

Issues Impacting Gender Equity: Discrimination, Harassment and Unprofessional Behavior

Linda Chaudron, MD, MS

Associate Vice President and Senior Associate Dean

MEDICINE *of* THE HIGHEST ORDER



Objectives

1. Understand definitions and differences between discrimination, harassment and unprofessional behavior
2. Be able to identify resources in your institution and nationally to address discrimination and harassment

Disclosures

No financial disclosures or conflicts of interest

Me Too Movement



**Disclaimer:
I am not a lawyer**

What is the Definition of Harassment?

Informal:

Harassment: The act or an instance of harassing, or disturbing, pestering or troubling repeatedly; persecution Dictionary.com

Harass: to create an unpleasant or hostile situation for especially by uninvited and unwelcome verbal or physical conduct. Merriam-Webster Dictionary

Formal:

Harassment is a form of unlawful discrimination (if due to protected characteristic).

Types of harassment in employment:

- Hostile Environment (racial, sexual, etc)
 - General
- Harassment can be sexual in nature or based on other **legally protected** characteristic (i.e., race, disability)
- Harassment which is **not unlawful may otherwise violate employer policy.**

Harassment Further Defined

Hostile work environment harassment is a form of discrimination that involves:

- unwelcome verbal, physical, or electronic conduct intended to cause or which could reasonably be expected to cause an individual or group of individuals to feel intimidated, demeaned, abused, or fearful, or to have concern for their personal safety on the basis of a protected class where
- the harassment is so severe and pervasive that the work or academic conditions are materially altered **and** an abusive working environment exists and
- a reasonable person would believe that the conduct unreasonably interfered with work or academic performance or otherwise created an intimidating, hostile or offensive work or academic environment.

What is the Definition of Sexual Harassment?

Unwelcome

- Sexual advances
- Requests for sexual favors
- Or other visual, verbal or physical conduct of a sexual nature

WHERE:

- Submission to such conduct is an explicit or implicit condition of employment or academic success (quid pro quo); or
- Submission to or rejection of such conduct is used as the basis for employment or academic decisions; or
- The conduct has the purpose or effect of a) unreasonably interfering with an individual's work or academic performance or b) creating an intimidating, hostile or offensive work or academic environment

Harassment Defined

Types of actions which can *give rise to* hostile work environment claims:

- racial or ethnic jokes
- unwanted sexual touching of another person
- obscene language and/or gestures
- racial or gender related epithets or slurs
- degrading or derogatory remarks based on/related to the individual's protected class
- making fun of a person's disability
- derogatory or demeaning comments about an individual's religious beliefs
- stereotyping of individual based on protected class
- graffiti left in employee's work area
- intimidation of a verbal, written or visual nature (including pictures, computer)
- stalking

What is the Definition of Discrimination?

Discrimination involves an adverse action or decision or harassing or differential treatment of a person or class of persons because of a legally protected status or because of perceived or actual affiliation or association with other individuals in a protected class.

Does not include actions or behavior not based on a protected class (e.g., nepotism, general bullying).

Illegal Bases for Discrimination

Age

Color

Criminal Conviction &
Arrest Record **

Disability

Domestic Violence
Victim (NYS)**

Ethnicity

Gender (includes
pregnancy & sexual
harassment)

Gender Identity and
Expression

Marital Status

Military/Veteran Status

National Origin &
Ancestry

Pregnancy

Race

Religion/Creed

Sexual Orientation

****Some classes protected at
the state but not federal level

What are the relevant laws?

Title VII prohibits employers from discriminating in employment decisions based upon race, color, national origin, sex, or religion. Discrimination can be intentional or based upon a disparate impact.

Title IX prohibits discrimination on the basis of sex in any federally funded education program or activity.

- Title IX Coordinators are designated at universities

*Some different processes and expectations between Title IX and Title VII around mandated reporting, investigation and public reporting

