



THE OHIO STATE UNIVERSITY

KIRWAN INSTITUTE FOR THE
STUDY OF RACE AND ETHNICITY

THE SUPREME COURT *of* OHIO

IMPLICIT BIAS AND APPRECIATING DIFFERENCES

Cathy Geyer, JD

Supreme Court of Ohio

Pronouns: she/her/hers

Lena Tenney, MPA, MEd.

Kirwan Institute

Pronouns: they/them/theirs

OACTA Annual Meeting | November 16, 2018





FRAMING THE CONVERSATION

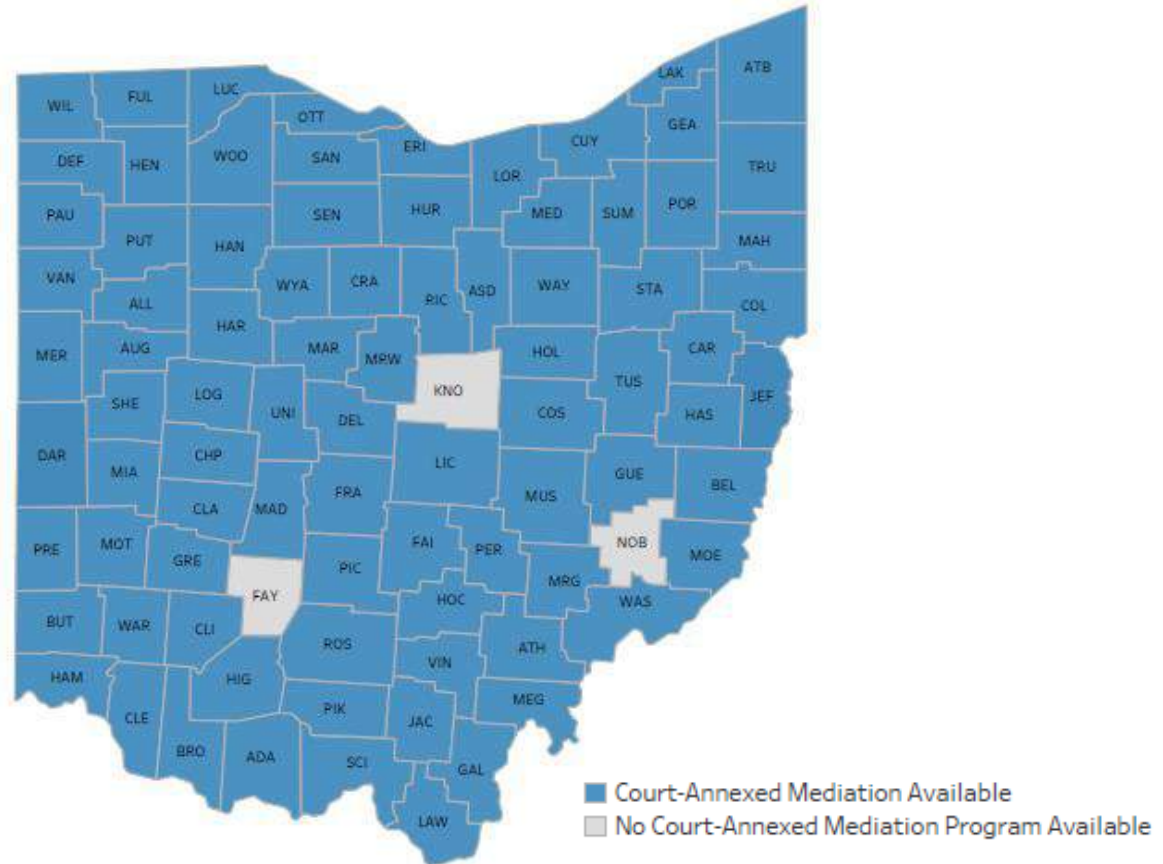
OBJECTIVES

By the end of this presentation, you will be able to:

- Identify how implicit bias affects mediation and negotiation
- Know how court mediation programs assure minimum standards of training and performance
- Discuss the importance of “*appreciating*” differences
- Recognize unconscious or implicit bias and apply strategies to reduce it



MEDIATION IN OHIO



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Image Credit

APPRECIATING DIFFERENCES

APPRECIATING DIFFERENCES

Appreciation

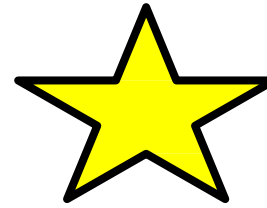
- An understanding of the nature, worth or significance of; recognition of value; admiration; recognition with gratitude.

Differences

- Characteristics that distinguish one from another.



APPRECIATING DIFFERENCES



Avoidance—You clearly feel uncomfortable around these differences. You try to avoid them and do not want to work with them.



Tolerance—You don't feel completely comfortable with these people's differences. You believe they have a right to be treated respectfully, but, if you had your choice, you would not have them as co-workers or customers.



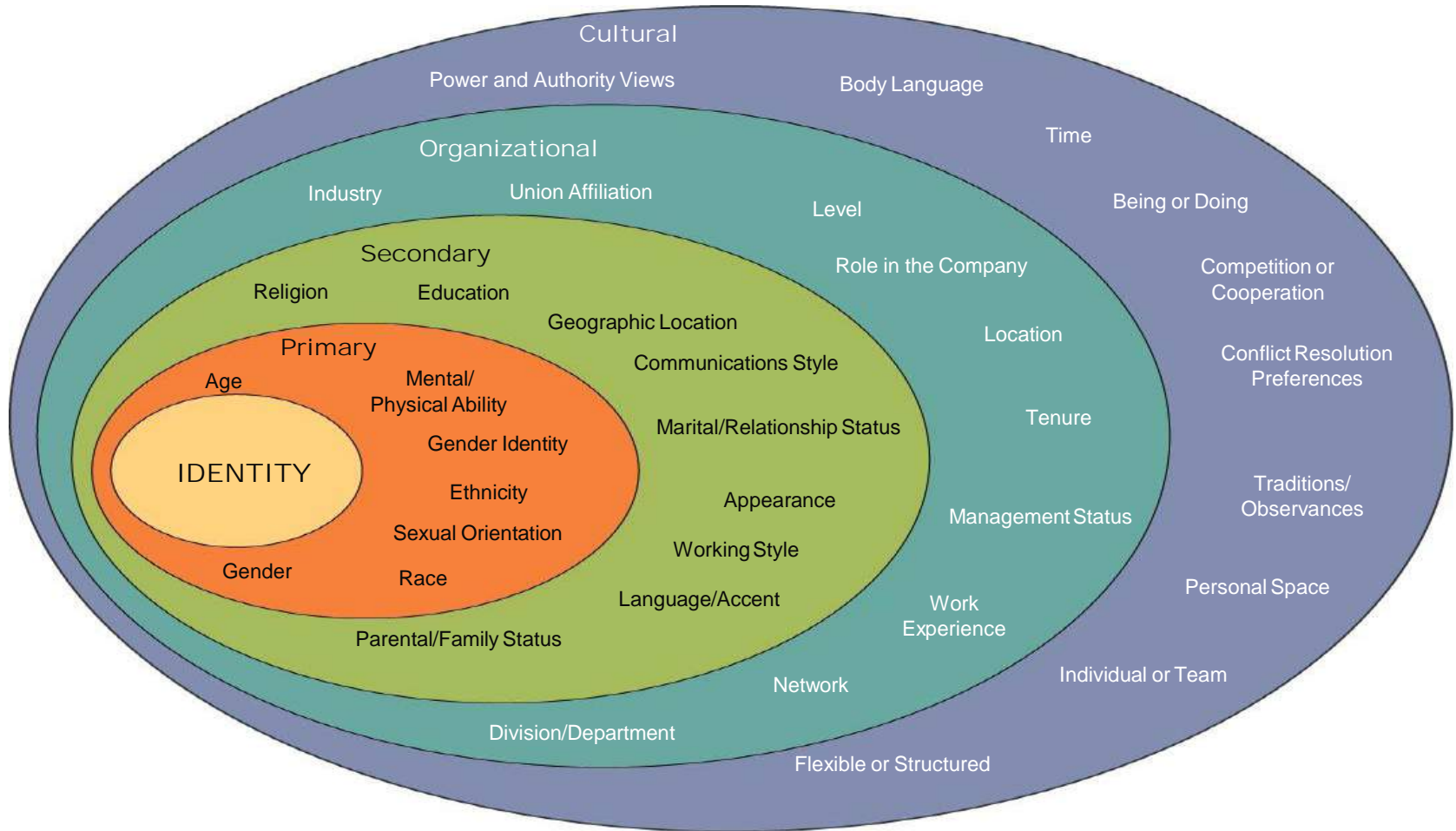
Acceptance – These people's differences don't really matter to you. You pay most attention to the ways in which they are the same as you and tend to ignore the ways in which they are different.



