

The background of the slide features a close-up, low-angle shot of a wooden gavel resting on a wooden block. To the left, the scales of justice are visible, slightly out of focus. The lighting is warm and dramatic, highlighting the textures of the wood. An orange horizontal bar is located in the top left corner.

Creating Safe Spaces: Addressing Harassment in Medical Education

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DISCLAIMER: Nothing in this presentation should be interpreted as legal advice. This presentation is intended to help audience members understand the area of law and aid in identifying and addressing harassment. This information is not intended to substitute for professional legal advice and does not create an attorney-client relationship.

The opinions expressed in this presentation are mine alone and not representative of Baylor Scott & White or Baylor University Medical Center.

I have no conflicts of interest to disclose.

Special Thanks to the medical professionals who have done research, shared their stories, and persevered to contribute to a more equitable learning environment for all.

Road Map

- Prevalence of Harassment in Healthcare
- Impacts of Harassment
- Laws that address Harassment
- Identifying/Defining Harassment
- Addressing Harassment and Inappropriate Behavior
 - Policies
 - Training
 - Ensuring Reporting
 - Assessing your Environment
 - Responding to Reports
 - Addressing Well-Being as it pertains to harassment



PREVALENCE OF HARASSMENT IN HEALTHCARE

96% OF FEMALE PHYSICIANS EXPERIENCE GENDER HARASSMENT

Ochsner Journal 2019

9.5% OF MEDICAL STUDENTS REPORT BEING SUBJECTED TO RACIALLY OR ETHNICALLY OFFENSIVE REMARKS/NAMES

2020 AAMC Medical School Graduation Questionnaire

50% OF FEMALE MEDICAL STUDENTS WILL EXPERIENCE HARASSMENT BEFORE THEY GRADUATE FROM MEDICAL SCHOOL

National Academies of Sciences, Engineering, and Medicine

66% OF ACADEMIC MEDICAL FACULTY HAVE EXPERIENCED GENDER BIAS

JAMA 2016

69% OF FEMALE PHYSICIANS EXPERIENCED UNWANTED SEXUAL ATTENTION FROM COLLEAGUES

Ochsner Journal 2019

39% OF NURSES IN THE US REPORT EXPERIENCING SEXUAL HARASSMENT

The Joint Commission 2020

23% OF MINORITY FAMILY PHYSICIANS HAVE HAD A PATIENT REFUSE THEIR CARE DUE TO RACE

Family Medicine 2020

82% OF WOMEN IN ACADEMIC MEDICINE EXPERIENCED SEXUAL HARASSMENT IN THE LAST YEAR

Journal of Women's Health 2020

Sexual Harassment Is Still the Norm in Health Care

If you can't think of a high-profile doctor who got "taken down" by the #MeToo movement, it's not for a lack of perpetrators *Voices*

██████████ Residency Director Removed After Filing Racial Discrimination Suit

MEDPAGE TODAY

— Lawsuit alleges a decade of race and gender-discriminatory behaviors

Lawsuit Alleges Age, Race, Sex Discrimination At ██████████

██████████ Med School **Forbes**

\$168 Million Awarded in California Sex Harassment Suit

abc NEWS

Physician assistant says she was tormented in cardiac surgery unit.

#MeToo in medicine: Women, harassed in hospitals and operating rooms, await reckoning **NEWS**

██████████ Accused of Mishandling Sexual Harassment Claims

New documents filed in a lawsuit against the hospital giant alleged ██████████ was aware of multiple sexual harassment claims against an employee and still allowed him to work with female patients for years.