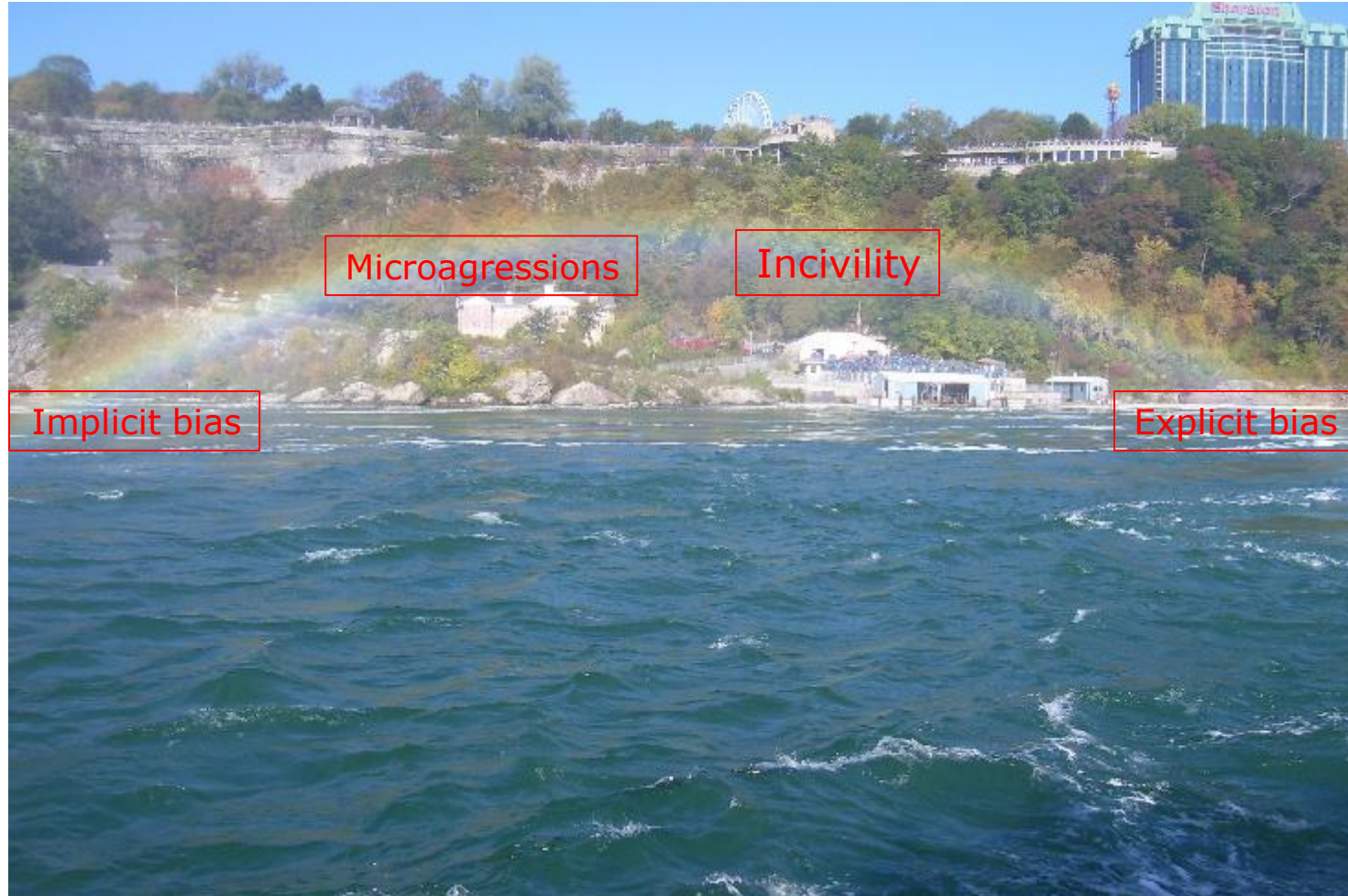
Other Applicable Laws

- ✓ **Age Discrimination in Employment Act (“ADEA”) & Older Workers Benefits Protection Act (“OWBPA”)**
- ✓ **Americans with Disabilities Act Amendment Act (“ADAAA”) (formerly ADA)**
- ✓ **Equal Pay Act of 1963 (“EPA”); Lilly Ledbetter Fair Pay Act**
- ✓ Executive Order 11246 (as amended by Exec Order 11375)
- ✓ Genetic Information Nondiscrimination Act (“GINA”)
- ✓ **Pregnancy Discrimination Act (“PDA”)**
- ✓ Rehabilitation Act of 1973
- ✓ Section 1981 of the Civil Rights Act of 1866
- ✓ Section 1983 of the Civil Rights Act of 1871
- ✓ Title VI of the Civil Rights Act of 1964
- ✓ Title VII and VIII of the Public Health Service Act
- ✓ Uniform Services Employment & Re-employment Rights Act (“USERRA”) and Vietnam Era Veterans Readjustment Act of 1974 (“VEVRA”)
- ✓ State and Local laws

Retaliation

All employees are prohibited from taking adverse action against an individual ***because*** he/she has engaged in “protected activity”.

