



NASJE CURRICULUM DESIGN

THE JOURNEY TOWARD DIVERSITY, FAIRNESS, AND ACCESS
THROUGH EDUCATION

DIVERSITY, FAIRNESS, AND ACCESS:
Entry Level Content



NASJE

NATIONAL ASSOCIATION OF STATE JUDICIAL EDUCATORS

The Journey Toward Diversity, Fairness, and Access through Education

This is a summary of the content in this curriculum design.

Although content is divided into two parts, headings are continuous A – H.

I. Basics of Diversity, Fairness, and Access

- A. Diversity
 - a. When applied to individuals
 - b. When applied to an organization
 - c. When considered as a component of human activity
- B. Race,* Ethnicity, and Culture
 - a. Definitions
 - b. Misconceptions and truth
- C. Stereotyping, Bias, Prejudice, and Discrimination
 - a. Definitions
 - b. Types
 - c. Origins
 - d. Perpetuation
- D. Fairness
 - a. Definition
 - b. Obstacles

II. Diversity, Fairness, and Access for Judicial Branch Education

- E. Potential for Bias, Prejudice, and Discrimination in the Court System
 - a. The courts as a branch of government
 - b. The courts as an employer
 - c. Outcomes and effects of bias, prejudice, and discrimination
- F. Potential for Personal Bias
 - a. Self perspective
 - b. Elitism
 - c. Self assessment
- G. Education’s Important Role
 - a. Heighten awareness through cognitive strategies and especially experiential educational approaches
 - b. Increase access to and exposure to diversity through educational processes
 - c. Foster equity literacy
 - d. Encourage judges and court personnel to employ effective strategies
 - e. Help identify high-risk distractions and stressors that may affect how judges and court personnel treat court users

* For many anthropologists, sociologists, and other academics and scientists, the term ‘race’ is a social construct and has no scientific standing. Genetics show that while there are differences among groups of people, ‘race’ does not correlate with those differences and superficial characteristics (skin color, hair color, or other physical features) have no bearing. There are more genetic differences within so-called ‘races’ than between them. Some anthropologists, sociologists, and others, place the term in single quotation marks to indicate that it is a social construct, created to imply superiority/inferiority. While social scientists and legal scholars agree that race has no scientific standing, they acknowledge that it continues to exert a powerful influence on/in the lives of people. See [Appendix A](#).

- H. The Role of the Judicial Branch Education Department
 - a. Establish a system and a systematic approach to fairness education
 - b. Avoid ineffective approaches
 - c. Encourage organizational approaches to diversity, fairness, and access education

NASJE Curriculum Designs The Numbering System

NASJE Curriculum Designs follow a consistent numbering system to facilitate identifying information and navigating within and among various curriculum designs.

The first number refers to the NASJE Core Competency.

For example:

12 indicates the NASJE competency addressed in this curriculum design is diversity, fairness, and access

The second number refers to entry- or experienced-level content. (Entry indicates that the content is new to the target audience; it is not a reference to the experience level of the participants. Experienced level indicates learners already have some familiarity with the content.)

For example:

12.1 is the entry-level diversity, fairness, and access curriculum design

12.2 is the experienced level

The third number refers to the section of the design.

For example:

12.1.1 is the content section for entry-level diversity, fairness, and access

12.1.2 is the faculty resources section

12.1.3 is the participant activities section

12.1.4 is the bibliography and selected readings

12.1.5 is the appendices section

The final number refers to the order of items in a section.

For example:

12.1.1.1 is the first content (the overview) in entry-level diversity, fairness, and access

12.1.2.7 is the seventh faculty resource

12.1.3.3 is the third participant activity

The Journey Toward Diversity, Fairness, and Access through Education

Table of Contents

Use of NASJE Curriculum Designs	3
Adult Education Principles	4
12.1.1.0 Competency Area 12 Diversity, Fairness, and Access: Entry-Level Content	5
• 12.1.1.1 Curriculum Overview	6
• 12.1.1.2 Special Notes for Faculty	6
• 12.1.1.3 Participant Learning Objectives	9
• 12.1.1.4 Educational Content	10
• 12.1.1.5 Resources for Faculty	30
• 12.1.1.6 Related Educational Areas	30
• 12.1.1.7 Learning Objective, Resource, and Activity Chart	31
12.1.2.0 Faculty Resources	33
• 12.1.2.1 The Iceberg of Culture	35
• 12.1.2.2 From Stereotyping to Discrimination	37
• 12.1.2.3 The Array of Stereotypes	39
• 12.1.2.4 Pyramid from Bias to Hate	41
• 12.1.2.5 The Context of Individualism	43
• 12.1.2.6 The Reality of Individualism	45
• 12.1.2.7 The Path to Equity Literacy	47
• 12.1.2.8 Bloom’s Taxonomy and the Path to Equity Literacy	49
12.1.3.0 Participant Activities	51
• 12.1.3.1 Understanding Key Terms [Learning Objective 1]	53
• 12.1.3.2 Examining the Court System [Learning Objective 2]	55

<ul style="list-style-type: none"> • 12.1.3.3 Unfairness from Three Points of View [Learning Objective 3] 	58
<ul style="list-style-type: none"> • 12.1.3.4 Examining Education’s Role in Promoting Fairness [Learning Objective 4] 	63
<ul style="list-style-type: none"> • 12.1.3.5 Modeling Fairness [Learning Objective 5] 	65
<ul style="list-style-type: none"> • 12.1.3.6 Identifying Personal Potential for Bias and Prejudice [Learning Objective 6] 	71
<ul style="list-style-type: none"> • 12.1.3.7 Achieving Diversity with Faculty, Committees, and Staff [Learning Objective 7] 	73
<ul style="list-style-type: none"> • 12.1.3.8 Exploring Approaches to Diversity, Fairness, and Access Education [Learning Objective 8] 	75
12.1.4.0 Bibliography and Recommended Readings	77
12.1.5.0 Appendices	87

Use of NASJE Curriculum Designs

Taken together, the curriculum designs in this series provide an overarching plan for the education of judicial branch educators; this overarching plan constitutes a curriculum. Individually, each curriculum design and associated information provide faculty with resources and guidance for developing courses for judicial branch educators. Content from the curriculum will be used alongside other content as determined by the NASJE Education Committee.

