

# Mitigating and Responding to Bias in your Title IX Process



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learning  
**OUTCOME**

*After participating, you  
will be able to identify  
and mitigate your  
personal bias during your  
Title IX process.*



# #1

## Defining Bias



# AGENDA

## Section 1: Defining Bias

- What bias is and is not
- Self Awareness

## Section 2: Recognizing Bias

- How it appears in your Title IX process
- Evaluate a Title IX scenario

## Section 3: Responding to and Mitigating Bias

- How to respond to and mitigate bias before, during and after the critical steps of your Title IX process
- Tips and Best Practices
- Reducing the Culture around Bias <sup>3</sup>

# Final Rule Requirements Regarding Bias

## **Regulations require no bias or conflicts of interest:**

- § 106.45(a) provides: An IHE's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX.
- § 106.45(b)(1)(iii) provides: any individual designated by an IHE as a Title IX Coordinator, investigator, decisionmaker, or any person designated by an IHE to facilitate an informal resolution process, cannot have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- §106.45(b)(1)(iii) further provides: that all Title IX Coordinators investigators, decision-makers, and any person who facilitates an informal resolution process, must receive training on how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. In conducting Title IX proceedings, all such persons must not rely on sex stereotypes—typical notions of what men or women do or do not do—and must promote impartial investigations and adjudications of formal complaints of sexual harassment.
- Note – However, the regulations do not provide a definition for conflicts of interest, bias or impartiality

**ACTIVITY**



# Icebreaker

# What is the safer method of transport?



**OR**



# What are you most afraid of?



**OR**



**OR**





# Who is more competent?



OR



# Does this information change your mind?

The chances of dying in a vehicle accident is 1 in 84, as opposed to a 1 in 5,000 chance of dying in an airplane crash...



**Are you more afraid of the shark or the lion?**

The World Health Organization estimates that more than 1 million people die yearly due to **mosquito bites**.

Statistics show that falling coconuts are a much more likely to hit us than to be attacked by a shark.



## Does this information change your mind?

The smoker was Germany's Chancellor for 8 years – Helmut Schmidt



The nicely dressed doctor on the left is on German TV daily to give his expertise for advertisement purposes only. He has nothing to do with health concerns nor is he a doctor.

# Guiding Principles

01

Bias IS NOT Bad – what you do based on bias could potentially be harmful.

02

Being different and recognizing differences is “okay.”

03

Our view of the world (worldview) is shaped by values, perceptions, assumptions and expectations.



**Are you biased? I am.**

# Jumpstarting Our Understanding of Biases



**Define:** What are biases? What types of bias exist?



**Recognize:** Where do my biases come from? How do they influence my actions and the actions of groups I identify with?



**Overcome:** What can we do about them? Individually? As Interviewers?



**B.I.A.S**

- Beliefs
- Ideas
- Assumptions
- Stories

# Defining Bias

There are 2 forms of biases:

- Conscious bias (also known as explicit bias) and
- Unconscious bias (also known as implicit bias)

It is important to note that biases, conscious or unconscious, are not limited to ethnicity and race. Though racial bias and discrimination are well documented, biases may exist toward any social group. One's age, gender, gender identity physical abilities, religion, sexual orientation, weight, and many other characteristics are subject to bias.



