

Unconscious Bias in the Legal Profession: Strategies for Uncovering and Interrupting Bias

Research shows that we all have unconscious bias; it is part of our human condition. But research also shows that exercising your “ABS” – (1) **A**wareness, (2) **B**ehavior change, and (3) **S**tructural change -- can interrupt and measurably reduce implicit or unconscious bias. You have learned to be biased from a wide variety of sources; you can unlearn these biases – but only by engaging in the following actions.

AWARENESS

Interrupting bias begins with awareness. Most people recognize that they have some measure of conscious bias for or against other groups – positive or negative attitudes and stereotypes -- that they can either hide or express, given the context. What few people realize is that everyone has unconscious or implicit bias – attitudes and stereotypes that the conscious mind is not even aware of, let alone able to control. Our unconscious is highly permeable and soaks up information, including stereotypes, from a variety of sources without our conscious awareness or permission. Those stereotypes can unintentionally influence our behaviors.

Review the following intervention strategies and list the action steps you will take to interrupt your unconscious biases:

Awareness - Intervention Strategies	Action Steps
<ol style="list-style-type: none"> 1. Take one or more implicit bias tests offered online at no cost at a website sponsored by Harvard University that measures reaction times and associations – https://implicit.harvard.edu/implicit/. 2. Keep a “Surprise Journal” – track your surprises – assumptions made or expectations you have about another person or group that turned out to be wrong. The gap between your expectation (stereotype) and reality opens a window into the unconscious and reveals where you may harbor implicit bias. 3. Pay attention to discomfort with people in different social identity groups. This can reveal your unconscious biases as well. 4. Observe your first thoughts when interacting with others. Sometimes unconscious attitudes make their way into our conscious mind but we don’t pay attention to them at the time. Once you start paying attention, you can be more aware of areas where you may have unintentional biases. As you walk through a crowd, notice who you “trigger” on - who your attention is drawn to automatically. Then pay attention to whether there is a judgment that follows automatically. If a stereotype pops up, challenge its validity. 5. Determine which of your social identities are not salient (you don’t think about them on a daily basis or view the world through those identities). Those “blind spots” can cause you to make unintentional mistakes in decision-making. Intentionally looking into those blind spots can also reveal hidden biases. 	

BEHAVIOR CHANGE

Once you are aware of areas of implicit bias, you can break the potential link between the bias and your behaviors. You might not be able to completely eliminate unconscious biases but you can engage in bias-breaking activities that will help keep them from influencing your decisions and behaviors.

Behavior Change - Intervention Strategies	Action Steps
<p>1. Actively doubt your objectivity</p> <ul style="list-style-type: none"> • Research shows that people who claim they are objective are actually more biased compared to those who doubt their objectivity and work to interrupt bias. • Flip it to Test: Take the time to review your decisions (especially those related to talent management) and search for indicia of bias. Ask if your decision would be different if it involved a person from a different social identity group. • Slow down decision-making so your conscious mind is also engaged. Pause before you make a final decision. Question your assumptions and first impressions. Ask others for feedback to check your thought processes. • Justifying decisions in writing helps reveal and interrupt any biases. • Don't buy in to the popular notion that you should be "color blind" or "gender blind." You do see and react to visible differences on an unconscious level, even if you consciously believe you don't. Research demonstrates that believing you are "color/gender/age blind" actually makes you more biased. The better course is to acknowledge people's differences and work to ensure those differences aren't impacting you, consciously or unconsciously, in decision-making or your behaviors. <p>2. Increase your motivation to be objective and fair</p> <ul style="list-style-type: none"> • Research shows that people who are more motivated to be fair are less biased. Studies show that intentionally activating the part of your brain that seeks to be fair – the rostral anterior cingulate cortex (rACC) - helps reduce bias. <p>3. Actively reject stereotypes</p> <ul style="list-style-type: none"> • When a stereotype pops up in your thinking, actively reject it and say "no" or – even better – "that's wrong" – in order to re-script your implicit associations. • Decrease exposure to stereotypes. Change the channel or website page if material features stereotypes. <p>4. Expose yourself to counter-stereotypic examples</p> <ul style="list-style-type: none"> • Notice when someone or something triggers a stereotype in your mind and actively oppose it by thinking of a counter-stereotype in that situation. • Develop relationships with people who are different – cross-difference friendships, work relationships, mentor/sponsor relationships, etc. • Regularly expose yourself to counter-stereotypic individuals (i.e. male nurses, female construction supervisors, elderly athletes). Images (photos, mental visualizations) work too. Dr. Mahzarin Benajji, co-founder of the IAT, has rotating 	

