OVERCOMING BIAS IN YOUR TITLE IX INVESTIGATIVE PROCESS

Alice Jones

Title IX Coordinator | Roosevelt University |
Inclusion Consultant Network, LLC
317-443-2467

ai ACADEMIC IMPRESSIONS 1

LEARNING OUTCOME

After participating…

- You will be better able to identify and overcome bias in your own practice
- You will be better able to identify procedural and institutional blind spots in systems of care
- You will be able to identify and plan for bias response within phases of the case: Preparing for the Interview, Report Writing and Decision making

ai ACADEMIC IMPRESSIONS 2

Quick Refresh: Unconscious bias:

- Our world is our reality
- Who do we SEE? Who do we NOT SEE?
- Bias trip wires!

ACADEMIC IMPRESSIONS
3

Unconscious bias:

"Embrace the fact that it is normal for all human beings to have unconscious preferences and biases and that those preferences and biases impact most, if not all, of the decisions we make, including those regarding people"

Cook, Ross Inc. (2011).

ACADEMIC IMPRESSIONS
4

POLL

What motivated you to sign up for this webcast?

ai ACADEMIC IMPRESSIONS 5

What is at stake?

- OCR does not require colleges/universities to document the race of the accuser or accused in sexual misconduct complaints
- Many recent civil lawsuits allege University had racial bias in their Title IX policies/practice
- Men of color, African American and international students expressing racial bias played a key role in their outcomes
- Disproportionality: "It's likely that the same implicit biases that lead to more black high school kids getting suspended could well be affecting the college system," Oka, N. (2017).

ai ACADEMIC IMPRESSIONS 6

PREPARING FOR THE INTERVIEW

ACADEMIC IMPRESSIONS

7

It all starts with the interview

8

Case:

You receive a case where the reporting and responding party are both males. The allegation involves a sex act which occurred between the two males. They are both men of color and you are working at a predominately white institution (PWI).

ai ACADEMIC IMPRESSIONS 9

Before the Interview:
Ways to "check" your bias:

- Pause.
- Check in with yourself, read the report, understand your own reaction (comfort, discomfort, fear etc.)
- Affinity bias: familiarity (they look like me, are an athlete like me, etc.)
- Do you know any party?
- Names, institutions, departments, affiliations, the alleged behavior etc. Check ALL assumptions.
- We do not only have biases about protected classes (race, sex, etc.) we have biases about EVERYTHING.

ai ACADEMIC IMPRESSIONS 10

During the interview:

- Confirmation bias
- Uncomfortable topics
- Assigning meaning to behavior
- Ethnographic interview: Cultural behaviors and worldview
  - Examples: Crying or not crying in the interview, what may crying mean in various cultures?
- Unpalatable behavior v. Policy violation

ai ACADEMIC
IMPRESSIONS 11

✎ ACTIVITY

With your institution group discuss:

- How does your body register discomfort?
- Can you identify times you felt uncomfortable during case proceedings?
- Are there times that you have froze, where/when?
- What can we do differently to ensure we are not disrupting the investigative process?

ai ACADEMIC
IMPRESSIONS 12

REPORT-WRITING

ACADEMIC IMPRESSIONS 13

Back to our case example:

The case ends up in a hearing panel. At the hearing, the responding party said he was intoxicated and "ended up" in a sexual situation with the reporting party who was also intoxicated. He said he "isn't gay" and is "horrified" by what happened. The hearing panel asks a few questions about peripheral parts of the case, no further specification is asked of how the men ended up engaging in sexual contact. It appears this was not fully specified or outlined in the investigation interview either. This information seems to be left out of the investigation.

Can you write a successful report on this investigation and/or hearing?

ACADEMIC IMPRESSIONS 14

The rest of the case stems from the Interview:

- If critical information is not gained, the train is off track.
- One cannot write a successful report without all key information.

ai ACADEMIC IMPRESSIONS 15

Report writing:

- Alleged behavior: Physical (assault) v. Verbal (harassment), concrete v. subjective (disclaimer)
- Tie to policy
- Concrete argument building, not assigning meaning arbitrarily
- Quotes as often as possible

ai ACADEMIC IMPRESSIONS 16

Report writing:

- Word-choice, "Shatter," "chased," etc.
- Pounding the keys!
- Subjective language: "Non-compliant," "Disrespectful."
- Include cultural context if relevant (international views on dating, etc.)
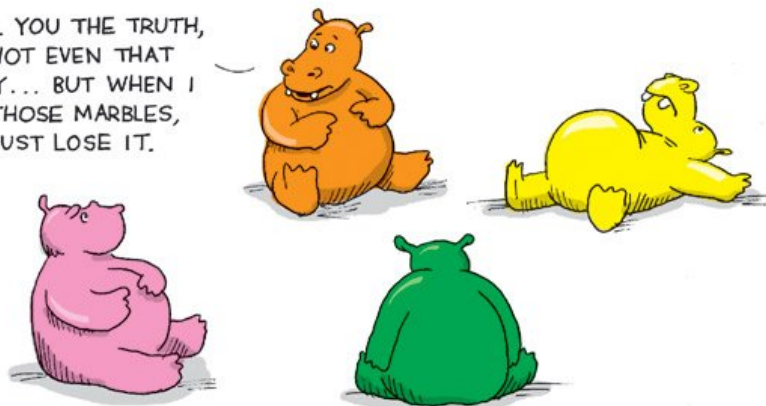- Present ALL sides and theories

ai ACADEMIC
IMPRESSIONS 17

? QUESTIONS

ai ACADEMIC
IMPRESSIONS 18

DECISION-MAKING

ACADEMIC IMPRESSIONS 19

First thing's first…

TO TELL YOU THE TRUTH,
I'M NOT EVEN THAT
HUNGRY... BUT WHEN I
SEE THOSE MARBLES,
I JUST LOSE IT.