The designs are based on the [NASJE Core Competencies](#). Two curriculum designs are provided for most competency areas, one for entry-level content and the other for experienced-level content. Content level relates to the participants' familiarity with the subject area and not their tenure in judicial branch education.

Each of the curriculum designs, based on the competency areas, may be used either in its entirety or in segments to meet the needs of the individual circumstance or situation, the particular audience, time constraints, etc.

Each curriculum design includes a series of learning objectives and an outline of content to support those learning objectives. Content is annotated with the bracketed number of the learning objective it supports. Learning objectives for each curriculum design are listed in order of importance or in a logical progression. Faculty is encouraged to select content based on the order of the learning objectives. Content is provided in an abbreviated outline format. Faculty may expand on the content based on the needs of the learners.

Associated information for each curriculum design includes: (a) resources for faculty's use (as reference and/or as participant handouts), and (b) a series of recommended participant activities to measure achievement of objectives. Each resource and participant activity has a cover sheet explaining its use. Faculty notes near the beginning of each curriculum design provide important information to assist faculty in effectively preparing to design and deliver a course.

Developing any course from a curriculum design will require that faculty (a) utilize an [instructional design model](#) (in the appendix), (b) employ [adult education principles](#) (next page), and (c) have an in-depth knowledge of the content beyond what is included in the design. A bibliography accompanies each curriculum design and contains additional sources of information. Because there are many sources for each content area that are not in the bibliography, faculty is encouraged to fully explore a variety of available sources when designing a course from a curriculum design.

The NASJE Curriculum Committee welcomes feedback, updates, corrections, and enhancements to these designs so they will remain current and viable.

Adult Education Principles

As learners mature, they change in terms of:

1. **Self-concept:** *They evolve from being dependent to self-directed.*
2. **Experience:** *They accumulate a growing reservoir of experience that becomes an increasing resource for learning.*
3. **Readiness to learn:** *Their readiness to learn becomes oriented increasingly to the developmental tasks of their various roles.*
4. **Orientation to learning:** *Their time perspective changes from one of postponed application of knowledge to immediacy of application, and accordingly their orientation toward learning shifts from subject-centered to problem-centered.*
5. **Motivation to learn:** *Their motivation to learn is internal rather than externally generated.* (Knowles, 1984).

Effective learning for adults is dependent on faculty:

1. **Engaging learners actively in their learning:**
Adult learners generally prefer to participate, test new learning, and engage in discussion about the relevant content. Faculty needs to actively engage them at least 50% of the time through questions, activities, etc. and enable learners to discover how their new learning will serve them.
2. **Creating and maintaining an effective, safe learning environment:**
Adult learners will participate readily in an educational situation if the environment is physically and psychologically suitable. Physically suitable includes comfortable, well-lighted, and easily accessible space; psychologically suitable includes feeling welcome to offer opinions and differing views and to ask questions. Faculty needs to alter the physical environment to meet the needs of learners and to state and demonstrate that the learning situation is open and non-threatening.
3. **Demonstrating respect for differences:**
Adult learners are independent and self-reliant; they are of varied ethnicities, religions, backgrounds, experiences, and education. In an educational situation, they need to be respected for their differences, even if their experience and knowledge is different from faculty. Faculty needs to state and demonstrate their willingness to engage different views.
4. **Providing learners with information on what to expect:**
Adult learners prefer to understand what will happen in their learning and what will be expected of them in the learning environment. Faculty needs to provide an agenda, an overview, learning objectives, etc.
5. **Basing content on immediately applicable information and skills:**
Adult learners generally prefer to engage in learning that will help them in their daily lives and work. Faculty needs to ensure that theoretical information serves only as a background for practical application of new knowledge and skills.

[Instructional Design: The Backbone of Effective Education](#) and [Developing Faculty](#) NASJE curriculum designs include additional information on adult education theory and practical application.

Title: The Journey Toward Diversity, Fairness, and Access through Education

NOTES:

Part of the materials for NASJE curriculum designs is a glossary, which will be the basis for developing a shared or common professional language for judicial branch educators. The first time a word found in the NASJE Glossary is used in a curriculum design, it is identified with a word border. Subsequent uses of the word do not have a border. In the online format, the definition will pop up when you roll your cursor over the text inside the border. In the hard copy format, you can find the definition in the glossary at the end of the curriculum. Faculty members using the NASJE curriculum designs are encouraged to familiarize themselves with the definitions relevant to the content area by reviewing the glossary terminology.

Words or terms [underlined and in blue](#) indicate a link to parts of the curriculum design. In the electronic format, click on the text to view the identified item. In hard copy format, refer to the page number that follows the text.

Related to NASJE Competency:

[Diversity, Fairness, and Access](#) (available on the NASJE website)

Competency Summary: Public trust and confidence in the judicial branch is predicated upon the principles of due process and equal access to justice for all persons. Consequently, judicial branch education must offer courses on diversity, fairness, and access as a core component for judicial officers, court administration, and court personnel in order to ensure they model fairness in their behavior as it impacts the judicial branch, facilitate access in word and deed, and incorporate diversity in their human resources activities. Likewise, each judicial branch educator is responsible for modeling fairness in their behavior and incorporating diversity into educational processes, services, and products.

Target Audience: Judicial branch educators unfamiliar with the array of issues that are involved with diversity, fairness, and access and how those issues affect education in the judicial branch.

