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What is Implicit Bias and Why Should Employers Care? [Ober|Kaler]

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In 2014, Baker Donelson's Diversity Committee instituted a mandatory firm-wide training program on "implicit bias" which has continued into 2015. While the Firm regularly conducts training in how to prevent discrimination, harassment and retaliation, the implicit bias training is different. It is not intended to combat any legally actionable conduct, but instead to help employees who strive to be fair and recognize the influence of implicit biases in their personal, professional and everyday lives.

Like it or not, implicit bias creeps into the hearts and minds of all humans, no matter how well intentioned or how committed to fairness and equality someone may be. Implicit biases are an unconscious product of our encounters from childhood through adulthood, influenced by everything from geographic location, to social class, mental abilities, profession, age, gender, family and marital status. These biases are further colored by our own observations, the media and stereotypes.

It works like this: our brains develop what are called "schema" or mental frameworks to allow our minds to apply shortcuts in sorting data into broad categories for quick mental processing. For example, no matter what shape, the human eye can generally recognize a chair, and an individual need not process and determine what a chair is each time he or she encounters one. The ability to quickly characterize objects and things in one's everyday life is essential. However, what science is finding is that these schema also operate below the conscious radar, influencing how we see and treat other people and groups, no matter our determination to be fair and objective. These biases have a real impact on individuals who may be associated with a less than favorable implicit association. Everyone is familiar with the Trayvon Martin case and the tragedy in Ferguson, Missouri. A discussion of how implicit bias may have played a part in these cases has taken center stage in the media.

The impact of implicit bias extends far beyond police shootings. Take hiring, for example. When six major research universities were asked to rate one-page identical resumes of a male and female candidate for a lab manager position, the male candidate routinely received a significantly higher average rating on his resume and was offered nearly \$5,000 more in starting salary than the female candidate. Just think what that pay and rating disparity could mean over the course of a career. Similarly, studies have been done on resumes involving "typically white" names (Emily, Ashley, etc.) and "typically black" names (Lakisha, Tamika, etc.). Strikingly, resumes with "typically white" names received 50 percent more callbacks than those with "typically black" names, and average "typically white"-named candidates received more callbacks than highly skilled "typically black"-named candidates. Clearly, this disparity in who even makes it in the door for a job interview will ultimately impact the diversity of a company's workforce.

Implicit biases are not just associated with race and gender, though those may be easier to identify and study. Other potential unconscious biases might include such things as family responsibility, political beliefs, disability, appearance or accents.

Individuals in the legal profession should be particularly concerned with the implications of implicit bias. Indeed, the American Bar Association has launched an [Implicit Bias Initiative](#) to look at how implicit bias impacts the justice system and the legal profession.

While the solutions are not easy, there are things that employers can do to lessen the negative impact of implicit bias in our workforce and community. Best practices for combating implicit bias include: (1) avoiding "first impressions" and "gut response" decision making; (2) slowing down and making more deliberate decisions using objective criteria; and (3) fighting the natural instinct to prefer those who "fit in" or are "like me."

Here at Baker Donelson, the response to the program has been overwhelmingly positive. The training, which includes breakout discussion of hypothetical scenarios, allows individuals to express themselves and discuss their own experiences regarding implicit bias. It demonstrates to employees that the company cares about them as individuals and desires to treat everyone fairly, while also recognizing that it is human nature for these biases to exist. And it gives attorneys and staff the tools to recognize, explore and expose implicit bias when they encounter it.

The implicit bias training is only one more way that Baker Donelson has demonstrated its commitment to being one of *Fortune's* "100 Best Companies to Work For," providing a professional culture that encourages the best in its employees, both at work and in their communities.