

ADR SERVICES, INC. 2023 MCLE DAY
JANUARY 18, 2023



Implicit Bias: How to Identify and Manage your Implicit Biases

Ana M. Sambold, Esq.
Wayne J. Boehle, Esq.

Speakers

Ana M. Sambold, Esq.

asambold@adrservices.com

Wayne J. Boehle, Esq.

wboehle@adrservices.com



HAVE YOU EVER FELT LIKE SOMEONE JUDGED YOU WITHOUT KNOWING YOU?



Skin Color
Race
Physical
Appearance
Language
Weight
Accent

Values
Beliefs
Intelligence
Perspectives
Religion
Competence
Attitudes



IMPLICIT BIAS



How Implicit Bias are Created?

Our brains receive
millions of bits of
information per second

Our conscious minds
are processing only
a small fraction

Our subconscious is doing
the majority of the work.

associations
assumptions, judgments
and developing
preferences towards
some individuals, groups
and things

Defining Implicit Bias

“Implicit Bias involves all the subconscious feelings, perceptions, attitudes, and stereotypes that have developed as a result of prior influences and imprints.

It is an automatic positive or negative preference for a group based on one’s subconscious thoughts”

Source: Department of Justice Community Relations Toolkit



Who me? Do I have Implicit Biases?

YES!

“If you have a brain, you have a bias”

Femi Otitoju



Where do Implicit Biases Come From?



Upbringing

**Family, Friends,
Community**

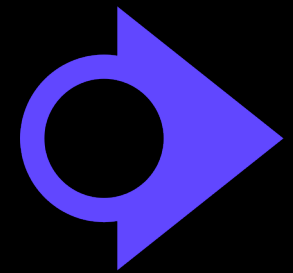
Past Experiences

Culture

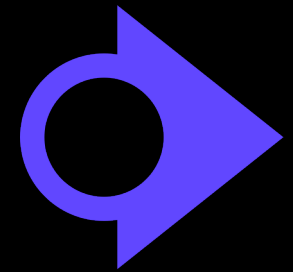
Background

Exposure to Media

Explicit Bias v. Implicit Bias



"With explicit bias, individuals are aware of their prejudices and attitudes toward certain groups.

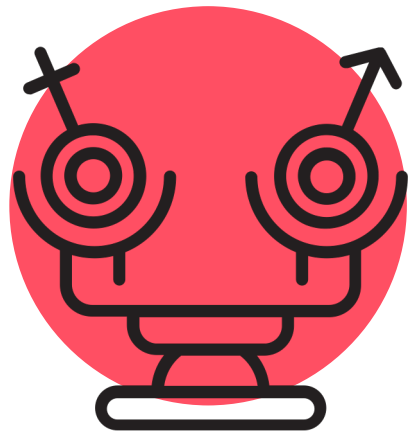


Overt racism and racist comments are example of explicit biases."

Source: Department of Justice Community Relations Toolkit

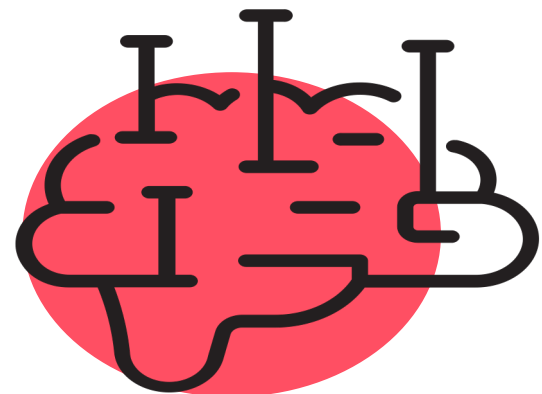
Types of Implicit Bias

Stereotype Bias



Generalized beliefs that members of a group will share certain traits or characteristics, regardless of whether individual members of the group actually have them or not

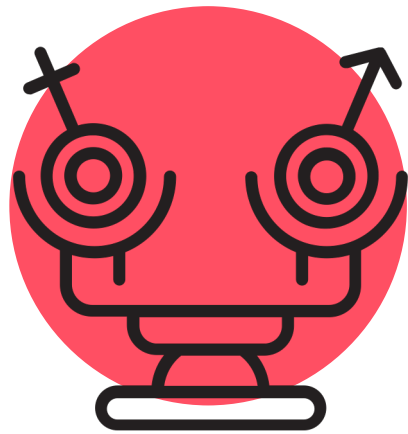
Confirmation Bias



Leaders have consistently been portrayed as white males, so we think effective leaders must be white males

