WHAT HAPPENS NOW? BIAS, RACE, AND TOLERANCE AT WORK, SCHOOL, & IN SOCIETY

By Bruce L. Adelson, Esq.

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What Do We Do Now?

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Bruce is the testifying expert in federal and state lawsuits alleging violations of federal civil rights laws.

Bruce teaches cultural awareness, organizational culture, and implicit bias as a faculty member of Georgetown University School of Medicine and the University of Pittsburgh School of Law.

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Which are our biases?



What Do We Do Now?



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What Do We Do Now?

The Complaint alleges that the RCHSD staff discriminated against Kyler by continuously referring to him with female pronouns, despite knowing that he was a transgender boy and that it would cause him severe distress. RCHSD's staff allegedly refused to treat Kyler as a boy precisely because of his gender non-conformance.

In fact, the Complaint alleges that one RCHSD employee told him, "Honey, I would call you 'he,' but you're such a pretty girl."

PRESCOTT v. RADY CHILDREN'S HOSPITAL SAN DIEGO
(S.D., Calif, 2017)

What Do We Do Now?



D.C. Sports Bog

Caps surprise Maryland hockey team that defended black teammate after racist taunts



What Do You Do?

Virginia Students Told to Be Slaves for Black History Month Gym Activity:

The school principal apologized to parents and said the “lesson was culturally insensitive“



What Do We Do Now?



What Do We Do Now?

Md. high school students distribute 'passes' granting permission to use racial slur

- Students at a suburban Maryland high school distributed "N-word passes" that were intended to grant students who received the pieces of paper "permission" to use the racial slur. The passes were issued by students at Winston Churchill High School in Potomac, Md., during lunch Friday.
- It wasn't the only such incident at Churchill this school year. In November, a swastika was found on a desk. The symbol was again discovered at the school in more recent weeks, MCPS said.
- The Parent Teacher Student Association at Churchill plans to use its meeting next week to have an open conversation about tolerance, bias and racism, said Bruce Adelson, the group's president and an instructor at Georgetown University School of Medicine.

Washington Post

What Do We Do Now?

- “A school district spokesperson said the passes were distributed to about 15 students during Friday’s lunch period and one student alerted administrators.
- Three students involved in creating and distributing the passes will be punished according to the Student Code of Conduct.
- “Having very intensive, detailed dialogue is key to getting to the root of issues that involve bias,” Adelson said. “What people forget is these are children — they’re not 25, they’re not graduate students. They may not fully understand the context of what they’re saying, segregation and racism in the United States.”

Bethesda Magazine



By Michael Adelson, Chief Digital Officer

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What Do We Do Now?

"….a supervisor's use of certain unambiguous racial epithets is likely to alter the conditions of employment and create a hostile working environment, weighing heavily in the severity factor…."



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Plainfield's practice of honoring the racial preferences of residents was accompanied by racially-tinged comments and epithets from co-workers.

For instance, in the presence of a resident, a white nurse aide named Audria called Chaney a "black b….." Another time, a white coworker looked directly at Chaney and asked why Plainfield "... keep[s] on hiring all of these black……."

Chaney v. Plainfield Healthcare Ctr., 612 F.3d 908 (7th Cir. 2010)

What Do We Do Now?

Chaney alleges that more subtle racial slights and comments continued even after management was notified of the problem.

Most importantly, Plainfield acted to foster and engender a racially-charged environment through its assignment sheet that unambiguously, and daily, reminded Chaney and her co-workers that certain residents preferred no black CNAs. Unlike white aides, Chaney was restricted in the rooms she could enter, the care that she could provide, and the patients she could assist....

Chaney v. Plainfield Healthcare Ctr., 612 F.3d 908 (7th Cir. 2010)

What Do We Do Now?

Microaggressions = Bias = Hostile Comments = Hostile Work and Learning Environments = Illegal Discrimination

“Microaggressions are brief and everyday slights, insults, indignities and denigrating messages”

Psychology Today

What Do We Do Now?

NY Times, August 2020

For Doctors of Color, Microaggressions Are All Too Familiar, "They ask you if you're coming in to take the trash out — stuff they wouldn't ask a physician who was a white male. "

Microaggressive behavior, bias, and discrimination remain significant issues in health care and medical education.

What Do We Do Now?

Leadership & Organizational Culture

Increased awareness and understanding that such behaviors and comments are inappropriate, disturbing, and may well be illegal under our civil rights laws.