NBC

Top ██████████ Children's doctor resigns, accuses hospital of racism **FOX**

Teen sues doctor, hospital for sexual harassment **AP**

After outcry, ██████████ removes prestigious honor from professor who sexually harassed a colleague *The Washington Post*

Post-#MeToo

- 2022 AAMC Study of Medical School Faculty
 - 22% of all faculty and 34% of women experienced sexual harassment
 - Including Departments of OBGYN & Pediatrics
- Sexually harassment decreased between 2016 and 2018
- Gender-Based Harassment increased from 2016 to 2018



Impacts of Harassment

Burnout

Medical Errors
& Near Misses

Poor Patient
Outcomes

Barriers to
Diversity

Patient
Dissatisfaction

Poor Morale

Staff Turnover

Extra Leave
Time

Costly
Litigation

Negative
Publicity

Non-Legal Implications to Consider

Joint Commission

ACGME Core Competencies
(Professionalism, Interpersonal
Communication Skills, Practice Based
Learning and Improvement)

AMA Code of Medical Ethics

A wooden gavel with a dark handle and a light-colored head rests on a dark wooden surface. In the foreground, a rectangular sign with a green background and a wooden border contains the words "FEDERAL LAW" in large, dark, serif capital letters. The text "Federal Employment Laws" is overlaid in white on the sign.

Federal Employment Laws

Title VII of the Civil Rights Act of 1964

- Prohibits employment discrimination on the basis of race, color, religion, sex, or national origin
 - Discrimination can take place in hiring, firing, adverse action, etc.
 - Narrow Focus: Harassment
 - Three Causes of Action
 - Quid Pro Quo
 - Hostile Work Environment
 - Retaliation

Quid Pro Quo



- Something for Something
- Predominantly applied to gender-based (as opposed to racially based) harassment
- Sexual conduct, dates, or romantic relationship in exchange for:
 - Positive rotation evaluation
 - Positive Letter of Recommendation
 - Assistance in residency, fellowship, or job placement
 - Favorable call schedules or assignments
 - Better treatment
- Negative employment consequences for declining or ending sexual/romantic advances
- DOES NOT have to be explicitly stated (can be implied or inferred)
 - Reasonable Person Standard
- Harasser in some form of “power over” relationship
 - Does not have to be formal

What about Consensual Dating Relationships?

