

Unconscious Bias, Stereotypes and Microaggressions:

How to Prevent These Subtle Forms
of Discrimination from Affecting
Your Workplace

WORKPLACE ANSWERS

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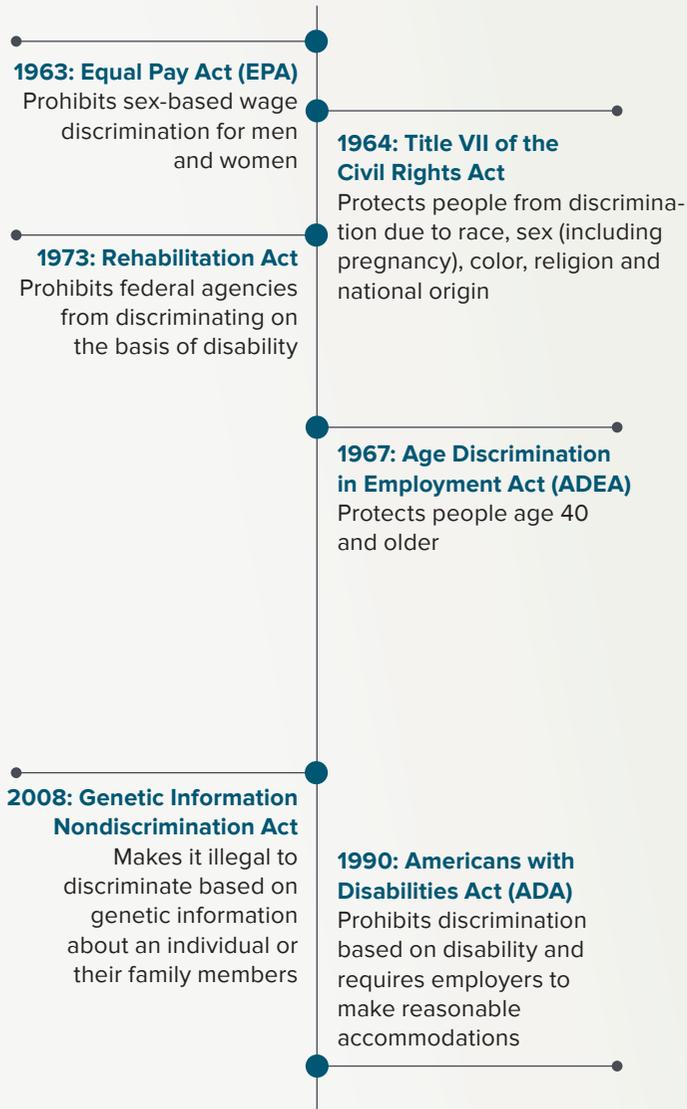
Introduction

If this was the 1950s, the likelihood of me writing this e-book would be difficult to imagine because I am a woman. While I may have had the same skills, drive and writing portfolio as a male counterpart, it's very likely this e-book wouldn't be authored by Shelley.

Back then, it was completely acceptable for a business to advertise that women or minorities couldn't apply for certain jobs.

Thankfully, a lot has changed since then. Laws are in place to prevent discrimination and harassment in the workplace, and they are enforced by the Equal Employment Opportunity Commission (EEOC). In the timeline on the next page, you can see the different laws and when they were created.

Timeline



Even with these laws in place, the EEOC receives thousands of complaints every year. In [2015 alone](#), there were 89,385 charges of discrimination and companies paid out over \$525 million to victims of workplace discrimination.

So what's happening?

The laws have made explicit discrimination—at least against some groups—easier to fight. However, discrimination hasn't gone away. In fact, it's often expressed in much subtler ways, making issues such as unconscious bias, stereotypes and microaggressions the more common workplace concerns.

And it's these subtle forms of discrimination that often puts companies at risk for a lawsuit.

The good news is there are things you can do to mitigate your risk, and we are going to tell you about three of them. But first, let's talk a little bit more about unconscious bias, stereotypes and microaggressions, and how they can become discrimination.

