LEGAL AND PSYCHOLOGICAL PRINCIPLES AND PRACTICES FOR INCREASING EQUITY IN PERSONNEL PROCESSES

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## OBJECTIVES

I. Introduction
   ◆ Session Format
   ◆ Foundations, Principles, & Scope
II. The Psychology of Bias
   ◆ Automatic Cognitive Processing
   ◆ Contemporary Racism and Discrimination
III. Best Practices and Strategies
   ◆ Affirmative Action & Compliance Considerations
   ◆ Recruitment, Interview, Selection, & Retention
   ◆ Institutional Commitment & Climate
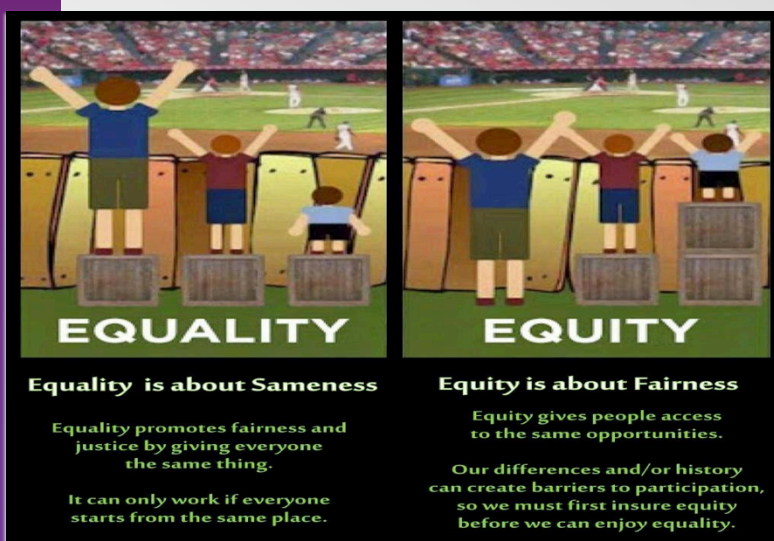IV. Questions

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Diversity

- The variance we see and experience in society; individual and group/social differences. (AAC&U)
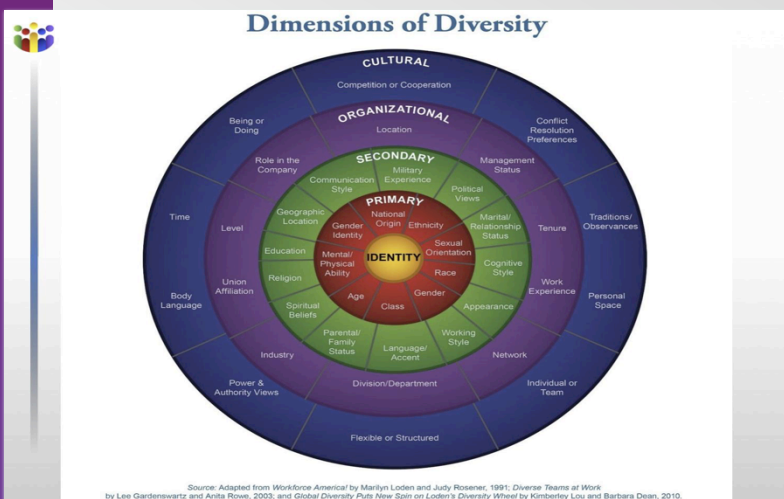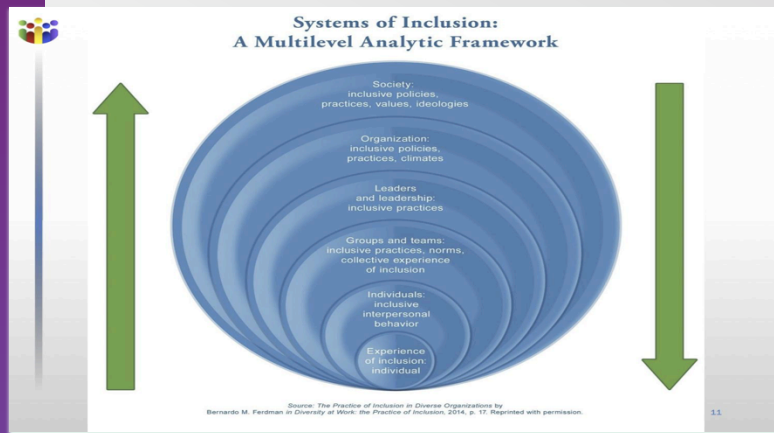

