

Diversity in the Workplace

Sheila Willis, Associate
Fisher Phillips



Virtual South Carolina
Local Government Attorneys' Institute



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Diversity in the Workplace

**Fisher
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Sheila M. Willis

swillis@fisherphillips.com

803-740-7676

Disclaimer

The following training is meant to comply with Executive Order 113950 which prohibits federal contractors and subcontractors from “using any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating.”

Nothing in this training should be construed stating:

- One race or sex is inherently superior to another race or sex;
- An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
- An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;
- Members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
- An individual’s moral character is necessarily determined by his or her race or sex;
- An individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
- Any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or
- Meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.



Agenda

Diversity

Equity

Inclusion

Implicit Bias

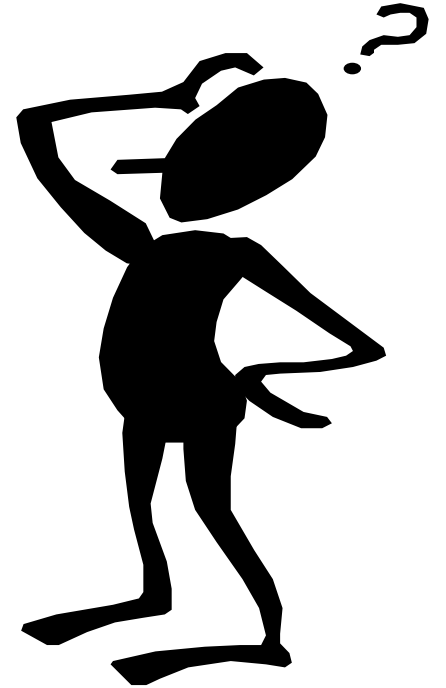
Legal Landscape

Questions



WHAT IS DIVERSITY?

- ❖ Diversity means differences
- ❖ Understanding and respecting individuality
- ❖ Working effectively with others
- ❖ Appreciating cultures other than our own
- ❖ Embracing diversity requires everyone to be responsible for dealing positively and insisting on appropriate behaviors in the workplace



ASPECTS OF DIVERSITY



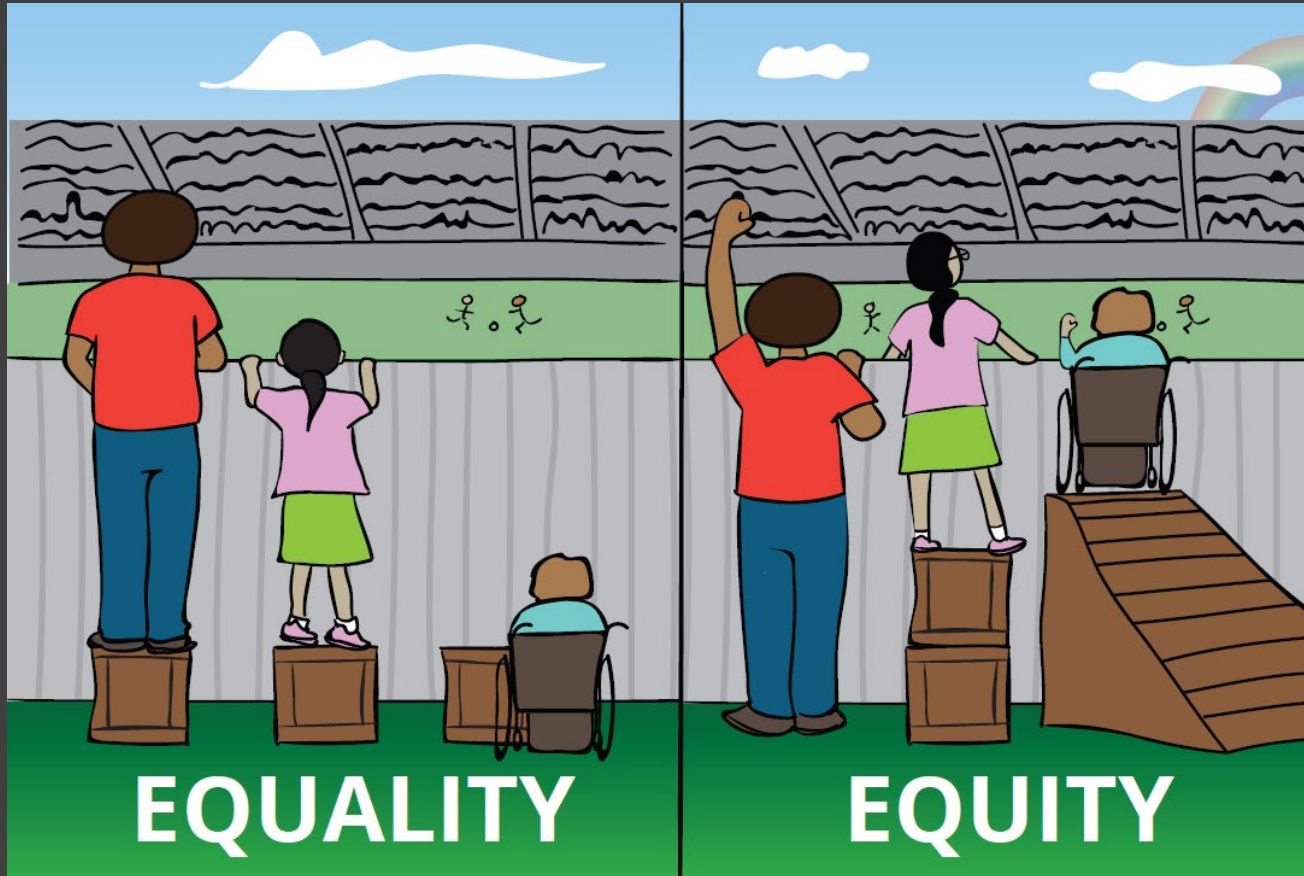
Why is Diversity hard for employees?