Unconscious Bias

Picture this. You're hiring an administrative assistant. What does the person look like? Did you already picture a woman?

Now, let's pretend you work at a consulting firm in an expensive downtown office.

The administrative assistant will be the first person clients interact with on the phone or in person. You post the job, and both Sheila and Betty apply. They are equally qualified for the job, so you set them both up for an interview.

When they arrive, this is what they look like. Quick, without thinking about anything else, which one of them is who you were picturing in your mind?

More than likely, you automatically pictured Betty. But why?

For a client facing position at a prestigious downtown company, you probably think of an attractive, thin young woman—like Betty. Sheila is just as qualified, but because of her age and weight, she is not what many people would picture as the face of a high-powered company.



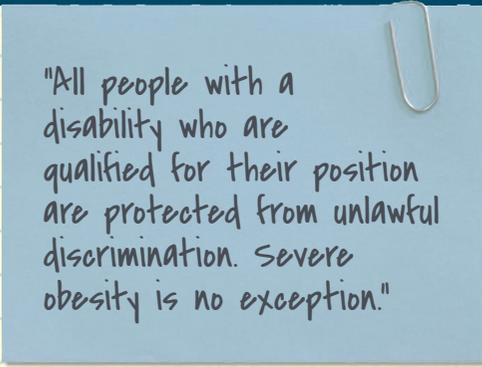
And it's understandable that this might be your first reaction, but those thoughts are actually unconscious biases. We all have them: involuntary categories and stereotypes we use to assess people, situations and actions—such as administrative assistants being women.

Now many times these unconscious biases are harmless, but they can be a major risk to employers as morale and productivity issues—or as legal liabilities if they lead to discrimination and EEOC violations.

Sheila might not fit the mental image of the applicant for the job because of the way she looks. So while you might not realize it, you could be using an unconscious bias—like front facing employees are attractive and thin—to discriminate against well-qualified employees.

Moreover, while appearance isn't specifically listed as a protected category, the EEOC and the courts are reaching beyond traditional, narrow definitions to broaden the meaning of discrimination based on race, sex, religion, color and disability.

As you can see from the lawsuit on the next page, if Sheila files a complaint claiming you discriminated against her because of her weight—which in her case might be a protected disability—she could win.



"All people with a disability who are qualified for their position are protected from unlawful discrimination. Severe obesity is no exception."

EEOC v. Resources for Human Development

One of the [guiding discrimination cases related to severe obesity](#) as a disability was filed in 2010 and settled in 2012 with Resources for Human Development, a treatment facility for chemically dependent women, paying an employee that was fired \$125,000.

Commenting on the case, EEOC General Counsel David Lopez stated, "All people with a disability who are qualified for their position are protected from unlawful discrimination. Severe obesity is no exception."

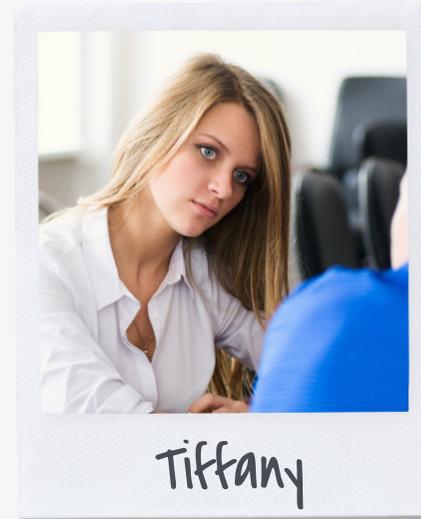
Stereotypes

Most of us are familiar with stereotypes (overly simplified ideas about a particular type of person or group of people). We know that it's bad to make judgments or decisions based on them. Yet everyone occasionally does it.

Maybe you've made comments about someone's natural hair style, or you've joked with friends about tech support in India. The problem is that these are harmful stereotypes about protected classes.

Unfortunately, it's not always easy to recognize stereotypes, especially when it's about something ingrained in our culture and everyday lives—like gender stereotypes.

