# IMPERFECT IMPARTIALITY - IMPLICIT BIAS IN MEDIATION Laura A. Josephson-Bernat



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#### **OBJECTIVES**

- Learn about implicit bias
- Learn how implicit bias impacts mediator neutrality
- Learn techniques to debias

# What is Implicit Bias?

### Implicit Social Cognition

- Mental shortcuts
- Used to categorize information
- Are automatic
- Can be positive or negative
- Learned from family, friends, peers, school and the media



#### Implicit Bias

- Positive or negative assessments
- Automatically activated without our awareness or intentional control
- Based on our attitudes and stereotypes
- Tend to develop early in life
- Affect our understanding, actions and decisions

Attitudes
Evaluative feelings that are
positive or negative

Stereotypes
Traits we associate with a category

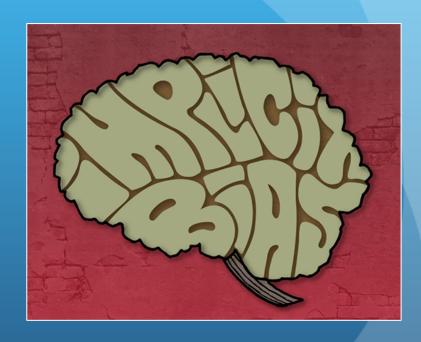


#### Implicit Association Test

- Project Implicit
   https://implicit.harvard.edu/implicit/takeatest.html
- The Implicit Association Test (IAT) illuminates the unconscious by reaction time to words and categories
- Examples of IATs: Age, Arab-Muslim, Asian, Disability, Gender-Career, Gender-Science, Native, Presidents, Race, Religion, Sexuality, Skin-Tone, Weapons, and Weight

# Characteristics of Implicit Bias

- Unconscious and automatic
- Pervasive
- Often variance between explicit cognition and implicit cognition
- Correlate with discriminatory judgment and behavior
- Are malleable



# How does implicit bias impact mediator neutrality?

#### Elements of mediators' neutrality



- No conflict of interest
- Process Equality
- Outcome Neutrality
- Lack of favoritism, bias or prejudice

### Imperfect Impartiality

- Given implicit biases, mediators' impartiality is illusive
- Given ethical duties, mediators must consciously work toward the goal of neutrality



What can we do to interrupt the habit of implicit bias?

The most enduring strategies to break the habit of bias are your own awareness of implicit bias and your own motivation to make your unconscious thoughts become conscious.

# Debiasing through Education

- Awareness and concern leads to motivation
- Mindfulness

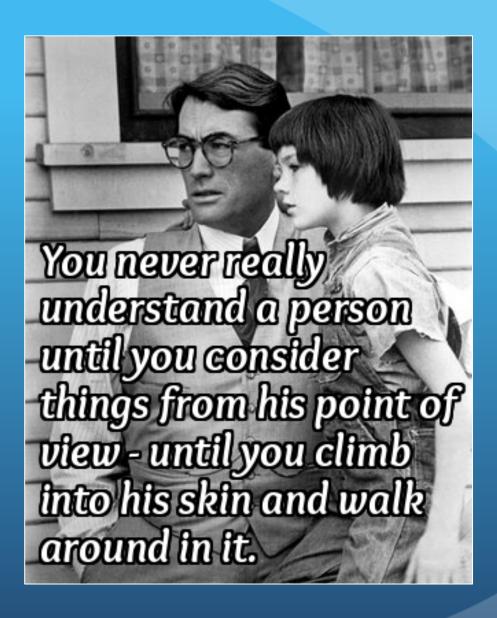


# Debiasing Through Exposure





- Intergroup positive contact
- Display positive exemplars
- Perspective taking



#### Approaches to Debias



- Engage in deliberative thinking and higher level processing
- Reduce cognitive load and slow down
- Replace stereotypes
- Be accountable and commit to mediate with impartiality
- Create structure
- Consider micro-messaging

#### Micro-messaging

Small, subtle, semi-conscious messages we send and receive when we interact with others

- Micro-affirmations: Cause people to feel valued, included or encouraged
- Micro-aggressions: Cause people to feel devalued, slighted, discouraged or excluded

#### **TAKEAWAYS**

- Implicit biases are automatic, unconscious assessments (favorable or unfavorable) that affect understanding, actions and decisions
- Even egalitarian mediators exhibit implicit biases based on attitudes and stereotypes learned early in life
- Mediators must strive to conduct mediations impartially with equality in process and outcome, and in a manner that is free from conflicts of interest, bias, favoritism and prejudice
- If we are motivated, we can interrupt our habit of implicit bias to close the gap between the realities of our brain's processes and the goal of mediator neutrality

#### THANK YOU

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