Title IX Coordinator and Administrator Training & Certification Course

Level Five-Bias & Cultural Competencies

TNG

Strategic Risk
Management Solutions

ATIXA | TNG | NABITA

Any advice or opinion provided during this training, either privately or to the entire group, is never to be construed as legal advice. Always consult with your legal counsel to ensure you are receiving advice that considers existing case law, any applicable state or local laws, and evolving federal guidance.

(610) 993-0229 | inquiry@tngconsulting.com | www.tngconsulting.com

CONTENT ADVISORY

The content and discussion in this course will necessarily engage with sex- and gender-based harassment, discrimination, violence, and associated sensitive topics that can evoke strong emotional responses.

ATIXA faculty members may offer examples that emulate the language and vocabulary Title IX practitioners encounter in their roles including slang, profanity, and other graphic or offensive language.

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TRAINING OUTLINE

1. Cultural Competence
2. Intersectionality
3. Understanding Bias
4. Efforts to Mitigate Bias
5. Opportunities to Address Bias
6. Microaggressions

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TRAINING OUTLINE (CONT.)

7 Free Speech Tensions

8 Discriminatory Policies and Practices

9 Tips For an Inclusive Title IX Office

10 Training and Tools

11 Measuring the Effects of Bias Trainings

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LEARNING OUTCOMES

Define	Define types of bias and cultural competencies
Identify	Identify campus needs for training and bias-reduction efforts
Recognize and reduce	Recognize and reduce microaggressions in Title IX processes and systems
Develop	Develop cultural competency skills and recognize opportunities to utilize such skills within your Title IX system
Understand	Understand the role free speech has in bias mitigation
Gain	Gain insight into the concept of privilege and how that intersects with cultural competency

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WELCOME AND SETTING THE STAGE

Introductions

Setting norms

Training ground rules

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WHY THIS WORK MATTERS

- Central to ATIXA's mission is the need to ensure that our trainings and programs include a focus on inclusive practices. This should also be central to the mission of your individual institutions.
- Self-assessment and development are necessary for individuals responsible for creating institutional training, programs, policies, and procedures in order to achieve the central mission of inclusive practices.
- Title IX programs are stronger when we broaden our outlook and develop greater awareness of how our systems can better address the diverse needs of our students, faculty, and staff.
- This is an important topic to mitigate potential risk and legal liability in our institutions and schools.

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ACTIVITY 1: PART 1

Trusted Ten

TRUSTED TEN ACTIVITY

Think of the first names or initials of people you trust (not your family members) and write them down.

- Most trusted advisors
- Friends
- Acquaintances

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CULTURAL COMPETENCE

- What is Culture?
- Definition of Cultural Competence
- Cultural Competency Continuum
- Six Stages

CULTURE

"A set of . . . rules for being in the world . . . shared cognitive approaches to reality that distinguish a given group from others."

(Adler and Jelinick, 1986)

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WHAT IS CULTURAL COMPETENCE?

- The ability to understand, communicate with, and effectively interact with people across cultures
- Encompasses:
  - Being aware of one's own worldview
  - Developing positive attitudes towards cultural differences
  - A willingness to accept and respect cultural differences
  - Gaining knowledge of different cultural practices and worldviews
  - Incorporating these competencies into institutional practices, polices, procedures, and programming

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CULTURAL COMPETENCY STAGES

The process of achieving cultural competency occurs along a continuum.

1. Cultural Destructiveness
2. Cultural Incapacity
3. Cultural Blindness
4. Cultural Pre-competence
5. Cultural Competence
6. Cultural Proficiency

Source: Goode, T.D. (2004). *Cultural competence continuum.* National Center for Cultural Competence.

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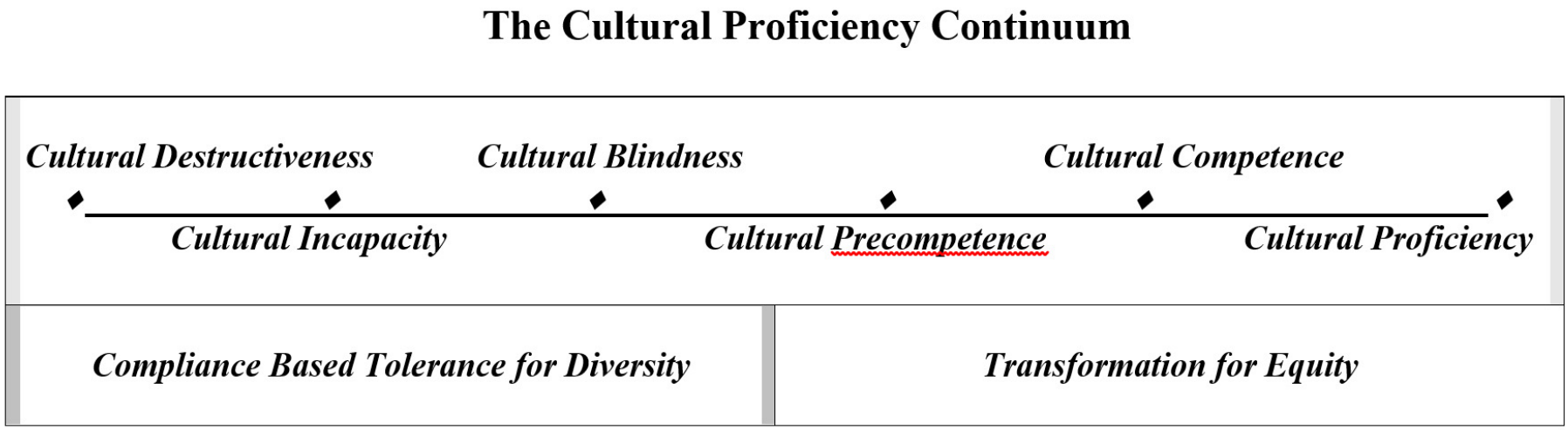
CULTURAL COMPETENCY CONTINUUM



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STAGE ONE:
CULTURAL DESTRUCTIVENESS

Attitudes, policies, structures, and practices within a system or organization that are destructive to a cultural group

- Using one's power to eliminate the culture of another
- Examples:
  - Genocide or ethnocide
  - Exclusion laws
  - Avoidance of certain curriculum topics
  - Intentional exclusion of certain curriculum topics
  - Comments such as, "If we didn't have special needs students, our scores would improve"
  - Comments such as, "Every student needs to be able to speak English in order to be admitted"

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STAGE TWO:
CULTURAL INCAPACITY

Lack of systemic and organizational capacity to respond effectively and efficiently to the needs, interests, and preferences of culturally and linguistically diverse groups

- Includes institutional and/or systemic bias
- Can incorporate practices that may result in discrimination
- Encompasses disproportionate allocation of resources that may benefit one cultural group over another
- Involves subtle messages that some cultural groups are neither valued or welcomed
- Manifests into lower expectations for some cultural, ethnic, or racial groups

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STAGE THREE: CULTURAL BLINDNESS

Expressed philosophy of viewing and treating all people the same

- Examples include:
  - Policies and personnel that encourage assimilation
  - Support and services that ignore cultural differences
  - Limited to no resources allocated for training and development that educate on cultural and linguistic competence
  - Workforce that lacks diverse representation
  - Student body that lacks diverse representation

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STAGE FOUR:
CULTURAL PRE-COMPETENCE

A level of awareness within institutions or organizations of their strengths and weaknesses in order to respond effectively to culturally and linguistically diverse populations

- Institutions or organizations expressly value the delivery of high-quality services and support mechanisms for culturally and linguistically diverse populations
- A commitment to human and civil rights
- Hiring and recruitment practices reflect diverse representation and a commitment towards maintaining diverse representation
- The capacity to conduct a needs assessment within diverse communities

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STAGE FIVE:
CULTURAL COMPETENCY