- Many managers are ill-prepared to handle diversity issues
- Many employees, Americans in particular, grew up in racially unmixed neighborhoods
- Had little exposure to people substantially different from themselves
- Have little exposure to global diversity outside of their workplace

Diversity Initiatives

- Recruitment
- Career Advancement
- Accommodations

Equity



- Ensures everyone access to the same opportunities. Equity recognizes that advantages and barriers exist, and that, as a result, we all don't all start from the same place. Equity is a process that begins by acknowledging that unequal starting place and continues to correct and address the imbalance

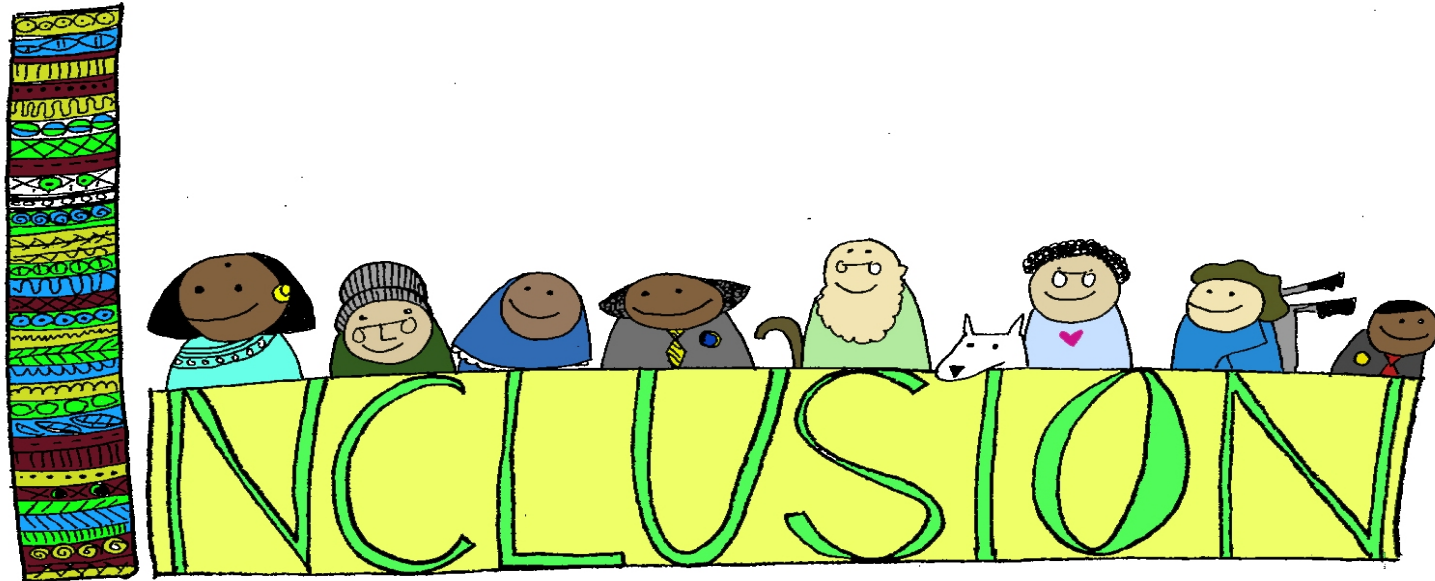
IS DIVERSITY & EQUITY IN THE WORKPLACE ENOUGH?

