



PRACTICAL TIPS ON ADDRESSING BIAS

JANUARY 18, 2023
ADR SERVICES, INC.
3RD ANNUAL MCLE DAY

HON. STEVE AUSTIN
HON. WINIFRED SMITH



SPEAKERS



HON. STEVEN AUSTIN (RET.)

JudgeAustin@ADRServices.com

Case Manager: JoannaTeam1@adrservices.com



HON. WINIFRED SMITH (RET.)

JudgeSmith@ADRServices.com

Case Manager: JoannaTeam1@adrservices.com

WHAT IS BIAS?

Bias is something no one wants to admit having but it is something everyone has.



GENERAL DEFINITION

Bias is a prejudice against or in favor of a person thing or group compared with something else. It is also referred to as "stereotyping"

Bias stems from the human tendency to categorize the things and people they encounter.



EXPLICIT AND IMPLICIT BIAS



CONSCIOUS OR EXPLICIT BIAS

Bias we are aware of

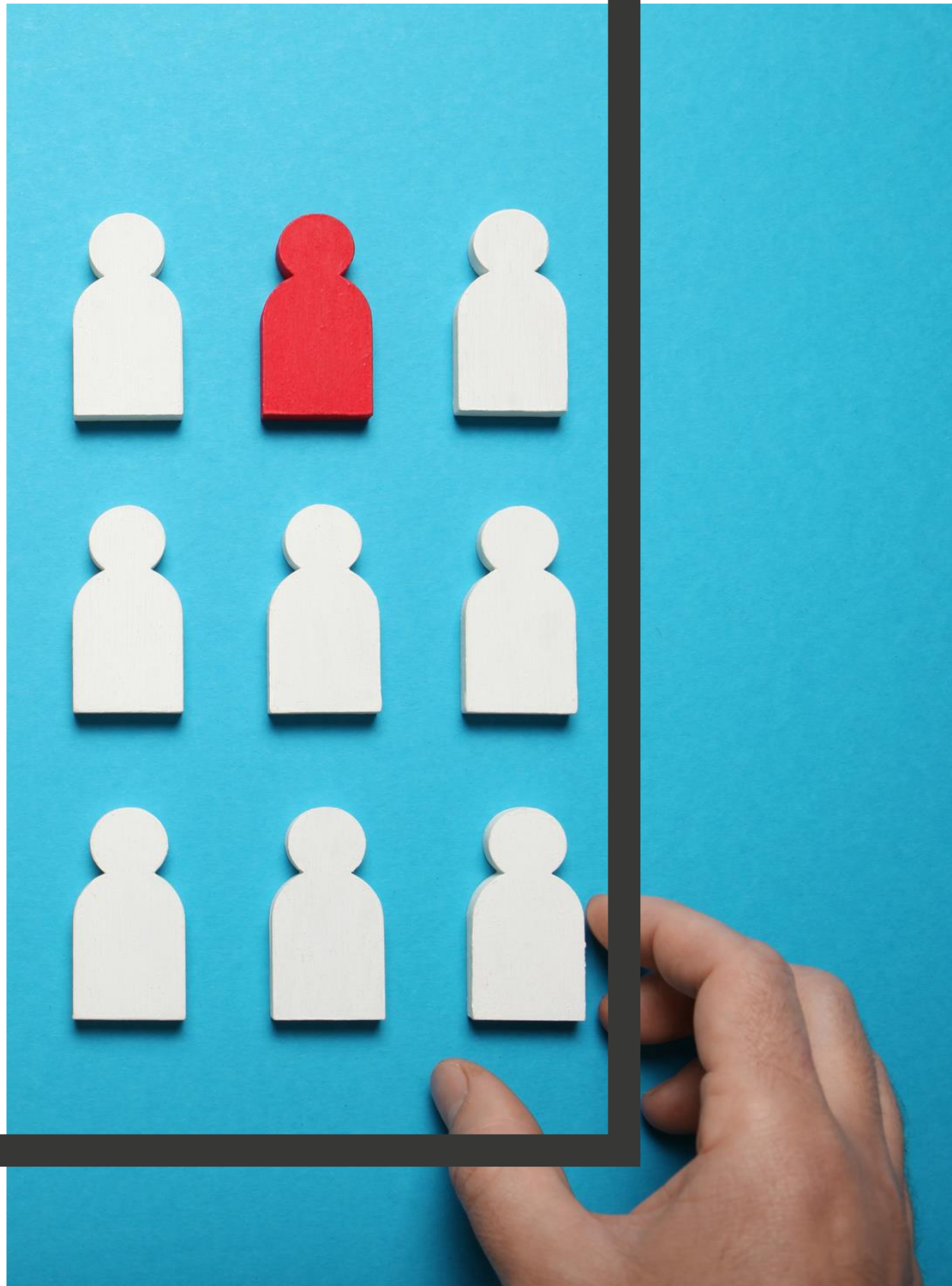
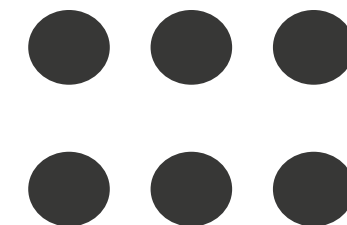
UNCONSCIOUS OR IMPLICIT BIAS

Bias that exists outside our
awareness

There are Two Kinds of Biases

COMMON EXAMPLES OF UNCONSCIOUS BIAS

- Gender
- Name
- Ethnicity
- Beauty Bias
- Ageism
- Physical Characteristics
 - Height
 - Weight
 - Grooming



MORE SUBTLE EXAMPLES OF UNCONSCIOUS BIAS



AFFINITY:

Bias towards those who are similar to you

CONFORMITY:

The tendency to be influenced by and conform to the majority..."groupthink"

