

# Mental-Health-Discrimination-in-Negotiations

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## SPEAKERS

Dan Burstein, Chris Casillas

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Chris Casillas 00:10

In negotiations, like in many aspects of our lives, we don't get to pick who sits on the other side of the table. Our negotiation partner may have a different educational background, come from a different culture, or gender identify differently than ourselves. They may also be managing a particular mental health condition or sit differently on the neuro diversity spectrum. As any good negotiator must learn, it is important in any negotiation to both lean into, and thoughtfully contend with these differences in bargaining in areas like gender or ethnicity. So the same must be true when working with other negotiators whose mental health or neural pathways may be different than our own. For too many, however, the teachings and practices around negotiating with people experiencing mental health conditions, has advocated for caution and has promoted strategies to minimize and distance us from those on the other side of the table with such conditions. These approaches, which focus on the essence of who someone is as a person, rather than addressing problematic behaviors, only served to wrongly increase discrimination against persons with mental health conditions. This is particularly troubling in a forum like negotiations or mediation, which is designed to resolve differences and bring parties together. On this episode of the PERColator podcast, your co host, Chris Casillas, is joined by mediator, author and mental health advocate Dan Burstein to discuss his work about ending discriminatory practices against individuals with mental health conditions. Relying on the internal family systems structure most recently discussed in Leonard Riskin's latest book managing conflict mindfully. Dan discusses how he has come to use the same framework to be a mindful advocate and overcome situations of avoidance, which he has experienced many times in his life and career as someone who openly lives with a bipolar condition. Please join us for an engaging half hour as Dan discusses his own journey, and describes a number of important tools that all of us can use to promote inclusivity in bargaining with respect to individuals experiencing mental health conditions.



Chris Casillas 02:35

Hello, and welcome to the PERColator podcast. My name is Chris Casillas, one of your co hosts at the negotiation project here at PERC and a co host as well with the PERColator podcast. I am excited to be joined today by our special guest, Dan Burstein. Dan, how's it going?

D

Dan Burstein 02:56

It's going well, how are you?

C

Chris Casillas 02:58

I'm doing great. Thanks for joining us on the podcast. I'll give you a chance here in a moment to introduce yourself a little bit and talk about your story and your career. But just to set the scene slightly for us on today's episode, recently, we did a actually kind of a couple episodes, book club type episodes to talk about Len Riskin's now somewhat new, I guess, new ish book, *Managing Conflict Mindfully* and, and the book is packed with a lot of interesting things about thinking about different layers and dimensions of managing conflict. He talks just to remind our listeners, he talks about managing conflict between people and deploy some of the concepts and principles from getting to yes, and some other important books of that nature, also talks about kind of conflict with ourselves, and the third area he gets into is kind of internal conflict conflict within our own minds, and introduces us to the internal family systems structure. And it's on that point that I want to bring in our guest, Dan, to talk a little bit further about that concept, since we haven't covered it much in depth yet, and to connect it to his own work, and his own research and his own advocacy. So before we jump into that, Dan, though, let me create a little bit of space for you to introduce yourself to our listeners and talk a little bit about more broadly, your work.

D

Dan Burstein 04:43

Thank you very much. So my name is Dan Burstein. I am a mediator and I wear a lot of different hats. First and foremost, I always try to tell people that I have bipolar disorder, because I do a lot of work to raise awareness of what it's like to live with a mental illness and some of the communication challenges that happen, not just because people may have symptoms, but because we have a lot of stigma in our society, I became a mediator because I thought that conflict resolution processes were the best way to overcome stigma. I thought that if people are able to honor someone's choice and their self determination, that will combat a lot of the paternalism that happens when people have mental health problems, and that if people were consistently focused on impartiality, they would stop making negative assumptions about people with mental illnesses. And so that is the reason I became a mediator. And originally, my goal was just to connect all the mental health stakeholders to all the mediators because I thought they could help. But then pretty quickly, I learned that the dispute resolution world is filled with its own biases are like any anyplace else. And there's a lot of systemic biases about mental illness, people will assume that someone with a mental illness is dangerous, or incapable and unreliable or socially undesirable. And they also will assume that people who have those kinds of behavior problems probably have a mental health problem. And both of those kinds of things are prejudices, and they create a lot of inequities. So, in my work as a mediator, I spent about a decade developing methods to help people have empowering mental health communication, to help them address challenging behaviors without linking it to the idea that someone has a mental health problem, and to help them be accessible to people who may have disability needs. But to do so without making guesses about someone or singling someone out. All of that work is encapsulated in the book that I published with the American Bar Association, called *Mental Health and Conflicts: A Handbook for Empowerment*. And once I