Now, most people accept that women wear pants to work, but what about men wearing skirts or crying because they made a mistake? These are things we associate with women because of a gender stereotype. It might seem harmless for an employee to make a joke about a man being "girly" because he cried, but it's not—thanks to a landmark discrimination case from 1989.



The Landmark Case:

Price Waterhouse v. Hopkins

Ann Hopkins was nominated for a partnership promotion at the accounting firm she worked at because among other things she successfully completed a project to secure a \$25 million contract with the Department of State.

But Hopkins promotion was postponed for a year. And when it was postponed a second time, Hopkins said met with her supervisor who stated she needed to “walk more femininely, talk more femininely, dress more femininely, wear make-up, have her hair styled, and wear jewelry.”

Additionally, coworkers described her as aggressive, foul-mouthed, demanding and impatient, and male employees said they would not be comfortable having her as their partner because she did not act the way they believed a woman should.

Then, she filed a lawsuit stating that the accounting firm violated Title VII on the basis of sex discrimination. Hopkins claimed that the accounting firm discriminated against her when it denied her a promotion based on the fact that she did not conform to gender stereotypes.

The courts agreed stating that an “employer who acts on the basis of a belief that a woman cannot be aggressive or that she must not be, has acted on the basis of gender.”



Ann Hopkins

This case paved the way for the courts to recognize discrimination and harassment against women, men and transgender employees when it's based on gender stereotypes.

In fact, the EEOC states that it is illegal for an employer to deny employment opportunities or permit harassment because:

- A woman does not dress or talk in a feminine manner
- A man dresses in an effeminate manner or enjoys a pastime that is associated with women
- A female employee dates women instead of men
- A male employee plans to marry a man
- An employee transitions from female to male or male to female

So for example, even though transgender employees are not a protected class, they can still file a lawsuit based on gender stereotyping—[and win](#).



Mark & Simon



Sean's Family



Lisa



“MICROAGGRESSIONS are the everyday verbal, nonverbal, and environmental slights, snubs, or insults, whether intentional or unintentional, which communicate hostile, derogatory, or negative messages to target persons based solely upon their marginalized group membership.”

— [Derald Wing Sue Ph.D.](#), Columbia University
Professor of Psychology and Education

Microaggressions

Can you tell what’s wrong with these statements?

*“When are you going to have children?
You know you’re not getting any younger.”*

This could send the message that there’s something wrong with people who don’t have children. Or even put someone on the spot if they are dealing with infertility issues.

“I think I have PTSD from that meeting!”

It makes light of a serious issue that affects many different groups of people, such as those who have served in the military.

“At least you don’t look old.”

It makes the assumption that being older is a bad thing and that looking youthful is more valuable.

Also, each of these statements is a microaggression.



Sabeen

"I'm surprised you speak English so well!"

"Isn't it oppressive to wear that on your head?"

"How can you believe in something so wrong?"

"Did you know the guy they arrested?"

"At least we know you're not a terrorist!"

"No, where are you really from?"

"I'm not even going to try to pronounce your name."

"You aren't like the other ones."

"I bet you have a hard time getting on a plane."

The Story: Sabeen Bilal, A Muslim Woman

By themselves, these statements (microaggressions) aren't necessarily serious. However, if they keep happening over time, they can easily turn into harassment or discrimination—especially when directed at a protected class.

Strategies for Prevention

Now that you know how unconscious bias, stereotypes and microaggressions can turn into discrimination, it's time to talk about the steps you can take to maintain compliance with EEOC laws and reduce your risks.

Influence Company Culture

Employees are often unaware that their unconscious biases and reliance on stereotypes are affecting their actions because these views are ingrained in our culture.

We are prone to like people that are similar to us and to put things into categories so that they are easier to understand. For instance, if you are reviewing two resumes and you notice that one of the candidates went to the same university you did, you are more likely to cast them in a positive light.

And while you might not have any power over the way people act outside of work, you do have the power to influence your company's culture. Here are some ways you can create a culture of respect and help to prevent discrimination.