Appreciation – You see these differences as positive. You enjoy them and choose to be around them.



DIMENSIONS OF DIVERSITY



EXAMPLE: AIRPLANE SEATING



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COMMUNICATION STYLES

- Formality
- Clarity
- Intensity
 - Expressive vs. restrained
- Certainty



HABITS AND PRACTICES

- Time
- Space
- Eye contact
- Physical contact
- Negotiating contexts and styles
- Decision-making styles
- Hierarchies



APPLICATIONS

Individuals who appreciate differences can:

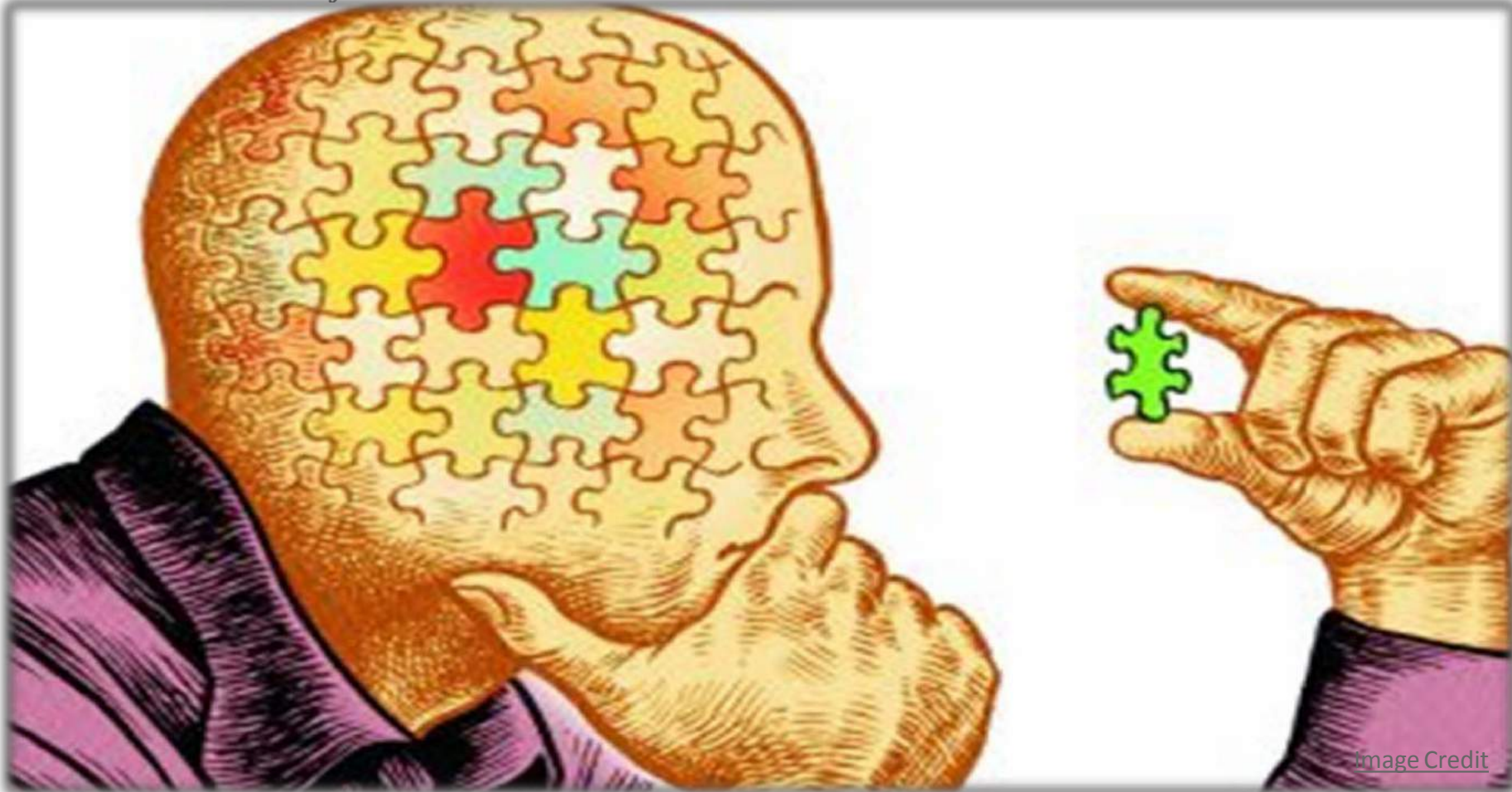
- Increase the likelihood of agreement by aligning intentions with outcomes
- Understand or stand in the shoes of the other side in an effort to achieve a mutually agreeable result
- Reduce barriers that often prevent conflict resolution



