

# Mitigating and Responding to Bias in your Title IX Process

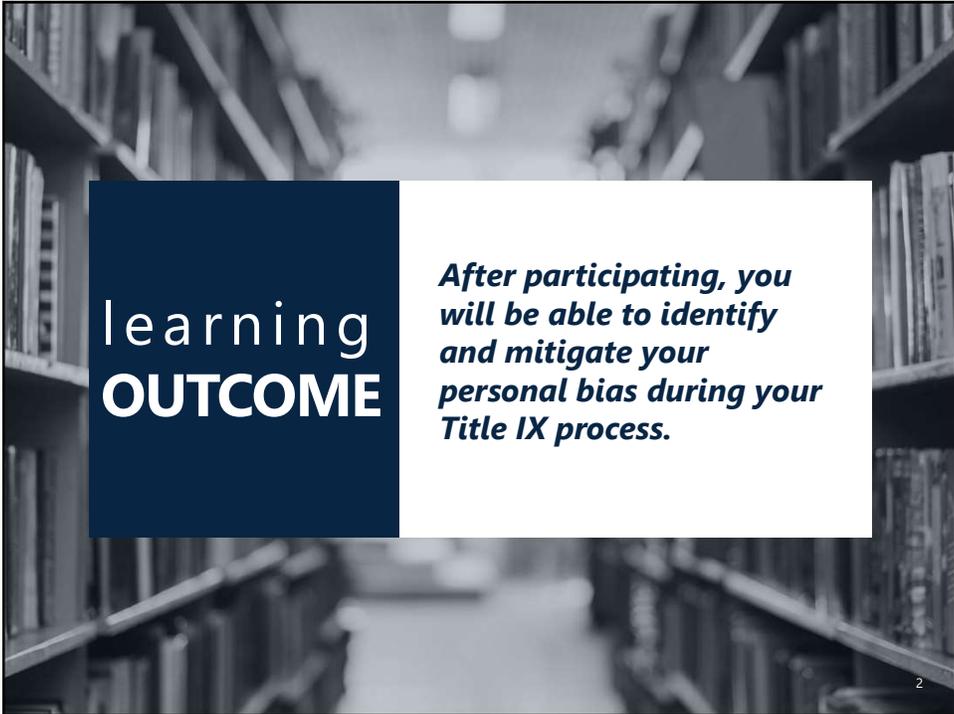


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**learning  
OUTCOME**

*After participating, you will be able to identify and mitigate your personal bias during your Title IX process.*

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# AGENDA

- Section 1: Defining Bias**
  - What bias is and is not
  - Self Awareness
- Section 2: Recognizing Bias**
  - How it appears in your Title IX process
  - Evaluate a Title IX scenario
- Section 3: Responding to and Mitigating Bias**
  - How to respond to and mitigate bias before, during and after the critical steps of your Title IX process
  - Tips and Best Practices
  - Reducing the Culture around Bias

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# #1

## Defining Bias

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## Final Rule Requirements Regarding Bias

### Regulations require no bias or conflicts of interest:

- § 106.45(a) provides: An IHE's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX.
- § 106.45(b)(1)(iii) provides: any individual designated by an IHE as a Title IX Coordinator, investigator, decisionmaker, or any person designated by an IHE to facilitate an informal resolution process, cannot have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- §106.45(b)(1)(iii) further provides: that all Title IX Coordinators investigators, decision-makers, and any person who facilitates an informal resolution process, must receive training on how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. In conducting Title IX proceedings, all such persons must not rely on sex stereotypes—typical notions of what men or women do or do not do—and must promote impartial investigations and adjudications of formal complaints of sexual harassment.
- Note – However, the regulations do not provide a definition for conflicts of interest, bias or impartiality

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## What is the safer method of transport?



OR



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## What are you most afraid of?



OR



OR



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## Who is more competent?



OR



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## Guiding Principles

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Bias IS NOT Bad – what you do based on bias could potentially be harmful.