Content Level: X Entry _____ Experienced

(This is not a reference to the general experience of the learner, but the experience the learner has with the specific content. For example, a learner with 20 years of experience in judicial branch education may be at the entry content level for a topic if he or she has not had an opportunity to work with the content or become proficient with it.)

Date Adopted: November 18, 2014 Last Updated:

12.1.1.0 Curriculum Design

12.1.1.1 Curriculum Overview:

(This section provides an overview and states the purpose for this educational area. It does not include all the detail shown in the outline, but is intended to provide a synopsis of the content.)

Judicial branch educators have dual responsibilities with diversity, fairness, and access. One is to foster diversity, fairness, and access for the judicial branch through education of judges and court personnel. The other is to demonstrate diversity, fairness, and access as ongoing standards in their own work. The judicial system is built on principles of due process and equal access, so these issues need to be considered primary expectations of the system and of each individual working in it.

The actions of judges and court personnel directly affect the lives of many individuals. And public trust and confidence is directly affected by fairness in procedures and equitable treatment of court users. Judicial branch education can not only heighten awareness of diversity, fairness, and access issues in court spaces and practices – if developed and delivered effectively – it can also contribute to the personal and professional development of each individual in the branch. The goal of education on these issues is to bring about individual and organizational change, which is a complex and ongoing endeavor.

In addition to providing education for judges and court personnel, judicial branch educators need to incorporate diversity on committees and among faculty, educate faculty on fairness issues, and ensure equal access to all judicial branch education products and services. Exploring the complexities of diversity, fairness, and access enables each judicial branch educator to more effectively address his/her work, better understand himself/herself, and positively impact the judicial branch and the public.

12.1.1.2 Special Notes for Faculty:

Content in this curriculum design is not intended to make judicial branch educators experts in diversity, fairness, and access. Instead, content is intended to address issues of diversity, fairness, and access that are relevant for judicial branch educators in four ways – judicial branch educators: (1) are responsible for implementing and maintaining a system of education on these issues for judges and court personnel; (2) need to differentiate between effective and ineffective educational approaches to these topics; (3) should incorporate these issues into the operation of their departments; and, (4) need to demonstrate support of these issues in their own workplace behavior.

With these purposes in mind, each term – diversity, fairness, and access – has two applications for judicial branch educators participating in a course based on this design. Diversity will be a goal for education to foster in the judicial branch, and it will be a goal for each judicial branch educator to achieve in selecting faculty for courses, members for all committees, and team members for all departmental activities. Likewise fairness will be a goal to foster in the branch, and it will be a goal for each judicial branch educator to practice in his or her activities. Full access will be a goal for the branch to ensure for the public, and it will be a goal for each judicial branch educator to ensure for participants in all courses, regardless of the specific topic.

Focusing first on diversity, fairness, and access as a goal for education to foster in the branch, faculty for courses based on this design need to highlight several important aspects of education that address attitudes, beliefs, and values:

- Faculty selected by judicial branch educators for diversity, fairness, and access courses need to be both qualified and effective. Qualifications include being knowledgeable about diversity, fairness, and access in general, knowledgeable about the specifics of these topics in the local area, and familiar with the status of diversity, fairness, and access education locally. Effectiveness includes utilization of adult education principles as well as application of strategies and approaches to education that address personally held beliefs and/or values of learners. Unqualified or ineffective faculty may be detrimental to future efforts in this area.
- Judicial branch educators need to understand that to achieve desired outcomes, education on diversity, fairness, and access depends on a process, not a single event: (a) changing attitudes and values takes time; and (b) developing a robust system of fairness education takes time.
- Judicial branch educators and faculty for diversity, fairness, and access courses need to be prepared for controversy and differences of opinion. While the desired outcome is greater diversity, increased fairness, and greater access in the courts, getting there may be an uncomfortable process in some instances.
- The effectiveness of education on diversity, fairness, and access may be diminished if judges and court personnel view it as one person’s “agenda” or “cause,” whether that person is a judicial branch educator, a judge, or any other individual. Principles of diversity, fairness, and access that are shared by the judicial branch education department, the overarching administrative organization, and the courts as a branch of government are much more likely to be adopted by individuals in the branch. For example, including diversity in the organization’s mission statement, having goals on fairness education and on access in the strategic plan.

With regard to diversity, fairness, and access as goals for each judicial branch educator, faculty for courses based on this curriculum design will need to assist judicial branch educators in honestly assessing themselves and their practices. This may involve use of a self-assessment tool (such as the [IAT](#)) and/or incorporation of activities that highlight the difficulties of cross-cultural interaction. If faculty uses a self-assessment tool, it may be useful as pre-course work to be explored/discussed during a course while maintaining each learner's privacy and the confidentiality of individual results.

The faculty team for a course based on this design may need to include an individual experienced in addressing diversity and fairness in an educational setting and a judicial branch educator who is experienced in establishing and maintaining fairness education in the judicial branch. In addition, it is ideal if faculty team reflects diversity (gender, ethnicity, age, etc.).

The literature on diversity, fairness, and access contains many ideas, opinions, definitions, approaches, and strategies. Authors, theorists, and fairness experts differ in their definitions of key terms, their strategies regarding the role of education, and their perspectives on how to measure success. Much of the literature is directed to formal educational settings (from elementary school to graduate students), healthcare (both medical and psychological), or businesses (where the focus is often on building a diverse workforce). In addition, the literature uses some terms that may not be applicable in judicial branch education. For example, references to fairness or diversity "[training](#)" implies that education is only about developing skills; education in the judicial branch is about transformation, which is much more complex than skill development.