Create and Update Discrimination Policies

If you don't already have a formalized anti-discrimination policy, work with an experienced attorney to create one. And if you already have one, make sure your policy is

up-to-date. Also, stress the importance of professional conduct, and if you need to, define what's acceptable and what's not.

Encourage Employees to Offer Feedback

One of the reasons people don't speak up when they experience microaggressions is because they are afraid. They might ask themselves:



A culture of fear and ignoring problems is what makes for a hostile environment. If you create an open culture where employees are encouraged to communicate and offer feedback, you'll have a better chance of stopping microaggressions and preventing unlawful harassment.

Teach Employees to Communicate with Respect

Another way to help prevent discrimination and harassment is to teach employees how to communicate with respect. You can use scenarios that show the wrong way and then what to do instead. Here's an example:

Brad, Tina and Maria are having a conversation about an upcoming team meeting.

WRONG WAY



Maria: I was thinking of ordering some food for the meeting, what sounds good?



Tina: Can we get some cake? I know you can't have it because of your diabetes or whatever, Maria, but the rest of us will still eat it.



Brad: How about you make some tamales, Maria. I know your family is Mexican so you probably make the best ones!

To help you teach employees about your policies and how to communicate respectfully, you can use online compliance training.

RIGHT WAY



Maria: I was thinking of ordering some food for the meeting, what sounds good?



Tina: Why don't we get some desserts: one cake and another one that's sugar-free so that everyone can enjoy it.



Brad: We could also do a pot luck style lunch and each bring food. What does everyone want to bring?

Use Compliance Training

Compliance training is the next step to reinforce a workplace culture of respect. Your employees must understand acceptable workplace behavior, and online training is the best way to teach them. It also shows your company's commitment to maintaining an inclusive work environment.

But not all compliance training courses are the same. Some are outdated (picture a sexual harassment training video from the 1980s) or they are completely ineffective (imagine employees laughing and snickering at the training).

So when you are deciding on an online compliance training course, here are some things to keep in mind.



“Prevention is the best tool to eliminate harassment in the workplace. Employers should take steps to prevent harassment and should clearly communicate to employees that harassment will not be tolerated. Effective, mandatory, periodic training, whether specifically required by law or not, is a key part of a prevention strategy and can be critical to an employer's defense against any claim of harassment.”

— [Patricia A. Wise](#), labor and employment lawyer.



Does it Cover the Law?

The first thing you need is training that adequately addresses the law. You want it to be able to stand up in court. If it's too focused on entertainment and not enough on educating employees, you've wasted time and money, and worst of all, you're still at risk.



Is It Easy to Use?

That means employees can complete the course no matter their level of technical expertise. It also means that the training can be quickly deployed to everyone in the organization no matter where they're located



Is it Engaging?

Training that's full of legalese will bore your employees and cause them to stop paying attention. What you want is engaging training that employees can interact with. For example, they can relate to case studies, think about quizzes, read through materials and play games—all to retain the information.



Is It Flexible?

You should have the option choose from off-the-shelf courses. But you should also be able to personalize or customize the content to meet your needs. For instance, online training that's completely video based is hard, if not almost impossible, to change.

How Often is It Updated?

Laws change, and the training you use needs to address these changes. The only way to do that is to make sure it's updated and refreshed. A good policy is to update the content about every two years.

Additional Compliance Training Considerations

Other things to consider include:

- Does your company need to deliver training in multiple languages?
- How long are the courses?
- Does the training align with your company culture?
- Who created the content and what is their level of expertise?
- How easy is it to deploy, administer and track employee success rates?

As you can see, online compliance training is an excellent for prevention strategy. Another way you can prevent discrimination is in the interviewing and hiring process.

Discrimination Prevention Training

Create an inclusive company culture while protecting your business.

[REQUEST YOUR FREE DEMO](#)

Conduct Lawful Hiring, Discipline and Performance Reviews

Hiring and Interviewing

In some cases, a respectful, professional company culture and compliance training won't have very much impact on an employee's behavior, which is why it's important to make sure problematic candidates don't become full-fledged employees.