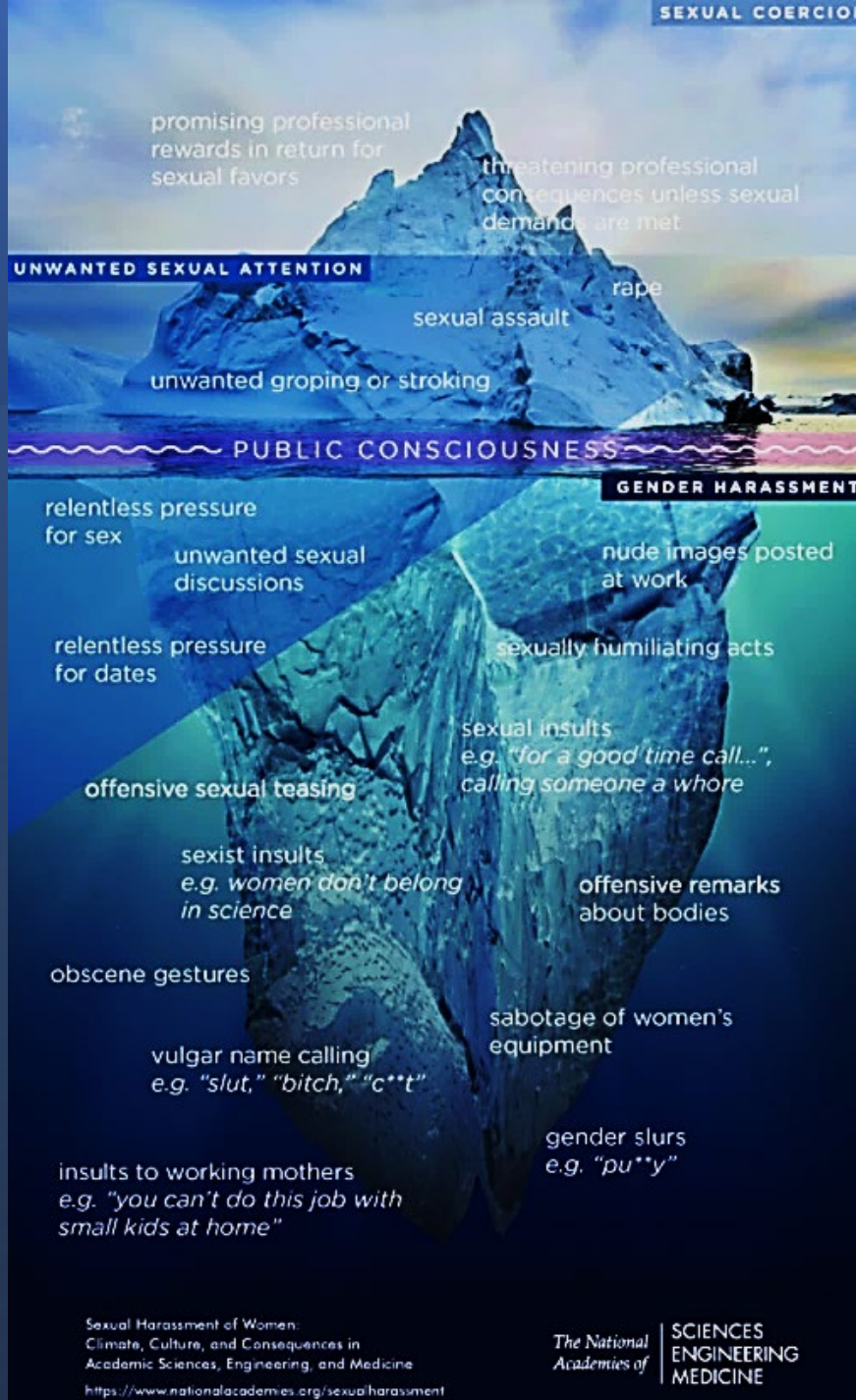
- “Sexual relationships between medical supervisors and trainees are not acceptable, even if consensual. The supervisory role should be eliminated if the parties wish to pursue their relationship” (AMA)
 - Train faculty and residents to recognize “power-over” situations
 - Power Differential doesn’t disappear outside the hospital
 - Talk about it before it happens
-





Hostile Work Environment

- Overused Term
- Federal law DOES NOT prohibit uncivil or even abusive behavior
- A Hostile Work Environment Exists When
 - Harassment based on an area protected under Federal Law (gender, race, color, national origin, sexual orientation (2020 S. Ct. Decision), pregnancy, or age)
 - Is sufficiently severe or pervasive to interfere with a person's work performance
 - Reasonable person standard again
 - One extreme incident or several seemingly minor incidents over time
 - Can be created by "outside of work" behavior
 - Can be perpetrated by ANYONE, even patients



Display of sexually explicit graphics, cartoons, pictures

“Great, we matched all women, they’re going to get pregnant and our call schedules will be a nightmare.”

Sexual Banter

Hostility

Impatience with questions

Objectification & Objectifying Images

“Your husband must love that you workout”

Discussing own sexual conduct and asking others about their sexual conduct

Providing less assistance or help than is offered to male colleagues

Jokes or comments about gender stereotypes

Negative evaluations that imply diversion from gender norms (“too aggressive”) when same standard is not applied to men

Negative evaluations implying too much conformity with gender norms, “too sensitive/timid,” “not assertive enough”

Behaviors or structures that convey or enforce the second-class status of women

Exclusion

Intimidation

Leering or staring

“You look hot today!”

Condescending language or voice intonation

Sexual Jokes

“Women don’t belong in leadership”

Hostility

Quietly exhibiting uncooperative attitudes during routine team activities

Unwanted touching (including hugs, shoulder rubs, etc.)