got to that stage of publishing that book, I had a bit of a turning point in my career, where instead of just teaching these good skills, of how to have good communication, about mental health, I started flagging and noticing when places were actually teaching discrimination. And so that's places that had policies, maybe screening someone out with a mental health problem, or noticing a mental health symptom and trying to treat the person a little bit differently in ways they did not request, and different kinds of things like that those are actually discrimination under the Americans with Disabilities Act. And I started contacting places and working with them to try to get those things changed, you know, so I have become more of an advocate. Some people have called me an activist. And it has led me to have a bit more of a controversy in recent years, when I'm approaching different organizations and letting them know that they have discriminatory content, and it needs to be removed or updated. Or, or else people should start speaking up about it, because it's such a problem. And so that is a bit about my journey. From being you know, just somebody who had bipolar disorder, I was looking for communication skills to become a mediator and expert and anti discrimination advocate.

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Chris Casillas 08:17

Wow, thanks for sharing that story and all that work. It sounds a little bit exhausting. Listening to you describe all that. I know, I know. It's a lot but appreciated, and great to have you here with us today. So with that in mind, let's maybe connect that to Riskin's book, and specifically this issue of internal family systems that I mentioned a bit ago. And if you don't mind, let me preface with one quick little anecdote story that Riskin shares with us from the book and then maybe you can kind of talk about your own perspective on this on this work and how it connects to kind of the broader goal of of what you're doing. So he says at the beginning of this chapter on internal family systems, quote, the idea that a person might have more than oneself, mind or personality is ingrained in common parlance, and everyday life. Most people feel and behave differently in different settings, of course. The late John Haynes, a pioneer in family mediation, described an experience with this phenomenon. When he was in his 50s he flew from the US to London to accept an international award for his contribution to mediation. As he received the award before a large crowd, and basked in the praise he became quite pleased with himself. He felt big, powerful, mature and important. After the conference, Haynes rented a car and drove to Wales to visit his mother. During the drive, he felt as though his size and age steadily diminished until Will, when he pulled up at his mother's home, he felt about four years old and three feet tall. So maybe you could, you know, take from that kind of and describe a little bit, Dan, kind of your own understanding of kind of what Riskin's talking about here and how that connects to some of your work?

D

Dan Burstein 10:20

Sure, well, I really have been a big fan of Len Riskin's new book about managing conflict mindfully. And the way that he integrates so many different models, and especially the internal family systems model, which he credits learning about to David Hoffman. And the idea that, you know, inside all of us, there's more than one identity. And they all are kind of having a implicit discussion with themselves amongst themselves to decide who you end up being in that moment. And so it's as if we are filled with these different personalities or constructs, including like the story you told him, you know, feeling like a big shot in one place and feeling very small, when you're with your mother. And I think everybody can relate to that to some degree, whether it's their mother or somebody else, that they just change back to a different