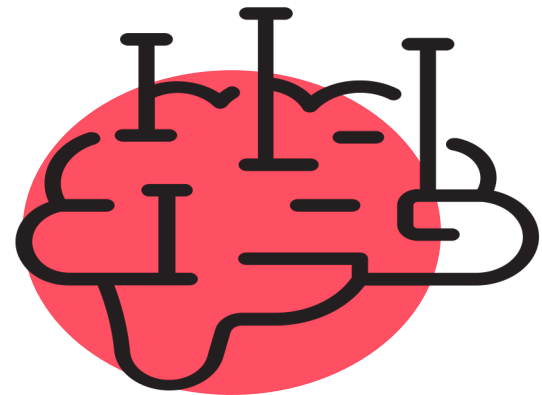
Types of Implicit Bias

Affinity Bias



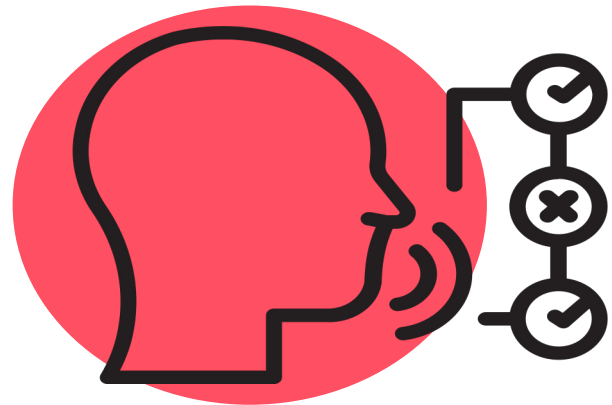
They are like me, they will make a great fit here

Perception Bias



**Form assumptions or stereotypes about a certain group s making it impossible to be objective about members of those groups
[Republicans v. Democrats]**

More Bias...



Gentlemen prefer blondes?
The salaries of blond women are 7% higher than those of women who are brunettes or redheads (Queensland University)



Name Bias: A preference for someone based on their name [white 50% > black, Anglo 28% > Asian to get call back]



Handshake Bias?:
Candidates with a better handshake considered more hire-able, decisions made in the first few minutes [Greg Stewart, University of Iowa]

Why Does Implicit Bias Matter?

IB can influence how we



- See
- Feel
- Remember
- “Know”
- Make decisions
- Judge others and Act in general

Some statistics..

76%

More readily associate males with careers and females with family

70%

More readily associate male with science and female with arts

75%

Have an implicit preference for white people over people of color

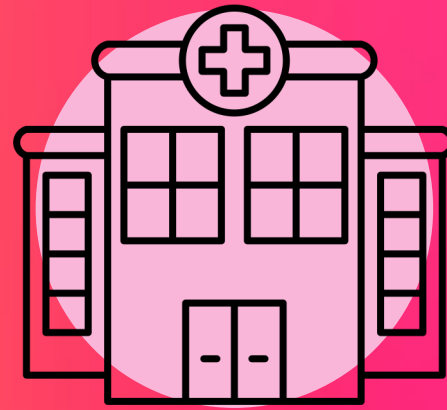
Less than 15% of American men are over 6 foot tall, yet almost 60% of corporate CEOs are over 6 foot tall { Exploring Unconscious Bias by Howard Ross, Founder and Chief Learning Officer, Cook Ross, Inc.

Biased Decision Making Plays Out in All Settings

**In Our
Schools**



In Hospitals



In Policing



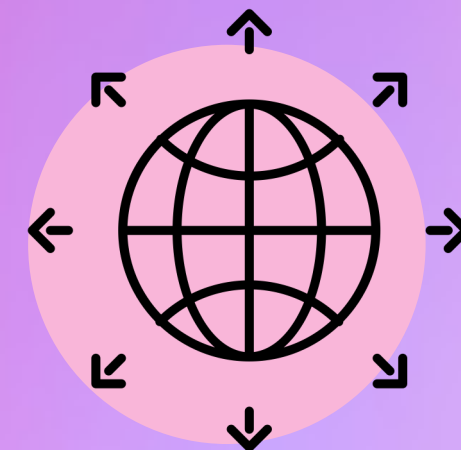
**In Places of
Employment**



In Courts



Everywhere



Implicit Bias in Legal Settings

- **Advocacy**
- **Jury Selection**
- **Prosecution and sentencing**
- **Recruitment and hiring**
- **Work assignments and promotions**
- **Leadership**
- **Mentoring**



New Implicit Bias MCLE Requirement



- After January 1, 2022:
 - From 25 hours of MCLE every 3 years
 - 7 hours must include:
 - 4 hours of ethics
 - 1 hour of competence
 - At least 2 hours of elimination of bias (at least 1 hour on implicit bias and the promotion of bias reducing strategies).