Equity

- Fairness, impartiality, and the elimination of barriers that prevent full participation (AAC&U)
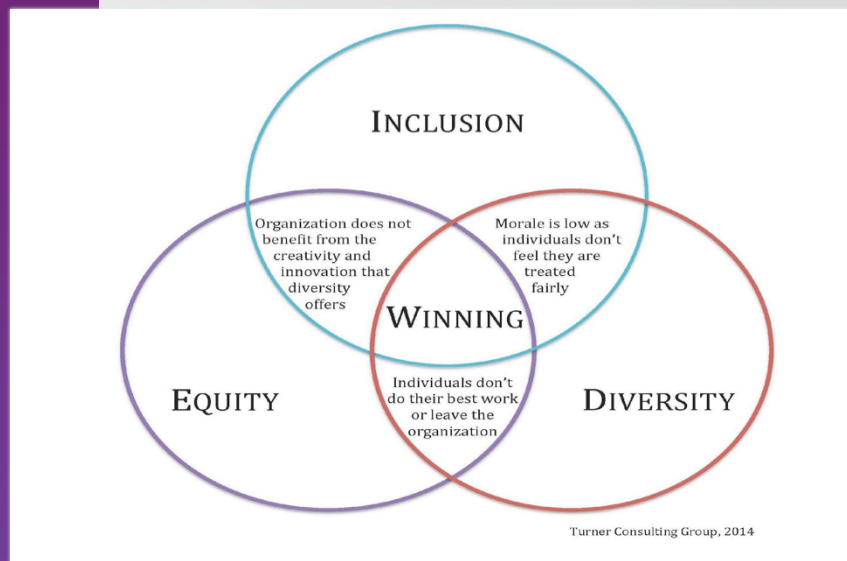
Inclusion

- The active, intentional, and ongoing engagement with diversity (AAC&U)
- A process designed to increase participation, enjoyment, engagement, collaboration, and achievement in any activity or process (Babcock)

Systems of Inclusion: A Multilevel Analytic Framework

Society: inclusive policies, practices, values, ideologies

Organization: inclusive policies, practices, climates

Leaders and leadership: inclusive practices

Groups and teams: inclusive practices, norms, collective experience of inclusion

Individuals: inclusive interpersonal behavior

Experience of inclusion: individual

Source: The Practice of Inclusion in Diverse Organizations by Bernardo M. Ferdman in Diversity at Work: the Practice of Inclusion, 2014, p. 17. Reprinted with permission.

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Culture of Inclusion

INCLUSION

Organization does not benefit from the creativity and innovation that diversity offers

Morale is low as individuals don't feel they are treated fairly

WINNING

EQUITY

Individuals don't do their best work or leave the organization

DIVERSITY

Turner Consulting Group, 2014

Individual & Organizational Commitment

Values → **Mission** → **Vision**

Values-Driven Commitment to Equal Opportunity

Attains the **"substantial"** and **"important"** educational benefits of diverse living, learning, and working environments:

"better prepare students for an increasingly diverse workforce and society, and better prepares them as professionals."

Grutter v. Bollinger, 539 U.S. 306 (2003)

"to educate, challenge, and inspire students to become skilled, connected, creative, and responsible global citizens and professionals."

Fredonia Mission Statement

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Support for Equity & Inclusiveness

"The university of Cincinnati is committed to excellence and diversity in our students, faculty, staff, and all of our activities. A fundamental component to achieving diversity is ensuring equal opportunity for all through affirmative action and by providing an inclusive environment free from invidious discrimination in all of its forms."