self. When I read the book, it reminded me of when I first in my life ever became a mental health advocate. I was in college, I was diagnosed with bipolar disorder, and I started hosting mental health awareness events. And in my school paper, there was a section that came out once a semester where people would submit anonymous insults, that were meant to be anonymized. And someone wrote to the kid who went crazy last year, and now hosts all these mental health awareness events in quotes, "for mental health awareness events," you are insane and the things that you did can't be made up for by saying I was a little bipolar at the time, go to the nuthouse immediately. So this was clearly directed at me, I was the person doing mental health awareness events. And I wound up leading a pretty public protest about that section of the paper, and was very interesting. It was like a whole different self of mine emerged, that I didn't know I had of being this advocate. And I was writing open letters, I started a Facebook group. And it was in the early days of Facebook, random people who had their own problems with the paper started contacting me and giving me tips of what to do. And in the course of all this, somebody wrote a public response, you know, trying to rip me down to shreds. And at the end, or maybe it was at the beginning, I think it was at the beginning. They said, I don't know who you are Dan Burstein, but I don't think you'd be a good person to talk to at a cocktail party, like suggesting I had no personality. And I'm paraphrasing that but or what exactly they said. And I wrote back my point by point response, and I said, you know, oh, by the way, how I am, as an advocate, has nothing to do with how I'd be at a cocktail party, I am delightful to talk to, at a cocktail party. And I, I remember just being so thrown by this idea that this person didn't know me at all. And that also, there was a new me that was emerging that was doing this advocacy work. And so when I, you know, thought about the internal family systems model, I really thought about these different parts of me, the part of me that is that is delightful to talk to at a cocktail party. You know, it was collaborative and warm. And then the part of me that is a fierce advocate, which was actually really, you know, part of my personality the whole time, but really came out for the first time with that experience in college. And for me, right now, the idea that there's different versions of me is, is very resonant. Because so many major dispute resolution experts and leaders are avoiding me, because they don't want to hear from me about my advocacy work, or they don't agree with my methods about trying to raise awareness of the discrimination problem. And so they only see me as that fierce advocate person, and they're not seeing the part of me that is collaborative. That is the, you know, the cocktail party, Dan. And so, I found it very helpful. For me, in general to frame this problem I've been having for several years, through the internal family systems paradigm of saying, Well, wait a minute, I have multiple selves. And it also helped me explore how I got here, because it was, you know, it wasn't like I stayed that fierce advocate, I had that experience in college. And periodically, there's times that you know, for long periods of time, including the decade before I started this discrimination work, I wasn't being that fierce advocate, I was being something else I was being more collaborative. And, you know, the goal for me is to figure out a way to have a lifestyle where I can be both where I can continue doing my advocacy work, and I can also be collaborative with people. And I suppose on the third level, it's also important to have self care and not push myself too much to do either and be okay not doing either. But all of these things I now conceive of as parts of myself to be tapped into, as opposed to being so boxed into that one idea of, you know how somebody might see me as not good to be at a cocktail party or as the scary advocate, or some people just see me as the friendly guy, and they don't see the part of me that can be the top advocate, and so.



Chris Casillas 15:24

Interesting, so when you're kind of doing some of this work, or when you're in a particular situation of conflict with a particular person, and kind of recognizing these different parts that

are at play here, and how someone you're interacting with might be kind of very conscious of or aware of or familiar with, kind of one, one part of yourself, but not necessarily the whole, how do you in particularly in these situations, as you describe where they're kind of wanting to, to avoid some of the things that you're you're talking about here? How do you how do you manage those situations? And those kind of multiple parts of yourself to bring that to bear in a particular situation of conflict or disagreement?