A demonstration of acceptance and respect for cultural differences

- Establishment of a mission statement that articulates principles and values that include cultural and linguistic competence in all aspects of the institution
- Policies and procedures that integrate cultural and linguistic competence into each function of the institution
- Provide fiscal support, professional development, and incentives for the improvement of cultural competence at the board, program, faculty, student, and staff levels
- Practice principles of community engagement that result in the reciprocal transfer of knowledge and skills between all campus and community members

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STAGE SIX:
CULTURAL PROFICIENCY

Culture is held in high esteem and is the foundation that guides all institutional practices and endeavors

- A continuous practice of adding knowledge to the field of cultural competence
- Employs faculty and/or staff with expertise in cultural competence
- Supports and mentors other institutions/organizations as they progress along the cultural competence continuum
- Actively pursues resource development to continually enhance and expand the organization's capacities in cultural competence
- Advocates with, and on behalf, of populations who are traditionally underserved and underrepresented

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ELEMENTS OF CULTURAL COMPETENCE

- Open Attitude
- Self-awareness
- Awareness of Others
- Cultural Knowledge
- Cultural Skills

OPEN ATTITUDE

- Requires a full understanding of one's knowledge gaps
- Seeks to close those gaps through education, training, and experiences
- Open to exposure of diverse ideas and alternative viewpoints
- Seeks out divergent views
- Considers differing viewpoints as part of decision-making process
- Intentionality in engaging with others who have differing cultural identities

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SELF-AWARENESS

- A clear understanding of your personal background and culture
- Awareness of your assumptions, biases, and judgments
- Full awareness of how others might perceive you and your role
- Knowledge of your strengths and limitations
- Ability to recognize your cultural incompetence, or exclusive behaviors towards certain groups
- Full capacity to self-reflect

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AWARENESS OF OTHERS

- Recognition that all individuals are unique with respect to their background, worldview, beliefs, and values
- An understanding that all individual differences are equally valuable
- Requires the use of active listening skills
- Recognizes when one's words or actions have a negative impact on others
- Notion that in order to walk a mile in someone else's shoes, you first must take your own shoes off
- Extremely important when interviewing and decision-making within the Title IX process

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CULTURAL KNOWLEDGE

- The acquisition of information about others' values, norms, and beliefs
- Can be obtained through research, training, direct experience with others, etc.
- Requires action
- Occurs over time
- Can vary by individual and/or group
- Wise to begin with the most common cultures represented in your institution/school or even teams/departments
- Cultural knowledge is power
  - One's potential and ability to succeed in establishing trust with you, your office, and your team increases greatly

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CULTURAL SKILLS

- With practice, cultural knowledge can turn into cultural skills
- Ability to adapt your communication style to different individuals, groups, and cultures
- Requires extremely effective active listening skills
- Establishes relationships based on mutual trust
- Ability to identify any areas of concern within and have full recognition of their impact
- Understand how to make clear, respectful requests of others
- Common practice when implementing processes that promote organizational cultural competence and inclusion

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SELF-EVALUATION ACTIVITY

- What are your strengths with each element?
- In which areas have you been challenged?
- Are there opportunities for areas of growth?
- How will you apply this knowledge to your work?

Open Attitude

Self-Awareness

Awareness of Others

Cultural Knowledge

Cultural Skills

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INTERSECTIONALITY

WHAT IS INTERSECTIONALITY?

- An analytical framework for understanding how aspects of a person's identities combine to create various types of discrimination and privilege
- Recognizes that identity markers (e.g., woman and Latina) do not exist independently of each other **and** that each informs the others
- Often creates a complex convergence of oppression

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INTERSECTIONALITY AND RACE

Critical Race Theory

- Research suggests that race itself is a socially constructed concept that is used by white people to further their economic and political interests and power at the expense of people from other racial identities
- One's race might become the dominant identity when navigating or attempting to navigate a system
  - Out of the individual's control
  - Involves existing systemic cultures
  - Requires strong commitments, actions, and changes to policies, procedures, and laws to change such systems

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INTERSECTIONALITY AND GENDER/GENDER IDENTITY/EXPRESSION

- Intersectionality as a construct focused primarily on feminism and how gender as a group, experiences bias in society
- Historically, women are more likely to experience sex-based violence
- Gender identity becomes more salient for individuals who identify along the gender spectrum when societal lack of knowledge and understanding is demonstrated
  - Increases the risk of discrimination and bias towards identities and expressions society doesn't see as *conforming*

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INTERSECTIONALITY AND GENDER/GENDER IDENTITY/EXPRESSION (CONT.)

- Prominently seen as a non-protective, unequal personality trait
  - Example: Assertive women in the workforce are labeled as “bossy” where assertive men are labeled as “great leaders”
  - Example: Female Respondent *raping* male Complainant

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INTERSECTIONALITY AND ABILITY

- People with disabilities often experience challenges when seeking inclusion
- Visible disabilities receive more recognition than invisible disabilities
- Invisible disabilities are often viewed as inconsequential or as a privilege in comparison to visible disabilities
- Ability status in connection with other identities, such as race, can become diminished
- Some identities create barriers to accessing disability services
  - Example: Undocumented immigrants with disabilities may not be eligible for certain services

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INTERSECTIONALITY AND SEXUALITY

- Sexuality is a broad term that includes one's sexual orientation and one's beliefs and values relating to sex
- Important to recognize because it allows experiences across the sexual spectrum to be shared and valued
- Often the less dominant identity traits for females
- Can be the most dominant identity trait for males
- Sexuality as an identity impact:
  - Body image
  - Thoughts and feelings
  - Gender identity
  - Relationships
  - Values and beliefs
  - Employment

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INTERSECTIONALITY AND ETHNICITY

- Recognizes people mostly based on language and shared culture
- Distinctively different than race although frequently intertwined with race
- Draws on different aspects of one's ascribed racial identity, culture, ancestry, and religion
- Can create a feeling where individuals feel siloed into one group or another
  - Example: African immigrants come to the U.S., and they're labeled as "black" where in their home country they are labeled as "Senegalese" or "Kenyan" or "Nigerian"

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THE IMPORTANCE OF INTERSECTIONALITY WITH TITLE IX WORK

- Everyone has their own unique experiences of discrimination and oppression
  - Complainants and Respondents
  - Title IX team members
  - Other involved parties
- Without an intersectional lens, efforts to address inequalities and injustices towards marginalized groups are likely to end with maintaining systems of inequalities
- Establishing effective prevention programs require addressing how interpersonal violence differs between groups

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THE IMPORTANCE OF INTERSECTIONALITY WITH TITLE IX WORK (CONT.)

- Provides an avenue for marginalized groups to be acknowledged
  - Programming
  - Prevention
  - Policy and procedures

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INTERSECTIONALITY IN PRACTICE

- Recognize differences
  - Steer away from labeling individuals
  - Ask rather than assume
  - Acknowledge that individuals have unique experiences
- Avoid oversimplified language
  - Move away from language that seeks to define people by a singular identity
- Analyze the space you occupy
  - Recognize when differences are not represented
  - Seek other points of view
- Value and include other points of view
- Be present

Crenshaw, K. (2017, March 29). *What is intersectionality, and what does it have to do with me. https://www.ywboston.org/2017/03/what-is-intersectionality-and-what-does-it-have-to-do-with-me/*

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INTRODUCTION TO BIAS

INTRODUCTORY CONCEPTS

What is bias?

Sources/
causes of bias

Common
types of bias

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WHAT IS BIAS?

- A preference or tendency to like or dislike
- A cognitive process
- Can be a systematic error in our thinking process
- Mental shortcuts
- A thought process developed over time through repeated personal experience
- Implicit or explicit
- Can be intentional, but generally unintentional

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WHAT IS BIAS (CONT.)?