– Board of Trustees, University Rules, 3361:10-13-01 - Affirmative action: University policy on non-discrimination (Excerpt)

"The primary goal of the Office of Diversity, Equity, & Inclusion is to create a campus climate that is favorable to the development of the human potential of all faculty, staff, administrators, and students. To achieve this goal, the office has three major responsibilities: compliance, equity of services, and diversity."

- SUNY Fredonia

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Discrimination

- Inequitable or differential treatment;
- Regarding or on the basis of:

• AGE	• NATIONAL ORIGIN
• COLOR	• RACE
• DISABILITY	• RELIGION
• GENDER	• SEX
• GENETIC INFORMATION	• SEXUAL ORIENTATION
• FAMILIAL STATUS	• VETERAN STATUS
• HEIGHT	• WEIGHT . . .
• MARITAL STATUS	

- Which adversely affects a term, condition, or privilege of a protected individual's employment, housing, education, public services, or public accommodations.
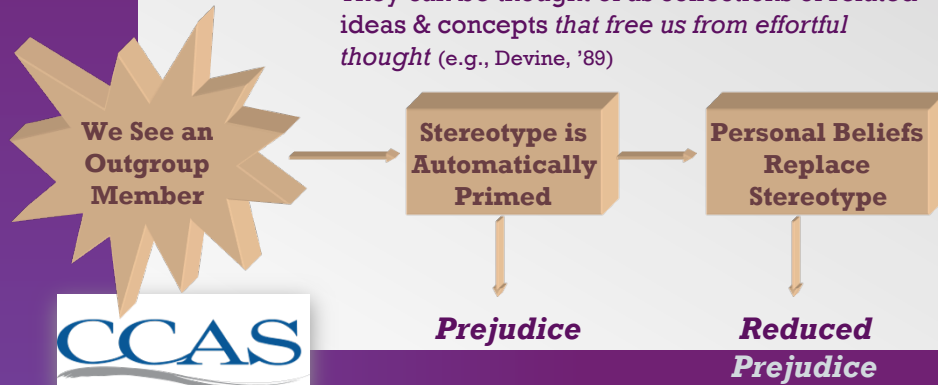
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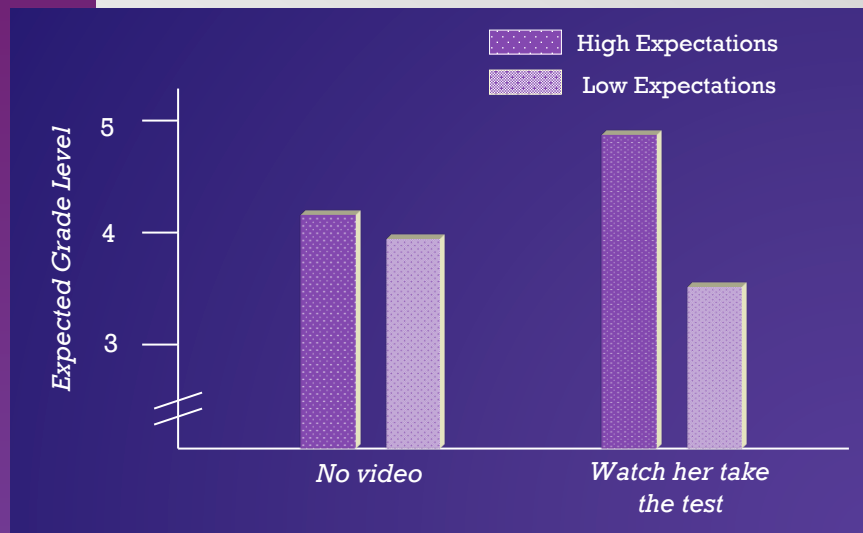
Darely & Gross (1983)

Cognitive Autopilot

◆ Schemas (Stereotypes)

- Cognitive networks that we rely on to <u>interpret</u> & <u>filter</u> incoming information

  - They can be thought of as collections of related ideas & concepts *that free us from effortful thought* (e.g., Devine, '89)