photographs on her computer screensaver that are counter-stereotypical, including one depicting a female construction worker feeding her baby during a work break.

- Some organizations are [using virtual reality](#) in training on unconscious bias. When you take on the persona of someone who is different, that helps change your unconscious associations. Also, visualizing interactions with a member of a social “out-group” has been shown to help interrupt implicit bias.

5. Shift perspectives – alter the “us vs. them” mentality

- Put yourself in someone else’s shoes and look at the world through that perspective to notice things you may have never noticed before.
- If you’re really serious about reducing implicit racial bias, [research](#) shows that picturing yourself as having a different race results in lower scores on the race IAT.
- Perspective-taking might not be sufficient, though, if you have so little experience with the other group/person that you have to imagine what their experience is like. So go to the next level by engaging in “perspective-getting,” which requires engaging with others and learning what they think and prefer.
- Join a group that is different (i.e., be the male ally in the women’s affinity group).

6. Find commonalities with others

- [Research](#) shows that when you deliberately seek out areas of commonality with others, you will behave differently toward them, and exhibit less implicit bias so find something in common with every colleague.
- Re-categorize people - focus on a larger shared identity so that individuals in social “out-groups” are recast as members of the team or organization (“in-group”).

7. Reduce stress, fatigue, cognitive overload, snap decisions

- Implicit bias can affect decision-making and behaviors more easily when people are stretched to their limits and have to make quick decisions.
- [Research](#) demonstrates that engaging in mindfulness meditation reduces implicit bias because it strengthens the ability of your conscious mind to intervene in decision-making.

STRUCTURAL CHANGE

Awareness of implicit bias is not enough. Self-monitoring and personal behavioral changes can also be insufficient. Individual behavior changes often need to be supported by structural changes in order to have the greatest impact on interrupting implicit biases.

Structural Change - Intervention Strategies	Action Steps
<p>1. Increase accountability</p> <ul style="list-style-type: none"> • Institute systems where people have to count/measure outcomes so that no individuals or groups are systemically advantaged or disadvantaged. • Create systems where information is more transparent and processes are more objective (reduces implicit bias), including asking people to explain/justify their decisions. • Make a list of everyone in the group/section/department and go through the entire list to consider everyone before selecting people for opportunities (to avoid “top of mind” selections based on availability bias). • Empower everyone in the organization to point out areas of potential bias to enhance organizational performance by creating a psychologically safe environment. <p>2. Make decisions collectively and diversify decision-making groups</p> <ul style="list-style-type: none"> • Fill in blind spots and amplify the variety of perspectives at the table by intentionally including people from different social identities and backgrounds to improve decision-making. <p>3. Build support systems</p> <ul style="list-style-type: none"> • Help people reduce their stress, fatigue, mental overloads, and snap decisions by creating supportive structures and policies. <p>4. Continuous education</p> <ul style="list-style-type: none"> • Offer regular training to raise everyone’s awareness and increase their knowledge about implicit bias and provide tools for interrupting bias. <p>5. Develop clear guidelines, processes and criteria</p> <ul style="list-style-type: none"> • People implicitly move the goalposts when left to subjectively evaluate others who are different; interrupt this tendency with scorecards, pre-set interview questions, clear hiring and promotion criteria (decided beforehand), behavioral competencies, etc. <p>6. Institutionalize programs that provide exposure to diverse exemplars (e.g. Speaker’s Bureaus, outside activities, poster campaigns).</p>	