- Formed from stereotypes, societal norms, cultural experiences, expectations of the people around you
- Can affect our perceptions of Complainants *and* Respondents
- Can affect our perceptions of others within the process or associated with the process
  - Example: parents/guardians
  - Example: witnesses, advisors

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BIAS ORIGINATION

Past Experiences	Family	Societal & Institutional Norms
Stereotypes	Politics, Religion	Self Identity, Affinity Groups

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COMMON BASIS FOR POTENTIAL BIAS

- Ability
- Age
- Citizenship status
- Ethnicity
- Gender
- Gender Identity/Expression
- Health status
- Marital status
- Mental health status
- National origin
- Parental status
- Physical attributes
- Race
- Religion
- Sexual orientation
- Socioeconomic status (can include finances, education, housing, etc.)

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BIAS AND NEUROBIOLOGY

Mindbridge's Implicit Bias Project:

- "Our day-to-day experience lies at the intersection point between the brain and the mind. The mind: our conscious perception, thoughtful consideration, and focused attention. The brain: our extraordinarily complex neurocircuitry, driving a range of unconscious beliefs and behaviors."
- The Rider and the Elephant
  - 40-90% of our behaviors are unconscious
  - It takes 50 milliseconds to register someone's gender when we first see them
  - It takes only 100 milliseconds to register someone's race

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BIAS AND NEUROBIOLOGY (CONT.)

- In *Strangers to Ourselves: Discovering the Adaptive Unconscious*, researcher Timothy Wilson, describes the neuroscience behind unconscious bias:
  - Our senses gather approximately 11 million bits of information every moment
  - We consciously process 40-50 bits per second
  - 99.999996% of our information processing is unconscious

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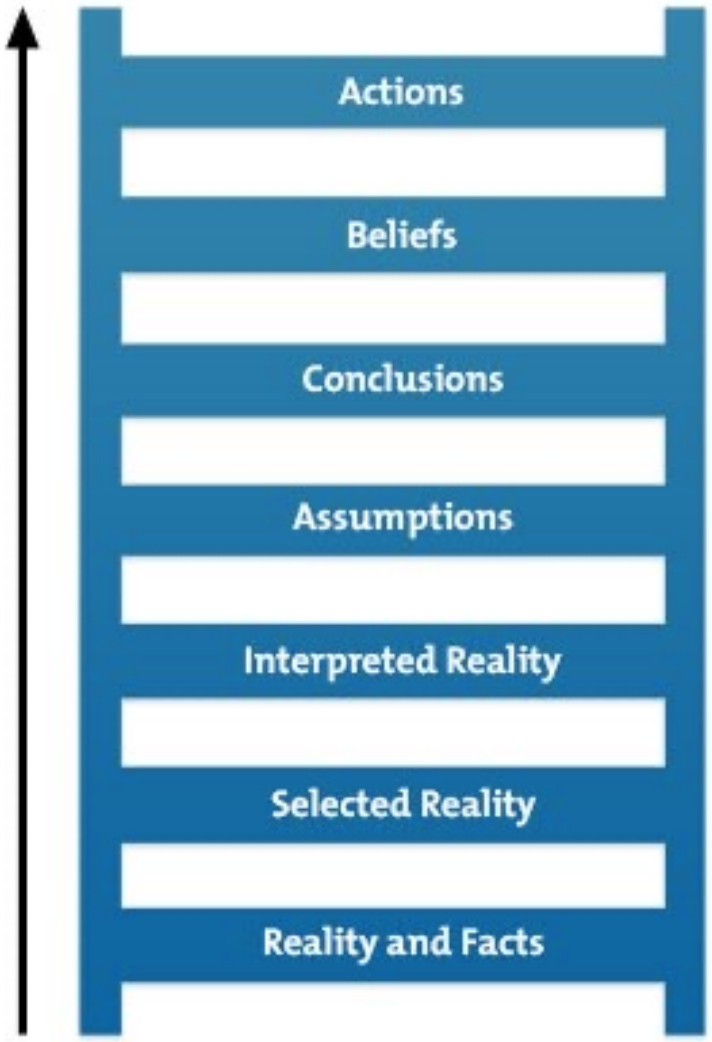
LADDERS OF INFERENCE

- Developed by Chris Argyris
- Describes our customary thinking process from a fact to a decision
- Experience these selectively based on our beliefs and prior experience
- Interpret what they mean



Argyris, C. (1990) *Overcoming Organizational Defenses: Facilitating Organizational Learning. Pearson Education Inc.*

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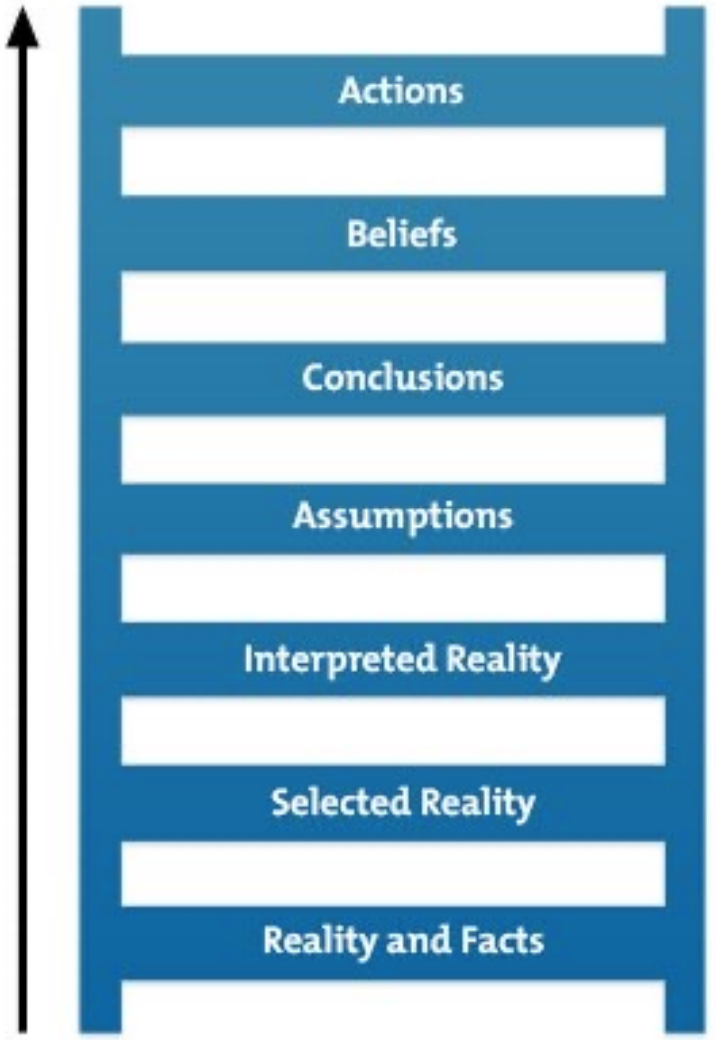
LADDER OF INFERENCE (CONT.)