We See an Outgroup Member	→	Stereotype is Automatically Primed	→	Personal Beliefs Replace Stereotype
		↓		↓
		Prejudice		*Reduced Prejudice*

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Cognitive Autopilot

◆ Schemas (Stereotypes)

- Cognitive networks that we rely on to <u>interpret</u> & <u>filter</u> incoming information

  - They can be thought of as collections of related ideas & concepts that free us from effortful thought (e.g., Devine, '89)

  - They provide expectations about people, events, objects, etc. by placing things into "meaningful" categories. This includes social categorization (e.g., *minimal groups paradigm)*

    - We tend to select the "right" individuals for the "right" jobs

  - Ultimately, they *broadly* influence perceptions (e.g., employment decisions, Heilman & Okimoto, '08)

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Strategic Hiring Practices for EEO

◆ Step 1:   Committing to & Working toward Equity
◆ Step 2:   Developing the Position
◆ Step 3:   Design Strategy & Search Structure
◆ Step 4:   Candidate Evaluation & Initial Selection
◆ Step 5:   Interviews
◆ Step 6:   Committing to Inclusion

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STEP 1: Committing to and Working toward Equity

• Be aware of the organizational climate(s)

    • Specifically, organizational climate provides an environment in which contemporary racism can occur (e.g., implicit racism; Ziegert & Hanges, '05)

    • EEO-related messages should be tailored to current attitudes/perceptions (e.g., Aberson, '07; Berry & Bonilla-Silva, '08)

• Institutional support/expectations are critical

    • Oversight is important (e.g., Kalev, Dobbin, & Kelley, '06)

    • Ironically, perceptions of institutional support (e.g., diversity training, policies) may lead to assumptions that all is well (Kaiser, et al., '13)

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STEP 1: Committing to and Working toward Equity

- Be aware of the limitations of training

  - We know that confidence is often not related to accuracy and/or ability (e.g., Uhlmann & Cohen, '07).

  - Some methods of training (e.g., nonstereotypic association training) are moderated by "correction" processes (e.g., Kawakami, Dovidio, & van Kamp ('04).

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Practices & Strategies

◆ Affirmative Action– What is it?

"An affirmative action program is <u>a management tool</u> *designed to ensure equal employment opportunity.* A central premise underlying affirmative action is that, absent discrimination, over time a contractor's workforce, <u>generally</u>, will reflect the *gender, racial and ethnic profile* of the labor pools *from which the contractor recruits and selects*."

41 CFR 60-2.10(a)

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Practices & Strategies

- Workforce Analysis
    - Availability – Requisite Skill + Recruitment Area
    - Utilization - Actual Workforce
- Goal Setting: Utilization ≈ Availability
- Leadership Analysis:
    - Disparity/Potential Disparity
    - Good Faith Efforts/Remediation

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Step 2: Develop the Position

- ◆ Schemas (Stereotypes)
    - ◉ Social categorization (e.g., *minimal groups paradigm*)
        - We tend to select the "right" individuals for the "right" jobs
            - One way we accomplish this is by adjusting the importance of the hiring criteria to favor the "right" candidate (Hodson, Dovidio, & Gaertner, '02; Uhlmann & Cohen, '05)

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Step 2: Develop the Position

- Based on the nature of the job, include: responsibilities, KSAs, duties, etc. . . .
    - What is *required*?
    - What is *preferred*?
- Diversity as a qualification
    - Organizational values and expectations
    - Assuring non-discrimination
    - Demonstrated commitment and/or experience
- Considerations of Metrics and Weights
    - Effect of required and preferred classifications
        - Determining the importance, in advance of candidate review is essential to limit the impact of stereotypes (Hodson, Dovidio, & Gaertner, '02; Uhlmann & Cohen, '05)

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Activity: Create and Weight Hiring Criteria

1. Review duties & responsibilities
2. Create minimum and preferred qualifications
3. Determine relative importance of qualifications

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STEP 3: Design Search Strategy

◆ Review Previous Search(es) for the Following:
- Size of the selection pool
- Diversity of the selection pool
  - In particular, a *utilization analysis* of past searches should be conducted