The content outline is divided into two parts. The headings (A – H) are consecutive/continuous throughout to assist faculty in referencing specific areas in the content outline when reviewing faculty resources and participant activities (which reference specific headings). The initial part [I. Basics of Diversity, Fairness, and Access] should serve as foundational information and may be relatively brief. This part highlights terms and concepts that will be important throughout a course. The second part [II. Diversity, Fairness, and Access for Judicial Branch Education] should comprise the bulk of a course based on this design. This second part addresses fairness in the courts, the role of judicial branch education, and the role of individual judicial branch educators.

Special note: Language is a powerful tool. With regard to issues of diversity, fairness, and access, language can reframe thinking and challenge outdated and unfair attitudes and actions. Language and terminology in the context of diversity, fairness, and access will continue to change and evolve at a rapid rate. Faculty needs to incorporate contemporary language in every course.

The Curriculum Committee believes that issues of diversity and fairness, ethics, and technology are viable and valuable considerations to be incorporated into courses developed from NASJE curriculum designs. After reviewing the entry-level curriculum design for diversity, fairness, and access, address these areas as appropriate for your specific course. In addition to how these issues are already incorporated into this curriculum design, additional content could include:

- Diversity and Fairness: The importance of incorporating diversity, fairness, and access in all courses, both NASJE's and those of local providers.
- Ethics: The ethical implications of diversity, fairness, and access.
- Technology: Use of technology for enhancing knowledge of diversity, fairness, and access issues; social media as a tool for equity literacy.

12.1.1.3 Participant Learning Objectives:

(These are statements of what participants can say and/or do to demonstrate learning when participating in a course designed from this content. Learning objectives are directly related to selection of content for this curriculum design. They are listed in order of importance or in a logical progression in both the "in general" and "for the individual situation" sections. Faculty is encouraged to use learning objectives from both areas. Included with this curriculum design are participant activity suggestions for each learning objective.)

As a result of this education, participants will be able to:

In General:

1. Define and differentiate among basic terms relevant to diversity, fairness, and access.
2. Describe how bias, prejudice, and discrimination may manifest in the court system.
3. Discuss how bias, prejudice, and discrimination may affect court users and employees.
4. Outline how judicial branch education may contribute to the reduction of bias, prejudice, and discrimination in the court system.
5. Choose ways to demonstrate and model fairness in a variety of hypothetical situations.

For the Individual Situation:

6. Identify one's own personal potential for bias, prejudice, and discrimination.
7. List steps necessary to achieve greater diversity in faculty, committee membership, and staff in the local department.
8. Explore approaches to building and/or maintaining a robust system of diversity, fairness, and access education locally.

12.1.1.4 Educational Content:

(This is an outline of content to be included in courses developed from this curriculum design. Each area of content is annotated with the bracketed number of the learning objective it supports. The information in parentheses after key headings of the outline provides faculty with the overarching question the heading is designed to address.)

I. Basics of Diversity, Fairness, and Access

- A. Diversity [1] *(what is it and why does it matter)*
- a. When applied to individuals – the uniqueness of each individual, which involves internal and external dimensions and differences
 - i. Some possible internal dimensions – may not be initially perceptible by others
 1. Beliefs and values
 2. Religion
 3. Social identity (self and group)
 4. Sexual orientation
 5. Family situation (marriage, partnership, children, etc.)
 6. Ethnicity or nationality
 - ii. Some possible external dimensions – may be initially perceptible by others
 1. Appearance (tall/short; skinny/obese; dark/light; etc.)
 2. Dress (conservative, old fashioned, contemporary, provocative, gothic, etc.)
 3. Gender
 4. Age
 5. Behavior
 - b. When applied to an organization – a diverse organization is one in which all persons, with a full spectrum of differences, are included, welcomed, and supported
 - c. When considered as a component of human activity – diversity, when valued and practiced:
 - i. Establishes a base perception of fairness
 - ii. Promotes shared ownership of outcomes and decisions
 - iii. Generates a full range of ideas and perspectives
 - iv. Reflects contemporary society
 - v. Facilitates respect for and understanding of others
- B. Race,* Ethnicity, and Culture [1] *(what are they and how are they interrelated)*
 – these terms are socially-created constructs used to differentiate among perceived groups of people
- a. Definitions
 - i. Race – this term has been used historically to differentiate among perceived groups of people based on biological

* See [Appendix A](#).

- features (physical appearance) including skin color, eye color, hair color, bone structure, etc.; the term still has social and political implications; contemporary references are to “global geographic origins” or “ancestry”; “race” does not have a genetic basis.*
- ii. Ethnicity – this term is often used with (or sometimes instead of) race as a way of describing affiliation with a group of people who share common social factors, such as region or country of origin, ancestry, language, beliefs, allegiance, etc.; a group may self-identify as sharing certain common social factors or the group may be identified by others who do not share those social factors
 - iii. Culture – the shared set of learned ideals, values, and assumptions about life that are widely shared and guide a group’s behavior; is the lens by which people interpret the world; may be based on or influenced by geographic location, religion, tradition, etc.; various cultures may be within a single ethnic group; much of a culture is not visible to an outside observer [12.1.2.1 [The Iceberg of Culture](#), pg. 35] but may be the basis for behaviors that may be negatively interpreted by those outside the culture (such as lack of eye contact or shyness in public)
 1. Everyone lives and behaves within a culture or multiple cultures
 2. Cultures are not completely homogenous, instead there is diversity within, based on a number of variables (location, family practices, etc.)
 3. Cultures are not static, but change in varying degrees, based on a number of factors
 4. Culture does not fully define an individual; each person responds differently to cultural factors
 5. Cultural differences are often more complex than simple identification of differences; interaction among cultures often highlights different levels of power and status
- b. Misconception and truth – misconceptions have contributed to bias, prejudice, and discrimination; truth should lead to greater acceptance of the shared commonality among people; the following are some examples of misconceptions and the truth
- i. Race[†]
 1. Misconception – differences in perceived groups of people, evidenced by physical characteristics, indicate

[†] See [Appendix A](#).