- Apply our existing assumptions, sometimes intentionally or unintentionally
- Draw conclusions based on the interpreted facts and our assumptions
- Develop beliefs based on these conclusions
- Take actions that seem right because they are based on what we believe



Argyris, C. (1990) *Overcoming Organizational Defenses: Facilitating Organizational Learning. Pearson Education Inc.*

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TYPES OF BIAS

- Implicit and Explicit
- Common Forms of Implicit Bias

TWO TYPES OF BIAS

Explicit

- Conscious bias
- Clear feelings and attitudes
- Behaviors are conducted with intent
- In its extreme, it is characterized by overt negative behaviors that can be expressed through physical and verbal harassment or through exclusion

Implicit

- Unconscious bias
- Operates outside of the person's awareness
- Can be in direct contradiction to a person's espoused beliefs and values
- Can be pervasive

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COMMON FORMS OF IMPLICIT BIAS

- Confirmation Bias
- Attribution Bias
- Beauty Bias
- Conformity
- Affinity Bias
- Halo Effect
- Horn Effect
- Contrast Effect
- Gender Bias
- Racial Bias

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CONFIRMATION BIAS

- Making judgments about a person while subconsciously seeking evidence to support our opinion of that person
- Most common form in resolution processes
  - Impacts investigations and decision-making
- Interpreting ambiguous evidence to support one's own opinions or existing position
- Our own judgments have high potential of being very wrong

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ATTRIBUTION BIAS

- When individuals make attributions to their or others' behavior
- Often does not reflect reality
- When we do something well, we tend to attribute that to our own merits and personality traits
- When we do something wrong or poorly, we tend to attribute that to external factors such as other's faults
- When it comes to other people, we think the opposite
  - When a person does something well, we tend to attribute that to luck or other external factors
  - When a person does something wrong or poorly, we tend to attribute that to their personality or level of intelligence

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BEAUTY BIAS

- We unconsciously always notice people's appearances and often connect that with their personality
- We make decisions based upon how we have unconsciously determined whether a person is attractive or not
  - Example: Decision-makers make credibility determinations based upon the physical appearances of the parties involved. The more attractive or put together the person, the more credible they are.
- Most common form of bias involved in hiring decisions

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CONFORMITY

- Defined as the force behind our desire to fit in with the dominant group
- Also known as **group think**
- The tendency to take **cues** from others when making decisions on how to act or what to say
- Most common in panel deliberations

Everyone has a voice and their own interpretations of the facts

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AFFINITY BIAS

- The unconscious tendency to get along with others who are like us
- Our unconscious tendency to gravitate towards those who have similar identities as us
- Book: *Why Are All the Black Kids Sitting Together In the Cafeteria?* By Beverly Daniel Tatum, Ph.D.
  - Discusses the psychology of racism
  - Explores the concepts of racial identity
  - Provides techniques for communicating across racial and ethnic divides
- Most likely to occur in decision-making

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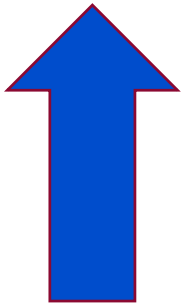
HALO AND HORN EFFECT

Halo Effect

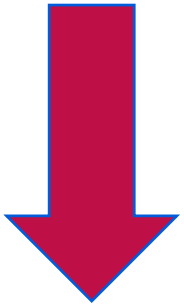
- Form of stereotyping and labelling
- Our overall impressions of a person influence how we feel and think about their character



- Positive impression
- Higher equity
- More trust & Better value

Horn Effect

- Form of stereotyping and labelling
- One's perception of another to be unduly influenced by a single negative trait



- Negative impressions
- Lower equity
- Lesser value & Low trust

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CONTRAST EFFECT BIAS

- The process of judging two things in comparison to one another, instead of assessing them individually
- Can occur either implicitly or explicitly
- Harvard Implicit Bias Test seeks to help individuals identify this within themselves
  - Were you surprised with your results?
  - How did you feel about your results?
  - Beyond your initial feelings, what were your immediate thoughts about the internal root causes of your results?
  - What other reflections did you have?

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GENDER BIAS

- Defined as: behaviors that show favoritism towards one gender over another
- Linked with sexism which is defined as: prejudice or discrimination based on a person's sex or gender
- Second common form of implicit bias next to racial bias
- Historically favors males over females
  - Example: Males are paid more than females when performing the same job
  - Example: Males occupy senior leaderships roles in higher proportions than females

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GENDER BIAS (CONT.)

- Can manifest in sexual harassment cases
  - Example: Males are found responsible for policy violations in higher proportions than females
  - Example: Males are more severely sanctioned for policy violations than females

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RACIAL BIAS

- Data collected on race with respect to sexual harassment allegations is rarely tracked by Recipients
- Interracial assault allegations:
  - *Harvard Law Review* article: "American racial history is laced with vendetta-like scandals in which black men are accused of sexually assaulting white women, followed by the revelation that the accused men were not wrongdoers at all."
    - Emmett Till: August 28, 1955

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RACIAL BIAS (CONT.)

- Social disadvantages of minority males historically can translate to harsher sanctions for minority male Respondents contextually
  - *Doe v. Amherst Coll.*, 238 F.Supp.3d 195 (2017)
  - *Brown, v. Univ. of Findlay*, 2016 WL 1644666 (unreported)
  - *Haque v Swarthmore Coll.,* 2017 WL 3218073 (unreported)

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ADDITIONAL FORMS OF BIAS

CORRESPONDENCE BIAS

- Tendency to make inferences about a person's disposition from behaviors that can be explained by the situation and context in which they occur
  - Example: witnessing someone kicking a vending machine and assuming they are "an angry person"
- Sources of this bias:
  - Lack of awareness
  - Unrealistic expectations
  - Inflated categorization
  - Incomplete corrections

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EXPERIENCE BIAS

- The tendency to see the world from your own experience
- Taking your perception as the objective truth
- Experience bias occurs when we fail to realize that other people view things differently based upon their own experiences and perceptions
- **Dunning-Kruger Effect** – individuals with a low level of knowledge in a particular subject mistakenly assess their knowledge or ability as greater than it is
  - Overconfidence bias
  - Can increase the more expert one becomes at something

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AVAILABILITY BIAS/RECENCY BIAS

- Defined as a mental shortcut that relies on immediate examples that come to a given person's mind when evaluating a specific topic, concept, method, or decision
- Tendency to weigh the latest information more heavily than older data
  - Example: General statistics support that Complainants are more likely to be females; therefore, data that our institution has a higher rate of male Complainants than female Complainants invalidates general statistics

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BIAS BLIND SPOT

- A failure to recognize our own cognitive biases
- Our ability to recognize the existence and effects of cognitive biases in others' thinking is easier than our ability to recognize this within ourselves
- We tend to judge our abilities as better than average for easy tasks and worse than average for difficult tasks
- May cause one to ignore the advice of others
- Has unique effects on judgment and behavior
- Demonstrated in the decision-making process

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STEREOTYPE THREAT

- A situational predicament in which people are or feel themselves to be at risk of conforming to stereotypes about their social groups
- A contributing factor to long-standing racial and gender gaps in academic performance
- Claude Steele, *Whistling Vivaldi: How Stereotypes Affect Us and What We Can Do*
  - Discusses the role stereotypes play in human behavior
  - Humans judge one another according to their identities
  - The mere threat of a stereotype is so powerful it can change human behavior

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STEREOTYPE THREAT (CONT.)

- Individuals experience diminished performance due to the expectation they will meet the stereotype
  - Creates anxiety, mental stress, and underperformance
  - Example: Tasks or exams become more difficult

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ACTIVITY 2

Understanding How I Think

ACTIVITY
UNDERSTANDING HOW I THINK

Firefighter	Student-athlete	Fraternity Member
Tenured Professor	Police Officer	Sorority Member

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ACTIVITY: UNDERSTANDING HOW I THINK (CONT.)

You will need paper and a pen.

1. What race is the person?
2. What gender is the person?
3. What are they wearing?
4. Three words to describe the person.
5. Two words to describe how they make you feel.

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IMPACTS OF BIAS IN TITLE IX SYSTEMS

- Feeling disempowered
- Power/position of the parties
- Belief that nothing will come of it
- Concerns with confidentiality/privacy
- Not knowing with whom to disclose
- Not knowing how to disclose
- Nature of institutional policies and prohibitions
- Fear of getting in trouble
  - E.g., concerns if alcohol/drugs were used concurrent with incident(s)

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IMPACTS OF BIAS ON TITLE IX SYSTEMS (CONT.)