4 STRATEGIES TO REDUCE THE IMPACT OF IMPLICIT BIAS IN MEDIATION

1. Common Identity Formation
2. Perspective Taking
3. Consider the Opposite
4. Counter-Stereotypical Exemplars

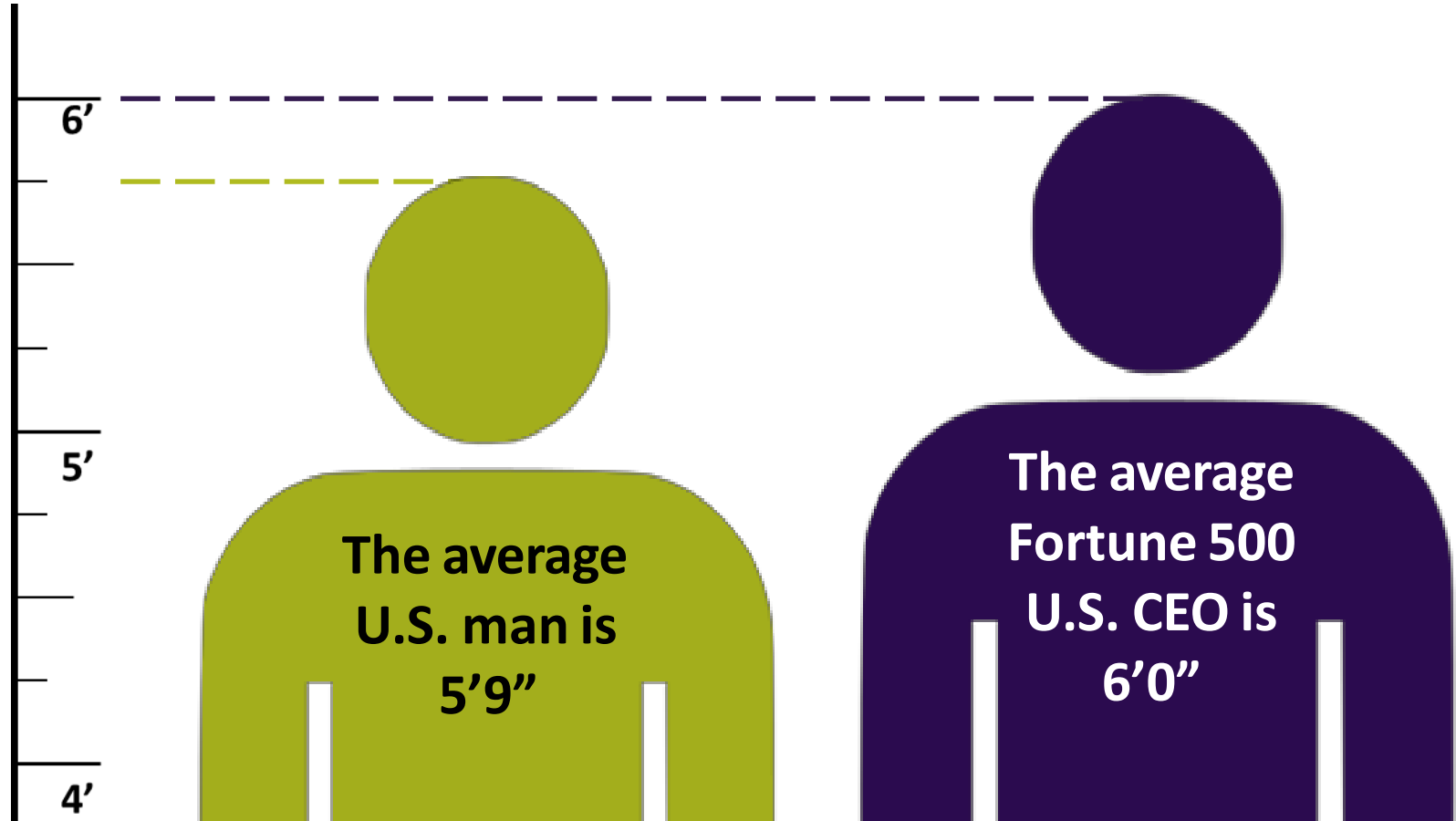




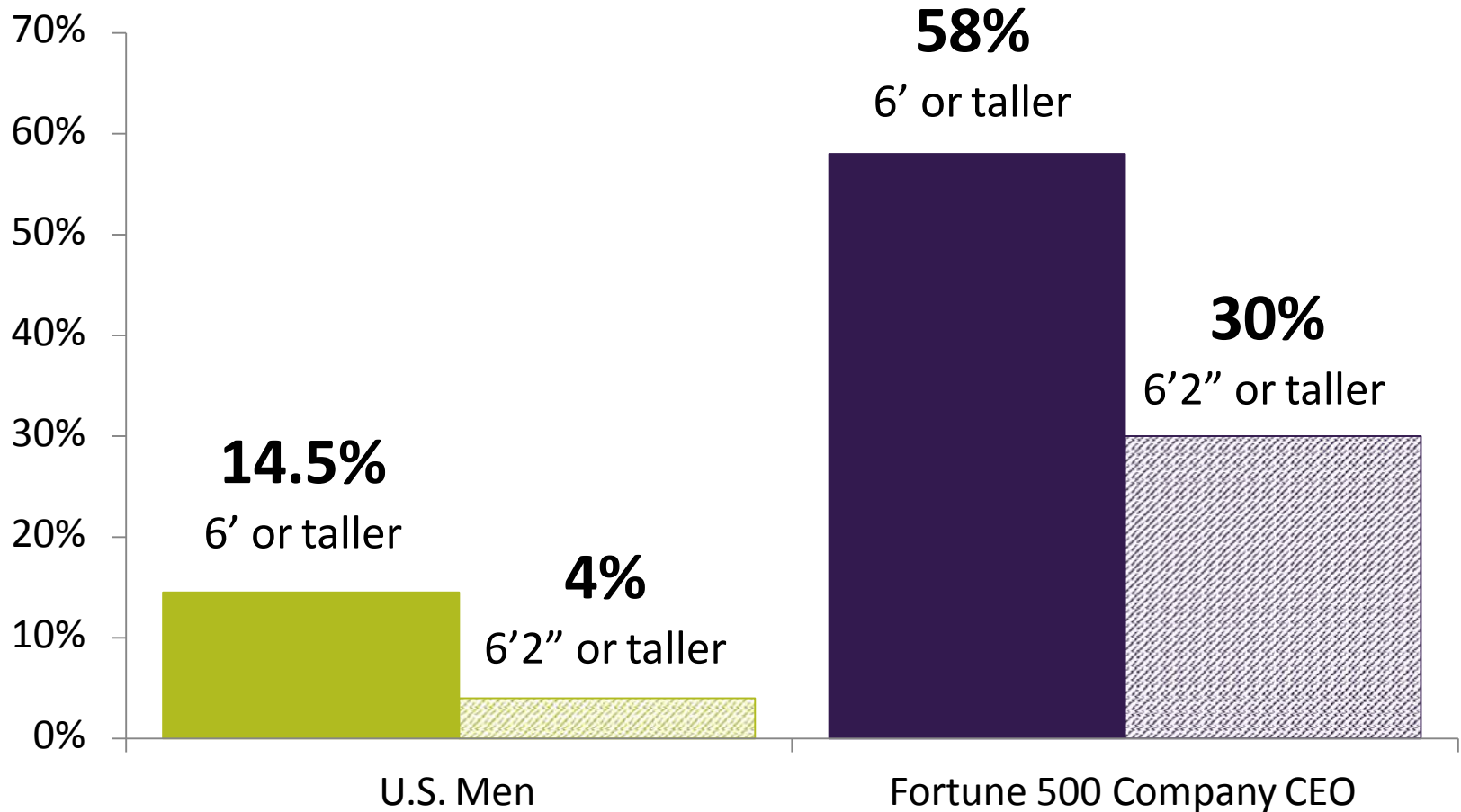
UNDERSTANDING IMPLICIT BIAS

HOW OUR MINDS WORK

IS IT JUST A COINCIDENCE?



