. (INTERESTS).
4. Brainstorm options.
5. Measure the options against the criteria for a “good” solution.
6. Select an option. (SOLUTION).
7. Implement it.
8. Evaluate how the option has worked out.

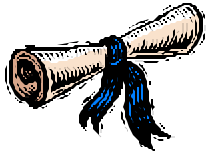
Problem-solving tends to focus on planning for the future which is really what a divorce settlement is all about.

It tends to take in both sides’ shared and conflicting interests.

It also is suited to the continuing nature of some aspects of post-divorce life. For example, the evaluation step may be very helpful in deciding when or how to modify a parenting time schedule as children grow up and have more and more say about their own schedules.



The legal lingo described above crops up in all of the different ways you can approach your divorce: settlement, mediation, collaborative law, and yes, even in trial. Trial judges look for practical solutions that have promise of being fair and workable for both parties and their children. There is no such thing as winning in a divorce.



The goal of The American Academy of Matrimonial Lawyers is *"To encourage the study, improve the practice, elevate the standards and advance the cause of matrimonial law to the end that the welfare of the family and society be preserved"*.

For information on the national organization see www.aaml.org; for information on the Minnesota Chapter see www.aamlmn.com or contact Executive Director Nancy Keyes at (952) 832-9986.

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THE NEW LEGAL LINGO OF DIVORCE

**Issues, Interests, Positions, and
Problem-Solving in Your Marital
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