- Not defining what happened as sexual assault, harassment, or discrimination
- Feeling conduct was not serious enough
- Negative associations with institutional, medical, law enforcement, or legal establishments
- Nature of trauma and re-traumatization
- Mental illness
- Others?

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PRIVILEGE

PRIVILEGE AND CULTURAL COMPETENCY

- Privilege, at its core is rights, benefits, and advantages enjoyed by a person or group of people that is not afforded to others or afforded at unequal levels based on a characteristic or identity
  - Socioeconomic status
  - Ability status
  - Age
  - Marital status
  - Parental status
  - Citizenship

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RACE AND PRIVILEGE

- Unearned benefits given to members of one social group as a result of the systemic targeting or marginalization of another social group
- Sensitive topic
- Not fully understood
- Contextually is about groups not individuals
  - Majority groups: large representation, historically held advantage in terms of power and resources
  - Minority group: fewer representation, limited to no power or resources historically
  - Example: Pay inequities
  - Others?

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PRIVILEGE IN EDUCATION

In **education**, privilege means that Anglo-Christian employees and students generally:

- Will most likely never be the "only one" represented in a class or department
- Will not have to consider their race or cultural background (including accent) as a reason for not getting a job, promotion, or opportunity
- Will not suffer from absence of role models, sponsors, or mentors
- Will not suffer from potential adverse impact of racism in higher education or K-12

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PRIVILEGE IN EDUCATION (CONT.)

- Will see texts and examples within the curriculum that largely reflect and affirm their own cultural background and experiences, and as an extension, can accrue the benefits of a culturally biased curriculum
- Are not expected to advocate for their race nor have their behavior judged as representative of their entire race
- Are less likely to be excluded from social activities
- Are more likely to share the same identities as those in position of authority at your school (i.e., President, Principal, Board, Superintendent)
- Others?

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FINAL THOUGHT

"Becoming aware of privilege should not be a viewed as a burden or source of guilt, but rather an opportunity to learn and be responsible so that we may work toward a more just and inclusive world."

- Author Unknown

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EXERCISE: ISSUE SPOTTING

- You have been assigned to investigate a case of sexual assault, which includes issues of incapacitation due to alcohol between one female and one male student. Yesterday, you interviewed the Complainant who seemed very nervous and had a difficult time telling her story.
- Today, you meet with the Respondent, a fraternity member, who arrives at your office a few minutes early and is dressed for a job interview. He is arrogant, evasive, and hypermasculine.
- Describe your thought process as it relates to the demeanor of each student.
  - Which biases are reflected in your thought process?

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LEADING EFFORTS TO MITIGATE BIAS IN OUR SYSTEMS

Title IX Coordinator/Administrators as Leaders in Bias Mitigation Work

IMPACT OF BIAS IN TITLE IX SYSTEMS

Why does bias create problems for Title IX Administrators and in Title IX systems?

- Impacts the ability to build rapport, connect, and create safe/neutral spaces for all parties to seek assistance and/or participate in the processes
- Creates opportunities for valuable, relevant evidence to be missed or ignored
- Presents moments for assumptions not based on evidence to be made during the process
- Impacts the memory of parties involved
- Impacts how witnesses, parties, and narratives are evaluated and weighted
- Creates *blinders* in our decision-making

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UNDERSTANDING HOW BIAS IMPACTS TITLE IX SYSTEMS

- Increases the likelihood that data specific to the impact of Title IX systems on various identity groups/protected characteristics is not being collected or considered
- Implicit biases can impact perceptions of Complainants, Respondents, witnesses, and community members
- Prohibited conduct may carry different meanings and perceptions dependent on one's background and experiences
- Ability to assess Title IX resolution processes, which are private, becomes difficult
- Closes avenues for intentionality between Title IX and its intersections with Title VI, Title VII, and the ADA/Section 504

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IDENTIFY SPECIFIC TRAINING NEEDS BY ROLES

- Title IX Team Members
  - Deputy Coordinators
  - Investigators
  - Decision-makers
  - Appeal Decision-makers
  - Advisors
  - Informal Resolution Facilitators
- Recipient Police/Security/School Resource Officers
- Employees
  - Administrators
  - Faculty/Teachers
  - Staff
  - Officials with Authority
  - Mandatory Reporters

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IDENTIFY SPECIFIC TRAINING NEEDS BY ROLES (CONT.)

- Students
  - New student training and prevention programming
  - Returning student training and prevention programming
  - Student subgroups
    - Fraternity and sorority life/student organizations
    - Athletic teams
    - Student leadership groups
    - Graduate students
    - Student government
- Parents/Families/Guardians
- External Resources (e.g., rape crisis center staff)

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NECESSARY CAMPUS & COMMUNITY PARTNERS

- President/senior leadership/superintendent/board
- EEO office leadership
- Human Resources
- Chief Diversity Officer/Diversity & inclusion staff
- Student affairs staff/Dean of Students
- Principals/Vice or Asst. Principals
- Provost/Academic Affairs
- Institutional Research
- Legal Counsel
- Community partners

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STRATEGIES TO MITIGATE BIAS

- Investigations
- Decision-making

MITIGATING BIAS IN INVESTIGATIONS

- Your only side is that of the **PROCESS**
- Avoid *gut* decision-making, seek evidence that contradicts your gut
- Reduce cognitive load – time, attention
- Notice when parties are uncomfortable
- Self-reflect
- Utilize checklists and investigation guides
- Partner with investigators who have different backgrounds, if applicable
- Maintain an active, deliberative process

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MITIGATING BIAS IN DECISIONS

- Challenge biases in decision-making
- Ensure decisions are made based on relevant evidence
- A party's personal identities are never considered relevant evidence
- Written materials should be objective and bias-free
- Spontaneous judgments are more likely to yield to stereotypes or bias
- Regard each party as an individual, not as part of a group
- Ensure sufficient time and sufficient focus

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MITIGATING BIAS INVESTIGATIONS AND DECISION-MAKING

Cross-cultural considerations

- How culture impacts bias and blind spots
- How culture impacts interviews, decision-making, and questioning
  - Gender/Gender Identity/Expression
  - Race
  - National Origin
- Language barriers with understanding questions
- Pre-existing conditions that may alter perceptions
  - Homesickness
  - Culture shock
  - Negative past experiences

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SUGGESTIONS FOR INVESTIGATORS AND DECISION-MAKERS

- Aspire toward an attitude of understanding and move away from an attitude of arrogance and privilege
  - Consider the professional background and training of your Investigators and Decision-makers
  - Consider evaluating the skills and cultural competency of external Investigators and Decision-makers
  - Observe and listen rather than talk and explain
- Avoid microaggressions
- Nurture an inclusive approach to questioning
  - Acknowledge knowledge gaps
  - Apologize for offenses
  - Maintain impartiality

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SUGGESTIONS FOR INVESTIGATORS AND DECISION-MAKERS (CONT.)

Demonstrate care and cultural competency with all parties

Use inclusive language, regardless of with whom you may be communicating

Don't be afraid to ask someone's pronouns

Pronounce individual's name correctly especially after being told

If unsure how to pronounce someone's name, ask

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ACTIVITY 1 - PART 2

Trusted Ten

TRUSTED TEN DEBRIEF

- Return to the names or initials of people you wrote down earlier
- Who are the people you trust the most?
- What are your observations about your own trusted ten?
- What was your experience with this exercise?
- How can you apply this activity to your Title IX work?

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OPPORTUNITIES TO ADDRESS BIAS AND CULTURAL COMPETENCY

- Title IX System
- Intake

OPPORTUNITIES IN THE TITLE IX PROCESS

- Understand reputation/perceptions of the Title IX office by institutional community
- Address barriers that exist that relate to the trust of and access to the Title IX office
- Strive to incorporate diverse representation within the Title IX Team and related resources
- Avoid
  - Taking control any more than you must
  - Escalating the situation
  - Defining or labeling experiences
  - Asking why questions
- Recognize cultural perspectives on the involvement of law enforcement

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OPPORTUNITIES IN THE TITLE IX PROCESS (CONT.)