LEADERSHIP AND PHYSICAL STATURE

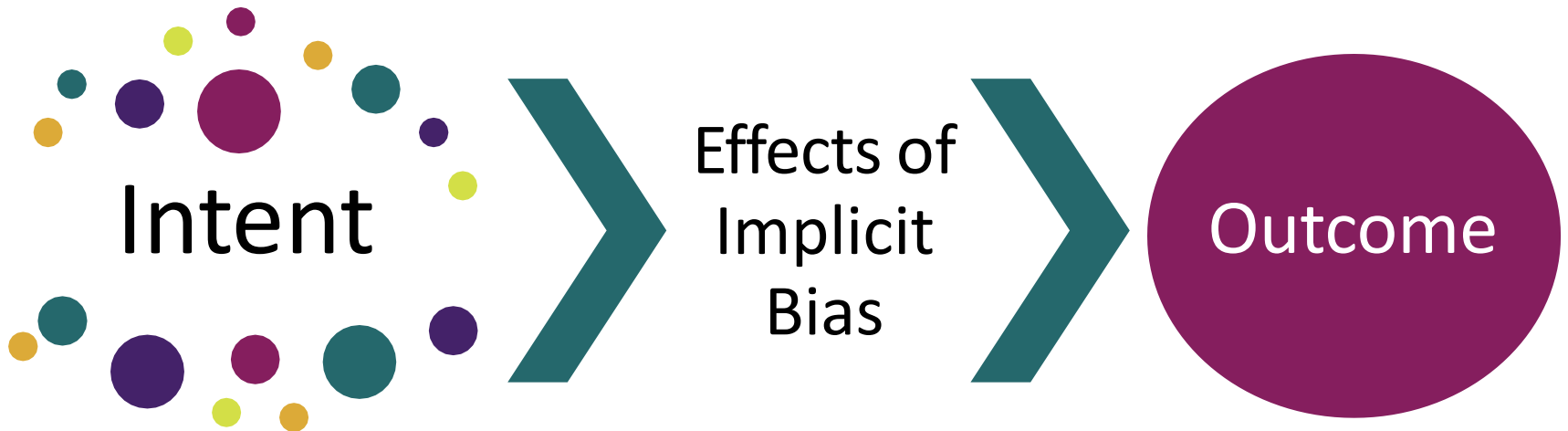


DEFINING IMPLICIT BIAS



Attitudes or stereotypes that **affect our understanding, actions, and decisions** in an unconscious manner.

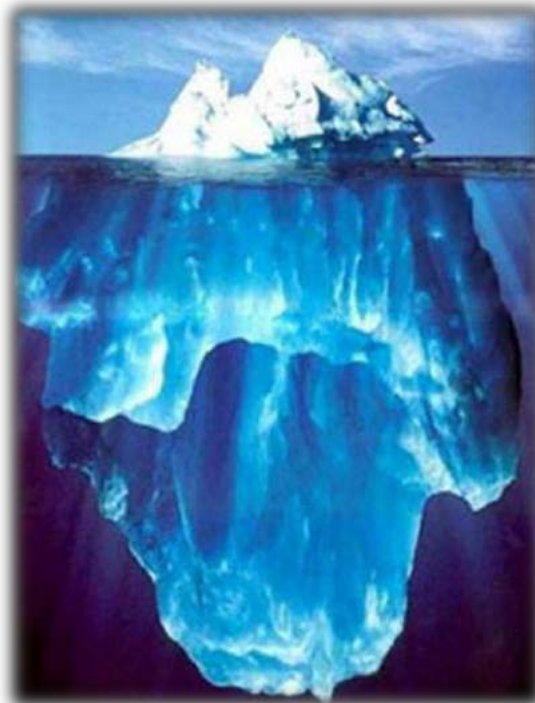
IMPLICIT BIAS CAN TURN EVEN OUR BEST INTENTIONS INTO UNWANTED OUTCOMES



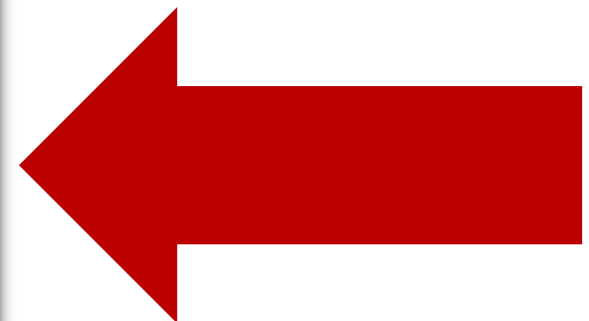
LIMITED CONSCIOUS PROCESSING CAPACITY



Conscious Mental Processing
(**7 ± 2 pieces of info**)



Unconscious Mental Processing
(**Millions/potentially unlimited pieces of info**)



BIASES ARE ASSOCIATIVE AND ADAPTIVE



= DANGER!