D

### Dan Burstein 16:13

Yeah, well, I'll I mean, a common situation I find myself in is I'll contact someone who has published a book or an article or a policy. And I will point out why it has a discriminatory element and ideas about addressing it and try to have a conversation with them. That is not a fun opener. So whoever I'm contacting, I already go in a little bit nervous, because I understand that nobody wants to just open their inbox and hear from someone who's saying, Hey, by the way, you may have accidentally published something discriminatory. And now you might, you may have extra work to do to fix it, and whether or not you're going to fix it, you know, I'm going to potentially be a headache for you today. You know, that's, that's not, there's no, there's no way to make that fun for people. The best that I've been able to do is to try to show some stories of my collaborations with other people. So I've actually had some conference workshops, where there were people who initially avoided working with me on on issues, and they kind of snubbed me or shunned me. But then eventually, they came around and we and we became friends, we became collaborators, we became co presenters, we work together to create new material that address these kinds of problems. And so I try to tell some stories like that, in the hopes that people will know that it's not just a scary advocate, cancel culture, like what you may see, this is somebody who does want to collaborate. So I try my best to do that, I try to also be attentive to the fact that it's a stressful interaction for the other person, but but it's ultimately still very painful for me. Because, you know, when I'm in these situations, the advocacy part of me really takes precedence. I've been hospitalized five times, I've been in different psych wards with different people, I feel a lot of loyalty to the mental health community. And I feel like it's important to address these issues, you know, that others, other people might think are trivial issues. But they are very important day to day that lots of people with mental health problems are being mistreated. And I don't think it's on purpose in most cases, but it's happening. So the advocacy part of me predominates. And then and then the part of me, that's that cocktail party person, that the collaborative person is really sad. So it becomes a very unpleasant interaction. Because I wish the other person would believe me that we can be friends here and taking care of us. I'm not looking to shame them, you know, but of course, all the situations that have resolved in a friendly way, nobody sees those. So I have a reputation now that precedes me of the public advocacy I've done when I've been shunned. And there's no other choice. And so, so it gets to be, you know, difficult. I've gotten better at it. And I've increased my odds of the person realizing, hey, this person is, this Dan person is a genuine person who will work with you, and we'll put time in to try to make you look good, you know, but it's hard. You know, when I'm the first person who ever pointed out the problem to them, it's hard to not have a kill the messenger mentality from them, as if I am the problem, instead of realizing, you know, I'm not coming here with a problem. I'm trying to come here with some solutions. And it just requires them to give me a chance. So that's sort of the place I'm living in, but where the internal family systems model has helped me and where, you know, Len Riskin's book has helped me is just seeing it as these are people who have different parts of themselves. I'm a person who has different parts of myself. Some of them overlap, some of them don't. Some of them are getting activated in different ways at different times. And when I'm in these interactions, I try to attend to all the parts of me that are getting activated, as well

as noticing the parts that might be in them that are coming up such as a part of them that wants to defend their reputation, a part of them that doesn't want the extra work, or part of them that doesn't want to feel like part of their identity is oops, they discriminated. You know, all sorts of things like that. So it's been very helpful to apply those managing conflict mindfully lessons, just from my understanding of these situations, and to try to come up with some solutions that meet everybody's needs.

C

Chris Casillas 20:37

Yeah, that that last part really struck me because it seems and you know, borrowing from the title, I guess, you have to be really mindful of recognizing these different parts in others, and that, when you come to a situation like this, you're activating a lot of different parts from someone else. And if, if you only focus on one part, you're gonna, you're gonna miss these other pieces. And so it sounds like you really try and be deliberate about being attentive to those, to those different things, recognizing some of them may be in internal conflict within the person themselves.

D

Dan Burstein 21:14

Yeah, and I would go further and say, there's a simpler way to do it. Because I don't think it's a good idea to make guesses about what's going on someone else. But on a general matter, from what I've learned, I have certain ideas of the kinds of things people get concerned about. But I think the simplest thing is to just say, gee, this interaction is not going well. But that's not who this person is. And that's not who I am. That's the situation we're in. And one of the quotes that's in Riskin's book that was from David Hoffman is asking the person, is there any part of you? Is there some part of you that feels this way? Is there any part of you that feels a different way? To help que in this idea in general, that whatever's presenting in this moment in this situation is not anyone's full story, it's not my full story as the guy who's coming in and raising these issues, and it's not the other person's full story either. And so just being very open to that, and open to exploring the idea that there's more than what we're seeing right now, on the surface, that each person is complicated. Each person is dynamic, and, you know, just just leaving room to invite other other postures, you know, I think is, is so important. And as opposed to saying, well, if someone sees me and says, gee, Dan is being very forceful, that must be what Dan is always like, but that's not really true. And if I'm seeing them, and I'm saying, gee, these people are avoiding dealing the issue, I guess, they're always avoidant, um I won't bother talking to them again, that's not true, either. And so, instead of going down that point of saying, let me assume that the person who I'm seeing in this conflict right now is the whole story. The mindfulness part that I take from it is just be mindful, there's more parts of people. You know, I would, I would argue, there's infinite parts of people, there's no, there's there's things about themselves that they might not even know are in them. Like when I was surprised to realize, back in college, and I was attacked in the paper, that I that I am an advocate. And that's something I want to do. And, you know, I wrestled with that for years and years in different ways. Before accepting this is a huge part of who I am. But some, sometimes you just don't know. So what's interesting is in conflicts, you can discover things too. They can discover things about themselves, I can discover things about myself. And in fact, you know, you're talking to me now, and it's a few, almost a few years of me doing this work, I can point to specific conflicts I've had with specific people in the field, where I have been transformed from the interaction and parts of me that I didn't know where there emerged. And but