New Implicit Bias MCLE Requirement

- It will begin applying to attorneys in MCLE compliance group 3
- Who must report compliance for the period ending on January 31, 2023:
- Last names N through Z



What Can We Do About Implicit Bias?



Self-Awareness

Recognize, understand and learn to be conscious of your own biases, prejudices, emotions, and drivers, as well as their effect on others.



Self-Awareness

Challenge stereotypes, norms and your own deeply rooted biases

HOW?

- **By identifying your bias**
- **Questioning their origin**
- **Seeking out additional information**
- **Committing to ongoing learning, and**
- **Remaining open to feedback**



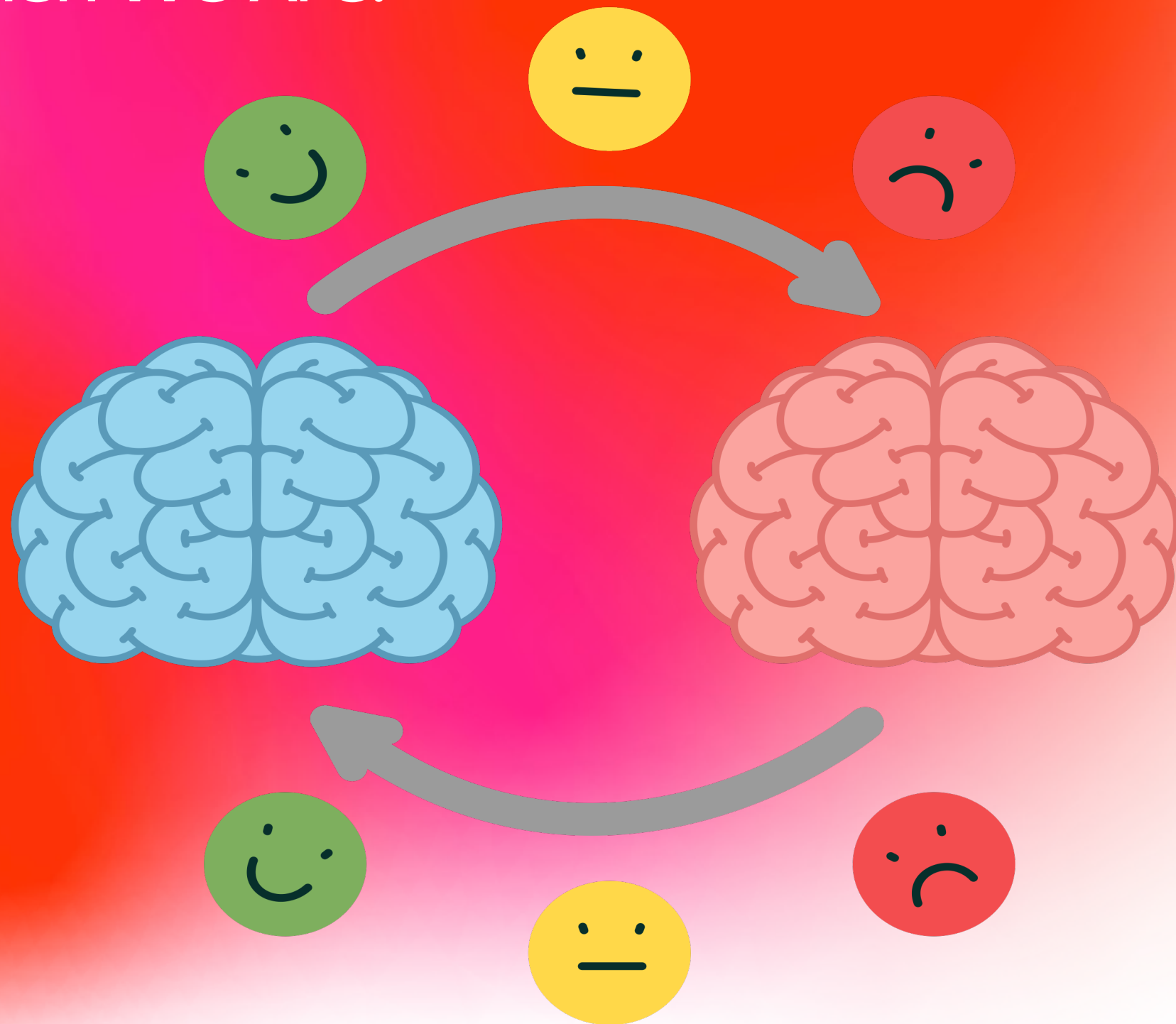
Source: CA State Bar Best Practices for
Disrupting Biases