Red
Blue
Orange
Brown
Green
Blue
Orange
Red
Brown
Red



Orange
Green
Brown
Red
Green
Orange
Red
Blue
Green
Orange



CONDITIONS OF SUSCEPTIBILITY DURING KEY DECISION-MAKING MOMENTS

Time Constraints

Compromised Cognitive Control

High Ambiguity

Overconfidence in Objectivity



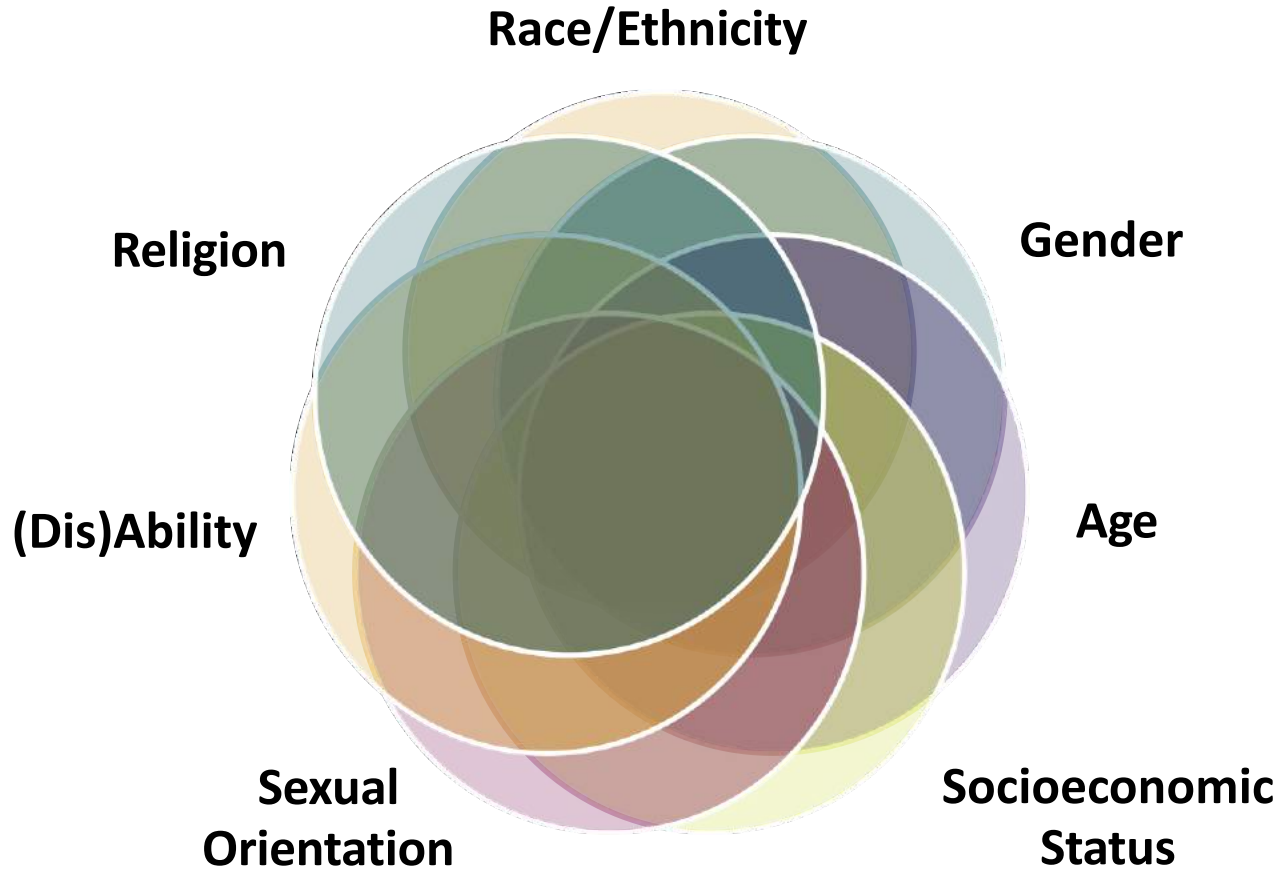
ORIGINS OF OUR ASSOCIATIONS



Family, friends, & early life experiences
Media messaging: both traditional & social



IMPLICIT BIAS CAN BE ACTIVATED BY ANY PERCEIVED SOCIAL IDENTITY



THE IMPLICIT ASSOCIATION TEST

- Measures the **relative strength** of associations between pairs of concepts
- Stronger implicit associations = **less time** to pair and **fewer matching errors**
- Weaker implicit associations = **more time** to pair and **more matching errors**





REAL WORLD IMPLICATIONS

MANIFESTATIONS OF BIAS

RACE AND PERCEPTIONS OF COMPETENCE

Thomas Meyer

African American Male

3rd Year Associate

NYU Law School

Racialized outcomes disparities persist across all elements of our society: education, criminal justice, healthcare, ~~employment~~, and more. Though the compounding effects of structural inequality, institutional barriers, and explicit racism are often identified as ~~causes~~ of these disparities, in recent decades ~~scholars~~ have evaluated the role of implicit racial bias in furthering these gaps. Furthermore, studies have been conducted to explore methods for mitigating the operation and impact of implicit racial bias on life outcomes. Of particular interest to this study is the belief that repeated exposure to stereotype incongruent images of a stigmatized group – a counter-stereotypical exemplar – may reduce an individual's ~~level of implicit racial bias~~.

Not exactly....

Several scholars have examined this notion of a counter-stereotypical exemplar in relation to President Obama. As our first African American president, he exhibits many attributes that are incongruent with common stereotypes of African Americans. Additionally, as the nation's president ~~he is seen as a person and highly visible~~ as such, President Obama is a promising Black counter-stereotypical exemplar. This present study adds to this exploration by examining the real-world influence... *Not the best interpretation of the case...*

Thomas Meyer

Caucasian Male

3rd Year Associate

NYU Law School

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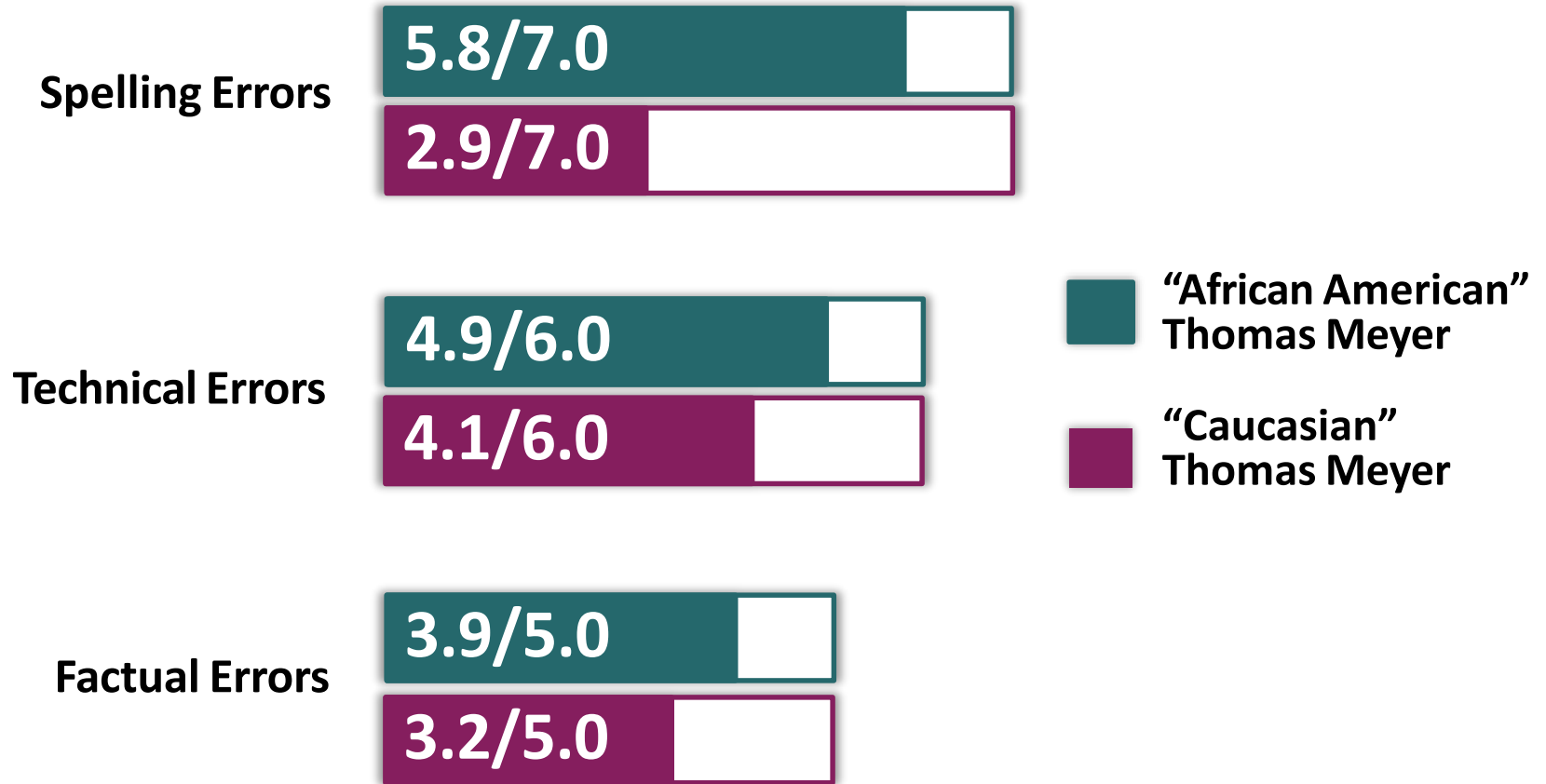