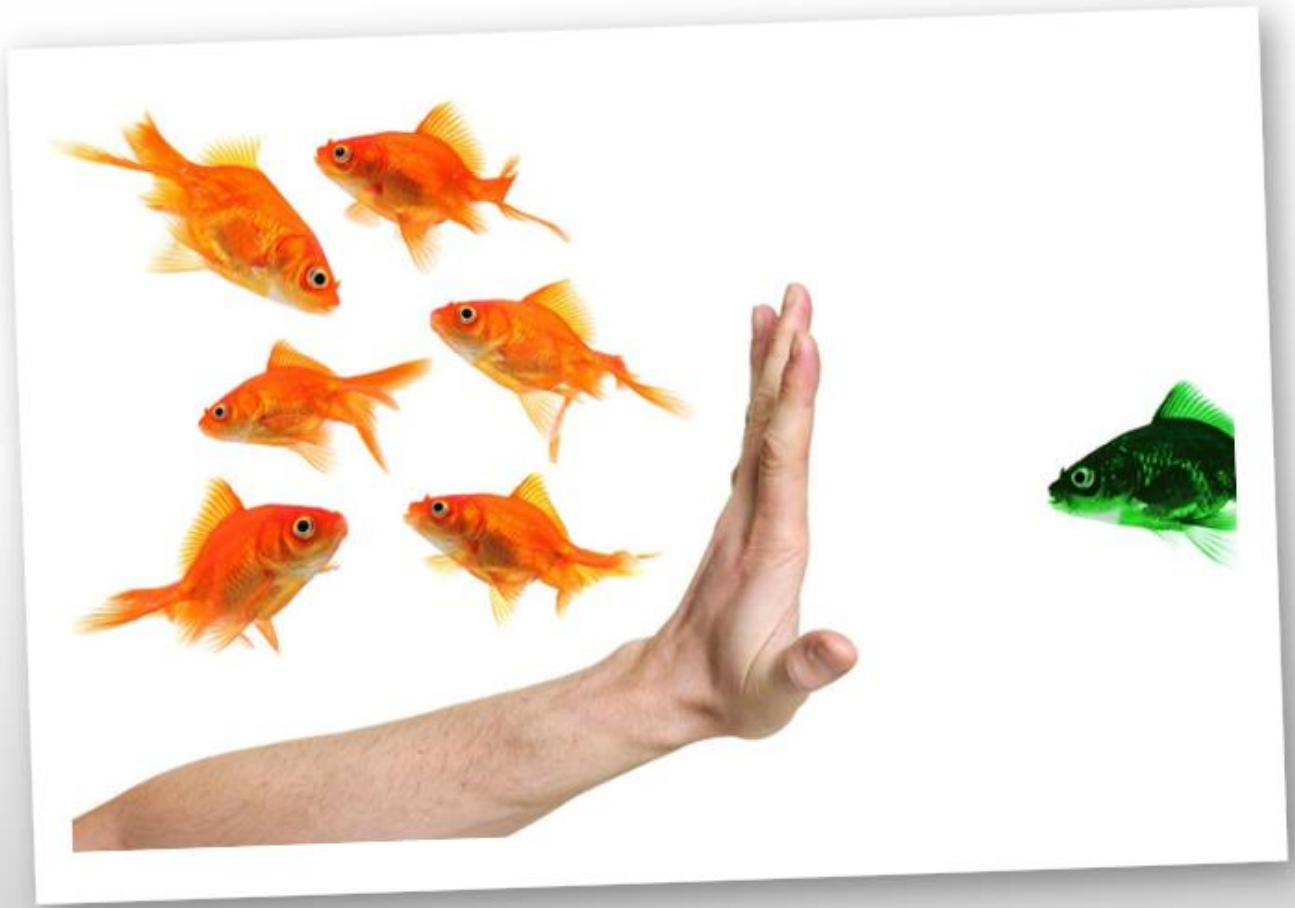
# Being of Two Minds

- Our mind operates in both conscious and unconscious modes
- Human beings can think, feel and behave in ways that run counter to their explicitly held and expressed views
- **Reflective system** for controlled processing
  - Conscious, explicit
  - Effortful, requires motivation
  - Takes more time
- **Reflexive system** for automatic processing
  - Often unconscious, implicit
  - Requires little effort
  - Fast



# #2

## Recognizing Bias



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## **Identifying Potential Bias**

## Common Bias in Title IX Process

- Affinity Bias
- Anchoring Bias
- Halo Effect
- Confirmation Bias
- Priming
- Authority Bias



## **Affinity Bias**

**Affinity bias** is the unconscious tendency to get along with others who are like us



**TV Star...**



**Or Criminal...**



# Anchoring Bias

- Fixate on initial information and fail to adjust for subsequent information.
- This also happens when we are blinded by first impressions or influenced by first impressions, ideas, prices, or estimates relative to info received later.

## Halo Effect



The halo effect occurs when an initial positive judgment about a person unconsciously colors the perception of the individual as a whole.