Identifying Microaggressions

**The subtle and often
unintended slights referring to
a person's color, race,
ethnicity, gender, accent,
culture, or stereotypes**

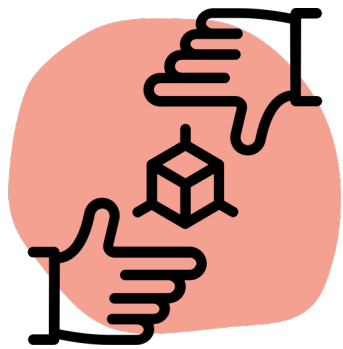
Implicit Biases are More Likely

When We Are:

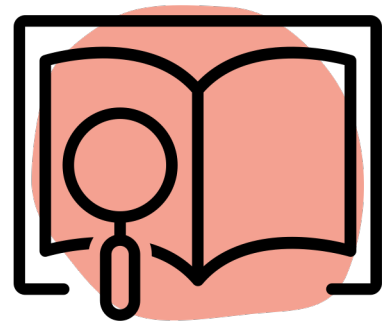


- Stressed
- Fatigued
- Scared
- Anxious
- Constrained by time
- Uncertain

Adopt Best Practices For Disrupting Biases



Be alert for perspectives that are not represented in discussions and meetings.



Get in the habit of justifying your decisions.



Establish criteria for jobs and be consistent

If it could happen to
her

UNITED STATES
SUPREME COURT
2015
INTERRUPTIONS

Source: "Justice, Interrupted: The Effect of Gender, Ideology, and Seniority at Supreme Court Oral Arguments by *Tonja Jacobi and Dylan Schweers (2017)*."