Indeed, microaggressive behavior invariably is part of a macro organizational pattern and practice that enables hostile work and learning environments to exist and maintain themselves.

What Do We Do Now?

Muhammad, who is of Pakistani descent, works for Motors, a large automobile dealership. His coworkers regularly call him “camel jockey,” “the local terrorist,” and “the ayatollah,” and intentionally embarrass him in front of customers by claiming that he is incompetent.

The EEOC finds reasonable cause to believe that the constant ridicule has made it difficult for Muhammad to do his job and has created a hostile work environment in violation of Title VII.

What Do We Do Now?

- Implicit bias is measurable, widespread, disassociated from conscious bias, and is now cognitively and quantitatively validated. It is reflected in attitudes or stereotypes that affect one's understanding, decision-making, and behavior, without consciously realizing it in many instances.

- The first step in solving any problem is to recognize its existence. Understanding the science related to identifying and conceptualizing bias helps us to recognize and acknowledge bias and its possible effects. The following discussion reviews many of the scientific factors revealing bias.

Psychology Today

What Do We Do Now?

Psychologists have identified implicit, unconscious biases. Some can be the result of repeated and pervasive messages that establish and perpetuate stereotypes.

We are all biased, whether we are conscious of our stereotypes or not, so we should acknowledge this and strive to understand biases in order to deal with them appropriately.

Psychology Today



What Do We Do Now?

The amygdala is the “emotional” center of the brain that reacts to fear and threat and other senses.

Scientists have found a measurable correlation between amygdala activity and implicit racial bias. The point again is that research shows a visual brain response, even though an individual may not be conscious of it.

Psychology Today

What Do We Do Now?

The amygdala isn't the only part of the brain involved in unconscious bias. The frontal cortex is also identified as important in forming impressions of others and in measuring empathy.

Memories, such as dates and facts, also subconsciously steer people toward choosing one option over another.

Psychology Today

What Do We Do Now?

Medical research has revealed that implicit bias is found throughout the brain. There are useful aspects of implicit bias that pertain to instinctual behaviors of environmental adaptation and survival, such as being able to quickly assess and respond to dangerous stimuli.

However, automatic responses to facial stimuli, combined with social conditioning, can result in bias against individuals, often based on race. Acknowledging that we all have biases is the first step toward reducing our reliance on generalizations or stereotypes.

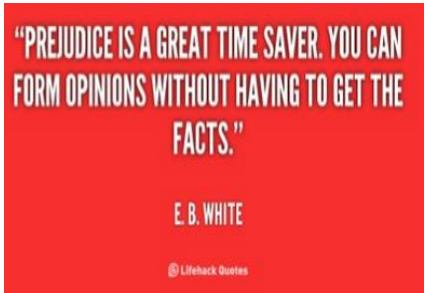
Georgetown University School of Medicine

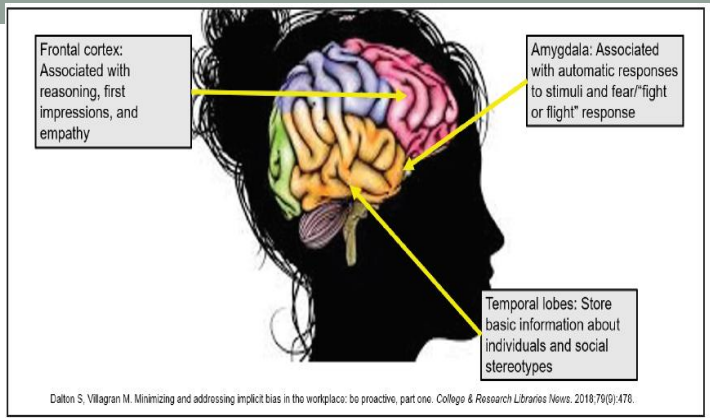
Increased by…

- ✓ stress
- ✓ time pressure
- ✓ multi-tasking
- ✓ lack of clear criteria for decision-making
- ✓ ambiguous or incomplete information
- ✓ lack of familiarity with people from the group

Not decreased by…

- X good intentions
- X someone else telling you to reduce your bias
- X suppressing bias
- X avoiding people from other groups
- X thinking you don't have bias

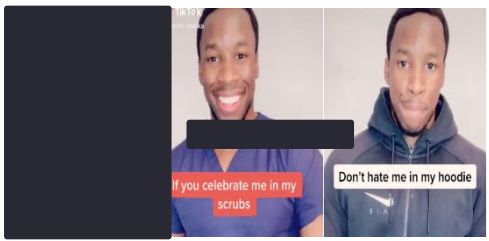




Dalton S, Villagran M. Minimizing and addressing implicit bias in the workplace: be proactive, part one. *College & Research Libraries News*. 2018;79(9):476.