What is Unprofessional Behavior?



Legitimate, Non-discriminatory Reasons For A Decision

- Failure to meet legitimate performance expectations or required standards
- Financial / lack of funding
- Insubordination
- Misconduct
- Lack of required qualifications
- Applicant demonstrably not best qualified
- Scientific misconduct
- Violation of employer policy
- Violation of law

What is Sexual Harassment?

It is about POWER...

NIH Director Francis Collins says “The goal of the perpetrator, most commonly but not exclusively a man, is to objectify, exclude, demoralize, diminish, and coerce the victim, most commonly a woman, to exert power over her. It’s morally indefensible, its unacceptable and it presents a major obstacle that is keeping women from achieving their rightful place in science...” Sept 17, 2018

Is Sexual Harassment an Issue in Academic Medicine and Science.....Apparently

National Academy of Sciences, Engineering and Medicine

- June 12, 2018 - 300 page Report published
- November 9, 2018 Convening Leaders in Academia to Prevent Sexual Harassment – watch the webinar

National Institutes of Health

- September 17, 2018: Changing the culture of science to end sexual harassment by Francis Collins, MD, PHD, Director NIH
- NIH Anti-Sexual Harassment Webpage launched

National Science Foundation

- September 19, 2018 Announcement: next steps
- publishing a term and condition that requires awardee organizations to report findings and determinations of sexual harassment
- establishing a secure online portal for submitting harassment notifications.

NASEM Categories of Sexual Harassment

1. Gender Harassment

- verbal and nonverbal behaviors that convey hostility, objectification, exclusion or second-class status about members of one gender

2. Unwanted sexual attention

3. Sexual coercion

Unwelcome

- Sexual advances
- Requests for sexual favors
- Or other visual, verbal or physical conduct of a sexual nature

WHERE:

- Submission to such conduct is an explicit or implicit condition of employment or academic success (quid pro quo); or
- Submission to or rejection of such conduct is used as the basis for employment or academic decisions; or
- The conduct has the purpose or effect of a) unreasonably interfering with an individual's work or academic performance or b) creating an intimidating, hostile or offensive work or academic environment

NASEM Report

1. Documented extents and persistence of sexual harassment
2. Negative consequences for careers and health
3. Solutions to increase identifying and reporting
4. 15 evidence-based recommendations

Examples of sexual harassment in science and medicine

NIH K award recipients (2006-2009) N = 493 women and 573 men “In your professional career, have you encountered unwanted sexual comments, attention, or advances by a superior or colleague (yes or no)

30% of women vs. 4% of men said YES

Among the 150 women who responded yes:

- 92% sexist remarks or behavior
- 41% unwanted sexual advances
- 9% coercive advances
- 6% subtle bribery to engage in sexual behavior
- 1% threats to engage in sexual behavior

47% reported it negatively affected their career

Jagsi, et al. JAMA, May 2016

COMPARED TO:

Academic medical faculty surveyed (1995) N= 953 women and 1010 men

52% of women vs. 5% of men

Examples of sexual harassment in science and medicine

NASEM Report (p 65): Encounter or experience sexually harassing conduct in academia

> 50% of women faculty and staff

20-50% of women students

AAMC 2017 Medical School Graduation Questionnaire:

- 14.8% of medical students reported they had been subjected to offensive sexist remarks at least once
- 4.3% reported unwanted sexual advances
- 0.3% asked to exchange sexual favors for grades or other awards

What Contributes To Sexual Harassment in Medicine and Science?

Male dominated field

Male dominated leadership

Hierarchical power structure

Silos of power especially dependence on mentors for career advancement

Superstars

Informal communications network of rumors and accusations

Lack of clarity of policies and repercussions

DISPARITY of POWER



Behaviors that
are Illegal

Behaviors that
violate institutional
policies

Behaviors that are
unacceptable but not
covered in policies and laws

Why Are We Still Here?