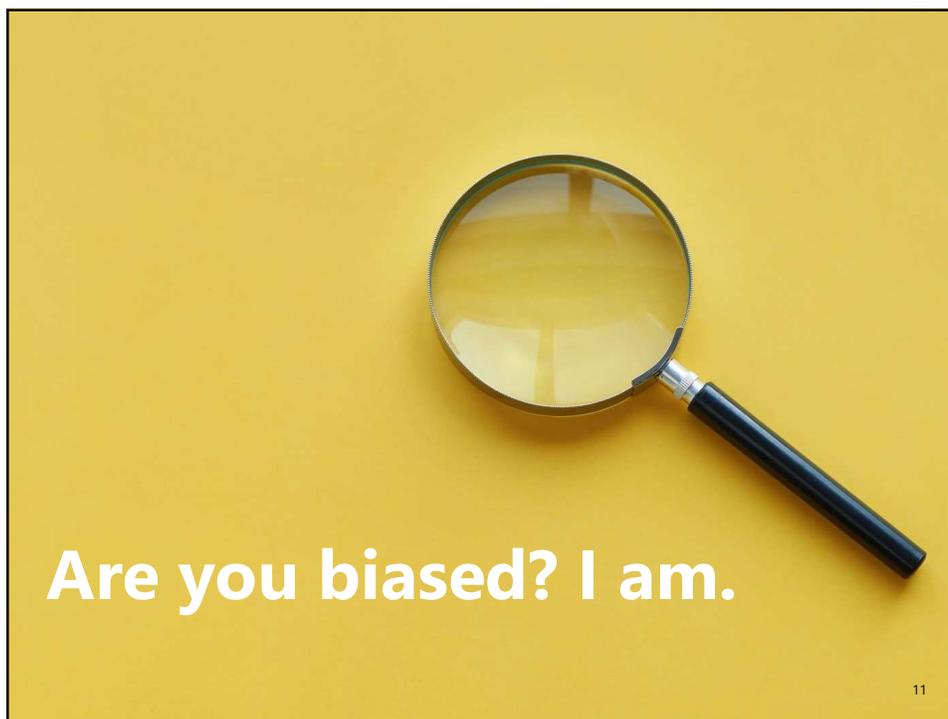
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Being different and recognizing differences is "okay."

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Our view of the world (worldview) is shaped by values, perceptions, assumptions and expectations.

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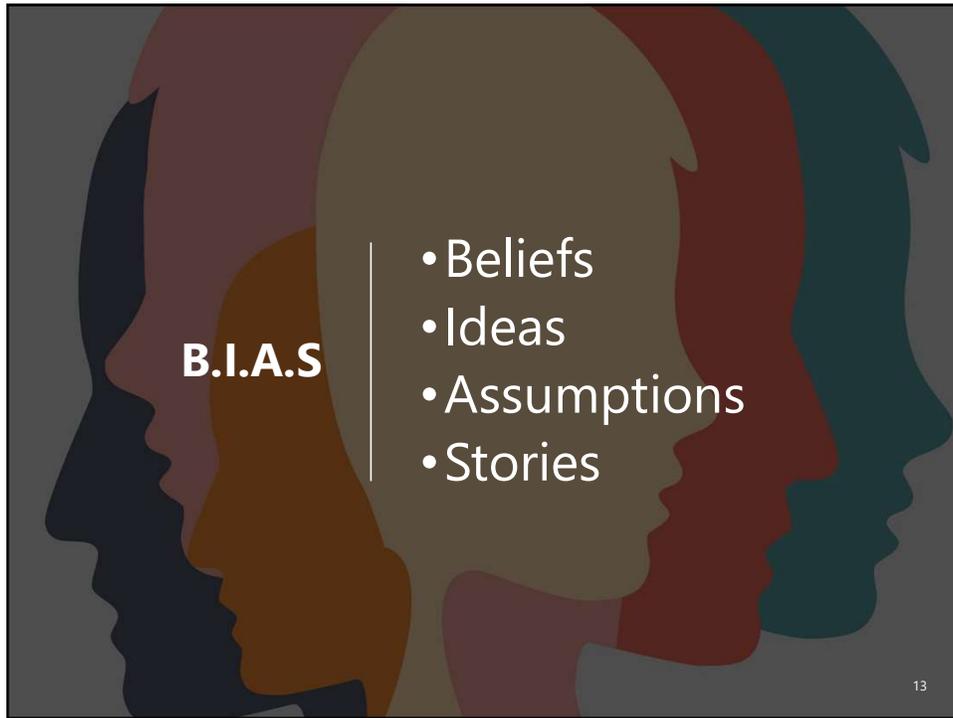
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## Jumpstarting Our Understanding of Biases

-  **Define:** What are biases? What types of bias exist?
-  **Recognize:** Where do my biases come from? How do they influence my actions and the actions of groups I identify with?
-  **Overcome:** What can we do about them? Individually? As Interviewers?