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NO!

WE ALSO NEED INCLUSION



**“Diversity is being invited to the party;
inclusion is being asked to dance.”**

— *Diversity advocate Verna Myers*

What is Inclusion?



- Involves and empowers all people
- Worth and dignity are valued
- Respect for backgrounds, beliefs, culture, talents, ways of living
- Sense of belonging for everyone
- Incorporation of ensuring the fusion of diversity works together

Why is diversity and inclusion in the workplace a good thing?

It is good for business....

- Better morale – people are happier at work if they feel included and valued
- Reduces friction at work
- More productive work environment
- Better connection with customer and prospective customers
- More creative work environment
- Better problem-solving skills
- Better exchange of different ideas
- Leads to a boost in idea generation
- Again, demonstrate the commitment to *doing the right thing*

Barrier to Diversity & Inclusion in the Workplace





Two types of biases

1. **Conscious bias** (AKA explicit bias)

- May arise as a direct result of a perceived threat
- Voluntary and easy to self-report
- Examples: discrimination, hate speech, persecution (religious, race, gender identity)

Two types of biases

2. Unconscious bias (AKA implicit bias)

- Stereotypes about certain groups of people that we form in our minds
- Involuntary formed and typically unknown to us

What is unconscious bias?

- Form of cognitive shortcuts
 - Can be a good thing, streamlines decision making
- Good to rely on some (fire = dangerous)
- Others can be more problematic (voting all one way with no research)
- Some we need to question why they're there and how they got there?

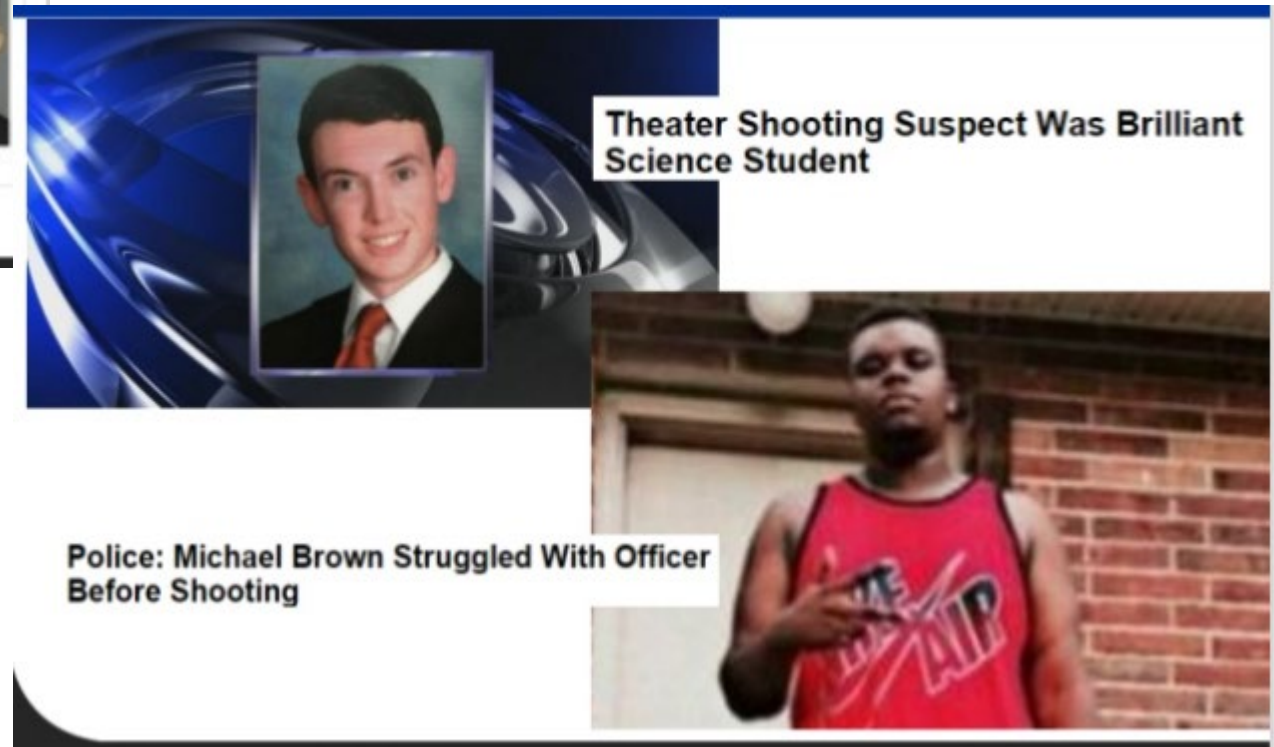


How do we learn bias?