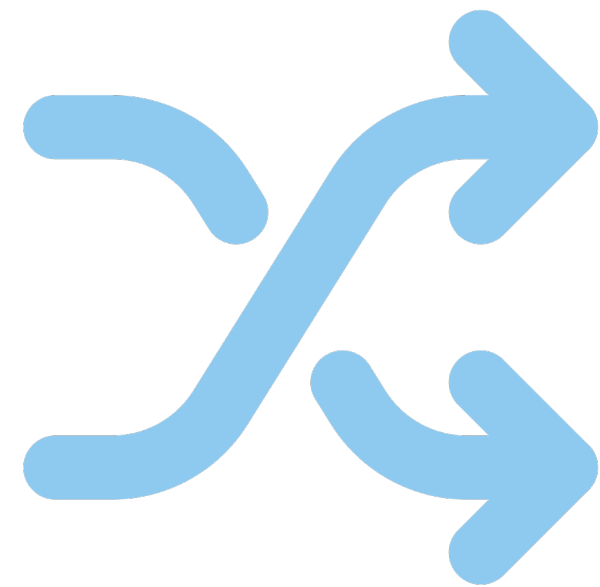
How to Identify Your Implicit Biases

**Take one
Harvard's Project
Implicit Tests**

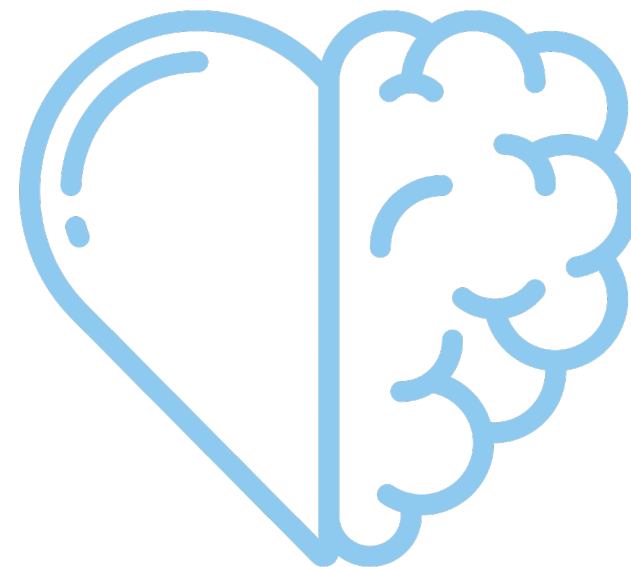
**One well-known
instrument is the
Implicit Association
Test (IAT)**

Self-Regulation:

Control or
redirect disruptive
impulses, biases,
and behavior



If you have an
gut/emotional
reaction to
something.....



Stop and pause or
think about it.
What is the
emotion, and why
are you
triggered?



What We Can Do To Self-Regulate

1

Learn your trigger points and strive to set aside personal predispositions, preferences, and attitudes

2

Accept that we are permeated with implicit assumptions and do our best to counteract their prejudicial effects.

3

We all have the personal responsibility to keep our biases in check so as to not harm or prejudice anyone.

Speak Up if Possible



- **If you are impacted by a biased behavior or witness a biased behavior which is impacting someone else**
- **Don't be a bystander; be an ally!**
- **Being more empathetic**

Speak up If Possible

HOW?



Step 1

Open a conversation

Step 2


Ask questions.
No judgments or accusations

Step 3

Explain the resulting impact from the behavior

Step 4

Listen actively

A thick, pink, wavy line starts from the top right, curves down and left, then zig-zags down and left, ending near the bottom center. A solid pink circle is located in the upper right quadrant.

“Remember not only to say the right thing in the right place, but far more difficult still, to leave unsaid the wrong thing at the tempting moment”.

Benjamin Franklin

Develop Cultural Competency

- **Cultural competency building starts with becoming aware of one's own culture, values, and worldview.**
- **Learn about other cultures and what's important to them**



Develop Cultural Competency

- **Openness to different backgrounds, cultures and viewpoints**
- **Expand your network and go beyond the people that you normally go to.**
- **Be curious and take the time to learn before judging or making assumptions**



Embrace Diversity and Inclusion

**Develop and implement diversity
and inclusion policies in your
organization/law firm**



Organizational Steps for Disrupting Biases

Source: Best Practices for Disrupting Biases CA State Bar



- **“Review organizational policies and practices for equity and revise as necessary to ensure fairness and accountability.**
- **Provide training and education about having difficult conversations with colleagues and peers, as well as with those who report to us.**
- **Give constructive feedback and help people develop substantive expertise and grow professionally ”**

Be Part of the Change

Creating organizations, courts, and systems that value all perspectives and backgrounds will result in a more fair and equitable administration of justice



Inspiring confidence from the public in our legal system and reassuring that they will be treated fairly.

**Not everything that is
faced can be changed, but
nothing can be changed
until it's faced.**

James Baldwin



Resources



Wheeler, Ronald. “We All Do It: Unconscious Behavior, Bias, and Diversity,” 107 Law Library Journal 325 (2015).

Available at:

https://scholarship.law.bu.edu/faculty_scholarship/129

Goleman, Daniel. Emotional Intelligence: Why it can Matter More than IQ.

**California State Bar website:
Implicit Bias Training**

Resources

Maryville University Article "How to identify and overcome your implicit bias"

Forbes, "Unconscious Bias: How it affects us more than we know"

ABA 242 Bill Text

Riverside Superior Court Form on Explicit or Implicit Bias



Resources



Pronin, Emily. “How We See Ourselves and How We See Others.” *Science*, vol. 320, no. 5880, pp. 1177-1180.

Available at:

<https://science.sciencemag.org/content/320/5880/1177#:~:text=As%20a%20result%2C%20we%20tend,what%20we%20think%20and%20feel.>

What is implicit bias? NYT/POV's Saleem Reshamwala unscrews the lid on the unfair effects of our subconscious.