◆ Recruitment Methods/Recourses
- Active + passive recruitment Methods

- *Inclusive language* should be used. In particular, the language used should avoid the triggering of stereotypes (e.g., Gaucher, Friesen, & Kay, '11)

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◆ Utilization Analysis– Example

Job Group	Availability		Utilization	
	Minority	Women	Minority	Women
Executives - Administrative	19.1%	39.2%	5.6%	22.2%
Executives - Academic	20.6%	45.1%	11.8%	35.3%
Academic Counselors/Faculty	34.2%	75.6%	16.7%	83.3%
Allied Health Faculty	23.1%	74.9%	5.3%	76.3%
Arts & Science Faculty	19.0%	47.8%	10.9%	40.8%
Business Faculty	22.6%	47.1%	16.7%	37.2%
Education Faculty	26.5%	48.2%	22.2%	55.6%
Optometry Faculty	25.6%	49.9%	10.0%	30.0%
Pharmacy Faculty	25.9%	55.0%	10.3%	59.0%
Engineering Technology Faculty	20.6%	16.0%	6.7%	5.3%
FLITE Faculty	14.7%	80.5%	7.7%	61.5%
University College Faculty	18.0%	64.0%	13.0%	26.1%
Student Affairs Professionals	31.7%	62.0%	15.6%	71.9%
Business Professionals	21.6%	47.1%	3.1%	42.2%
Athletic Professionals	23.0%	53.3%	8.7%	21.7%

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STEP 3: Design Search Strategy

◆ Review of Applicant Data

Sex	Female	Male	Not Disclosed	Total
Total	**27**	**23**	**0**	**50**

Ethnicity & Race	Hispanic / Latino	Not Hispanic / Latino						Not Disclosed	Total
		American Indian or Alaskan Native	Asian	Black or African American	Native Hawaiian or Other Pacific Islander	White	Two or More Races		
Total	**6**	**5**	**4**	**10**	**3**	**11**	**9**	**2**	**50**

Disability Status	Yes, I have a disability (or previously had a disability)	No, I don't have a disability	I don't wish to answer	Not Disclosed	Total
Total	**9**	**34**	**5**	**2**	**50**

Veteran Status	Protected Veteran	Not a Protected Veteran	Not Disclosed	Total
Total	**12**	**36**	**2**	**50**

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STEP 3: Design Search Strategy

◆ Plan/Structure Candidate Evaluation Processes

- Review & reassertion of criteria weights
- Interview process determinations
- Development of interview questions

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Activity: Interview Questions

1. Review criteria and relative weights
2. Develop interview questions

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STEP 4: Evaluation & Selection of Applicants

◆ Aversive Racism (Gaertner & Dovidio, '86)

- Americans tend to believe in and support egalitarian values

- At the same time, however, they unconsciously hold negative feelings and beliefs about certain groups

- Racism is expressed when the situation is such (e.g., *ambiguous*) that the behaviors can be rationalized – they typically go unnoticed by the perpetrator & others

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Dovidio & Gaertner ('00)

