

Addressing Unconscious Bias in the ADR Process

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About Your Instructors

Dr. Lester Hoffman & Charles “Skip” Pettit are the authors of the book, **“Moving Beyond Bias: Bias-Free Communication Strategies for Today’s Organization.”** Each is a renowned workshop leader, keynote speaker, and consultant in Diversity & Inclusion, Unconscious Bias, & Leadership. Their clients include 30+ federal agencies (DOE, FEMA, VA, NOAA, US Navy, FCC, Pentagon, NIH, Census Bureau, NIH, etc.), as well as numerous Fortune 250 organizations, including IBM, AT&T, Pfizer, FedEx, Prudential, Lockheed-Martin, Xerox, Bank of America, Merck, JP Morgan/Chase, Citigroup, Alcoa, & Mitsubishi.

Agenda & Goals For The Session

- Explore impact of Unconscious Bias on Mediation/ADR
- Define Unconscious Bias
- Anti-bias tools, techniques, & principles

Guiding Principles

- *Everyone IS Biased*
- Bias is *normal* – so is being unaware of it
- Unchecked bias _____
- Unconscious bias impacts _____

- NOTE: *ALL professionals must be aware of potential bias, and ADR practitioners especially must be hyper-vigilant about bias in the ADR process!*

Characteristics: ADR Practitioners Must Be

- P
- F / O
- I / N
- F
- H_____ /Free of conflict of interest
- A
- C

Inclusive Behaviors For the ADR Practitioner

- Work for the common good!
- L
- C
- S
- Build
- A
- Experience
- **Leverage**
- Move from

ADR Processes & Bias

- Common types of ADR for civil cases are,

_____ , _____ ,

_____ , _____ ,

_____ , _____ ,

_____ , _____ ,

_____ & _____ .

- **UNCONSCIOUS BIAS** impacts them all!

Impact of Unconscious Bias

- D & J
- P & B
- B & C
- E /A /E
- _____ when “stories differ”
- Whether we think _____

How Unconscious Bias Can Undermine the ADR Process

- L _____ & A _____
- Omissions/Perceptions → _____ / _____
- I _____ D _____
- S _____ T _____
- L _____ / Accents / N _____ / Stereotyping
- Real/perceived _____ between parties
- Real/perceived _____ between _____
& _____

Exercise—

Personal or Organizational “Blind Spots”

- What are *YOUR* blind spots?

- ...

- ...

- ...

- ...

Taking The Blind Spot Challenge

Definitions Impacting Unconscious Bias

- ***Micro-Inequities*** (Mary Rowe, MIT, originator):
 1. Undercover, hard-to-prove, hurtful covert events/communications/omissions, often unintentional, & unrecognized by perpetrators, “felt” by recipients ...
OR ***Micro-Inequities***: Ways that individuals are singled out/overlooked/ignored or discounted, based on unchangeable characteristics, such as race/gender/age
- ***Subtle/Unconscious Bias***: Non-litigable actions or omissions involving micro-inequities/micro-aggressions
- ***Micro-Aggressions***: Micro-inequities with a hostile, derogatory, demeaning, or other strong negative quality

Inclusionary/Exclusionary Factors

- A
- A
- C
- H
- Age/Generation/Gender
- Introversiion/Extroversiion
- W
- R
- Sexual Orientation (real/perceived)

Inclusionary/Exclusionary Factors

- Background (where you're from, education, military experience, etc.)
- Parental status
- F
- Appearance
- E
- H
- T

Biased Language & Actions

- Biased phraseology
- “*Female SES*”
- *How you say something*
- Positive stereotyping

Note: *Adapted from “Moving Beyond Bias,”
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Reactions to Accents (Univ. of Chicago Study)

- “Accent discrimination” – usually unconscious
- Independent of _____
- Accents perceived as _____
- Difficult to understand (brain processing)
- Bias against foreign speech
 - **An excellent example of DKDK!**

Examples of Name Bias

“Are Emily & Greg More Employable Than Lakisha & Jamal?”

- Published in Bureau Economic Research journal, 2002
- Identical resumes submitted to 1300+ employers
- More call-backs for _____
- _____
- _____
- Note: Adapted from “Anti-Bias Strategies,” © Copyright, 2012, Dr. Lester Hoffman

Examples of Unconscious Bias: Omissions

- “Inadvertently”

- Invisibility – e.g.,

- Excluded

- Feigning inclusion

Questions To Consider: Individual Action Plan

1. What specific actions can I take?
2. What needs to be done in my organization?
3. How can I help others understand?

Sources of Biased Perceptions/Judgments/Behaviors That Mediators/Arbitrators Must Be Aware Of

Stereotype

- Definition: oversimplified, inaccurate, generalized, and fixed or rigid image of a person or persons belonging to a particular group
- ...
- ...
- ...
- ...
 - ...
 - ...

Sources of Biased Perceptions/Judgments/Behaviors

Mediator perceptions

- The Parties
- Contrasts/differences _____
- Contrasts/differences BETWEEN _____
- Similarity →

- _____ Identity conflicts/identity sharing
- Recency / Primacy
- Halo / Horns

Bias In Language

Power of Language

- Mediator Language
- ...
- Differences
- Internal dialogue
- ...

Examples of Biased Perceptions/Judgments/Behaviors

Use of language – Gender & Age Differences

- “Bro”
- “Listen, honey”
- “Thug”
- “Hey, Junior”
- “Grandpa”

Power Imbalances

Examples:

- Supervisor -- Employee
 - CO / KO / COR -- Vendor / Contractor
 - Landlord -- Tenant
-
- Imbalances
 - Actual versus perceived

Personal Strategies: “What Can You Do?”

- Commit to self-awareness
- Assess your bias at:
<https://implicit.harvard.edu/implicit/>
- Be open to acknowledge your bias
- Discomfort ... why?
- Notice stereotypes
- Greet people authentically—say Hello
- Explain the Mediation/ADR Process

During This Session We Discussed

1. Guiding principles – be aware of potential bias
2. Inclusive behaviors – Characteristics of Mediators/ADR
3. Impact of Unconscious Bias
4. DKDK Blind Spots & Micro-Inequities
5. Inclusionary/Exclusionary Factors & Stereotypes
6. Mediator perceptions/language/actions
7. Power Imbalance (actual or perceived)
8. Create Individual & Organizational Action Plans to confront Unconscious Bias