particular I'll say I used to be much more of a perfectionist. And I used to think we need to fix this 100%. And at some point, I realized you don't need to get 100 in every test for there to be progress and to pass the test. And so when I was in mediation, with one person who was a leader, who I could tell was really trying, but we were not getting to the point where I was going to be 100% satisfied. And you know, I'm talking about discrimination. So it's easy to become a purist and say, it has to be totally fixed. I realized, you know what I'm going to, I'm the kind of person who's tolerant of, you know, I'm going to keep going and working with the person and be patient as long as I think they're trying, as opposed to thinking it has to be a perfect fix. And I remember the moment that that flooded me during the interaction and that only came from the trust and the conversation that came in that conflict for me to even realize that and now I consider that a normal course of business for me that I'm always more tolerant and less exacting than I used to be. Though, there's plenty of people who, my reputation is I'm still very tough and exacting, you know, thanks to this person, it could have been worse everybody. So if anyone's listening, I'm a much more open person. And so I think that, you know, these conflicts become great opportunities to discover more parts of everybody.

C

Chris Casillas 25:19

Yeah, I like that. Conflict is a source of discovery. I think that's a key theme for much of us in this space. And you tell the story well, so thanks. In our last few minutes here, maybe, let's let's pivot slightly, because I know many of our listeners themselves have struggled with different mental health issues and, and may be struggling now, you're someone who's been very open in terms of describing your own journey. And we've talked about this kind of word avoidance quite a bit today. And I think one thing that folks that are maybe struggling with a particular mental illness might find is that particularly in situations of conflict, one response they may see to their own participation in that conflict is people avoiding them. And so I wonder if you could kind of close us out with maybe thinking about some thoughts or advice for those folks, and how to remain engaged and productive in those situations, when, when they're experiencing or feeling those kinds of situations?

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Dan Burstein 26:38

Yeah, well, I think, you know, avoidance in general, is a common coping strategy that lots of people use, whether they have a mental health problem or not. Unfortunately, you know, because of different kinds of stereotypes that we have in our society, different people get avoided different amounts. So we know that there's prejudices towards people of certain races, we know that there's different ways, you know, men and women and different sexual orientations, etc, I've been, you know, welcomed in different places differently. And, you know, one of the ways that there's a lot of stigma in our society towards people who are unusual, is that people get avoided. So avoidance can be anything from someone seems a little weird to you, so you don't invite them out with the rest of the coworkers, or you keep your conversations short with them. To you know, someone looks, looks, quote, unquote, crazy. So you go to the other side of the street, or it can be, you know, professionals who I'm contacting about discrimination work, and they just totally put up a wall and don't communicate at all in that context. There's lots of different kinds of avoidance out there. I've been doing workshops, to try to help people with mental health problems, respond when there's stigma that leads



people to avoid them. And I also have been doing work professionally, when when advocates are getting avoided, like I've been getting avoided. And, you know, I have some resources. And if there's show notes or something, could I put a link?

C

Chris Casillas 28:11

Yeah. Yes, absolutely!