Women in Medicine

1847 Elizabeth Blackwell, first female physician to graduate from US school (Geneva Medical College)

1880 = 2,000 female physicians

1880's = 6 women's medical colleges

1880's - early 1900's = women accepted to male medical schools

1910 = 6% of medical students were women

1915 = AMA accepted women

1969 = 9% of medical students were women

1980 = 29% of medical students were women

2017 = 51% of medical students are women

Pololi, LH. Changing the Culture of Academic Medicine: Perspectives of Women Faculty

Change in Laws

1920 = Women got right to vote

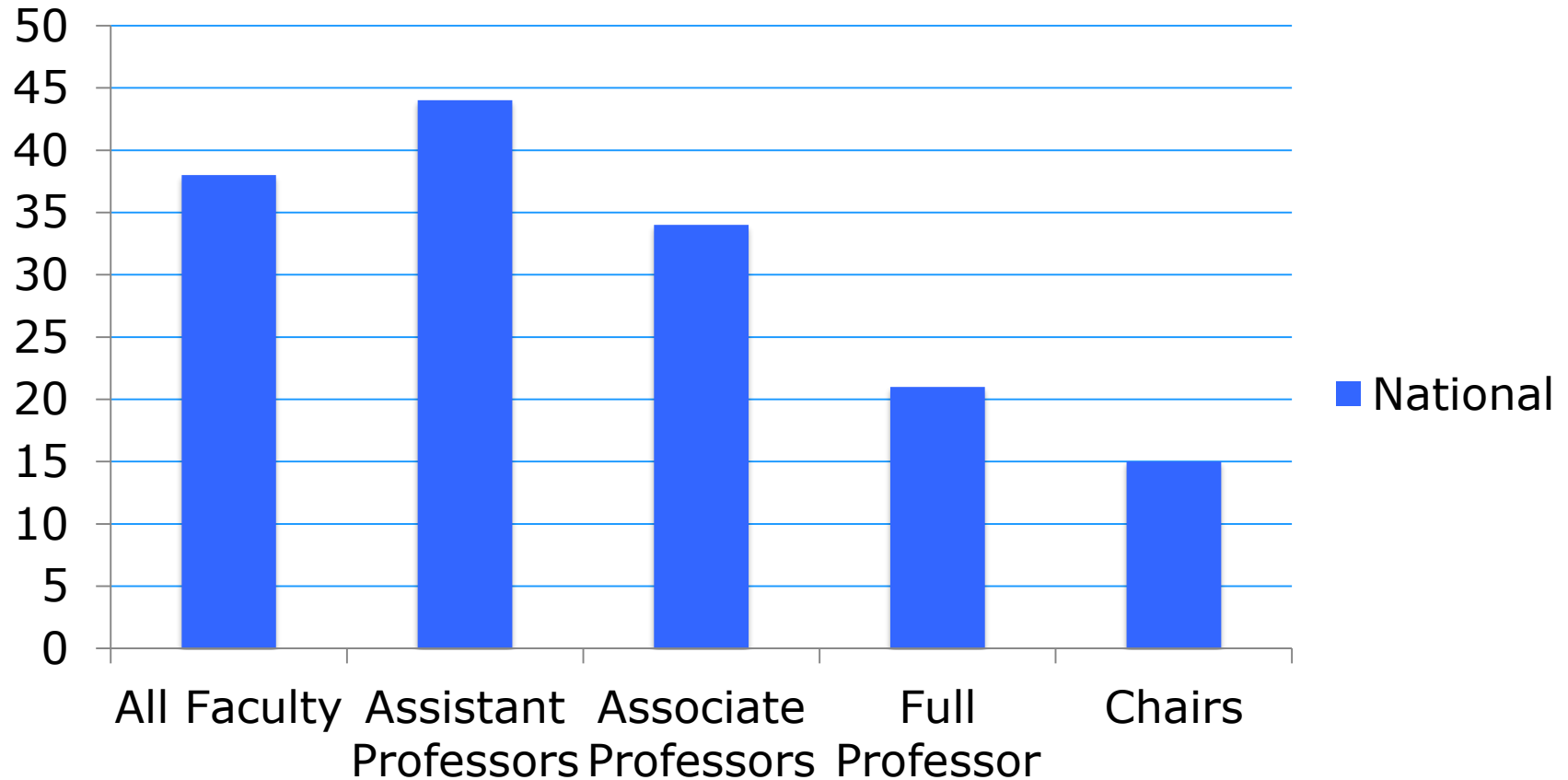
1964 = Civil Rights Act Title VII

1972 = Title IX

1991 = Title VII Amended

Percentage of Women Faculty in Academic Medicine

National



SLOOOOOOW Progress

The proportion of full professors who are women has increased 7 percentage points since 2004 (14% - 22%).....