MEN VS. WOMEN FEEDBACK CHEAT SHEET

TheCooperReview.com

MEN **WOMEN**

Direct = Abrasive

Disruptor = Disruptive

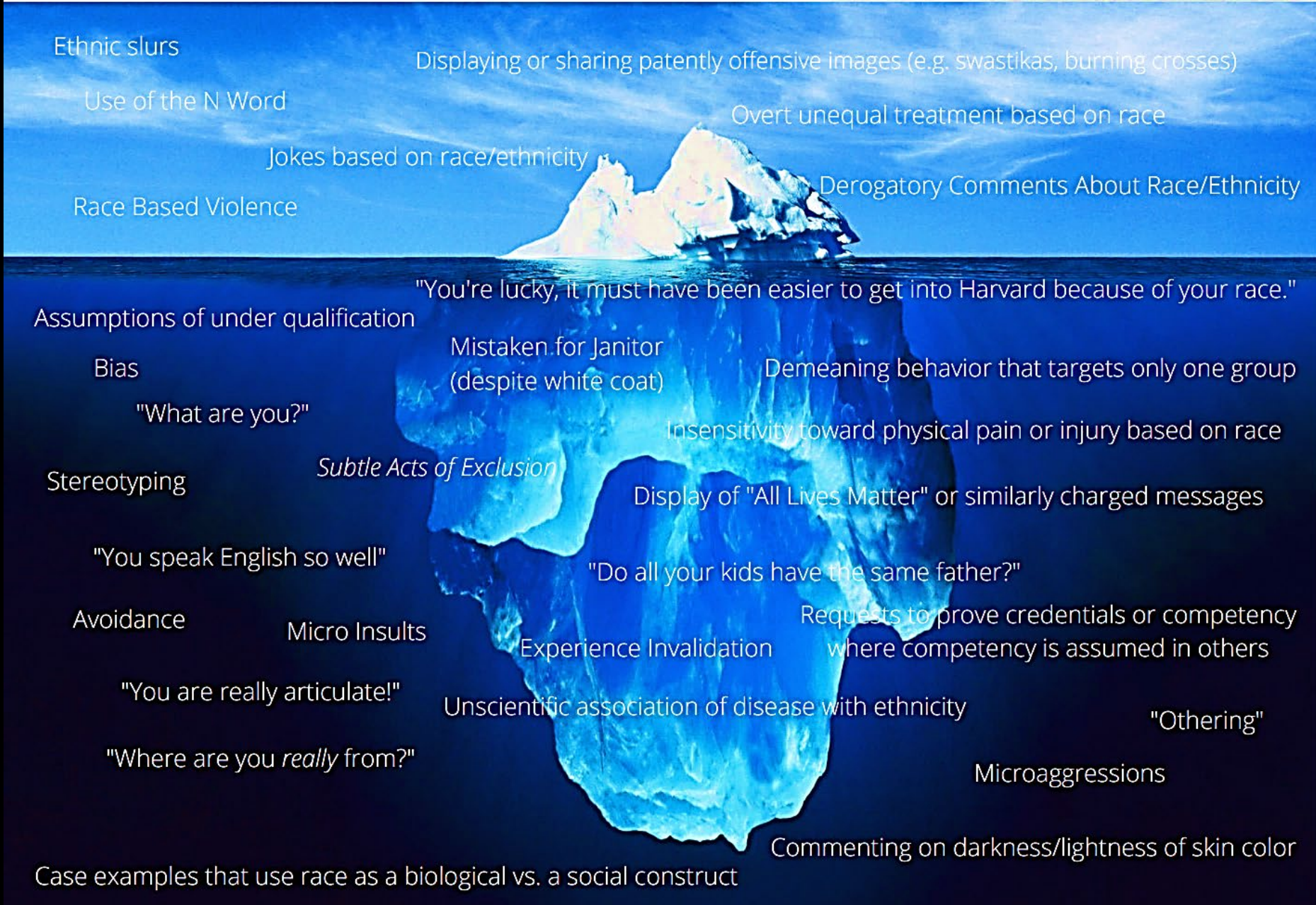
Passionate = Emotional

Takes control = Bossy

Assertive = Pushy



Nick Lowndes



Ethnic slurs

Displaying or sharing patently offensive images (e.g. swastikas, burning crosses)

Use of the N Word

Overt unequal treatment based on race

Jokes based on race/ethnicity

Derogatory Comments About Race/Ethnicity

Race Based Violence

"You're lucky, it must have been easier to get into Harvard because of your race."