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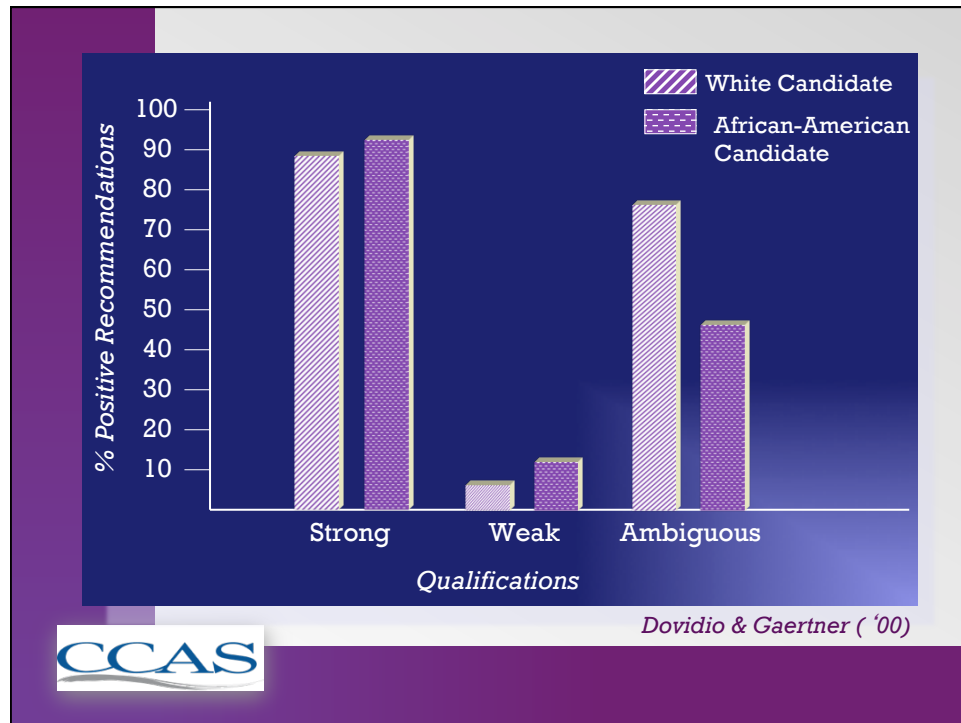
STEP 4: Evaluation & Selection of Applicants

- ◆ Recruitment Plan & Implementation
  - • Candidate Selection
   - • Must be based on required and preferred qualifications
      - - Hence, the importance of planning being based on institutional needs, the value of diversity, etc.
    - • Applying Qualified Assessments of Diversity
      - - " . . . a university may consider race or ethnicity only as a 'plus' in a particular applicant's file, without 'insulating the individual from comparison with all other candidates for the available seats.'"

        Grutter v. Bollinger, 539 U.S. 306 ('03)