# Confirmation Bias



Form of Selective Perception



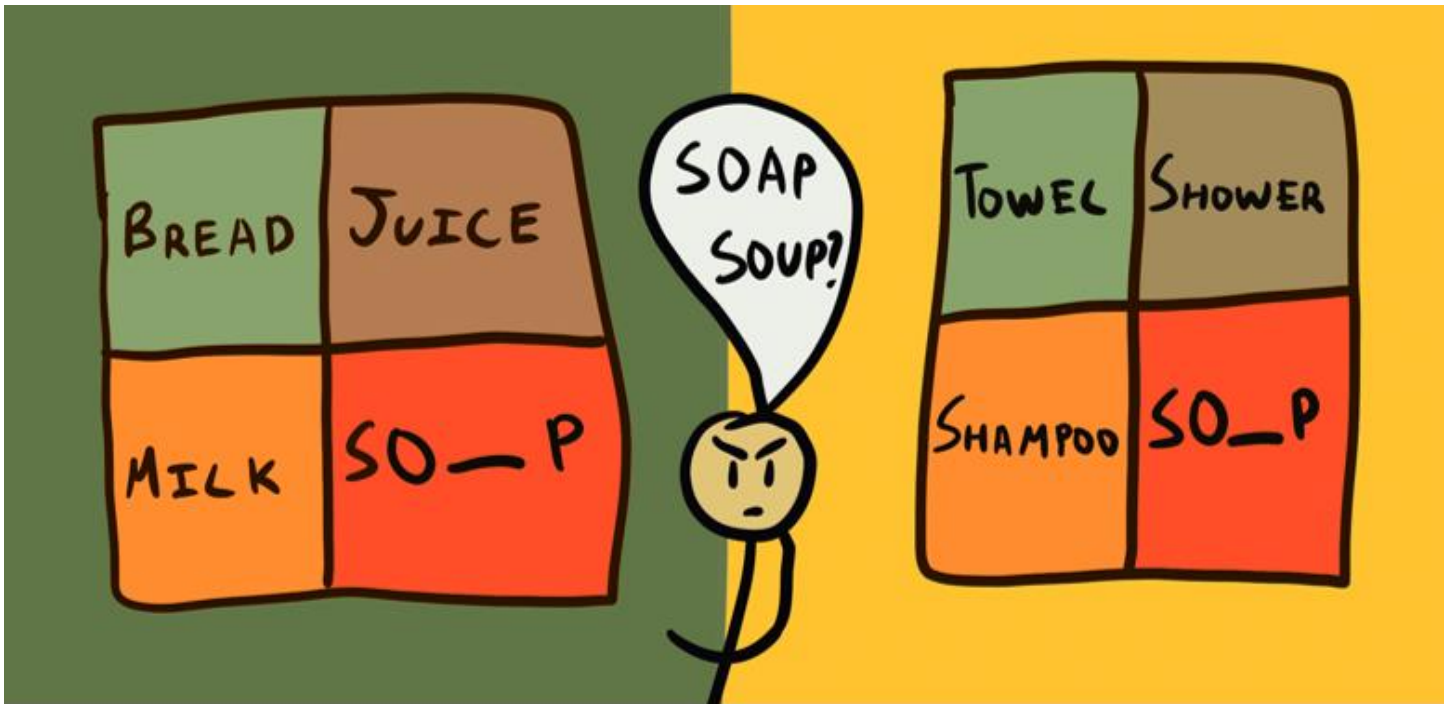
See things from our own personal perspective



Organize and interpret events/information based on this perception



Influences what we pay attention to and the problems we identify, and the alternatives we develop or consider.



## Priming Effect

*Priming*, or, the *Priming Effect*, occurs when an individual's exposure to a certain stimulus influences his or her response to a subsequent stimulus, without any awareness of the connection. These stimuli are often related to words or images that people see during their day-to-day lives.



## **Authority Bias**

It is the tendency to attribute greater accuracy to the opinion of an authority figure (unrelated to its content) and be more influenced by that opinion

**ACTIVITY**



# **Evaluate the Scenario**



# #3

## Responding to and Mitigating Bias



# Responding to Bias Under in Specific Roles

Bias of Investigator

Bias of the Interviewee

Bias during a Live Hearing

Bias of the Title IX Coordinator/ Process



## Mitigating Investigator Bias

- Pre-planning
- Checks and balances/  
accountability partner
- Avoid pre judgement
- Impartiality
- Let the investigation lead you  
not the other way around
- Notice trends
- Assess your process from  
beginning to end



# Specific Implications of Bias for Investigators

Interview  
Report Writing

# Responding to Interview Bias



- Prompt Scheduling
- Rapport Building
- Consistency
- Questioning

# Specific Implications of Bias for Decision Makers

- Notice Your Reaction
- Review all information before the hearing
- Presence of the Advisor
- Authority Bias and Group Think
- Appeals





**Specific Implications of  
Bias for Title IX  
Coordinator/ Process**

Impartiality  
Training and Presentations  
Perceptions  
Reputation

## Best Practices in Mitigating Bias

Avoid Stereotypes

Appearance of Bias vs Actual Bias

Show Your Work

Be Thorough

# Best Practices in Mitigating Bias



Separating intake from investigation



Pre-investigation checklist



Investigation Meetings with Title IX Coordinator/other staff



Evaluation of Title IX Team



Evaluation of Title IX Process



# QUESTIONS?

# *Thank you!*

Please remember to complete the *event evaluation*.  
Your comments will help us continually improve the  
quality of our programs.