FAST
And
AUTOMATIC







How fast do our brains work?

"If you can raed tihs praapragh, it's bcsecuae our mnids are vrey good at ptuting tgoehter peiecs of ifnroamtoin in a way taht is esay for us to make snese of.Our mnids do tihs atoumtaicllay, whituot our cosncoius cotnrol."

Within microseconds when you're deciding if you can trust someone or not
Georgetown University School of Medicine

What Do We Do Now?

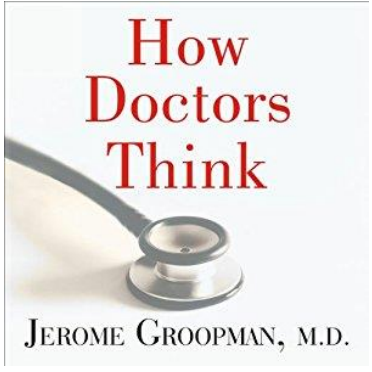
Even if it took you a little longer to read, your unconscious cognition automatically made sense of the paragraph based on your ability to associate it with words you already know.



How PeopleThink

Pattern Recognition

- Triage, time sensitive details being sorted out quickly
- Clinical conditions are sorted with overall "picture" stored in doctor's memory.
- Drawing on stereotypes to make decisions, can miss some relevant information and fail to identify the right patterns.



Source: J. Groopman, MD. How Doctors Think

What Do We Do Now?

"[Discriminatory intent] is the cumulative evidence of action and inaction which objectively manifests discriminatory intent**."**

Dowdell v. City of Apopka, Florida, 698 F. 2d 1181 (11th Cir. 1983)

Plaintiffs claimed that Apopka intentionally maintained a racially and geographically segregated system of municipal services. The Court agreed.



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What Do We Do Now?

Are Your Encounters Different Because of the Person's Race, Color, Language, Sex, Religion, Sexual Orientation, Sexual Identity, Age or National Origin?

"[Discriminatory intent] is the cumulative evidence of action and inaction which objectively manifests discriminatory intent**."**

What Do We Do Now?

"Although the fluid concept of discriminatory intent is sometimes subtle and difficult to apply, there is ample evidence in this case of the correlation between municipal service disparities and racially tainted purposiveness to mandate a finding of discriminatory intent. Nearly every factor which has been held to be highly probative of discriminatory intent is present."

Dowdell at 1186

What Do We Do Now?

"Although none of these factors is necessarily independently conclusive, "the totality of the relevant facts," … amply supports the finding that the City of Apopka has engaged in a systematic pattern of cognitive acts and omissions, selecting and reaffirming a particular course of municipal services expenditures that inescapably evidences discriminatory intent."

What Do We Do Now?

A jury might also find that certain staff members observed Biondo struggling to communicate, knew that she chiefly used ASL and lacked the education to communicate adequately in writing, had the authority to call for an ASL Interpreter, and deliberately failed to do so notwithstanding repeated requests .

The facts of this case are arguably worse than those of …
where at least one hospital employee "made some efforts . . . to find an interpreter."

Biondo v. Kaleida Health
USCA 2nd Cir., August 2019

What Do We Do Now?

- “Chinasa, an experienced retail professional who works for National Retailer, speaks English with a Nigerian accent. National Retailer selects Chinasa for a Regional Loss Prevention Manager position.
- An executive who will oversee Chinasa's work approaches her immediately after the promotion and comments, "I bet this is a great achievement considering where you came from. As an African, you must be the first to achieve this much success in your family given your accent."
- The executive tells Chinasa to "try to speak more like an American" and also to be careful about her demeanor because, in his opinion, "Africans are known to be brash and aggressive." The executive repeats these comments on several occasions during Chinasa's first several months on the job.

