

# IMPLICIT BIAS

- Thoughts and feelings are “implicit” if we are unaware of them or mistaken about their nature.
- We have a bias when, rather than being neutral, we have a preference for (or aversion to) certain things, places, or a person or group of people.
- Thus, we use the term “implicit bias” to describe when we have attitudes towards certain things, places, or people or associate stereotypes without our conscious knowledge.
- All humans have implicit bias. It can be useful in terms of quick judgments and assessing danger – fight or flight.

# TEST YOUR OWN IMPLICIT ASSOCIATIONS

- <https://implicit.harvard.edu>
- There are over a dozen different associations to test for:
  - Race, age, gender (science and workplace), weight, disability, sexuality, religion, etc.
  - Mental health – self-esteem, anxiety, alcohol, and more
- The IAT may be especially interesting if it shows that you have an implicit attitude that you did not know about.
- Don't confuse implicit bias with prejudice or racism. Most people who show an implicit preference for one group over another are not prejudiced.

Gender IAT

76%

more readily  
associate “males”  
with “career” and  
“females” with  
“family”

Gender Science  
IAT

70%

more readily  
associate “male”  
with science and  
“female” with the  
arts

Race IAT

75%

more readily  
associate “male”  
with science and  
“female” with the  
arts

Disability IAT

76%

have a preference  
for able-bodied  
people

# Four Common Types of Bias

PERFORMANCE

PERFORMANCE  
ATTRIBUTION

COMPETENCE/LIKEABILITY  
TRADEOFF

MATERNAL BIAS

# PERFORMANCE

- The “In” Group is judged on potential. The “out” group is judged on accomplishments.
- U.S. orchestras revealed women’s odds of making it past the first round of auditions increased 50% with blind auditions.
- Study of identical resumes – one with a man’s name and one with a woman’s name – found that 79% of applicants with a man’s name vs. only 49% of those with a woman’s name were ‘worthy of hire’
- Resumes with white-sounding names received 50% more calls for interviews than identical resumes with black-sounding names. A “white” name is equivalent to about 8 more years of experience
- Law partners were given a mistake-heavy law memo to grade 10
  - When a partner thought the author was black, the memo scored a 3.2 grade whereas the same memo scored a 4.1 where they thought the author was white
  - There was also a drastic difference in the qualitative comments. White authors were described as having ‘potential’ whereas the black authors got comments like “I can’t believe he went to NYU”

# PERFORMANCE

- IMPACT on the “Out” Group:
  - Less opportunity
  - Held to stricter standards
  - Self-fulfilling prophecy
- COUNTERACTIONS:
  - Objective standards: for hiring, evaluating performance and assigning opportunities
    - Set standards in advance
    - If possible, use gender- and race-blind evaluations in hiring
  - Accountability: explain decisions on hiring, evaluation and peer reviews

## PERFORMANCE ATTRIBUTION

- “In” Group are perceived as “naturally talented. “Out” Group presumed to have “gotten lucky.”
- Research shows that when men and women work together on tasks, women are given less credit for a successful outcome, viewed as having made smaller contributions to it, and blamed more for failure.
- Survey of several thousand potential political candidates, all with the credentials to run for office, found that the men were 60% more likely to think that they were “very qualified” to run for office.
- At Facebook, there is the perception by some that under-represented groups got jobs because of it’s commitment to diversity and Affirmative Action laws, not because of their qualifications .