- Socialized from an early age



From Different Mediums



Legal Memo Study

- Legal memo with 22 inserted errors
- 60 partners from 22 law firms received copies of the memo
- Half were told Thomas Meyer, African-American, other half, Thomas Meyer – Caucasian.
- Thomas Meyer – Caucasian
 - Rated 4.1 out of 5
 - Great potential, good analytical skills
 - 2.9/7 spelling errors found
- Thomas Meyer – African-American
 - Rated 3.2 out of 5
 - “average at best”, needs a lot of work
 - 5.8/7 spelling errors found

Unconscious Bias and Discrimination

- Unconscious bias can some times lead to discrimination
- Examples:
 - Men are stronger or better leaders than women.
 - Women are on the “mommy track.”
 - Old people are terrible when it comes to technology.

What Is Illegal Harassment?

- Unwelcome conduct
- Based on protected characteristics
 - race, color, national origin, religion, sex age, disability, and sexual orientation
- Objectively offensive from the perspective of a reasonable person in similar circumstances
- Severe or pervasive enough to alter working conditions and create abusive working environment

What Does Not Constitute Illegal Harassment?

- Fans of different sports teams harassing each other is not harassment
- A manager or supervisor telling an employee to do their job is not harassment

Hostile Work Environment

- To create a hostile environment, the conduct must be continuous, concentrated or extreme to the point that it affects a term, condition or privilege of employment
- Sporadic use of abusive language, gender-related jokes or occasional teasing may not rise to the level of illegal harassment

Harassment Based on Race and National Origin

Can include:

- Race or ethnic related jokes and cartoons
- Racial or ethnic slurs and name-calling
- Unwanted nicknames
- “Those people”
- Stereotypical remarks
- Mocking cultural behavior
 - Food, music, sports, clothing, etc.
 - Speech patterns

Harassment Based on Sex or Gender

Can include:

- Repeatedly asking for a date
- Comments/questions about sex life
- Asking intimate or embarrassing questions
- Using sexist nicknames
- Giving unwanted hugs or massages
- Making offensive gestures

Why do we have EEO laws?

- The anti-discrimination laws are intended to create equal opportunities and level the playing field for all.
- With increasingly diverse workforce, different cultures, attitudes, language, experiences, we have to find ways to conduct ourselves in the workplace that don't offend or disadvantage others because of their protected status – the laws are guidelines.
- The law regards sexual harassment as a form of sex/gender discrimination.
- While not intended to be a “code of conduct,” to some extent, that is what harassment laws have become.

Legal Landscape

- EEOC filings have increased; trend will continue
 - 93,277 charges filed last fiscal year
- An emboldened, more aggressive EEOC
 - EEOC collected **\$294.2 Million**
 - Focusing on class actions and systemic violations
 - Sexual harassment remains largest category of claims
 - EEOC says retaliation “more egregious” than discrimination – retaliation charges increased by 1%

Sample EEO Policy

Equal Employment Opportunity Policy

We are committed to providing an environment of mutual respect where equal employment opportunities are available to all applicants and teammates. We believe that diversity and inclusion among our teammates is critical to our success as a global company, and we seek to recruit, develop and retain the most talented people from a diverse candidate pool.

Sample Anti- Harassment

No Harassment Policy

The Company prohibits unlawful harassment of any employee in any form. The Company is committed to maintaining a work environment free of discrimination and harassment based upon such facts as gender, race, color, religion, age, national origin, disability, veteran status, marital status, sexual orientation or any other employment status protected by law.

Violation of Equal Employment

- Anyone who violates the Equal Employment Opportunity Policy or No Harassment Policy is subject to disciplinary action up to and including termination.