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**Defining Bias**

There are 2 forms of biases:

- Conscious bias (also known as explicit bias) and
- Unconscious bias (also known as implicit bias)

It is important to note that biases, conscious or unconscious, are not limited to ethnicity and race. Though racial bias and discrimination are well documented, biases may exist toward any social group. One's age, gender, gender identity physical abilities, religion, sexual orientation, weight, and many other characteristics are subject to bias.

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## Being of Two Minds

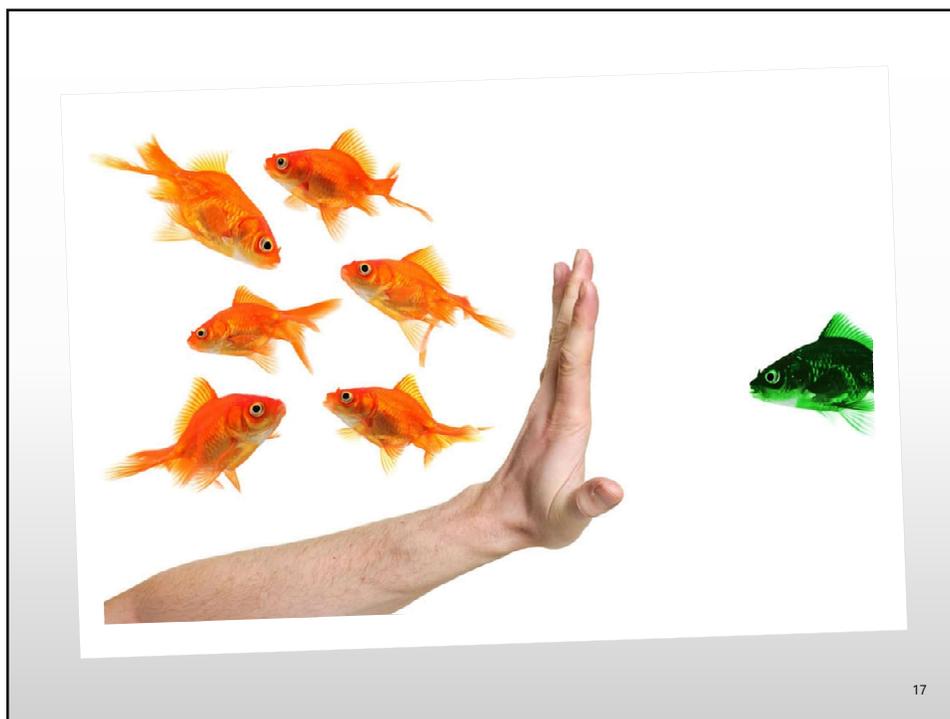
- Our mind operates in both conscious and unconscious modes
- Human beings can think, feel and behave in ways that run counter to their explicitly held and expressed views
- **Reflective system** for controlled processing
  - Conscious, explicit
  - Effortful, requires motivation
  - Takes more time
- **Reflexive system** for automatic processing
  - Often unconscious, implicit
  - Requires little effort
  - Fast

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# #2

## Recognizing Bias

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## Common Bias in Title IX Process

- Affinity Bias
- Anchoring Bias
- Halo Effect
- Confirmation Bias
- Priming
- Authority Bias

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### Affinity Bias

**Affinity bias** is the unconscious tendency to get along with others who are like us

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**TV Star...**

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**Or Criminal...**

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## Anchoring Bias

- Fixate on initial information and fail to adjust for subsequent information.
- This also happens when we are blinded by first impressions or influenced by first impressions, ideas, prices, or estimates relative to info received later.

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## Halo Effect



The halo effect occurs when an initial positive judgment about a person unconsciously colors the perception of the individual as a whole.