Offer culturally inclusive supportive measures to both Complainants and Respondents

Provide printed materials for both Complainants and Respondents that has diverse representation

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IMPACT OF CULTURAL DIMENSIONS ON WILLINGNESS TO REPORT

- Complainants of color (especially women) may have cultural forces impacting their willingness or ability to report
- Examples:
  - Taboos in discussing sexual matters
  - Submissiveness in response to machismo and male authority
  - Concerns about community response and attitudes
  - Impulses to deny harassment when the Respondent is a member of the same community of color
  - Cultural norms for sexual harassment may be different in home/family belief systems

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IMPACT OF CULTURAL DIMENSIONS ON WILLINGNESS TO REPORT

Male Complainants

- Hypermasculinity
  - Power and control
  - Callous sexual attitudes toward women and perceived homosexual men
  - Macho personality
- Gender norms
  - Fear
  - Embarrassment
  - Self-defense
  - Perceptions about sexual orientation
- Physiology

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IMPACT OF CULTURAL DIMENSIONS ON WILLINGNESS TO REPORT

International Complainants

- Possible language barriers
- Cultural variance and differences
  - Possible religious considerations
  - Relationships between men and women
  - LGBTQIAA+ barriers
  - Use of alcohol and drugs
- Pride, shaming, and disowning
- Unfamiliarity with or trust in counseling and medical services and support
- Immigration/VISA concerns

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IMPACT OF CULTURAL DIMENSIONS ON WILLINGNESS TO REPORT

Complainants with Disabilities

- National Council on Disability, *Not on the Radar: Sexual Assault of College Students with Disabilities* (Jan. 2018)
  - 31.6% of undergraduate women with disabilities reported nonconsensual sexual contact involving physical force or incapacitation compared to 18.4% of undergraduate women without disabilities
  - Absence of policies and procedures to ensure disability-related supports are readily available to students who need assistance communicating with first responders
  - Prevention and education programs are not inclusive of students with disabilities
  - Accommodations are often an overlooked part of Title IX processes

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IMPACT OF CULTURAL DIMENSIONS ON WILLINGNESS TO REPORT

LGBTQIAA+ and Same-sex Complainants

- High rates of sexual violence within the LGBTQIAA+ community
- Targeting based on (perceived) identity
- Reporting or responding may force "outing"
- Fear of betraying community
- Unique health concerns
- Religious overlay
- Familial tensions

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MICROAGGRESSIONS

- Categories
- Forms
- Microaggression Prevention

WHAT ARE MICROAGGRESSIONS?

- Brief, everyday exchanges that send denigrating messages to certain individuals because of their group memberships
- Often unintentional
- Not always direct
- Can be described in three categories:
  - Microassaults
  - Microinsults
  - Microinvalidations

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MICROASSAULTS

- An explicit derogation of an individual or groups of individuals primarily by verbal or nonverbal attacks meant to hurt the intended victim(s)
  - Verbal example: name-calling and the use of epithets
  - Nonverbal example: crossing the street or clutching a handbag in the presence of certain individuals
- Most likely to be conscious and deliberate, although they are generally expressed in limited *private* situations (micro) that allow the perpetrator some degree of anonymity
- Can also include a person intentionally behaving in a discriminatory way while not intending to be offensive
  - Telling racist jokes then saying, "I was joking"

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MICROINSULTS

- Verbal and nonverbal communications that subtly convey rudeness and insensitivity
- Demeans a person's racial heritage or identity
- Comments may come out of ignorance, poor access to teaching, bias, or stereotyping
- Common examples:
  - Commenting on how someone is not like others of their ethnicity
  - Commenting on how articulate or well-spoken someone is given their race

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MICROINSULTS (CONT.)

- Touching a colleague's hair without permission
- Implying that a person got their job based on a diversity quota or action
- Not attempting to pronounce someone's name correctly because it's unfamiliar

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MICROINVALIDATIONS

- Communications that subtly exclude, negate, or nullify the thoughts, feelings, or realities of a person
- Common examples:
  - Invalidating someone's feelings by saying the one(s) who caused the offense "didn't mean it like that"
  - Inappropriately telling someone that you have friends like them
  - Mistaking people of the same race for each other
  - Staying silent when something should be addressed or corrected

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FORMS OF MICROAGGRESSIONS

- **Verbal**: comment(s) or question(s) that is/are hurtful or stigmatizing to a certain marginalized group of people
  - Example: saying "you're so smart for a woman"
- **Behavioral**: occurs when someone behaves in a way that is hurtful or discriminatory to a certain group of people
  - Example: a bartender ignoring individuals who identify as transgender while only serving individuals who identify as cisgender
- **Environmental**: subtle discrimination that occurs within society/organizations/campuses/schools
  - Example: an institution that only has buildings named after white people

Source: Medical News Today. (n.d.). *What to know about microaggressions.* https://www.medicalnewstoday.com/articles/microagressions

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IMPACTS MICROAGGRESSIONS HAVE ON TITLE IX SYSTEMS

- Mistrust in the process
- Impacts on reporting
  - Underreporting or no reporting due to fear of not being believed or of being blamed
  - Fear of retaliation by:
    - Friends/peers
    - Institution/administration
    - Teachers/faculty
    - Family
    - Alumni/fan base

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IMPACTS MICROAGGRESSIONS HAVE ON TITLE IX SYSTEMS (CONT.)

- Increased likelihood of developing an unhealthy or unsafe campus environment
  - OCR complaint/investigation
  - Litigation

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MICROAGGRESSION PREVENTION

- Establish standards of responsibility and behavior for working collectively with others
- Challenge discriminatory attitudes and behaviors and address appropriately
- Hold members of the community accountable for established standards
- Educate on the differences between impact and intent, acknowledging that impact sometimes is more important than intent
- **Stop** intentional forms of microaggressions

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MICROAGGRESSION PREVENTION (CONT.)

- **Address all** intentional behaviors and comments through the most appropriate resolution process
- Others?

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TIPS FOR AVOIDING MICROAGGRESSION OFFENSES

- Constant vigilance in recognizing and addressing ones' own biases and fears and correlating that with your interactions and/or relationships with peers and students
- Interact with others from different cultures and backgrounds
- Try not to be defensive
- Be open to discussing your own attitudes and biases
- Be an ally
- Support eliminating all forms of discrimination within your campus/school/organization
- Be empowered to acknowledge when/if you are uncomfortable

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TIPS FOR AVOIDING MICROAGGRESSION OFFENSES (CONT.)

- Pronounce names correctly especially after being told; do not give nicknames without permission
- Don’t assume someone’s identities
- Use correct pronouns
- Avoid scheduling interviews or hearings on religious or cultural holidays if possible
- Avoid solely using heterosexual examples in Title IX training and education efforts, especially in describing “word-against-word” cases

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TIPS FOR AVOIDING MICROAGGRESSION OFFENSES (CONT.)

- Acknowledge socioeconomic differences
  - Example: don't assume all students have access to technology such as iPhones
- Don't alter your dialect or mannerisms in attempts to gain rapport with individuals or groups
  - Example: use of slang

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CASE STUDY

- The Title IX Coordinator has charged the institution's Sexual Misconduct Task Force (a group of five individuals across campus) with creating a one-hour consent event on the quad that includes food
- As the group is discussing the logistics of the event, the lone member of color on the task force reminds the group that it is important that the event is inclusive and takes into consideration the multitude of cultures that represent the institution's student body, which has a high percentage of black students
- Another member says, "Well consent is consent regardless of your culture, but we can serve fried chicken, watermelon, and red Kool-Aid," then laughs as do several other members of the group

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CASE STUDY DISCUSSION

This gets reported to you, the Title IX Coordinator

1. How do you address this?
2. Who do you speak with and what do you say to them?
3. Do you report this to the commentor's supervisor?

