

Teaching the Tough Stuff: The Opportunities and Challenges in Teaching Implicit Bias, Diversity and Inclusion to Supervising Attorneys

Resource List

- Immaculate Perception, Jerry Kang, <https://www.youtube.com/watch?v=9VGbwNI6Ssk>
- What Does My Headscarf Mean to You, https://www.ted.com/talks/yassmin_abdel_magied_what_does_my_headscarf_mean_to_you#t-517356
- Accents, Ethnic Diversity in the Workplace, https://www.youtube.com/watch?time_continue=2&v=XsB7p7M-3-Y
- NY Area Externship Consortium, January 9, 2018 supervisor training, https://www.youtube.com/watch?time_continue=6&v=zjgMynsZjF0
- American Bar Association Implicit Bias Toolbox, <https://www.americanbar.org/groups/litigation/initiatives/task-force-implicit-bias/implicit-bias-toolbox.html>
- LEARNING FROM PRACTICE, ch. 6, *Navigating Cultural Difference* & 7, *Bias in the Legal Profession* (Wortham *et al.* eds., 3rd ed.).
- *Written in Black and White: Exploring Confirmation Bias in Racialized Perceptions of Writing Skills*, Apr.2014, <https://nextions.com/portfolio-posts/written-in-black-and-white-yellow-paper-series/>.
- *Implicit bias hurting justice system—and profession, says ABA president*, Oct. 2015, <https://www.americanbar.org/publications/youraba/2015/october-2015/aba-president-brown--others-on-what-all-lawyers-need-to-know-abo.html>.
- Ellen Yaroshefsky, *Waiting for the Elevator: Talking About Race*, 27 *Georgetown J. Legal Ethics* 1203 (2014), found at: http://scholarlycommons.law.hofstra.edu/cgi/viewcontent.cgi?article=1969&context=faculty_scholarship.
- *If Not Now, When? Achieving Equality for Women Lawyers in the Courtroom and in ADR* (NYSBA Report of the Commercial and Federal Litigation Section, July 2017), found at: <http://www.nysba.org/WomensTaskForceReport/>.
- Caprice Hollins & Ilsa Govan, *DIVERSITY, EQUITY AND INCLUSION: STRATEGIES FOR FACILITATING CONVERSATIONS ON RACE* (2015)
- **New York Rule of Professional Conduct 8.4 (as of January 1, 2017)**

A lawyer or law firm shall not:

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(g) unlawfully discriminate in the practice of law, including in hiring, promoting or otherwise determining conditions of employment on the basis of age, race, creed, color, national origin, sex, disability, marital status or sexual orientation. Where there is a tribunal with jurisdiction to hear a complaint, if timely brought, other than a Departmental Disciplinary Committee, a complaint based on unlawful discrimination shall be brought before such tribunal in the first instance. A certified -74- copy of a

determination by such a tribunal, which has become final and enforceable and as to which the right to judicial or appellate review has been exhausted, finding that the lawyer has engaged in an unlawful discriminatory practice shall constitute prima facie evidence of professional misconduct in a disciplinary proceeding; or

(h) engage in any other conduct that adversely reflects on the lawyer's fitness as a lawyer.

- 22 NYCRR 1500.2(c)-(g) - CLE Program Rule
§1500.22 Minimum Requirements

(a) Credit Hours. Each attorney shall complete a minimum of 24 credit hours of accredited continuing legal education each biennial reporting cycle in ethics and professionalism, skills, law practice management, areas of professional practice, or ***diversity, inclusion and elimination of bias***, at least four (4) credit hours of which shall be in ethics and professionalism and ***at least one (1) credit hour of which shall be in diversity, inclusion and elimination of bias***. Ethics and professionalism, skills, law practice management, areas of professional practice, and diversity, inclusion and elimination of bias are defined in §1500.2. The ethics and professionalism and diversity, inclusion and elimination of bias components may be intertwined with other courses. [*effective July 1, 2018*]

Attorneys due to re-register on or after July 1, 2018 must meet this requirement.

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(g) ***Diversity, Inclusion and Elimination of Bias courses, programs and activities must relate to the practice of law and may include, among other things, implicit and explicit bias, equal access to justice, serving a diverse population, diversity and inclusion initiatives in the legal profession, and sensitivity to cultural and other differences when interacting with members of the public, judges, jurors, litigants, attorneys and court personnel. [effective January 1, 2018].***

Q] Can you please provide additional information on what may be addressed in diversity, inclusion and elimination of bias programs?

A] These programs may include, among other things, diversity, inclusion and elimination of bias based on, for example, race, ethnicity, national origin, gender, sexual orientation, gender identity, religion, age or disability.