CONFIRMATION:

The tendency to find information or data that supports preconceived notions

NONVERBAL OR LABELING:

Making opinions based upon how people show up externally: look or dress



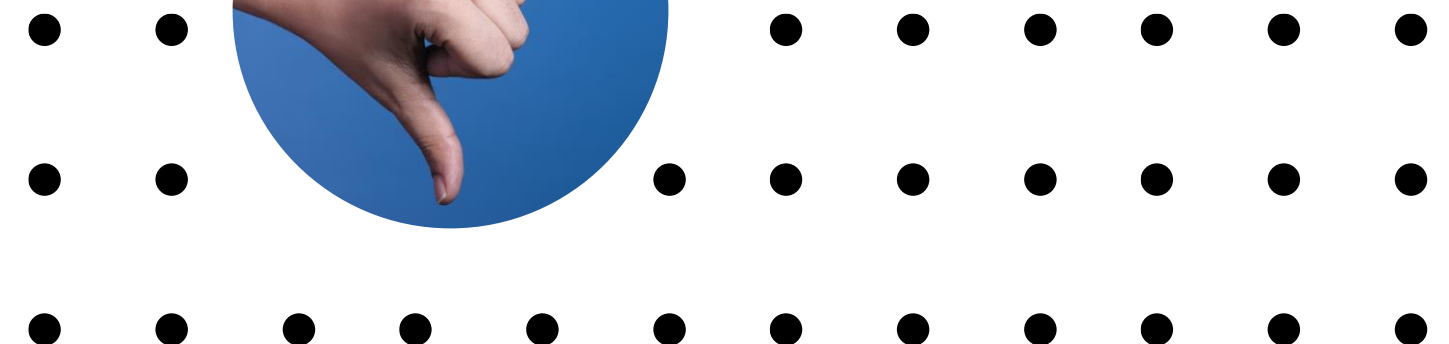
HALO:

Bias in favor of person based upon a positive impression or characteristic of a group or experience with a person



HORN:

Bias based on a negative impression of a person or group based on characteristic or experiences



Identify situations in which implicit bias may be impacting your behavior

Focus on people as individuals rather than focus on stereotypes

Adjust your perspective: How would you respond if you were in the same position



SUGGESTED WAYS TO OVERCOME YOUR OWN BIASES



OVERCOME YOUR BIASES

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- Make an effort to interact with people you perceive as different
- Become more culturally competent about groups with which you interact but do not know much about
- Be cognizant of positive stereotypes and your response to them

TIPS FOR RESPONDING TO BIAS BEHAVIOR

Don't let the incident or comment pass.
Address it in the moment.

- Addressing the incident in the moment may give the person exhibiting bias behavior pause the next time.

Give yourself a moment to move beyond
anger and disrespect before engaging.

- Before you discuss the incident know what you want the outcome of the conversation to be. An apology? Discipline?



RESPONDING TO BIAS BEHAVIOR

DESCRIBE:

Describe your concerns to the offender clearly, accurately and without invective and accusation. It just doesn't help.

FACILITATE:

Try to create a safe place for the discussion. Start with giving the person the benefit of the doubt.

DISCUSS:

Invite a dialogue about what occurred. This may facilitate an understanding and resolution.

EDUCATE.

Be willing to educate. Not every situation in which a person exhibits bias behavior is intentional or malicious.





ATTORNEYS: RULE 8.4.1

In representing a client, or in terminating or refusing to accept the representation of any client, a lawyer shall not:

- (1) unlawfully harass or unlawfully discriminate against persons* on the basis of any protected characteristic; or
- (2) unlawfully retaliate against persons.

JUDGES: CANON 3B(5)



A judge shall perform judicial duties without bias or prejudice.

A judge shall not, in the performance of judicial duties, engage in speech, gestures, or other conduct that would reasonably be perceived as

- (a) bias, prejudice, or harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, gender identity, gender expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, or
- (b) sexual harassment.



JUDGES: CANON 3B(6)

A judge shall require lawyers in proceedings before the judge to refrain from

- (a) manifesting, by words or conduct, bias, prejudice, or harassment based upon race, sex, gender, gender identity, gender expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, or
- (b) sexual harassment against parties, witnesses, counsel, or others.

DYNAMICS MATTER



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SPEAKING FROM AUTHORITY

- If you are a person in Authority your words carry more weight
 - Judges
 - Partners
 - Clients
- Be careful what you say and how you say it
- Take advantage of opportunities for bias training
- Respond to bias comments/behavior exhibited by others in presence
 - Courtroom
 - Office
 - Social occasions

DYNAMICS MATTER



PEER TO PEER

- When weighing a response to a peer exhibiting bias behavior consider your relationship with that person
 - Close
 - Casual
 - No relationship other than work or in an organization
- Nature of past interaction
- Is this person approachable, if not should someone else be involved in the conversation

SPEAKING TO AUTHORITY

Carries Risks



Can you have a potentially difficult conversation with this person?

Do you know how this person receives information?

What is the power dynamic?

Firm partner who may decide your professional fate...

Judge with a potentially long memory....

What is your relationship with this person?



TIPS FOR ADDRESSING BIAS BEHAVIOR

If you question whether a conversation in the moment will be effective or yield the result you may want to consider:

- sending a memo or letter rather than the face-to-face conversation to initiate resolution
- Using a mentor or an intermediary if appropriate

If you don't think the problem can be resolved informally use a grievance procedure or more formal process for resolving the issue


HYPOTHETICAL





Take measures to understand your
own biases.

The strategy you use to resolve
bias behavior exhibited towards
you does not matter.



**DO NOT LET BIAS BEHAVIOR
TOWARDS YOU OR OTHERS SLIDE!**



THANK YOU



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