Assumptions of under qualification

Bias

Mistaken for Janitor
(despite white coat)

Demeaning behavior that targets only one group

"What are you?"

Insensitivity toward physical pain or injury based on race

Stereotyping

Subtle Acts of Exclusion

Display of "All Lives Matter" or similarly charged messages

"You speak English so well"

"Do all your kids have the same father?"

Avoidance

Micro Insults

Experience Invalidation

Requests to prove credentials or competency
where competency is assumed in others

"You are really articulate!"

Unscientific association of disease with ethnicity

"Othering"

"Where are you *really* from?"

Microaggressions

Commenting on darkness/lightness of skin color

Case examples that use race as a biological vs. a social construct

Retaliation

- Not technically a form of harassment, but can be triggered in the context of harassment
- Any behavior that would dissuade a reasonable person from engaging in a protected activity (making a good-faith complaint, participating in an investigation, etc.)



Education
Law

Federal Education Laws

Laws against Harassment in Education

Racial/Ethnic Discrimination: “No person in the United States shall, on the ground of race, color, or national origin, be excluded in participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance” (Title VI of the Civil Rights Act of 1964)

Sexual Harassment: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance” (Title IX of the Education Amendments of 1972)

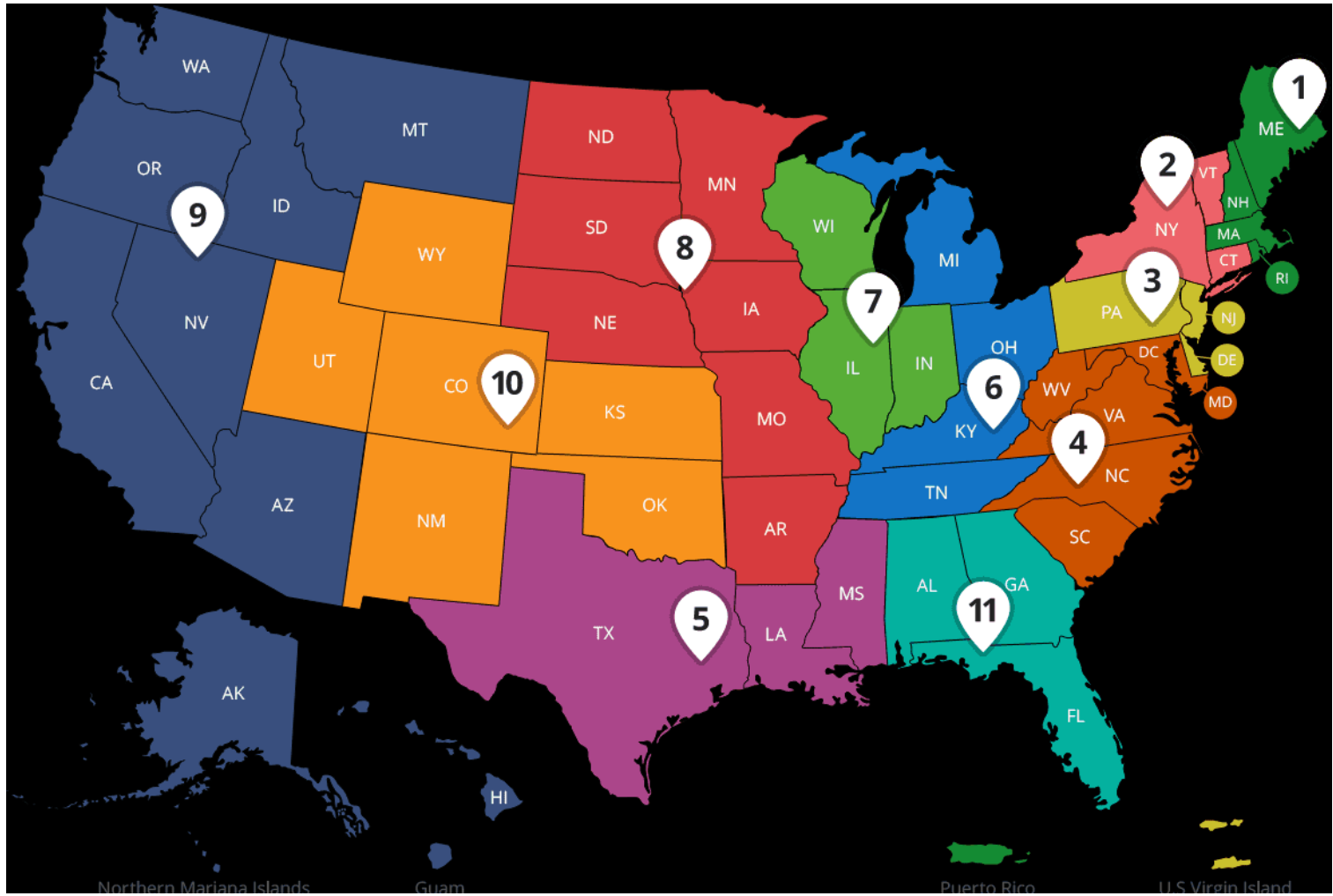
Do Educational Laws apply to my Hospital?