- non-visible differences, such as preferences, abilities, and intelligence
- 2. Truth – anthropologists, sociologists, medical professionals, and others, now often place the term in single quotation marks ('race') based on current scientific and biological evidence that there are no significant genealogical or biological differences among perceived groups of people previously categorized into racial groups; there are genealogical and biological differences among human beings, and between population groups based on ancestry, but they are not evidenced by racial groupings
- ii. Ethnicity
 - 1. Misconception – ethnicity applies only to minority groups (such as, ethnic food or dress) and is related to skin color
 - 2. Truth – all people have an ethnic connection, a sense of belonging to a large group that is different from other groups, based on nationality, religion, etc.; ethnicity is not related to skin color
- iii. Culture
 - 1. Misconception – a person's culture represents a clearly defined and static collection of a group's learned behaviors, attitudes, and values
 - 2. Truth – each culture is a complex, changing, and sometimes fragile pattern of behavior (and products of that behavior); cultural factors often overlap among different cultural groups; a culture may contain many subcultures with distinct differences from other subcultures
- C. Stereotyping, Bias, Prejudice, and Discrimination **[1]** (*what are they and how are they related to and different from one another*) – these terms are sometimes used interchangeably, but their definitions are distinct in current social contexts [see 12.1.2.2 [From Stereotyping to Discrimination](#), pg. 37]; these terms address beliefs of those who hold them that there are "in-groups" (one's own) and "out-groups" (generalized as others)
 - a. Definitions
 - i. Stereotyping – making overly generalized assumptions about a whole group of people; categorizing a perceived group of people, generally based on limited experience, misinformation, fear, or other factors that discount individuality; stereotyping provides a basis for bias, prejudice, and discrimination

1. Stereotypical attitude – believing an entire group of people share the exact same attributes
 2. Stereotypical labels – naming a perceived group with a term that implies superiority/inferiority or in-group/out-group status; some labels are openly derogatory or insulting while others imply that one perceived group is substandard, distained, or unacceptable; for example, the term “white supremacy” as an implication that people of color as a group are inferior and white people as a group should have control or power over groups of color
 3. Stereotypical trigger words and slurs – using terms or phrases that have a negative connotation for some or all members of a perceived group; terms may generate anger, embarrassment, and/or fear; for example, “wetback” as an implication that people of Hispanic origins are illegal immigrants (crossing the Rio Grande by swimming)
- ii. Bias – an inclination or preference in favor of or against a person, perceived group, idea, or value, generally resulting in an unfair attitude(s) and compromising one’s ability to make impartial judgments; may be conscious or unconscious attitude; may lead to prejudice
 - iii. Prejudice – a preconceived opinion or judgment (generally negative and considered unreasonable) about a person, perceived group, idea, or value, often without actual, personal, or supportive experience with the specific object of the prejudice and/or without consideration for variables; generally, although not always, prejudice exists with awareness (conscious attitude); may lead to discrimination
 - iv. Discrimination – behaving in ways that treat a person or a perceived group of people differently from other persons or groups, generally based on biases and prejudices
- b. Types
- i. Types of stereotyping [see 12.1.2.3 [The Array of Stereotypes](#), pg. 39] – stereotyping can be based on one or many factors; it may be based on negative or positive generalizations; positive and negative stereotyping can result in bias, prejudice, or discrimination for or against a perceived group of people; stereotypes may be based on categories such as:
 1. Age
 2. Disability
 3. Nationality
 4. Geographic location

5. Ethnicity
 6. Physical features
 7. Culture
 8. Religion
 9. Gender
 10. Gender identity
 11. Sexual orientation
 12. Socioeconomic level
 13. Educational level
 14. Social status
 15. Group affiliation
 16. Physical attributes
 17. Appearance
- ii. Types of bias (preferences)
 1. Implicit bias (unconscious preference) – when a person consciously rejects the idea of preferences or partiality but holds negative associations about certain people, perceived groups, ideas, or values unconsciously in his or her mind; these negative associations affect decisions and may result in prejudice and discrimination, even though unintended by the individual
 2. Explicit bias (conscious preference) – when a person consciously holds preferences, negative or positive, about certain people, perceived groups, ideas, etc.
 - iii. Types of prejudice (attitudes, generally negative and most often held consciously)
 1. Affective prejudice – predispositions (inclination toward certain behavior) based on peoples' likes and dislikes; for example, "Groups of young black men scare me."
 2. Cognitive prejudice – predispositions based on what people believe is true; for example, "Mexicans are lazy because they take siestas."
 3. Conative prejudice – predispositions based on how people are inclined to behave (an attitude reflecting what someone thinks they would do in a certain situation); for example, "If it were up to me, I would not allow immigration."
 - iv. Types of discrimination (behavior) – there are many forms of negative discrimination; foremost are:
 1. Employment – denying employment based on perceived group rather than qualifications or abilities
 2. Housing – denying housing based on perceived group rather than economic ability to purchase or rent