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## Confirmation Bias

-  Form of Selective Perception
-  See things from our own personal perspective
-  Organize and interpret events/information based on this perception
-  Influences what we pay attention to and the problems we identify, and the alternatives we develop or consider.

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**Priming Effect**

*Priming, or, the Priming Effect, occurs when an individual's exposure to a certain stimulus influences his or her response to a subsequent stimulus, without any awareness of the connection. These stimuli are often related to words or images that people see during their day-to-day lives.*

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**Authority Bias**

It is the tendency to attribute greater accuracy to the opinion of an authority figure (unrelated to its content) and be more influenced by that opinion

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## Responding to Bias Under in Specific Roles

- Bias of Investigator
- Bias of the Interviewee
- Bias during a Live Hearing
- Bias of the Title IX Coordinator/ Process

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## Mitigating Investigator Bias

- Pre-planning
- Checks and balances/ accountability partner
- Avoid pre judgement
- Impartiality
- Let the investigation lead you not the other way around
- Notice trends
- Assess your process from beginning to end

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**Specific Implications of Bias for Investigators** | Interview Report Writing

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## Responding to Interview Bias



- Prompt Scheduling
- Rapport Building
- Consistency
- Questioning

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## Specific Implications of Bias for Decision Makers

- Notice Your Reaction
- Review all information before the hearing
- Presence of the Advisor
- Authority Bias and Group Think
- Appeals



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### Specific Implications of Bias for Title IX Coordinator/ Process

Impartiality  
Training and Presentations  
Perceptions  
Reputation

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## Best Practices in Mitigating Bias

- Avoid Stereotypes
- Appearance of Bias vs Actual Bias
- Show Your Work
- Be Thorough

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## Best Practices in Mitigating Bias

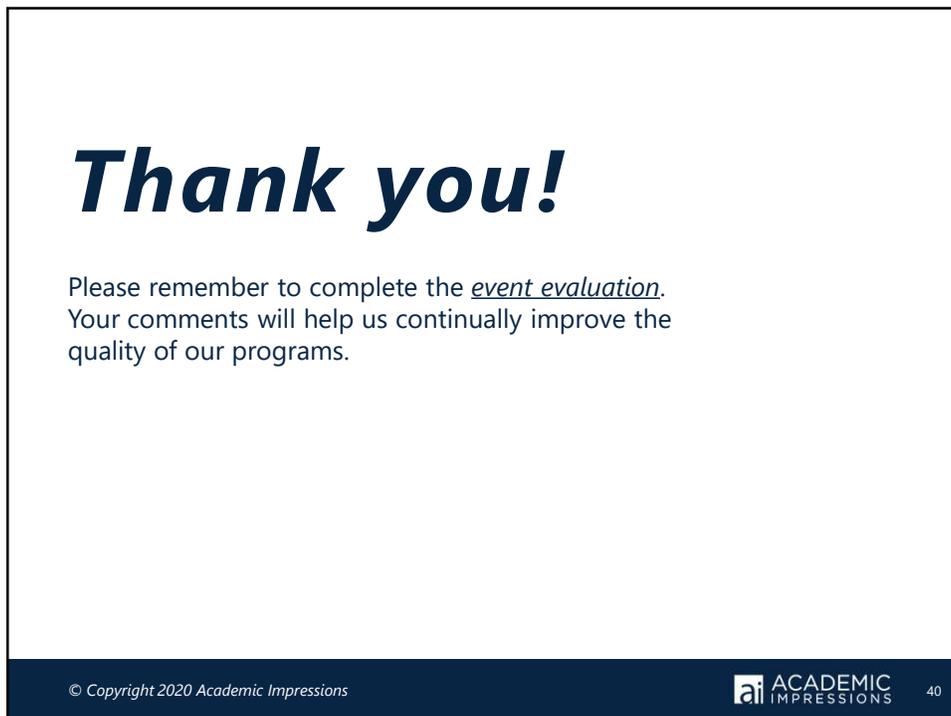
-  Separating intake from investigation
-  Pre-investigation checklist
-  Investigation Meetings with Title IX Coordinator/other staff
-  Evaluation of Title IX Team
-  Evaluation of Title IX Process

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