Traditional View

- Titles VI and IX apply to traditional colleges and universities receiving federal funding
- Not regarded as applying to Non-University Based community teaching hospitals

2017 Third Circuit Ruling

- *Doe v. Mercy Catholic Medical Center*, No. 16-1247 (3d Cir. 2017)



Another (very brief) Civics Lesson

Differences between Employment Law (Title VII) and Educational Law (Titles VI & IX)

- Similar definitions of harassment
- Educational Laws
 - Do not require report to EEOC prior to legal action
 - Higher affirmative burden on hospitals to create policies, investigate complaints, and take remedial action
 - Longer statute of limitations
 - Violations put Federal Medicare funding at risk!



Addressing Harassment



Have Good Policies
Know your Policies

The screenshot shows the top portion of the ATIX website. The header is dark blue with the ATIX logo (Association of Title IX Administrators) on the left. On the right, there are links for Search, Member Login, and Contact. Below the header is a navigation bar with links for Training and Certification, Member Services, Resources, Events, and About. The main banner features a blue-tinted background image of a classical building facade. The text reads: "The Title IX association for advancing gender equity in education." Below this is a red button that says "2021 Trainings and Events Open for Registration!" and a white button with a red border that says "LEARN MORE >".

The screenshot shows the top portion of the National Council of Nonprofits website. The header is light blue with navigation links: ABOUT US | BLOG | JOIN OUR NETWORK | PRESS ROOM | CONTACT US. On the right, there are links for MEMBER LOGIN and SEARCH. Below the header is the National Council of Nonprofits logo, which consists of a stylized 'N' made of blue and yellow squares. To the right of the logo is the text "NATIONAL COUNCIL OF NONPROFITS" and the tagline "National voice. State focus. Local impact." Below this is a horizontal menu with five categories: AMERICA'S NONPROFITS, TRENDS & POLICY ISSUES, TOOLS & RESOURCES, OUR FOCUS & IMPACT, and EVERYDAY ADVOCACY.

Reporting

- Train on when and how to report
- Make it easy
- Involve trainees in selecting reporting methods
- Education on what will happen
 - Confidentiality & Anonymity
 - Who will investigate?
 - Delayed action until learner is no longer vulnerable
 - Collation of reports to protect reporter
 - Management of Title IX



Ask the Questions!