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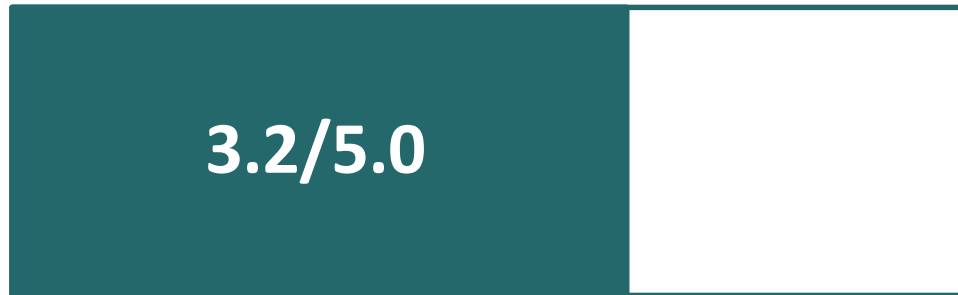
KIRWAN INSTITUTE FOR THE
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Reeves, A. N. (2014). Written in Black and White: Exploring confirmation bias in racialized perceptions of writing skills *Yellow Paper Series*. Chicago, IL: Nextions.

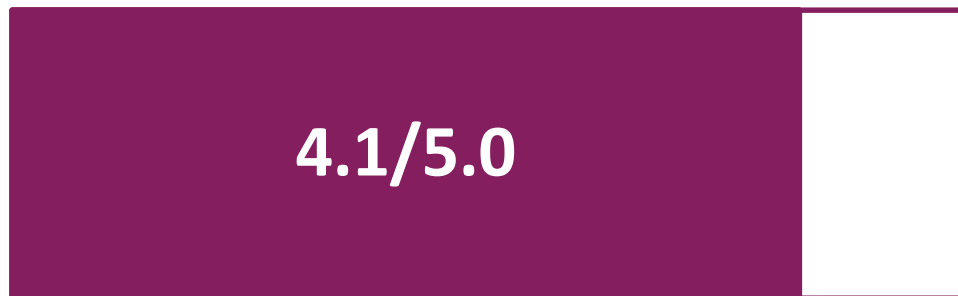
RACE AND PERCEPTIONS OF COMPETENCE



RACE AND PERCEPTIONS OF COMPETENCE



**“African American”
Thomas Meyer**



**“Caucasian”
Thomas Meyer**

RACE AND PERCEPTIONS OF COMPETENCE

“African American” Thomas Meyer

“needs lots of work”

*“can’t believe he went
to NYU”*

“average at best”

“Caucasian” Thomas Meyer

*“generally good writer
but needs to work
on...”*

“has potential”

“good analytical skills”



UNDERSTANDING THESE RESULTS

Partners expected more errors and lower quality in the memo written by the African American male.

AND/OR

Partners expected fewer errors and higher quality in the memo written by the Caucasian male.





CHALLENGING IMPLICIT BIAS

INDIVIDUAL & INSTITUTIONAL STRATEGIES

KNOW YOUR BIASES



The 2013 general audience book that fully explains the IAT




Project Implicit[®]

PROJECT IMPLICIT SOCIAL ATTITUDES
Log in or register to find out your implicit associations about race, gender, sexual orientation, and other topics!

LOGIN **REGISTER**

Or, continue as a guest by selecting from our available language/nation demonstration sites:

 United States (English) **GO!**

PROJECT IMPLICIT MENTAL HEALTH
Find out your implicit associations about self-esteem, anxiety, alcohol, and other topics! **GO!**

PROJECT IMPLICIT FEATURED TASK
Do pets like some groups of people more than others? Tell us your opinion and learn your own implicit attitudes regarding race. **GO!**

CHANGE UNWANTED BIASES



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Pascual-Leone, A., Freitas, C., Oberman, L., Horvath, J. C., Halk, M., Eldaief, M., . . . Rotenberg, A. (2011). Characterizing brain cortical plasticity and network dynamics across the age-span in health and disease with TMS-EEG and TMS-fMRI. *Brain Topogr*, 26, 302-315. [ImageCredit](#)

"But if I go over there and get to know them as individuals, what am I supposed to do with my stereotypes?"



INTERGROUP CONTACT

Allport, G. W. (1954). *The Nature of Prejudice*. Cambridge, MA: Addison-Wesley. Peruche, B. M., & Plant, E. A. (2006). The Correlates of Law Enforcement Officers' Automatic and Controlled Race-Based Responses to Criminal Suspects. *Basic and Applied Social Psychology*, 28(2), 193-199.



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REDUCE SUSCEPTIBILITY AT KEY DECISION-MAKING MOMENTS

Time Constraints

Compromised Cognitive Control

High Ambiguity

Overconfidence in Objectivity




UTILIZE DATA

Logging data may be the first way to establish that bias may be an issue and can help inform next steps.

Set clear goals, track progress, & analyze trends



BE AN ACTIVE BYSTANDER



IDENTIFY the emergence of bias
DECIDE to address the situation
SPEAK OUT
FOLLOW UP



CONTINUALLY CREATE INCLUSIVE ORGANIZATIONS

- Hiring
- Practice
- Selection of mediators
- Retention



ADDITIONAL RESOURCES



The screenshot shows a video player interface for the 'Implicit Bias Module Series'. The header features the title 'Implicit Bias Module Series' in white and yellow text, with 'KIRWAN INSTITUTE FOR THE STUDY OF RACE AND ETHNICITY' below it. The background of the header is a stylized brain with blue and red neural connections. A navigation menu on the left lists: 'Introduction Video' (with a play icon), 'OVERVIEW', 'MODULE 1', 'MODULE 2', 'MODULE 3', 'MODULE 4', and 'FINAL THOUGHTS'. The main video area displays the text 'From the nation's leading experts on implicit bias' in white and yellow. At the bottom, a video control bar shows a play button, a progress bar at 01:02, and icons for volume, settings, and full screen.



*“If you always think what you’ve always thought,
you will always do what you’ve always done.*

*If you always do what you’ve always done,
you will always get what you’ve always got.*

*If you always get what you’ve always got,
you will always think what you’ve always thought.”*

THINK Different | DO Different | GET Different





QUESTIONS AND ANSWERS

BEING AN ACTIVE BYSTANDER

STRATEGIES FOR CHALLENGING THE EMERGENCE OF BIAS

THE KIRWAN INSTITUTE FOR THE STUDY OF RACE & ETHNICITY | 2017 | AUTHOR: LENA TENNEY

Thank you for your commitment to challenging explicit and implicit biases in your professional role and day-to-day life. It can be difficult to know what to say when a family member, friend, colleague, or acquaintance makes problematic comments. However, we will only be able to dismantle racism in its overt forms if we are brave enough to challenge racism in even its most common forms. The Kirwan Institute invites you to utilize these strategies in order to empower yourself to speak out in response to biased comments. In the words of Audre Lorde, *“When we speak we are afraid our words will not be heard or welcomed. But when we are silent, we are still afraid. So it is better to speak.”*

Below is a description of how individuals can be active bystanders when faced with the emergence of bias in interpersonal interactions. These suggestions encompass a variety of approaches to opening a conversation about bias. Each person should consider which strategy or strategies might be most appropriate to employ based upon the context of the situation, as well as their own personal strengths and comfortability with using the strategy. This document is intended to provide some tools for being an active bystander while recognizing that there is not a one-size-fits-all solution to challenging every manifestation of bias.