3. Education – denying educational access based on perceived group rather than qualifications to enroll
 4. Economic – denying equitable pay, advancement, etc. based on perceived group rather than performance
 5. Social – limiting participation in social groups (clubs, fraternities/sororities, etc.) based on irrelevant factors
- c. Origins (*where are the roots of these preferences, attitudes, and behaviors*)
- i. Upbringing – children learn through instruction (parental, religious, academic, etc.) and by observing and emulating the behavior of others (modeling or social learning)
 - ii. Experience – often a negative or positive experience with an individual can result in a generalized belief or attitude toward the individual’s perceived group
 - iii. Media – news and social media often highlight people in the most extreme incidents or circumstances, resulting in negative or positive associations by readers or listeners toward a specific perceived group
 - iv. Lack of understanding or misunderstanding of differences – customs, languages, behaviors, etc. that are different from one’s own can lead to erroneous assumptions or conclusions
 - v. Group affiliation and/or group pressure – “them versus us” thinking that is taught and expected of each member of a group
- d. Perpetuation (*what facilitates continuation of these preferences, attitudes, and actions*) (based on the work of M. Fields)
- i. Lack of accountability for negativity (makes negative attitudes and behavior seem acceptable by some people)
 - ii. Scapegoats are easy to find and convenient to use (predetermined judgments make it easy to find someone to blame for a problem or justify a negative attitude)
 - iii. The real problem is too complex to manage (so reducing it to “them” makes the problem easier to define)
 - iv. Conflict fuels the problem (negative encounters encourage more negativity in attitudes and behaviors)
 - v. Competitiveness (competing for resources, power, status, etc. can lead to negative thoughts about others)
 - vi. Labeling (categorizing strengthens the negativity by lumping people into a faceless group)
 - vii. Oversimplification (stereotyping others creates an easy rote response in one’s attitude and behavior)
 - viii. Cycle of negativity – escalating negative attitudes may lead to negative behaviors, which lead to more negative attitudes (in

some instances negative attitudes and behaviors may become extreme) [see 12.1.2.4 [Pyramid from Bias to Hate](#), pg. 41]

D. Fairness [1] (*what is it*)

a. Definitions

- i. Treating people as individuals, not solely defined as a member of a group [see 12.1.2.5 [The Context of Individualism](#), pg. 43 and 12.1.2.6 [The Reality of Individualism](#), pg. 45]
- ii. Thinking and behaving in ways that are independent from factors that are actually irrelevant
- iii. Making judgments that are free of discriminatory influences
- iv. Acting justly, even-handedly, neutrally, equitably, and/or morally
- v. Providing equal opportunity for and treatment of all people in all situations
- vi. Honoring basic human rights such as dignity and respect, opportunity, and freedom

b. Obstacles to achieving fairness

- i. Often unfair practices are rooted in history
 - ii. Often unfair and unequal treatment are hard to identify, such as micro-inequities (small and subtle behaviors that are unfair and often unconscious); these have a negative, cumulative effect on the recipient, on his/her perceived group affiliation, and on bystanders; for example:
 1. Asking a person who looks to be of a certain ethnicity to explain something about their perceived culture
 2. Making eye contact with males but not females
 3. Consistently mispronouncing a person's name
 4. Failing to appropriately address a person of color, for example failing to use a title and surname
 5. Speaking to a disabled person's companion rather than speaking to the disabled person
 6. Using incorrect pronouns for bisexual or transgender individuals
 - iii. Often individuals fail to intervene in correcting unfair situations; often we may:
 1. Believe we are powerless to change unfair practices
 2. Yield or conform to peer pressure that is unjust
 3. Hesitate to address/challenge unfairness due to lack of knowledge and/or experience
 4. We may not readily recognize a situation as unfair
- c. **Equity literacy** – contributes to fairness through increased understanding of what fairness and equity involves; [see the 12.1.2.7 [The Path to Equity Literacy](#), pg. 47]; [NOTE – this term

replaces cultural competency and cultural responsiveness]; stages of personal progression toward equity literacy include:

- i. Recognizing situations of inequity that result from bias, including those that are implicit and/or subtle
- ii. Responding to situations that involve biases and inequity and effectively engaging in discussions with others about inequities
- iii. Actively remedying situations of inequity over the long term and demonstrate equity in their sphere of influence
- iv. Exercising transformational leadership to create and maintain a bias-free and equitable life for all persons and social justice in the larger environment

II. Diversity, Fairness, and Access in Judicial Branch Education

E. Potential for Bias, Prejudice, and Discrimination in the Court System [2] [5]
(how might they affect the behavior of judges and court personnel and impact court users and the public)

- a. The courts as a branch of government and a public service – biases, prejudices, and discrimination can manifest in the behavior and decision making of judges and court personnel as they carry out their job functions, which have a direct impact on the lives of many people
 - i. Stereotyping – providing services or making decisions regarding an individual that are influenced by opinions about his or her perceived group (such as stronger and/or longer sentences for minority offenders or favoring female parents for child custody)
 - ii. Oversight or omission – failing to recognize the worth or standing of each individual (such as failing to demonstrate respect equally by addressing attorneys with Mr. or Ms. and addressing self-represented litigants by their first name)
 - iii. Victim blaming – transferring responsibility for an offense to a victim who has behaved in undesirable ways rather than holding the offender responsible (such as blaming a victim of domestic violence for generating the situation that led to the violence)
 - iv. Inattentiveness – ignoring (intentionally or unintentionally) the potential for negative consequences when diversity, fairness, and access issues are not addressed
 1. Diversity – failing to note the relevance of a lack of diversity in the court (such as judges and court personnel who do not reflect the diversity of the community) may have a negative impact on litigants,

- victims, offenders, observers, and the public (including juries); lack of diversity may generate feelings of isolation, misunderstanding, and exclusion among defendants, lawyers, and court users
2. Fairness – failing to establish and follow standard practices (such as treating everyone with respect) generates lack of trust in the individual court employees, judges, the courts, and the court system
 3. Access – failing to ensure equal access for all persons (without causing undue or embarrassing attention to an individual) limits or eliminates a person’s right to use a public service; lack of access can be (a) physical (uneven floors, narrow passageways, etc. – for details see the NASJE curriculum design [Managing Logistical Arrangements](#)), (b) operational (inadequate explanation or provision of services, such as language access or Limited English Provision services), or (c) psychological (treating some court users as ignorant or unworthy)
- b. The courts as an employer – biases, prejudices, and discrimination can manifest in the behavior of judges and court personnel who have management or leadership responsibilities; this can negatively impact the work environment
- i. Discrimination – treating members of certain perceived groups with favorable or unfavorable organizational practices can manifest in a variety of work-related activities
 1. Assignments for judges – may reveal or reflect unintended bias (such as more frequently assigning female judges to family court)
 2. Employment of court personnel – some behaviors in recruitment, hiring, performance appraisals, educational opportunities, and promotional decisions may highlight unfair practices (such as biased questions during interviews, devaluing qualifications based on prejudicial factors, holding different expectations for different people, etc.)
 3. Exclusion – failure to include an array of people in activities may imply devaluation of individuals from certain groups (such as ignoring diversity and/or qualified diverse individuals when appointing or recruiting members of task forces, teams, or stakeholder committees)
 - ii. Blindness to diversity – failing to recognize the benefits of a court that reflects diversity may diminish the court’s

relationship with the community and the public in general; diversity brings numerous benefits:

1. For judges and court personnel, a work environment that reflects the community may generate a shared sense of purpose and understanding with court users
 2. For the community, a court that reflects its diversity may engender trust, a feeling of commonality, and a sense of safety
 3. For the court as an organization, diversity brings new ideas and approaches, varied perspectives on problems, etc.
- c. Outcomes and effects of bias, prejudice, and discrimination in the courts on individuals [3] (*what do people experience*)
- i. Court users who experience or perceive prejudice or discrimination
 1. Observable effects
 - a. Lack of equal access to court services
 - b. Unfair or unjust treatment and outcomes
 2. Psychological effects
 - a. Distrust or lack of trust in the courts
 - b. Lower self esteem
 - c. Frustration, anger, and/or resentment
 - ii. Judges and court personnel who experience or perceive prejudice or discrimination
 1. Observable effects
 - a. Isolation from peers (self-generated or imposed by the larger group)
 - b. Poor performance
 2. Psychological effects
 - a. Resentment
 - b. Lack of dedication and motivation
 - c. Belief that people in certain groups must overachieve or overcompensate to be valued
 - iii. Bystanders (court users, jurors, judges, court personnel) who witness prejudice or discrimination
 1. Personal feelings may vary:
 - a. Embarrassment or shame, sometimes for failing to challenge what they observe and sometimes out of empathy (identifying with) or sympathy (feeling pity) for the victim
 - b. If identifying with the victim – heightened sensitivity to devaluation, especially if the victim is powerless to challenge the situation

- c. If identifying with the offender – strengthened feelings of superiority, especially if no one addresses the situation or challenges the perpetrator
 - 2. Perspective of the courts (as a branch of government and/or as a place of employment) may be diminished
 - iv. Perpetrators of prejudicial acts or discrimination – if unchallenged, may feel affirmed or emboldened in their practices and thus continue them
- F. Potential for Personal Bias and Prejudice [5] [6] (*what is involved*)
 - a. Self perspective – we generally believe we are fair in our practices and behaviors; we may react negatively when we find that we are not completely free of bias and prejudice
 - i. Dismissal – we may be comforted by believing feedback or an assessment is incorrect, for example, “She did not understand what I meant,” or “The author of the assessment purposely posed trick questions.”
 - ii. Disbelief – we may find it difficult to believe we can be unfair and we may rationalize why and how we are fair, for example, “This cannot be correct. I was raised to believe everyone is equal.”
 - iii. Acceptance – we may eventually accept that we have been unintentionally unfair, for example, acknowledging that we failed to intervene when we witnessed an unfair situation or we may recall an involuntary negative feeling in a certain situation
 - iv. Discomfort – we are surprised, embarrassed, and sometimes distressed to find that we indeed hold biases, for example, recognizing that we are uncomfortable in the presence of people from a certain perceived group
 - v. Disclosure – we eventually may be able to share and discuss our biases, which may be a step toward greater self awareness and attentiveness to fairness
 - b. Elitism – the notion that we “get it” when it comes to bias, prejudice, and discrimination, but others do not; if others had our level of understanding, awareness, wisdom, etc. these would not be issues; this attitude is generally detrimental
 - i. Each and every individual is a “work in progress” with issues of bias and fairness
 - ii. We cannot know another person’s motivations – we observe the behavior of others, hear their comments, etc. – sometimes through the lens of our own biases or assumptions – but we do not fully know another person

- conclusions without gathering full information from the affected individual
3. Practice empathy toward others when/if appropriate
 - a. Take others' perspectives based on their situation and/or what they are experiencing
 - b. Consider how they might feel about or react to the particular situation
 - c. Communicate to the individual your understanding of their feelings given the circumstances
 - d. Demonstrate respect for fellow human beings whether you agree or disagree with them
 - b. Increase access to and exposure to diversity through educational processes – form groups that include diverse individuals; focus on individualization and what the individual contributes rather than solely on the perceived group represented
 - i. Engage people of diversity on committees, work groups, etc. to foster interaction and familiarity; this may include seeking out qualified diverse individuals and inviting them to serve or apply for service; it may also involve selecting members for service who bring different opinions, perspectives, etc. and/or represent minority groups
 - ii. Incorporate diverse perspectives when planning education to ensure comprehensive treatment of content; this may involve using task forces or work groups to contribute to course planning so a variety of individuals are able to offer new perspectives, etc.
 - c. Foster equity literacy – [see 12.1.2.8 [Bloom's Taxonomy and the Path to Equity Literacy](#), pg. 49]; education can assist judges and court personnel in developing equity literacy; education can:
 - i. Heighten awareness
 1. Changing demographics (groups of minorities will soon comprise the majority of the population)
 2. Societal issues (for example, people of certain cultures who appear in court may feel targeted by the larger culture or helpless in a complex system)
 3. Self-awareness (for example, implicit bias that affects treatment of people in the court and assumptions about people that may lead to negative attitudes)
 4. Information specific to local cultures (history, mores, beliefs, etc.)
 - ii. Develop skills to effectively deal with a variety of cultural situations