At this rate it will take 48 years to get to 50%

The percentage of new tenured positions given to wome has remained the same (30%)

Why Are We Not Moving the Needle Faster?

Hierarchical Organizational Structures

- Because there are **few women in leadership positions throughout academic medicine**, women who report instances of gender discrimination are often faced with the challenge of reporting to the very men they view as perpetrating the discrimination (Carr, 2003).
- The production and reification of male dominated hierarchies in academic medical organizations only fuels a lack of institutional trust and re-instills harmful, traditionally held notions that women can't succeed in academic medicine (Barbaria, 2009; Carr, 2003; Levine, 2013).

Why Are We Not Moving the Needle Faster?

Lack of Women Serving on Search Committees

Lack of Women Serving on Powerful Committees:

- Finance, chair's cabinet, etc.

Conflation with Familial Issues

- Women's issues in academic medicine have been conflated with familial issues. There has been a focus on improving family resources for women as a means to ending gender discrimination in the work place (Carr, 2003; Rich, 1994).

We Still Have Issues of Equality, Equity and Parity

Equality:

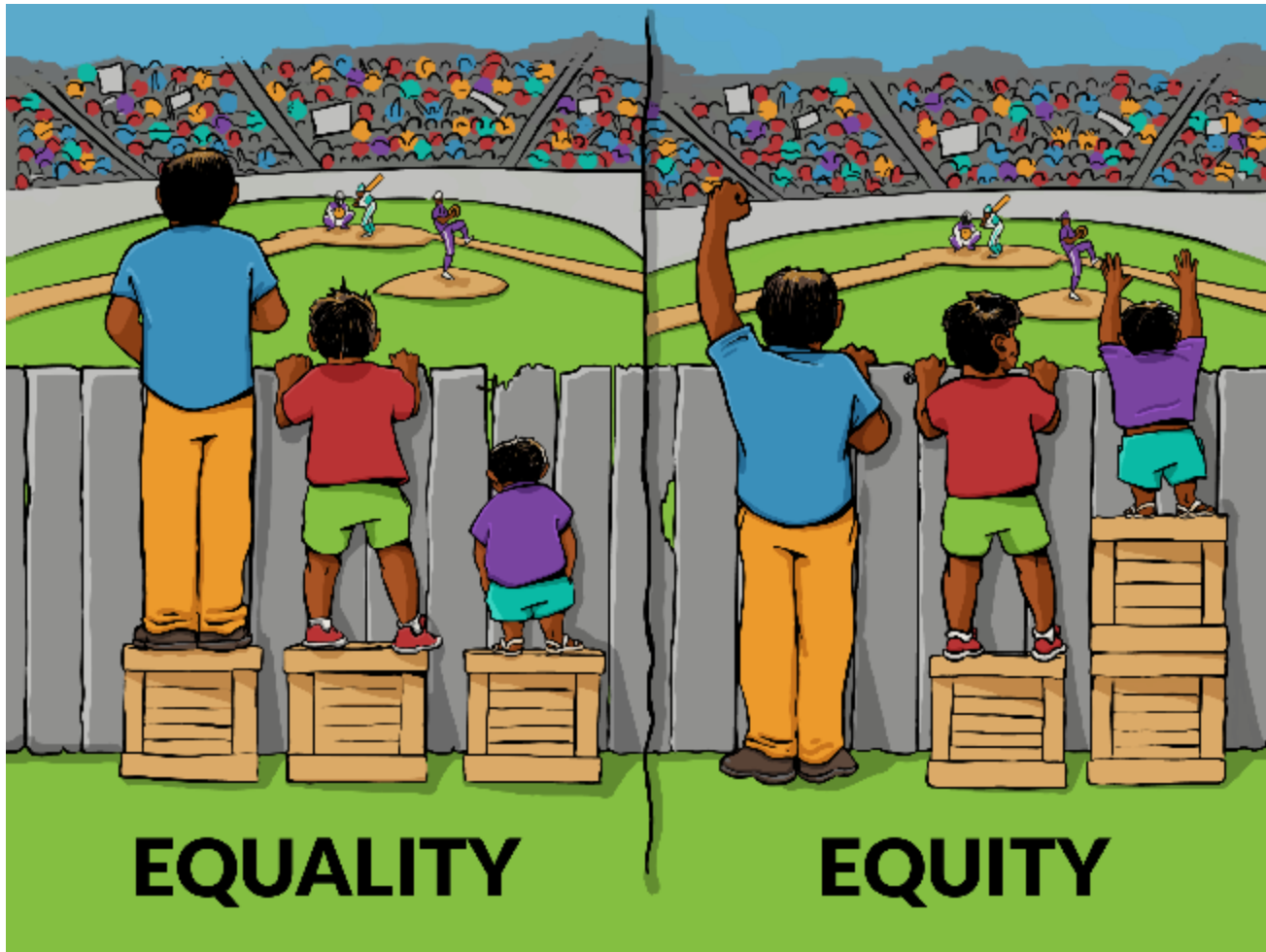
- Treating everyone the same
- Aims to promote fairness but only works if everyone starts at the same place