D

Dan Burstein 28:12

I'll get a link together to include in the show notes of a lot of, a lot of resources. But I'll tell you the most important thing that I've learned, for me personally as a coping skill, and also as an effective strategy when there's avoidance, and it is to go to somebody else. So I have a situation where I can write very quickly, you can see I've got a lot I'm saying a lot right now. You know, I write very fast and I, I respond to people, and sometimes people start to shun me when I contact them. And people have said things like they think I'm a stalker, I which is a common slur for mental illness. So I have this fear that if I'm contacting someone, like let's say someone's published a book, and I reached out to them, they don't answer me for a week, and I reach out to them again. But what if they start saying the fact that I'm reaching out to them a bunch means that I'm a psycho stalker, that's happened to me before. So what I learned to do as a model for avoidance is I send one final message to the person that says, It seems like you're not available, so here's what I'm going to do next. And I'm going to go some to somebody else or do something else. And I have this all mapped out. So I'll have that in a link for the notes about how to do this. You know, I have it's a three step. It's a three step model, the three R's. Respect, Reply and Reorient. So the first thing you do is respect the person's choice not to talk to you. So even if someone is treating me like an awful stereotype, which I totally disagree with, I still accept that they don't want to speak to me. So I say I see what you're saying. I'm gonna go do something else now. Then that's the reply part is I send, I send one final reply because sometimes if you think someone's avoiding you, but you don't formalize that and say that they don't have an opportunity to correct you if they're not avoiding you. So I do one final reply. And then I reorient and reorient means don't sit around and do nothing. That's part of what some people want when they avoid you is to just have you disappear and be stuck and frozen. Go somewhere else. So just today I had an interaction with someone at one organization where they have a retaliation policy, I have experienced retaliation under the policy. But every time I've contacted them, they didn't answer. So I caught them in September, and they never answered to two different messages. And then the past few months, I've been contacting other departments that are listed in the policy. And just today, they contacted me and said, You should be contacting me, you shouldn't be contacting the other departments. And I said only contacted the other departments because I hadn't heard from you. And I'm happy to talk to you. And if I don't hear from you, then I'll look for other options. But that was a situation where I was being portrayed, like I did something wrong, but I couldn't even use the on the books retaliation policy at this organization, because they weren't answering me and they weren't talking to me. And and I had success in hearing from the person because after I contacted a few different people in succession, different people who have different professional roles, eventually that person got back to me. So I felt like that was me having learned from the model that I've developed with avoidance, that works out better to contact other people. And I've seen that work out in a lot of different kinds of capacities beyond that, personally, if, if, if someone is not available to have a supportive conversation with me, I'll look for a different



friend, or, or different or a mental health professional or someone to talk to a third party to talk to for support rather than sit and languish and keep banging down the door that's not going to answer. And so this idea of respect, reply, reorient has really changed my life, because I had better results, I move forward. And I wind up meeting new people, you know, I wind up connecting with new people where eventually, there's somebody who is more receptive to me. And it turns out that that person is the right person to become a friend of mine, or something who I never would have met if I kept going and bashing my head against the wall with the person who was avoiding me. So that's one answer. That's a quick answer about avoidance. I'll share some other resources, you know, with, with, with the show notes, or whatever you've got, because there is a lot there. Especially if there's stigma. And I have a whole tool I've created for that as well for figuring out if someone stigmatizing you and what to do if you have a mental health problem. But, you know, I know we've talked a lot already. So I will wrap it up there. But I can't stress enough. If you're in a situation where someone's avoiding you, one of the best things to do is think about other other ways to get help, etc. And accept that person is gone, at least for now.

**C** Chris Casillas 32:48

All right, well, thank you. And yes, good reminder, as is true with all of our episodes, we do include some show notes, where we include any references or outside resource materials. Sounds like Dan has quite a bit to share here. So we will be sure to include those links in today's episode. Dan, thank you very much for your time and expertise. Great conversation. Really appreciate your insight, and work on things. And thank you for joining us here at the PERColator.

**D** Dan Burstein 33:19

Thank you for having me.