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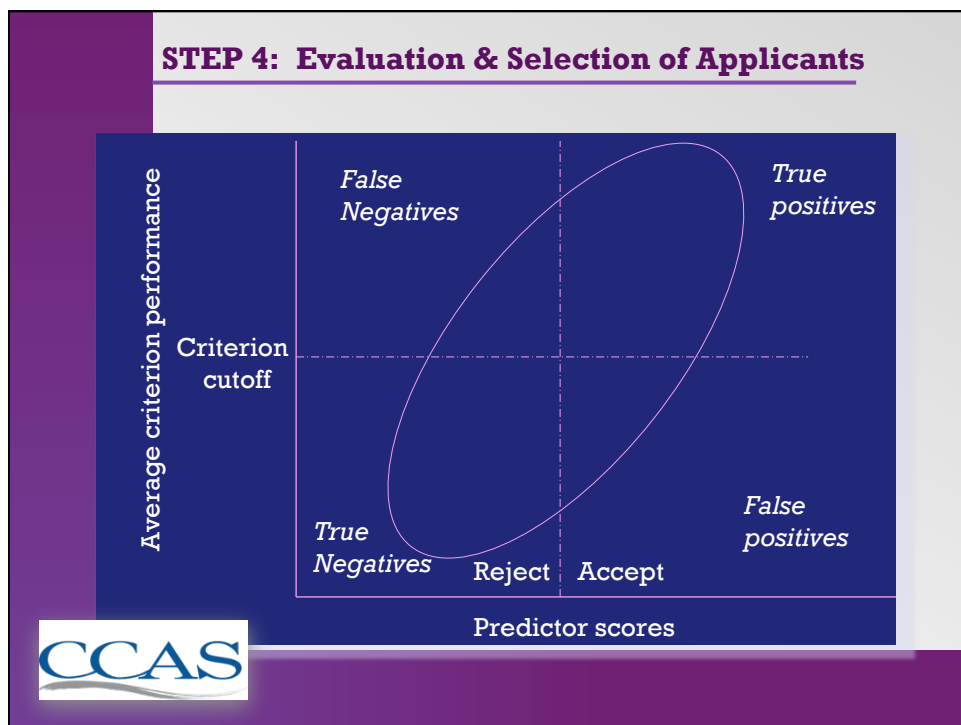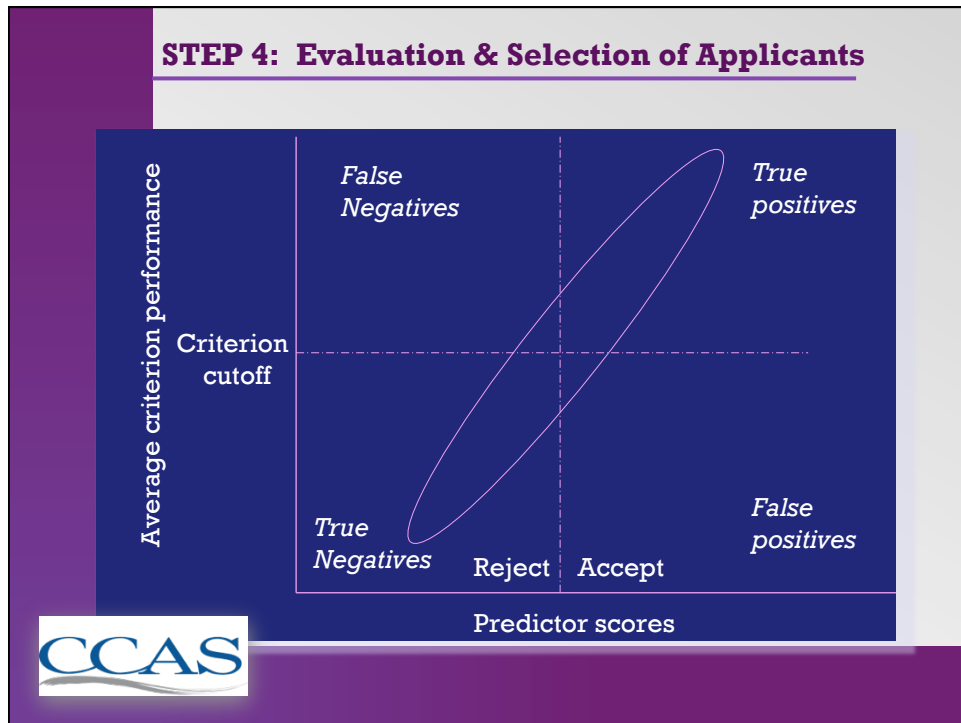
STEP 4: Evaluation & Selection of Applicants

◆ Validity of Commonly Used Assessments

Screening Tool	Predictive Validity*
Experience on Resume/CV	.20
Grade Point Average	.10
Interest Inventories	.15
Unstructured Interviews	.10
Structured Interviews	.25
Personality/Value/Belief Tests	.25
General Cognitive Ability Tests	.30
Situational Judgment Tests	.15
Job Simulations	.30

Polaris Assessment Systems, Inc., 2015.

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STEP 4: Evaluation & Selection of Applicants
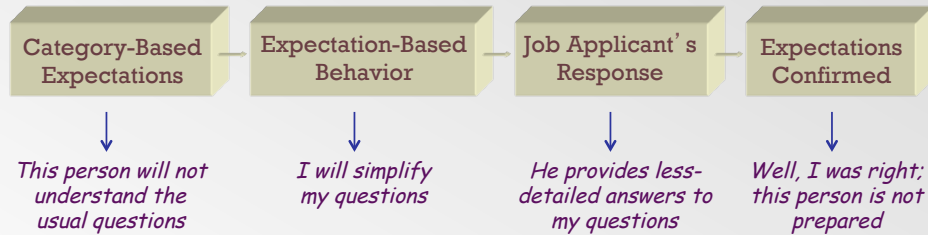
◆ Discrimination through Assessment
  • Comparison of passage rates for different groups:
    • Disparate (Adverse) Impact (4/5ths Rule)
      • When a minority group of applicants or employees receives worse job-related outcomes than members of majority groups
      • Specifically, *adverse impact* occurs if the selection ratio for any subgroup is less than 4/5ths of the selection ratio for the largest group
    • Disparate Treatment
      • When a minority group of applicants is treated differently than members of majority groups