# PERFORMANCE ATTRIBUTION

- IMPACT ON “OUT” GROUP:
  - Not getting the same credit for accomplishments
  - Less likely to receive credit for their ideas – “stolen ideas”
  - Less likely to have influence in groups – interrupted more
  - Given greater blame for mistakes
  - Have lower self-confidence
  - Sit at table less, raise hand less, apply for jobs and promotions less
  - More likely to feel like a fraud/ experience impostor syndrome
- COUNTERACTIONS:
  - Set ground rules & norms for meeting dynamics - No interruptions, everyone speaks
  - Interrupt the interrupters - “I’d like to hear the end of what Sarah had to say” – anyone can do this; power move for even a junior contributor
  - Attribute carefully – noting contributions and attributing success , acknowledge ideas and celebrate others’ successes and do not let mistakes linger (point out if someone else actually came up with an idea)



## COMPETENCE/LIKEABILITY TRADEOFF

HARVARD STUDY: Heidi & Howard Roizen - same story, different name

Howard = likeable

Heidi = selfish – “not the type of person you would want to hire or work for”

FINDINGS:

Women face a tradeoff between competence & likeability that men do not • Women are communal: nice, submissive, warm •

Men are agentic: powerful, assertive, action-oriented • Women leaders seen as effective only when displaying ‘feminine’ aspects

IMPACT: Having to produce results AND be liked makes it harder for women to:

- Get hired and promoted • Negotiate on their own behalf
- Exhibit decisive leadership to drive results • Avoid more office “housework”

COUNTERACT: Push back on the likeability penalty • Be specific & ask if standards applied to men

- Words to watch: • Aggressive, pushy, abrasive, demanding, difficult • Self-promotional, political, not team player • ‘Style’, not well-liked
- Take care recognizing accomplishments
- Rotate “housework” (notes, events) • Assign so not relying on volunteers

# MATERNAL BIAS

CASE STUDY: Identical resumes with one difference – “membership in the PTA,”  
mother is: • 79% less likely to be hired • Half as likely to be promoted • Offered an average of \$11,000 less in salary

FINDINGS: Strong belief that mothers can't be good employees • “Good mothers are 100% focused on their children, good employees are 100% focused on their jobs” • Motherhood triggers performance bias and likeability bias • Can be triggered by potential motherhood (engagement, marriage, talking about kids)

IMPACT: Women are given less opportunity • “I didn't consider you for this because I know you won't want to do that much travel and leave your kids” • Women are disliked when seen as not nurturing mothers • “I don't know how you leave your kids!” • This presents a serious double bind for women on likeability and competence – can't be both, especially once they are mothers

COUNTERACTIONS: Don't make assumptions that women are limited in their commitment, ability to travel or take a new assignment • Manage parental leave • Plan to take leave and return successful (start early!) • Keep track of the kinds of assignments that women are getting before and after maternity leave • Encourage men to take their full paternity leave

## Diverse and inclusive workforces demonstrate:

12% more discretionary effort

19% greater intent to stay

57% more collaboration among teams

42% greater team commitment

At firms with diverse leaders, employees reported:

60% more likely to see their ideas developed or prototyped

70% more likely to see their innovation implemented

70% more likely to have captured new market in past year

45% more likely to have improved market share in past year

## 2017 Numbers

Report from December 2017 – National Association for Law Placement

- Nearly 35 percent of lawyers at major U.S. law firms are women
- About 15 percent are minorities
- The percentages represent small gains over 2016. However, the percentages are still below pre-recession levels.

In 2017, women made up 22.7 percent of partners, 45.48 percent of associates and 34.54 percent of total lawyers. In 2009, after the downturn, the figures were 19.21 percent, 45.66 percent and 32.97 percent, respectively.

In 2017, minorities made up 8.42 percent of partners, 23.32 percent of associates and 15.18 percent of total lawyers. In 2009, the figures were 6.05 percent, 19.67 percent and 12.59 percent, respectively.

The percentage of lawyers with disabilities at law firms is less than 1 percent, while the percentage of openly LGBT lawyers is 2.64 percent.

## Clients are beginning to reward diversity

The Hartford is a participant in and committed to the American Bar Association's Minority Counsel Program and a signatory to the Call to Action. As a participant in these initiatives, we seek to promote the engagement of minority law firms and minority lawyers within our Preferred Counsel Program. Please provide statistics on the number and percentage of law firm minority personnel within each category (partner, associate, paralegal).