Responding to Complaints

- Policy should be that complaints will be investigated
 - All employees MUST cooperate in internal investigations.
- Investigation will be kept confidential, consistent with obligation to conduct a thorough investigation
 - Need-to-know basis
 - Employees must maintain the confidentiality of any investigation
- Appropriate actions will be taken
 - Discipline commensurate with offense

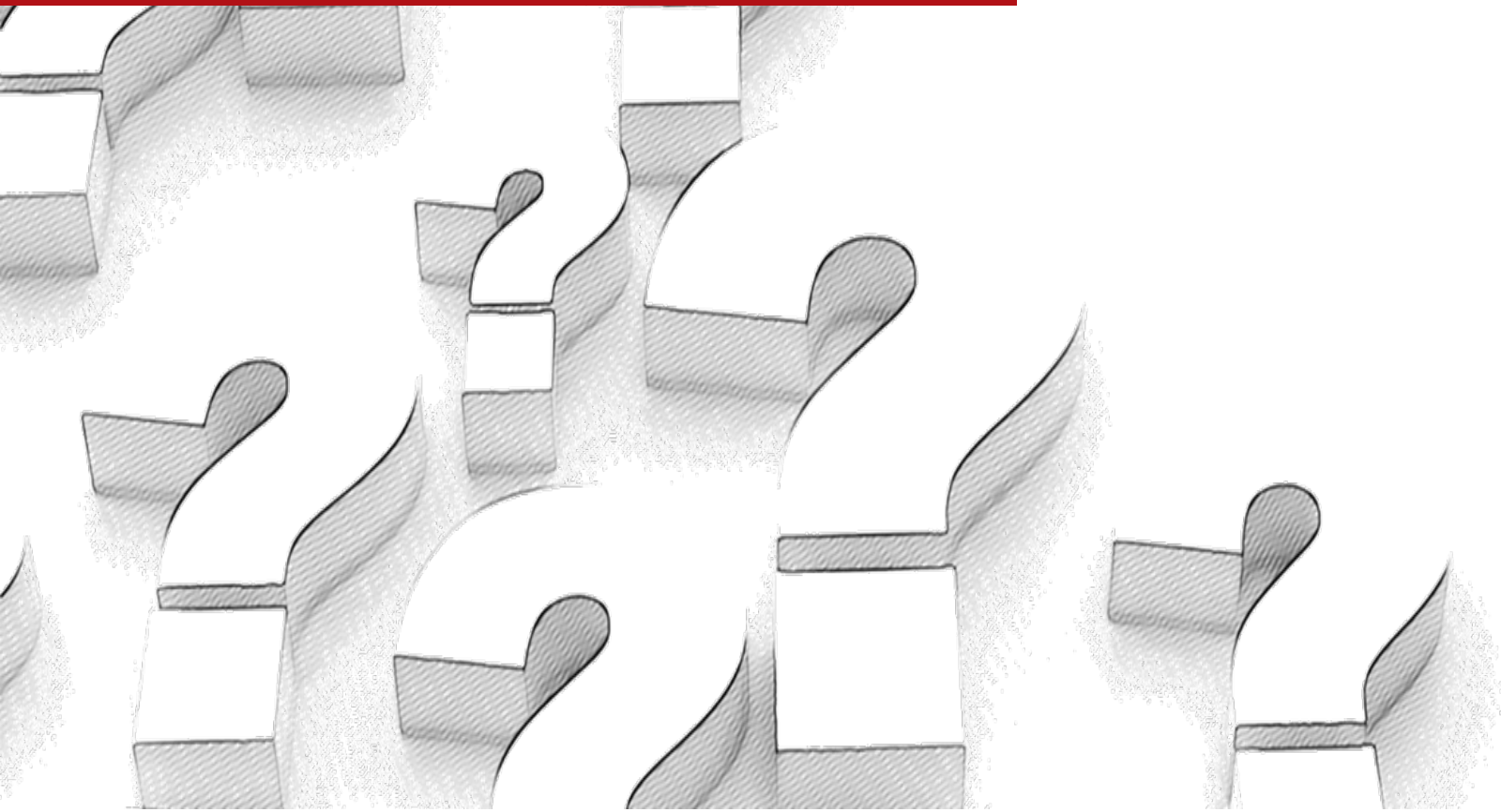
No Retaliation

No Retaliation

No adverse employment action, such as demotion or termination, will be taken against any employee for making a good faith report of discrimination or harassment or participating in an investigation.

FINAL QUESTIONS

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Thank You

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Presented by:
Sheila M. Willis

Phone: (803) 740-7676 | Email: swillis@fisherphillips.com



**SOUTH CAROLINA
ASSOCIATION OF COUNTIES**

1919 Thurmond Mall
PO Box 8207
Columbia, SC 29202-8207
Phone: (803) 252-7255
In-state: (800) 922-6081
Fax: (803) 252-0379
scac@scac.sc
www.SCCounties.org