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FREE SPEECH TENSIONS

INTERSECTION WITH FREE SPEECH ISSUES

- Title IX Teams often operate in tandem with Bias Response Teams
- Important to document, review, and respond to reports of bias and discrimination
- There is an inherent tension between addressing biased speech in the educational community and promoting free speech and academic freedom

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INTERSECTION WITH FREE SPEECH ISSUES (CONT.)

Limitations:

- Actions/conduct/speech protected by **academic freedom**
  - Pedagogically appropriate and germane to the subject matter of course that instructor hired to teach/research
- Actions/conduct/speech protected by the **First Amendment**
  - Merely offensive conduct cannot be disciplined at a public (or CA) university
    - Must be **severe, pervasive (persistent), and objectively offensive**
  - Subjectively offensive conduct cannot be disciplined at a public (or CA) higher education institution unless it is also objectively offensive

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CASE STUDY

- Frank, a gay student, comes to you to complain that Professor Jones, his (tenured) English professor, has made comments in class that make Frank feel unsafe.
- Specifically, he alleges that Prof. Jones made the following comments:
  - When federal transgender guidance was repealed by the Trump administration, Prof. Jones brought it up in class and said, “Finally, some common sense from Washington – you are either a man or a woman. Period.”
  - When a student wore a gay pride shirt to class, Prof, Jones said, “I get not being ashamed of who you are having sex with, but is ‘proud’ really the word you should use?”
  - He assigned all students in the class to write their persuasive essays on “trying to convince [him] that people should be able to use whatever bathroom they want to.”

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CASE STUDY (CONT.)

- There are approximately 26 students in the class, and Frank brought Georgina, Haley, Isaiah, Jeremy, and Ken with him. He tells you that all the students will back him up and that he has heard that Prof. Jones is not liked in the department as well.
- Frank also tells you that he knows a student who is a transgender woman. He says she is not comfortable even going to the English department offices because she also feels “unsafe.”

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CASE STUDY: DISCUSSION

- Do Prof. Jones's statements and actions constitute a policy violation? Why or why not?
- If looking into the allegation(s), can Frank remain anonymous?
- What interim/supportive measures might be appropriate?
- Would the interim measures be different if Jones was tenure-track or adjunct?
- Frank requests that you assist him in withdrawing from Jones's class, as do the other five students.
  - What considerations come into play here?

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DISCRIMINATORY POLICIES AND PRACTICES

AVOIDING DISCRIMINATORY POLICIES

- Language usage is important and often overlooked
- Often unintentionally impacts certain groups in more positive ways
- Intentionality with equitable and equal provisions within the policy is important
- Try to include linguistically appropriate options in accordance with your institution culture
  - Can the policy be translated to other languages?
  - Is there an option for the visually impaired?

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PHILOSOPHY/VALUES SIGNALED IN POLICY STATEMENTS

- Institutional polices and mission statements are driven by institutional values and philosophies
- Examine whether inclusion is part of the institution's/district's values
- If so, align policies and statements as appropriate to demonstrate this value
  - University Mission Statement
  - Title IX Office Mission Statement
  - Written policies

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EXAMPLE OF VALUES-BASED POLICY STATEMENT

Berklee College of Music's Title IX site:

"…Berklee is committed not only to compliance with this and other federal mandates, but also to promoting a culture that is in line with the values our civil rights laws envision. The Equity Policy and Process was designed to further Berklee's goal of inclusion, respect, and equality for all community members, and affirms Berklee's commitment to promote fairness and equity in all aspects of the institution…."

https://www.berklee.edu/equity

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AVOIDING DISCRIMINATORY PROCEDURES

- Procedures must align with federal and state laws
- Should be applied equally
- Thoroughly train those involved on the implementation of procedures
  - Bias training
  - Cultural competence training
  - Training on microaggressions
- Strategize on who should be responsible for monitoring and implementing procedures
  - Position specific
  - Privilege not a right

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OTHER TIPS FOR AN INCLUSIVE TITLE IX OFFICE

- Bias-free Writing Tips
- Visibility/Invisibility

BIAS-FREE WRITING

- Words communicate ideas, but also reflect power, status, and privilege
- Language can reflect social capital
- Conscious and purposeful use of language can promote equity, justice, and inclusion
- The use of bias-free language ensures your content does not exclude, demean, or offend groups
- Bias-free communication attempts to include all identities of people in a way that doesn't make assumptions about the receiver of the communication
- Bias-free writing does not discriminate

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TIPS FOR BIAS-FREE WRITING

- Know your own biases
  - Have your writing proofread by others
  - Read your own work to recognize language that is part of your everyday speech
- Focus on what's relevant
  - Only include information on identities when applicable
- Recognize and acknowledge differences
  - Not supposed to imply differences don't exist

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TIPS FOR BIAS-FREE WRITING (CONT.)

- Think small
  - Be as specific as possible
  - Specificity is preferred over generalization
    - Example: Avoid using “students of color” generally when you are really referring to a specific racial group
- Avoid Labels
  - Describe identities and group connections as the individuals have described them
- When in doubt, ask
  - Do your research
  - Get a second opinion
- Use nouns, objectives, and adjectives properly
  - Avoid using language that refers to people in objectifying ways

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BIAS AND BIAS-FREE LANGUAGE EXAMPLES

Biased Language	Bias-Free Language
Chairman	Chairperson
Ray is mentally disabled	Ray has Attention Deficit Disorder
The elderly are our biggest customers	Adults aged 65 and older are our most frequent customers
The new black kid on the team is the captain	James is the captain
Poor kids qualify for those scholarships	Students with a household income below $20,000 qualify for those scholarships

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BIAS-FREE LANGUAGE EXERCISE

Identify the biased terms in the following paragraph:

"Student leaders and their girlfriends were invited to the recognition ceremony. Siri, the Asian student body president, gave a very well-articulated speech. He shared his journey of coming to our country from his and the obstacles he faced with not understanding or speaking English. The audience sat in awe, as most couldn't believe that Siri once had a Chinese accent."

How would you re-write this paragraph?

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IMPORTANCE OF VISIBILITY

- People trust what they see and what they know
  - Limited visibility equates to limited trust
- Visibility Bias
  - If perception is that others are accessing your office or services heavily, then an inference is made that future access is favorable
  - Directly impacts the effectiveness of your work
  - Regularly assess the prevalence of visibility bias as it relates to your Title IX office and program
  - Visibility does not always equate to bias or impartiality
  - Be cautious, too much targeted visibility can create a different type of bias

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ADDITIONAL TIPS FOR AN INCLUSIVE TITLE IX OFFICE

- Representation within your Title IX team is important
- Connect with colleagues and students from different backgrounds
- Show through action the importance of this work as part of your office and team values
- Speak up when witnessing biases, microaggressions, or discriminatory behavior
- Understand respect and courtesy and how they differ by culture
- Check-in with your team members to see how they are doing

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TRAINING AND TOOLS

- Current Requirements
- Group Activities
- Other Training Tools

BUILDING AN EFFECTIVE TRAINING PROGRAM

- Current legal training requirements for Title IX
  - Definition of sexual harassment
  - Scope of the Recipient's education program or activity
  - How to conduct and investigation and grievance process
  - How to serve impartially, including avoiding prejudgment of the facts, conflicts of interest, and bias
- Sample training activities to use with your Title IX Team
  - Harvard Implicit Bias Test

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BUILDING AN EFFECTIVE TRAINING PROGRAM (CONT.)