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STEP 5: Interviews

◆ Self-Fulfilling Prophecies (e.g., Dougherty, et al., '94)

- Engaging in behaviors that lead another to confirm one's expectations

Category-Based Expectations	Expectation-Based Behavior	Job Applicant's Response	Expectations Confirmed
This person will not understand the usual questions	I will simplify my questions	He provides less-detailed answers to my questions	Well, I was right; this person is not prepared

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STEP 5: Interviews

◆ Stereotype Threat (e.g., Steele, '95, '97)

- The apprehension that occurs when one feels that she/he may confirm a stereotype

- Stereotype threat in older workers (von Hippel, Kalokerinos, & Henry, '13)

- Negative impact based on gender via transparency during personnel selection processes (Jacksch & Klehe, '16)

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STEP 5: Interviews

◆ Interviews: Questions and Structure

- Stereotypes impact what is remembered about past events(e.g., interviews; Frazer & Wiersma, '01)

- Structured Interviews (e.g., McCarthy, et al., '10)
  - These provide greater predictive validity and reduce bias (e.g., demographic similarity effects)
- Structured Free Recall Intervention (SFRI) (e.g., Rudolph, Baltes, Zhdanova, Clark, & Bal, '12)
  - Raters are required "recall both positive and negative performance-relevant behaviors . . ."
  - This weakens the bias toward stereotype-consistent behaviors

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ACTIVITY: Permissibility of Interview Questions

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STEP 5: Interviews

- Impermissible Questions & Comments
  - Intent vs. Impact
- Applicant Initiated Conversations

  - Questions & conversation should be job related
  - Focus on duties, responsibilities, qualifications or opportunities for scholarship, research, teaching, mentoring, etc.

- Special Considerations & Strategies
  - Issues of Interest/Concern for Underrepresented Candidates
    - Community safety, demographic data, multicultural
    - Religious affiliations, places of worship, tolerance . . .
    - Personal maintenance (e.g., hair care), shopping . . .
    - Community services, schools, recreation . . .

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STEP 6: Commitment to Inclusion

- Human Resources/EEO Training
  - Awareness of organizational policies & procedures
  - Understanding of legal requirements

- Diversity/Cultural Competency Training
  - Limitations include:
    - Confidence in fairness predicts discrimination (e.g., Uhlmann & Cohen, '07)
    - Overall, the efficacy of diversity training is not clear (e.g., Kalev, Dobbin, & Kelly, '06)

- Nonstereotypic Training (Kawakami, Dovidio, & Kamp, '05)
  - Must be aware of post-training corrections made by trainees

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STEP 6: Commitment to Inclusion

◆ Individual & Institutional Responsibility

- University Responsibilities
  - When the University **knows or reasonably should know** about harassment, including student-to-student harassment/violence, which may create a hostile environment, it is required to:

    - Promptly take action to eliminate harassing conduct
    - Prevent its recurrence;
    - Address individual and communal, immediate and residual effects.

- Community Member Responsibilities
  - Members should support campus policies by assisting with:
    - Prevention, notification, & remediation

STEP 6: Commitment to Inclusion

◆ Commitment to Cultural Competence

Cultural competence is as an **ongoing process** by which *individuals* and *systems* respond respectfully and effectively to people of all cultures, languages, classes, races, sexes, ethnic backgrounds, religions, sexual orientations, abilities and other diversity factors in a manner that recognizes, affirms, and values the worth of individuals, families, and communities and protects and preserves the dignity of each.

- **Individual level** – being capable of functioning effectively in a diverse cultural context and to appreciate, acknowledge, and advocate for respect and inclusion of differences.

- **Organizational level** – a set of behaviors, attitudes, and practices which come together in a system, agency, or amongst professionals to work effectively in a context of cultural differences.

(Cross, Bazron, Dennis, & Isaacs, 1989)

Questions?

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