ACADEMIC IMPRESSIONS 20

Decision-Making:

- We must HAVE all the information we can obtain in order to make a fair decision.

- In the case example we have used throughout, can we establish if the sexual misconduct policy was violated? Why or why not? If not, how can we fix this?

- Discuss with others from your institution

ai ACADEMIC IMPRESSIONS 21

Decision-Making:

- Pause
- Notice if you are reacting
- Put a "flashlight" on yourself (Cook, Ross Inc., 2011).
- Considered other hypotheses?
- Do not make decisions until all interviews are completed
- Ensure you have all the information you can obtain and have asked all questions, even the uncomfortable ones, even the ones about identity, etc.

ai ACADEMIC IMPRESSIONS 22

TOOL KIT:

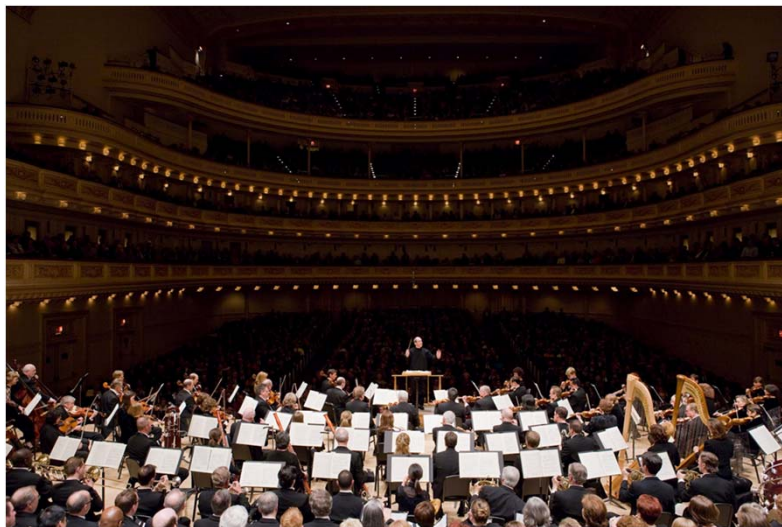ACADEMIC
IMPRESSIONS 23

Tool Kit:

- Self evaluation in the moment, pause, check in
- Seek out D/I trainings
- Accountability partners
- In-house data collection
- Action plan: Individual, departmental, organizational etc.
- Partner with D/I offices
- Trends you notice
- Resources on campus

ACADEMIC
IMPRESSIONS 24

Tool Kit:

- Evaluate your system from entry to case closure
- Gather data (anonymous surveys) from those who are involved (reporting/responding parties, etc.) in your system of care

ai ACADEMIC IMPRESSIONS 25

Think outside of the box:

ai ACADEMIC IMPRESSIONS 26

Action Plan:

How can I identify areas of bias?	How can I improve my investigative practices to ensure I'm controlling for bias?	How can I work to ensure my department is controlling for bias?

ai ACADEMIC IMPRESSIONS 27

🔑 TAKEAWAYS

Things to consider…

Bias can only be rectified when you increase your willingness to identify it in yourself.

What will you do to acknowledge and mitigate yours?

ai ACADEMIC IMPRESSIONS 28

? QUESTIONS

ACADEMIC IMPRESSIONS 29

References:

- Cook Ross Inc. (2011). Unconscious bias workbook. A reinventing Diversity publication. Cook Ross Inc.
- Oka, N. (September 19, 2017). Minorities potentially discriminated against in the Title IX process. *The Missourian*. Retrieved from: https://www.columbiamissourian.com/news/higher_education/minorities-potentially-discriminated-against-in-title-ix-processes/article_931e9ba6-9cae-11e7-b865-976abf9c1a53.html
- Oppenheimer, A. (2012). The psychology of bias: Understanding and eliminating bias in investigations. Retrieved from: http://amyopp.com/wp-content/uploads/2013/07/Psychology_of_Bias_May_2012.pdf

ACADEMIC IMPRESSIONS 30

References:

- Rice, C. (October 14, 2013). How blind auditions help orchestras to eliminate gender bias. *The Guardian.* Retrieved from: https://www.theguardian.com/women-in-leadership/2013/oct/14/blind-auditions-orchestras-gender-bias
- Strauss, V. (April 22, 2018). Racial bias in campus discipline: When will universities look in the mirror? The Washington Post. Retrieved from: https://www.washingtonpost.com/news/answer-sheet/wp/2018/04/22/racial-bias-in-campus-discipline-when-will-universities-look-in-the-mirror/?utm_term=.43b3473fee8f
- Yoffe, E. (September 11, 2017). The question of race in campus sexual assault cases: Is the system biased against men of color? *The Atlantic.* Retrieved from: https://www.theatlantic.com/education/archive/2017/09/the-question-of-race-in-campus-sexual-assault-cases/539361/

ai ACADEMIC IMPRESSIONS 31

EVALUATION

Thank you!

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

Follow us: 32