Steps to Being an Active Bystander

- Identify the emergence of bias.
- Decide to address the situation.
- Take action.
 - The goals of these strategies are to educate people and invite them to do better, rather than to criticize or ostracize them. They are intended to help address the situation while avoiding making the person defensive, a common reaction to challenging bias.
 - There is a difference between calling someone in (inviting discussion and learning) and calling someone out (shutting down the conversation). Both approaches can be valid in various circumstances, so choose which one is most appropriate for the situation.
- Continue the conversation.

Strategies for Speaking Out

- **Use humor.**
 - “What are you?” “Human! How about you?”
 - “Your English is so good!” “I should hope so since it’s the language I’ve been speaking my entire life!”



- **Be literal/refuse to rely on the assumption being made.**
 - “That’s so gay!” “I didn’t know that ____ could have a sexual orientation. How does that even work?”
 - “That stereotype gets me every time! I don’t understand why so many people think that stereotyping an entire group of people makes any sense.”
 - “I don’t get the joke. Can you explain it to me?” If they say that “it was just a joke” or that “you can’t take a joke” you can say, “I know that you think it’s just a joke. But I don’t think that joke is funny.”
- **Ask questions that invite discussion.**
 - “What do you mean when you say that?”
 - “Do you know what that phrase actually means and where it came from? Most people have no idea that it actually has an offensive meaning.”
 - “Can you explain your thought process to me? I want to be sure I understand how we reached such different conclusions.”
- **State that you are uncomfortable.**
 - “That phrase makes me uncomfortable. Could you please not use it around me?”
 - “Assumptions about an entire group of people make me uncomfortable. I don’t think that we can take that assumption for granted or make our decisions based off of it.”
 - “I’m not sure how I feel about that.”
- **Use direct communication.**
 - Speak honestly and from the heart, using “I statements” to communicate how you are feeling, why that is the case, and what could be done.
 - “When we say that people who are nearing retirement shouldn’t be promoted to this position because they might not be as dedicated at this point in their career, I worry that we aren’t being fair to our older employees. That assumption doesn’t take into account every individual’s circumstances and work ethic, so can we please make sure we aren’t relying on it when deciding who to consider for the position?”
 - “I know that you aren’t intending to stereotype anyone, but as your friend I wanted to let you know that what you said could easily be interpreted that way. Since I know you’re a good person who cares about others, I would hate for you to accidentally say it again without realizing how it can come across.”

Continuing the Conversation

- Offer support to people who may have been directly affected by the biased comment(s).
- Consider what could be done in order to prevent the situation next time—such as being aware and intentional about the words and phrases you use.
- Be a consistent champion of challenging bias. One discussion is not as likely to change institutional culture and society as a series of ongoing conversations.

For additional information or questions, please contact:

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IMPLICIT BIAS BENCH CARD

MITIGATING BIAS IN DECISION MAKING

THE KIRWAN INSTITUTE FOR THE STUDY OF RACE & ETHNICITY

Act Consciously and Deliberately

- Before beginning, remind yourself of your role; the values of the institution; and your commitment to mitigating bias in your decision making processes and outcomes.
- Before beginning, engage in a mindfulness meditation exercise in order to bring yourself into the present, ground yourself, clear your mind, and focus fully on the task at hand.
- Allow more time for cases in which implicit bias may be a concern.
- Avoid decisions under rushed, stressed, distracted or pressured circumstances.
- Engage in thoughtful information processing. Objectively and deliberately consider the facts at hand. Avoid low-effort decisions or decision made on auto-pilot.
- Take special care in situations when you must respond quickly to avoid making snap decisions.
- Articulate the reasoning behind your decision before committing to a decision to allow yourself to critically review your decision making process.

Be Self-Aware

- Analyze your physical state.
 - Are you hungry? Are you tired? Are you distracted? If so, what can you do to change these conditions? Eat a snack, rest, and/or reduce distractions.
- Analyze your emotional state.
 - Do any negative or positive emotions you are currently feeling pertain to the case? If so, what can you do to reduce your emotionality? Acknowledge your emotionality and its source, do a mindfulness meditation exercise, and/or ground yourself in the present.
 - Do you have emotionality unrelated to the case that you are nonetheless feeling? If so, what can you do to reduce your emotionality? Acknowledge your



emotionality and its source, do a mindfulness meditation exercise, and/or ground yourself in the present.

- Analyze the context of the situation and your surroundings.
 - Do you have adequate time to fully consider all factors before making the decision? If not, what can you do to decrease the time pressure? Ask for an extension, use your time as efficiently as possible, and/or focus most of the time you do have on the elements of the decision that have the most impact.
 - Do you have all the information that you need to make the decision? If not, what can you do to increase the amount of necessary information that you have? Ask additional questions, do additional research, and/or review existing information for any details you might have missed.
 - Is any of the information you have ambiguous? If so, what can you do to increase the clarity of the information? Ask clarifying questions and/or check other reliable sources.
- Consider whether you are requiring more or less from a person than you would from others.
- Ask yourself if your opinion of any of the people involved would be different if they belonged to a different identity group.
- Consider how any of the individual persons involved is different from other people in their same identity group.
- Be mindful of your decision making process, as well as the resulting decision.

Create Processes to Serve as a Check on Unintended Bias

- Take notes and rely on those notes over memory.
- Consider what evidence supports the conclusions you have drawn and how you have challenged unsupported assumptions.
- Seek feedback from others. Would others perceive or handle the situation differently?
- Track your decisions and periodically examine them for any pattern of bias.

Bench Card Model

The Committee for Equality and Justice of the Minnesota Judicial Branch (April 2015)

MAKING SENSE OF YOUR IAT RESULTS

COMMON REACTIONS TO THE IMPLICIT ASSOCIATION TEST

THE KIRWAN INSTITUTE FOR THE STUDY OF RACE & ETHNICITY

For many people, receiving the results of an Implicit Association Test (IAT) can bring forth a level of relief or self-reinforcement. This is particularly true when one's implicit preferences align with one's explicit beliefs. Alternately, for many people there is disconnection between espoused beliefs and the results of the IAT. If this is your experience, you may be left wondering how to make sense of your IAT results.

This document provides a research-based typology of some common reactions to the IAT.¹ Regardless of what reaction(s) you may have, it is important to know that your feelings are normal and you are not alone in feeling this way. While we all have biases that may or may not align with our deeply held explicit beliefs of justice and equity, what speaks to the content of our character is how we choose to act in the face of learning about the implicit biases that we possess.