- Identify the specific training needs for your institution
  - Who to train?
  - What are the most necessary training elements needed right now?
  - How can you dovetail with other implicit bias trainings at your institution?

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BARRIERS/RESISTANCE TO EFFECTIVE TRAINING

- Common to resist assessing/critiquing oneself
- Implicit bias is everywhere and commonplace
  - Unintended message of "normalizing" rather than addressing
  - Can seem overwhelming to mitigate
- Questioning one's effectiveness based upon participation is common
- Common belief that cultural competence and bias programming is designed to **change** people
- The majority might feel that something is being taking away from them in order to give to someone in the minority

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GROUP ACTIVITY: ATTITUDE SURVEY

Please indicate whether you agree with the statements below by selecting your answer:

1. Texting while driving is dangerous.	A. Yes	B. No
2. It is important to stay informed about proposed legislation which affects the community.	A. Yes	B. No
3. Soft drinks/sodas are unhealthy beverages.	A. Yes	B. No
4. Poverty is a serious problem that must be addressed.	A. Yes	B. No
5. Smoking is an unhealthy behavior.	A. Yes	B. No

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BEHAVIOR SURVEY

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COGNITIVE DISSONANCE

- Conflicting thoughts
- Causes anxiety and discomfort
- Natural reaction is to move out of dissonance
- Coping:
  - Rationalization, Denial, Minimization
- Recognize and challenge the anxiety and discomfort

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GROUP DISCUSSION

- Did you experience cognitive dissonance? Why or why not?
- What thoughts were going through your head as you completed the second survey and answered incongruent with the first?
- What was your emotional reaction to experiencing dissonance?
- What strategies did you use to try and lessen your experience of dissonance?
- Can you imagine using this activity (or some version of it) in training constituencies at your institution? How?

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IMPLICIT ASSOCIATION TEST

- Harvard University's *Project Implicit*
  - **implicit.harvard.edu**
  - Offers several Implicit Association Tests
    - Race IAT
    - Skin-tone IAT
    - Weight IAT
    - Age IAT
    - Religion IAT
    - Sexuality IAT
    - Disability IAT

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IMPLICIT ASSOCIATION TEST

Association activity

Often reveals automatic preferences

Compares participant to community at large

Use with care

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BIAS & CULTURAL COMPETENCY TRAINING BY SUBJECT

- Relationship/Rapport Building/Microaggressions
  - Deputy Coordinators
  - Intake staff
  - Support/first responders
  - Advisors
  - Investigators
  - Decision-makers
  - Informal Resolution Facilitators
- Questioning
  - Investigators
  - Decision-makers

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BIAS & CULTURAL COMPETENCY TRAINING BY SUBJECT (CONT.)

- Conflicts of Interest
  - Investigators
  - Decision-makers (policy and appeal)
- Bias-reduction in decision-making
  - Investigators
  - Decision-makers (policy and appeal)
- Bias-reduction in writing
  - Investigators
  - Decision-makers (policy and appeal)

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DISABILITY ACCESS

- Ensure that Title IX professionals are trained on how to provide disability accommodations, in collaboration with institutional accessibility professionals/coordinators
  - In reporting processes
  - In utilizing supportive services
  - In disciplinary processes
  - In accessing information about the policy, process, resources, options, etc.
- Provide training to law enforcement/security, residential life, and other “first responder” staff regarding disability accommodations in crisis settings

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GROUP DISCUSSION

Does your institution currently integrate bias-awareness training into its Title IX training efforts?

What have you tried that has been successful?

How do you train your Investigators and Decision-makers regarding identifying conflicts of interest?

Do you screen your Investigators and Decision-makers regarding the “perception of bias?” If so, how?

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MEASURING BIAS AND CULTURAL COMPETENCE TRAINING FOR EFFECTIVENESS

MEASURING TRAINING FOR EFFECTIVENESS

- High-level goals can be directly related to institutional strategic priorities
  - Accountability through performance evaluations
  - Measuring how supervisors are allocating opportunities
  - Track hiring and retention through metrics
  - Collect sentiment data for harder-to-measure dynamics such as behavioral changes
  - Percentage change in leadership demographics
  - Use of scorecards
- Low level goals can be quantified by participation
- Collect and analyze feedback from programs, initiatives, etc.

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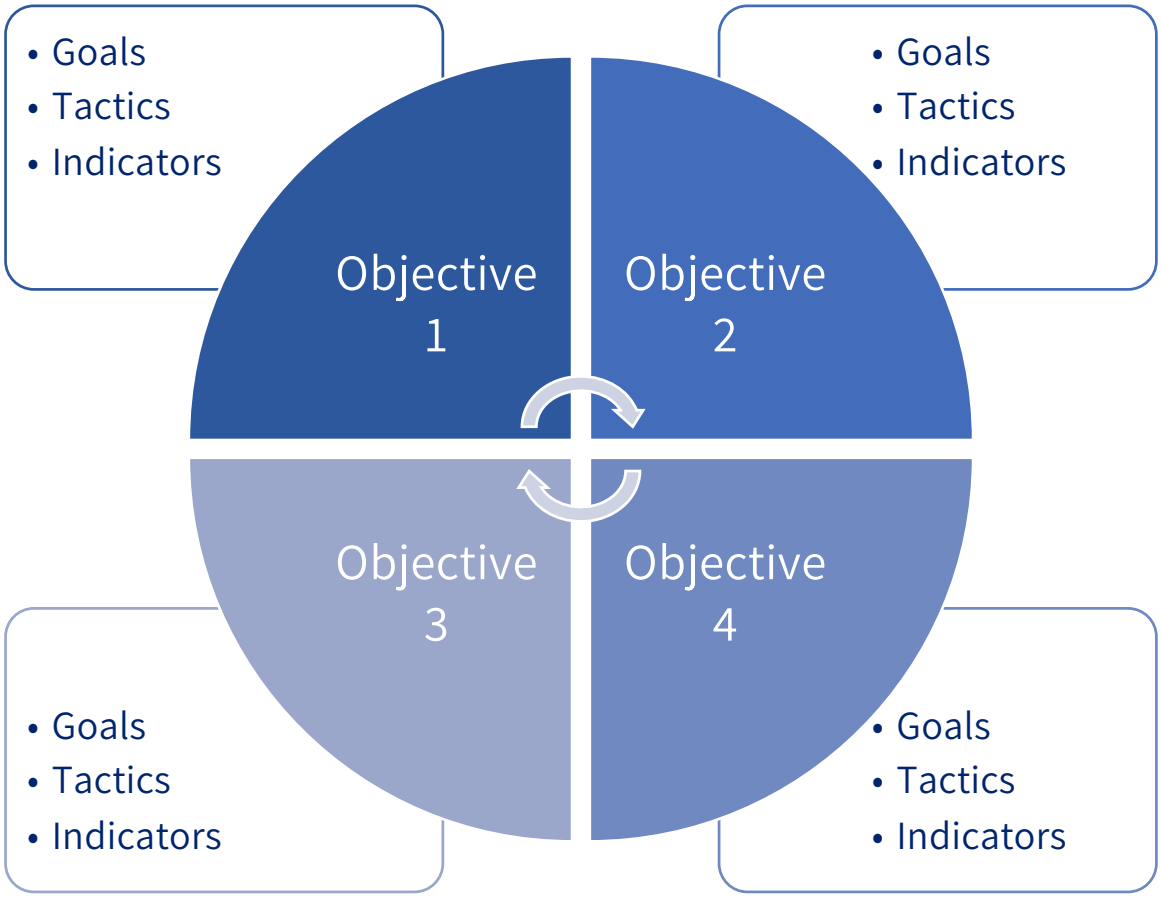
EXAMPLE OF A SCORECARD



Source: Williams, D.A. (2013). *Strategic Diversity Leadership.* Stylus Publishing.

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Questions?

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