Equity:

- Giving everyone what they need to be successful
- Appears unfair but gets us to a more level playing field

Parity:

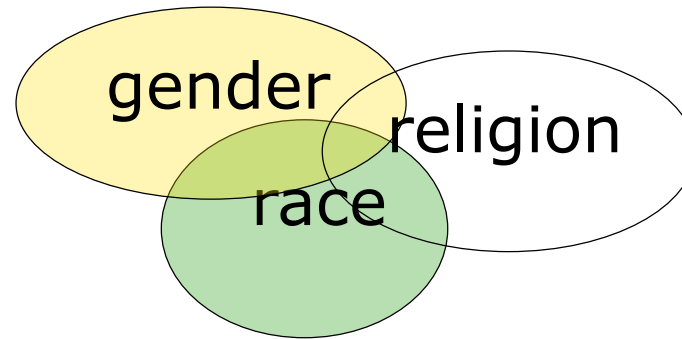
- The state of being equal or equivalent (Merriam-Webster's Learner's Dictionary)
- Concept of equal pay for equal work in a career



Interaction Institute for Social Change | Artist: Angus Maguire

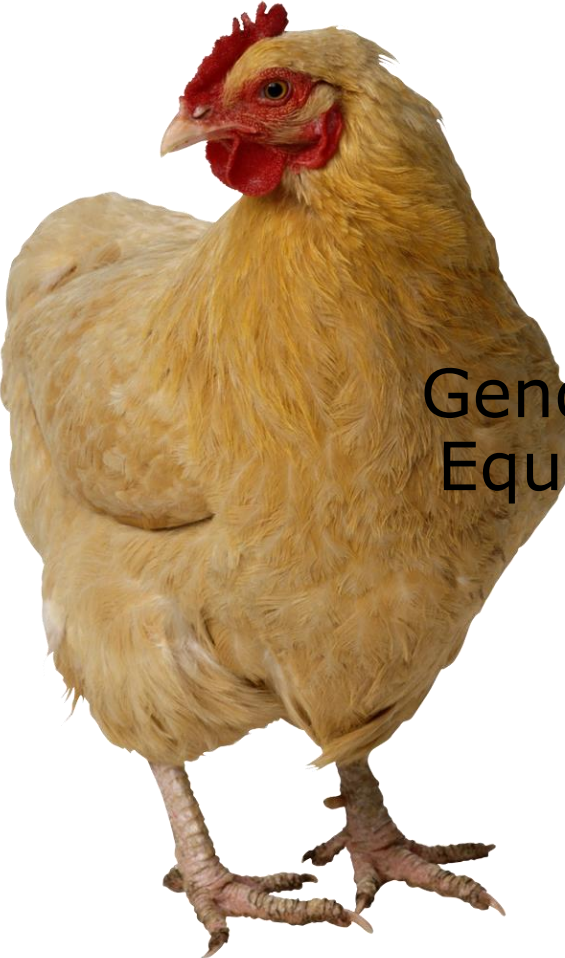
Remember Many Aspects to Diversity

- Gender identity
- Veteran status
- Age
- Socioeconomic
- Rural, urban, suburban
- Ethnicity
- Race
- Able bodied