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- There is no evidence, however, that staff members misinterpret or do not understand Chinasa's spoken English. In fact, the evidence shows that staff members respond promptly to Chinasa's directions without seeking clarification and provide information that is responsive to her requests. Nonetheless, after nine months, the executive terminates Chinasa's employment, telling her that she is a "poor fit" and laments that she did not speak "more like an American."
- Based on these facts, the EEOC finds reasonable cause to believe that National Retailer discriminated against Chinasa because of her national origin." *Albert-Aluya v. Burlington Coat Factory Warehouse Corp*., 470 F. App'x 847 (11th Cir. 2012)

What Do We Do Now?



What Do We Do Now?

1) “examining and understanding attitudes, such as mistrust, subconscious bias, and stereotyping, which practitioners and patients may bring to clinical encounters; 2) gaining knowledge of the existence and magnitude of health disparities, including the multifactorial causes of health disparities and the many solutions required to diminish or eliminate them; and 3) acquiring the skills to effectively communicate and negotiate across cultures, languages, and literacy levels, including the use of key tools to improve communication. “

Recommendations for Teaching about Racial and Ethnic Disparities in Health and Health Care - Annals of Internal Medicine, 2007

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What Do We Do Now?

- "Most managers accept that employers benefit from a diverse workforce, but the notion can be hard to prove or quantify, especially when it comes to measuring how diversity affects a firm's ability to innovate.
- But new research provides compelling evidence that diversity unlocks innovation and drives market growth—a finding that should intensify efforts to ensure that executive ranks both embody and embrace the power of differences."



Harvard Business Review

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- "By correlating diversity in leadership with market outcomes as reported by respondents, we learned that companies with 2-D diversity out-innovate and out-perform others.
- Employees at these companies are 45% likelier to report that their firm's market share grew over the previous year and 70% likelier to report that the firm captured a new market."

- Harvard Business Review



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- "The report found higher financial performance for companies with higher representation of women board directors in three important measures:
  - Return on Equity: On average, companies with the highest percentages of women board directors outperformed those with the least by 53 percent.
  - Return on Sales: On average, companies with the highest percentages of women board directors outperformed those with the least by 42 percent.
  - Return on Invested Capital: On average, companies with the highest percentages of women board directors outperformed those with the least by 66 percent."

Catalyst & The Chubb Corporation

What Do We Do Now?

"The correlation between gender diversity on boards and corporate performance can also be found across most industries—from consumer discretionary to information technology."

Catalyst & The Chubb Corporation



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What Do We Do Now?

"We seek to help solve the puzzle of why top-level leaders are disproportionately White men.

We suggest that this race- and sex-based status and power gap persists, in part, because ethnic minority and female leaders are discouraged from engaging in diversity-valuing behavior. "

Does Diversity-Valuing Behavior Result in Diminished Performance Ratings for Non-White and Female Leaders? 2017

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What Do We Do Now?

"We hypothesize, and test in both field and laboratory samples, that ethnic minority or female leaders who engage in diversity-valuing behavior are penalized with worse performance ratings, whereas White or male leaders who engage in diversity-valuing behavior are not penalized for doing so.

We find that this divergent effect results from traditional negative race and sex stereotypes (i.e., lower competence judgments) placed upon diversity-valuing ethnic minority and female leaders."

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What Do We Do Now?

Addressing Gender and Racial Bias Among Clinicians

Harvard Business Review 9/13/18

It's an all-too-familiar problem:

Throughout the work world, women are often perceived as lower status or somehow less capable than their male counterparts. That's no less true in health care than in other fields.

Every female doctor has experienced some version of the **story** Loren Rabinowitz recently recounted in the *New England Journal of Medicine*. The senior resident in an ICU, she had just finished a difficult discussion with a patient's family. As she sat down to document the conversation, the unit's telephone rang. It was the patient's wife, with whom she'd just spoken, asking to "talk with his doctor"—Dr. Rabinowitz's male intern.

What Do We Do Now?

We had both sat through medical school lectures on implicit biases as they relate to patients and health disparities. Until that day in the ICU, it hadn't occurred to either of us to apply the lessons we learned from bias training to our peers and other hospital personnel, or that it might be our obligation to educate patients about their unconscious biases regarding their health care providers.

That moment of mutual acknowledgment that we all have blind spots and wrestle with how we perceive and are perceived by others will remain among the most important of my residency training. As physicians, we strive to treat all our patients equally. It is imperative that we do the same for our colleagues.

What Do We Do Now?

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