Common Reactions to the IAT

- **Disbelief**
 - It is common for people whose results conflict with their worldview to experience a level of disbelief and defensiveness about their results.
 - *What to do if you're experiencing disbelief:* If you are experiencing these feelings, remind yourself that our implicit biases are often different from our explicit beliefs. Therefore, regardless of your results, it is important to remember that our implicit biases are not measures of whether or not we are good people, but rather what messages and experiences we have internalized over a lifetime. Moreover, research suggests we have the capacity to alter our unwanted implicit associations.
- **Disregard**
 - Perhaps you're questioning whether or not your score would be different if you're right or left-handed? Or maybe you're thinking that it may be possible to somehow outsmart the test? If so, rest assured that you are not the first person to have these thoughts.
 - *What to do if you're experiencing disregard:* Check the evidence—more than a decade of research exists analyzing various components of the IAT and its functioning. Although debates persist in the academic community, by and large the IAT has been found to be a reliable and valid measure of one's automatic associations.² Researchers have even assessed whether or not folks are able to “fake out” the IAT.³ Remind yourself that while it is sometimes easier to disregard a challenging result, learning comes from embracing and moving through discomfort in order to engage in self-reflection.



- **Acceptance**
 - For some people, it is relatively easy to come to a place of acceptance of their results.
 - *What to do if you're experiencing acceptance:* If you're able to quickly come to a place of understanding of your results and why you possess the associations that you do, the next step is to move toward action. This can be finding ways to change associations that don't align with your explicit beliefs and/or finding ways to ensure that your unwanted biases are not unintentionally yielding unwanted effects.
- **Discomfort**
 - Most individuals feeling discomfort accept the accuracy of their IAT results, but are upset or uncomfortable with their results. Uneasiness with one's results can lead to reflection, questioning, and/or uncertainty.
 - *What to do if you're experiencing discomfort:* If you are made uncomfortable by your results, you're likely accepting the validity of the IAT. This is a major step in beginning to correct your biases. To feel less uncomfortable with implicitly holding potentially harmful biases, you can look toward what your biases indicate and realize that society shapes our biases.
- **Distress**
 - Feelings of distress come with elevated concern with one's results, sparking reflection on personal responsibility. This can sometimes manifest through embarrassment, guilt, shame, and/or a desire for action.
 - *What to do if you're experiencing distress:* If you are feeling distress, think of how taking action to combat these biases may change your role in harboring potentially harmful biases. Taking steps to change your biases and champion bias mitigation in your environment may also help.

Reflection Questions

- What feelings or reactions did you have upon learning your IAT results?
- Reflect on your life experiences that may have influenced your results. Consider your childhood and family upbringing; the neighborhoods in which you've lived; elements of your career path; media messages; your family and peer networks; etc. How might these experiences have shaped your biases, with or without your conscious awareness?
- How might knowing your IAT results affect your future actions and decisions, both in your role at your workplace and in other aspects of your life?

Citations

1. Clark, P., & Zygmunt, E. (2014). A Close Encounter with Personal Bias: Pedagogical Implications for Teacher Education. *The Journal of Negro Education*, 83(92), 147-161.
2. Greenwald, A. G., & Nosek, B. A. (2001). Health of the Implicit Association Test at Age 3. *Zeitschrift für Experimentelle Psychologie*, 48(2), 85-93.
3. Steffens, M. C. (2004). Is the Implicit Association Test Immune to Faking? *Experimental Psychology*, 51(3), 165-179.

MYTHBUSTERS

IMPLICIT BIAS EDITION

CLEARING UP THE CONFUSION SURROUNDING IMPLICIT BIAS

What is Implicit Bias?

MYTH: Implicit bias is nothing more than beliefs people choose not to tell others. They know how they feel; they just know they cannot or should not say those beliefs aloud, so they hide them.

BUSTED

Implicit bias differs from suppressed thoughts that individuals may conceal for social desirability purposes. **Implicit biases are activated involuntarily and beyond our awareness or intentional control.** Implicit bias is concerned with unconscious cognition that influences understanding, actions, and decisions, whereas individuals who may choose not to share their beliefs due to social desirability inclinations are consciously making this determination.

MYTH: Implicit bias is nothing more than stereotyping.

BUSTED

Implicit biases and stereotyping are closely related concepts that can be easily confused. Both implicit biases and stereotypes are types of

associations that can be positive and negative. While it is true that implicit associations may form as a result of exposure to persistent stereotypes, **implicit bias goes beyond stereotyping to include favorable or unfavorable evaluations toward groups of people.** Additionally, implicit biases are activated involuntarily, whereas stereotyping may be a deliberate process of which you are consciously aware.

MYTH: Having implicit biases makes me a bad person.

BUSTED

Bias is a natural phenomenon in that our brains are constantly forming automatic associations as a way to better and more efficiently understand the world around us. **No one is a “bad” person for harboring implicit biases; these are normal human processes that occur on an unconscious level.** Some implicit biases are even positive in nature. In terms of the existence of unwanted, negative implicit biases, fortunately our brains are malleable, thus giving us the capacity to mitigate their effect through research-based debiasing strategies.

How Does It Operate?

MYTH: I am not biased; I have diverse friends and I believe in equal treatment.

BUSTED

Actually, we all have implicit biases. Research shows that all individuals are susceptible to harnessing implicit associations about others based on characteristics like race, skin tone, income, sex, and even attributes like weight, and accents. Unfortunately, these associations can even go as far as to affect our behavior towards others, even if we want to treat all people equally or genuinely believe we are egalitarian.

MYTH: I am fully aware of my thoughts and actions, and I make all of my decisions based on facts and evidence; therefore, implicit bias does not affect my behavior.

BUSTED

By their very nature, implicit biases operate outside of our conscious awareness. Thus, it is possible that your thoughts and actions are

being influenced by implicit associations beyond your recognition. **In fact, researchers have found that sometimes implicit associations can more accurately predict behavior than explicit beliefs and thoughts.**

MYTH: I'm Black; I can't have bias against Black people. I'm also a woman, so it does not make sense that I would have implicit biases against my own sex.

BUSTED

Researchers have discovered that many Americans, regardless of race, display a pro-White/anti-Black bias on the Implicit Association Test. Similarly, some research has documented the prevalence of pro-male/anti-female implicit biases in both men and women. **This occurs because implicit biases are robust and pervasive affecting all individuals**, even children. We are all exposed to direct and indirect messages throughout the course of our lifetime that can implicitly influence our thoughts and evaluations of others.

What Can We Do About It?

MYTH: If bias is natural, there is obviously nothing we can do about it.

BUSTED

Just because bias is a natural tendency does not mean that we are helpless to combat it. Indeed, **unwanted implicit biases can be mitigated**. Researchers have demonstrated the efficacy of various intervention strategies, such as intergroup contact, perspective-taking, and exposure to counter-stereotypical exemplars. By taking the time to understand your personal biases, you can begin to mitigate their effects.

MYTH: It's a waste of time to try to mitigate my implicit biases. They do not impact anyone anyways.

BUSTED

Extensive research has documented the real-world effects of implicit biases in the realms of health care, criminal justice, education, employment, and housing, among others. For example, implicit biases can affect the quality of care a patient receives, the level of encouragement students receive from their teachers, whether or not an individual receives an interview or promotion, and more. **Implicit biases have huge implications**; thus, it is important to identify your own biases and then actively engage in debiasing techniques to address them.



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