Available at:

<https://nyti.ms/2jSAhZe>

Resources

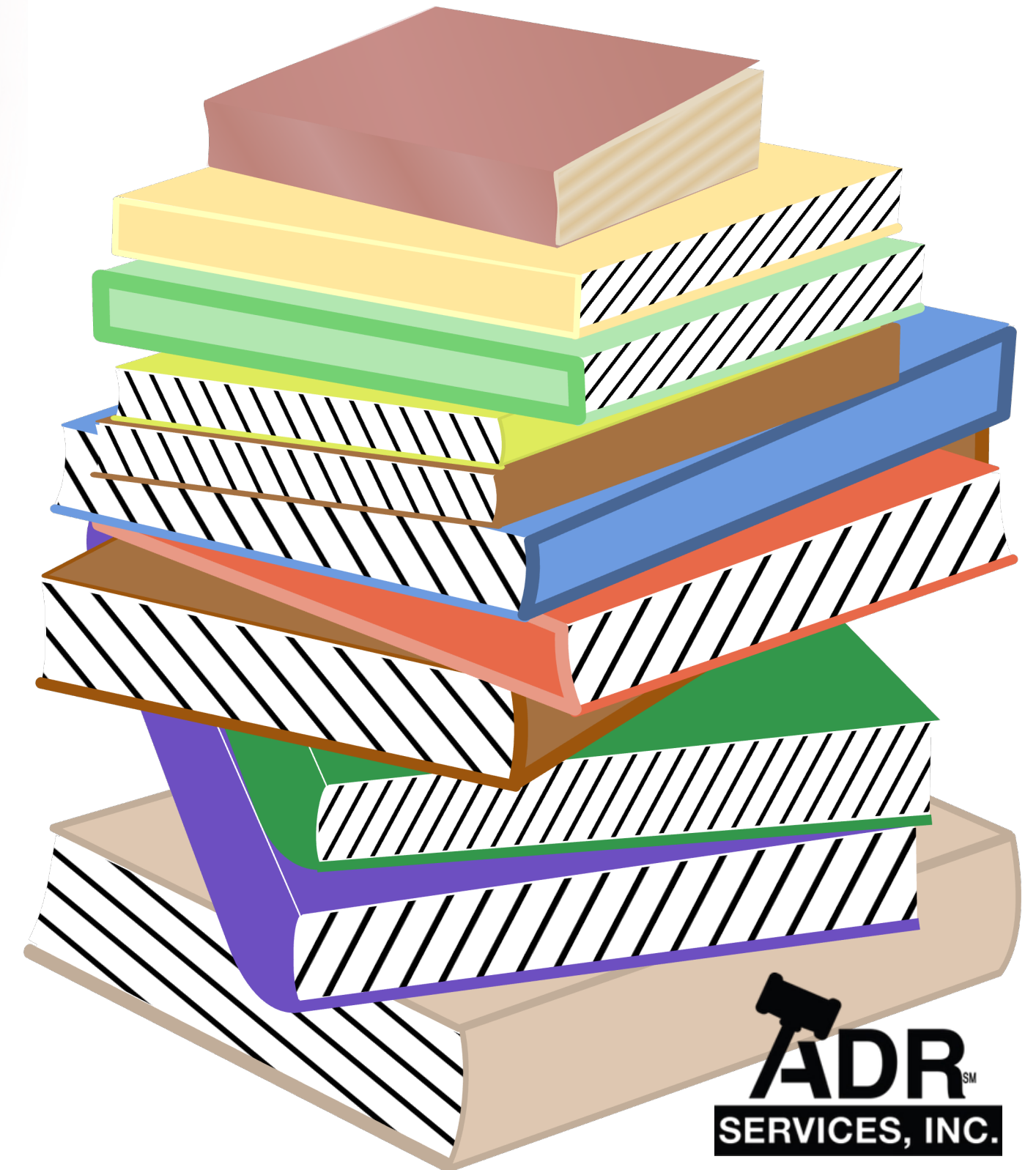
HARVARD UNIVERSITY Outsmarting Implicit Bias

Whole library of videos, podcasts, articles, and interactive demos

<https://outsmartingimplicitbias.org/>

HIDDEN BRAIN, Podcast

TED Talks and YouTube Implicit Bias



**Do you have
any questions?**



Thank You For Listening

Ana M. Sambold, Esq.

asambold@adrservices.com

Case Manager: hawardSDteam@adrservices.com

Wayne J. Boehle, Esq.

wboehle@adrservices.com

Case Manager: eveteam@adrservices.com



FILM NEGATIVE

FILM NEGATIVE

FILM NEGATIVE

→ 13

→ 13 A

→ 14

→ 14 A