- Institutional Surveys
- AAMC Medical School Graduation Questionnaire
 - Been required to perform personal services (cross reference this with gender and ethnicity)
 - Been subjected to unwanted sexual advances
 - Been asked to exchange sexual favors for grades or other rewards
 - Been denied opportunities for training or rewards based on gender
 - Been subjected to offensive sexist remarks/names
 - Received lower evaluations or grades solely because of gender rather than performance
 - Been denied opportunities for training or rewards based on race or ethnicity
 - Been subjected to racially or ethnically offensive remarks/names
 - Received lower evaluations or grades solely because of race or ethnicity rather than performance
 - Been denied opportunities for training or rewards based on sexual orientation
 - Been subjected to offensive remarks/names related to sexual orientation
 - Received lower evaluations or grades solely because of sexual orientation rather than performance



Investigate Complaints

Impartial Party

Broadly representative
(gender, sexual orientation,
profession, race/ethnicity,
accessibility)

- Use HR and/or Title IX team where appropriate

One Clearing Place

Do Interviews

Take Action

Warn Against Retribution

Keep Records

Follow-up with Reporter(s)

“If [concerning] behavior is not addressed, others in the environment may behave similarly, so the behavior becomes ‘normal’ and accepted...”

(Hickson et al., 2007, p. 1046; Felps et al., 2006; Hickson et al., 2007; Webb et al., 2007; Webb, 2018)

Unprofessional (but not harassment)

Address all unprofessional behavior

~~“I don’t want to tarnish the reputation of a young physician”~~
“I am protecting a young physician’s future career!”

Vanderbilt Cup of Coffee Training

Education and discussion of victim impact

Training

Scope of the Problem

Real Examples

Impact on Teams, Patient Safety, and Culture

Outside of Work Behavior and Social Media Posts

Recognizing “Power Over” Situations

Rules on Dating Relationships

Don’t just “check the box” or rely on a module

More than 1x

HR/Legal “Lessons Learned”

Peer and Faculty Training on Addressing Inappropriate Behavior in the Moment

- Witness Intervention Techniques
- Cup of Coffee Training



“Usually, the day we talk about sexual harassment is the day that everyone harasses me as a joke”

“Joke Culture”

- Talk about it explicitly
- No tolerance for “this is just our culture” or “that’s just his sense of humor”
- We need to change our culture to protect our patients and our colleagues



Wellbeing

Victims

Provide Targets of Harassment with options for outside counseling and support

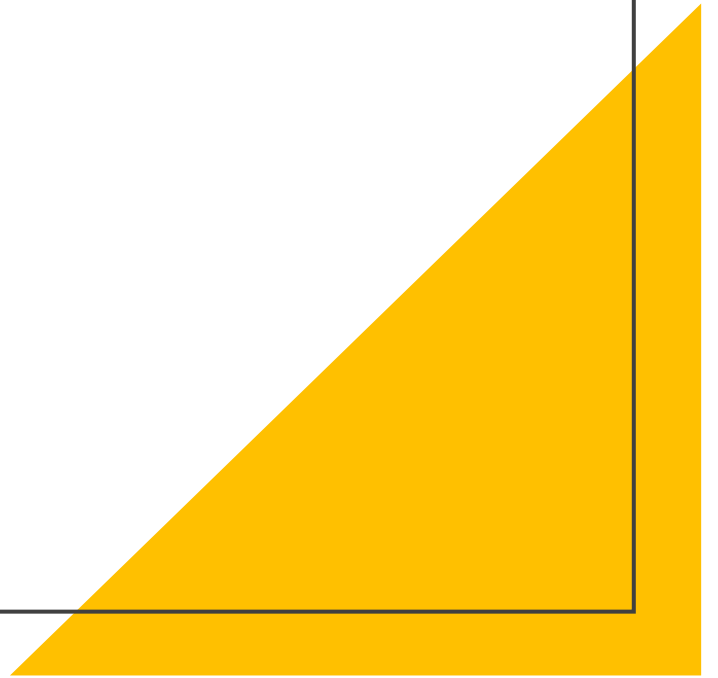
People of Color

Assume minority staff members are facing some form of harassment/microaggressions and tailor wellness resources to addressing these unique needs

Perpetrators

Don't forget the well-being of the perpetrators

Questions?



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