Additionally, you'll want to pay attention to ensure unconscious biases and stereotypes don't influence your candidate screenings and interviews. You can accomplish both of these goals by adopting these best practices in your hiring and interview process:

- Review and vet job applications and resumes carefully
- Verify job descriptions don't use any discriminatory language
- Screen applications and resumes to reduce unconscious bias
- Decide which team members will conduct the interviews ahead of time
- Prepare the team members extensively for the interviews
- Train interviewers how to handle illegal subjects if they arise in the interview process
- Conduct appropriate, legal background and reference checks
- Conduct legal, job-related pre-employment testing

Discipline and Performance Reviews

Hiring isn't the only area that poses risks. With retaliation being the most often cited EEOC charge, you also have to be careful not to let unconscious biases and stereotypes affect the way employees are disciplined or reviewed.

The majority of managers and supervisors don't intentionally discriminate or retaliate against employees, but they could be doing it unconsciously. To help them understand and remove biases, you can provide training and guidelines on what to do.

Here are some guidelines that should be followed when disciplining employees:

- Check for harassment, discrimination and retaliation
- Give thorough, detailed feedback in all documentation
- Document the who, what, when, where and why of the situation
- Discipline the action, not the person
- Make documentation objective, not subjective
- Use the job description to cite specific examples of performance deficiency
- Get the employee's signature or equivalent on the documentation



Robyn's Interview



Brian's Feedback



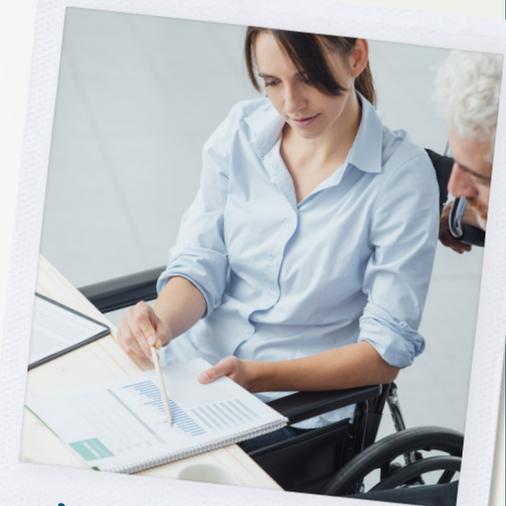
Carla's Review



Jim's Documentation

And here are guidelines to follow when conducting performance reviews:

- Check for harassment, discrimination and retaliation
- Prepare throughout the year to allow enough time to put together a thoughtful review
- Double-check the data to make sure that details in performance reviews are based on supportable facts from email or notes
- Share weekly or monthly feedback with employees to avoid surprise situations
- Cite job-related examples of performance deficiencies and don't leave weaknesses blank
- Ask open-ended questions focused on employee goals and needs



Anna's Examples

Conclusion

Armed with the knowledge of how unconscious biases, stereotypes and microaggressions can lead to discrimination, you can now take the next step and do something to reduce your company's risk.

The strategies we've laid out:

- Creating a culture of respect
- Using online compliance training
- Conducting lawful hiring, discipline and performance reviews

Can be used to create an effective program that supports all your employees—from entry-level to executive managers—as they learn how to communicate with respect and eliminate subtle forms of discrimination from the workplace.

About Workplace Answers

Dedicated to the principle that employees are any organization's most valuable resource, Workplace Answers has developed interactive online training resources that are easily deployed, simple to use and highly effective in educating an organization's workforce.

Workplace Answers was founded in 1997 on the premise that organizations needed a new approach for workplace harassment, diversity and discrimination training. Educating the workforce about the finer aspects of employment law is no longer just a good HR practice, but a necessity to build an ethical, diverse and fair workplace.

At Workplace Answers, we blend deep content expertise with a high-touch client service model so you can focus management attention on running your core business.

Discrimination Prevention Training

Create an inclusive company culture while protecting your business.

[REQUEST YOUR FREE DEMO](#)

Thank you.

WORKPLACE ANSWERS