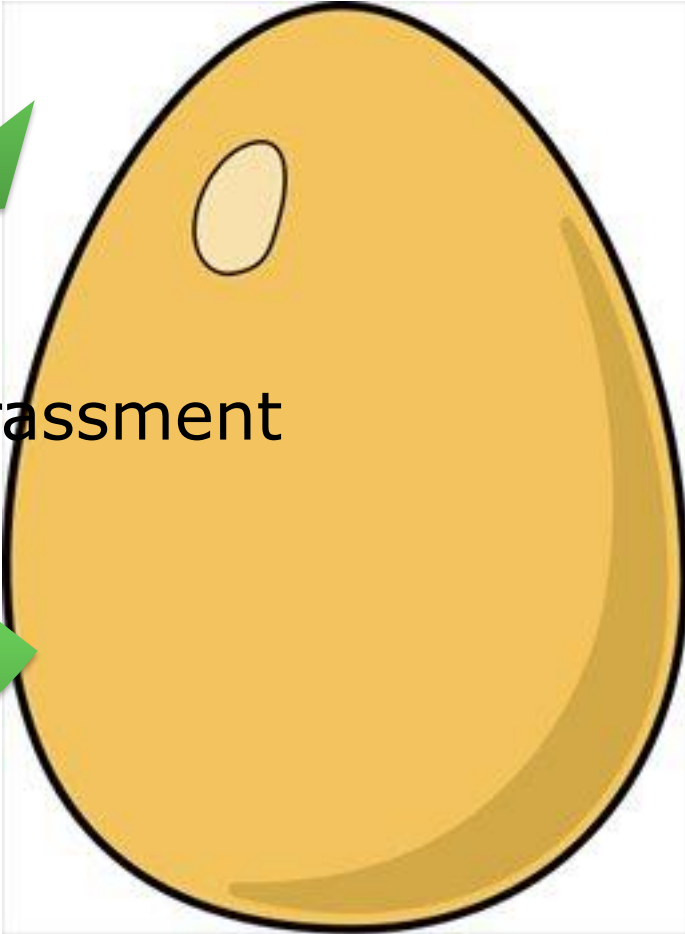


THINK INTERSECTIONALITY!

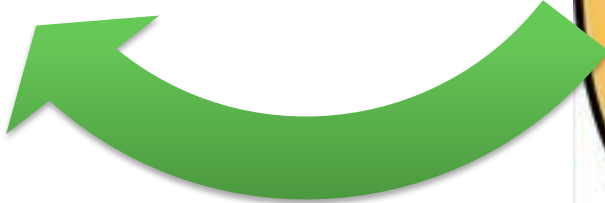
How do they impact one another?



Gender
Equity



Harassment



How Does Gender Inequity Interface with Gender Harassment



We Don't Want This To Be The Outcome....



What Can Be Done?

- Develop mechanisms that encourage disclosure without fear of retaliation
- Mandatory training
- Do not tolerate sexual harassment – must have monitoring and sanctions
- Must not engage in dismissal of “locker room talk”
- Professional societies must break the silence and address at leadership councils and annual meetings
- Additional research

Bates, et al. It is Time for Zero Tolerance for Sexual Harassment in Academic Medicine. *Academic Medicine*, 2018

What Can Be Done?

Recommendations of the NASEM on Addressing Sexual Harassment and Gender Discrimination, 2018

- Create diverse, inclusive and respectful environment
- Address gender harassment
- Move beyond legal compliance
- Improve transparency and accountability
- Diffuse hierarchical and dependent relationships between trainees and faculty
- Provide support for the target
- Strive for strong diverse leadership
- Measure progress
- Incentivize change
- Encourage involvement of professional societies
- Initiate legislative action
- Address failures to meaningfully enforce Title VII
- Increase federal agency action and collaboration
- Conduct research
- Make the entire academic community responsible for reducing and preventing sexual harassment

What URMC Is Doing?

Focusing on a Culture and Climate of Respect

- ICARE Values
- TAUBMAN IN TWO Video
- Faculty Professionalism Council
- Unconscious Bias Training
- Anti-Harassment and Anti-Discrimination Training
- Ombuds program review and expansion
- University is reviewing its policies and procedures
- Salary Equity Study

Some of Your Local Resources and Policies

Harassment including Sexual Harassment

<https://www.sdbor.edu/policy/documents/1-17.pdf>

Prevention of, Dating Violence, Domestic Violence Sexual Assault and Stalking

<https://www.sdbor.edu/policy/documents/1-17-1.pdf>

Human Rights Complaint Procedure

<https://www.sdbor.edu/policy/documents/1-18.pdf>

We Are Getting There!!

Join the union, girls, and together say *Equal Pay for Equal Work.*

SUSAN B. ANTHONY, *The Revolution*, Mar. 18, 1869

Failure is impossible.

SUSAN B. ANTHONY,

Remarks at her 86th birthday celebration,

Feb. 15, 1906



Questions, Comments, Ideas