1. Communication strategies that foster interaction and information sharing with those in court
2. Decision making skills that are consistent and are based on thoughtful analysis of each situation
- iii. Encourage action to make the courts more inclusive; some approaches might be:
 1. Bilingual court forms and signage
 2. Consistent use of certified court interpreters to make access easier
 3. Community outreach so judges and court personnel become more familiar with people and their cultures
 4. Community education to acquaint the community with court practices and procedures
- d. Encourage judges and court personnel to use effective strategies
 - i. For judges, encourage use of:
 1. Procedural fairness guidelines: focus on neutrality, respect, understanding, and voice
 - a. Remain interested but neutral
 - b. Focus on the purpose of the event
 - c. Ensure everyone understands (provide explanations; ask questions; ensure written information is clear)
 - d. Follow standardized processes (use decision aids, such as sentencing guidelines; use procedural checklists and bench cards to ensure equal treatment of everyone)
 - e. Stay actively mindful of the individual case
 - f. Strive to understand the situations, emotions, and the needs of individuals to be heard
 - g. Maintain authority but demonstrate equal respect for everyone
 2. Effective verbal and non-verbal behaviors to indicate attentiveness (tone of voice, body language, etc.)
 3. Note taking as a means to reduce dependency on memory, which may be subjective
 4. Verbal sharing of the decision-making process so both court users and others in the court understand the reasoning that supports a decision
 - ii. For court personnel
 1. Stress procedural fairness as a standard: focus on neutrality, respect, understanding, and voice
 - a. Show equal respect for everyone
 - b. Listen to what court users have to say
 - c. Remain neutral

- d. Follow standardized processes
- e. Build trust through a caring attitude
- f. Enhance understanding for those in the court (check signage for clarity and placement, evaluate documents for clarity and readability, create a list of frequently asked questions with answers, explain processes, etc.)
- g. Share information which is not legal advice, such as explaining processes and procedures
- 2. Share relevant laws regarding issues of fairness and diversity – Americans with Disabilities Act, Fair Labor Standards Act, Title VII of the Civil Rights Act, etc.
- e. Help identify high-risk distractions and stressors that could affect how judges and court personnel treat court users and highlight how these might be minimized or overcome; factors that may contribute to negative interaction may include:
 - i. Time constraints that contribute to emotions like anger or frustration
 - ii. Stressors such as fatigue or lack of information that hamper effective and respectful interaction
 - iii. Distractions such as noise, crowded conditions, etc. that may cause a lack of focus
- H. The Role of the Judicial Branch Education Department [\[4\]](#) [\[7\]](#) [\[8\]](#) (*what is the role of the judicial branch education department in supporting and demonstrating diversity and fairness*)
 - a. Establish a system and a systemic approach to diversity, fairness, and access education
 - i. Progress through the stages necessary to develop a robust array of education; begin with what can be readily done and progress toward more complex approaches
 - 1. Introduce diversity in visuals, materials, activities, etc.
 - 2. Incorporate fairness and diversity issues as they are relevant to topics in all courses
 - 3. Develop and deliver overview courses on diversity and fairness to heighten awareness among judges and court personnel
 - 4. Develop and deliver courses on specific types of diversity and fairness issues (age, gender, specific cultures, sexual orientation, etc.) that are most relevant in the courts served
 - 5. Develop and deliver diversity, fairness, and access courses that address the specific roles of each target audience (such as judges who hear juvenile cases, court personnel who oversee self help centers, etc.)

6. Incorporate diversity, fairness, and access in curricula and courses as standard, recurring parts of judicial branch education
- ii. Address learner needs regarding diversity, fairness, and access issues as a progression for each individual
 1. Knowledge – learners become familiar with selected cultural characteristics and behaviors of people from another group(s) as well as an array of access issues; knowledge may begin by seeing/hearing about another group’s history, beliefs, values, etc.
 2. Awareness – learners move from knowledge to awareness of the need for openness to differences and flexibility in one’s own relationship with people from another group(s)
 3. Sensitivity – learners move from awareness to acknowledging differences between groups without making value judgments; learners begin to see barriers to access
 4. Competency – learners move from sensitivity to some level of competency where differences are respected, valued, and considered or incorporated into interaction; learners strive for continual development and greater understanding of others and their needs
- iii. Foster diversity, fairness, and access courses that will equip learners to actually apply what they have learned
 1. Address content that is specifically relevant to the target audience; this may involve offering a variety of courses that are specific to certain types of cases, highlight issues in certain types of interaction and certain roles in the court, and focus on the community and the context of the court
 2. Develop experiential activities that engage learners in situations they may actually encounter in their own work environment (e.g., role play situations)
- iv. Choose faculty for diversity, fairness, and access courses who can demonstrate:
 1. Strength in utilizing adult learning principles, especially creating a safe and accessible learning environment – while this is important with all adult education, it is especially important for education that addresses learners’ opinions, values, and beliefs
 2. Knowledge of diversity, fairness, and access issues in general and in the specific context or location of learners – learners need to be able to connect concepts

- to their environments; while addressing issues for undocumented immigrants would be very important in some states, it might be less important in others; faculty should understand the context for diversity, fairness, and access issues so they can communicate basic concepts that learners can apply to a broader array of issues
3. Ability to foster trust in the educational environment – faculty behavior may be key in educational settings; evenhandedness, patience, understanding, and respect for every learner underpins the openness of learners for discussion and for exploring new concepts as well as their own values and beliefs
 4. Skill in using effective approaches to teaching diversity, fairness, and access [see the experienced-level curriculum design for instructional design, [Challenges in Instructional Design](#): headings E, [Challenges with Learning Itself](#) and G, [Challenges Based on the Nature of Content](#)]
 - a. Moving effectively from cognitive information (which is generally less controversial) to more experiential teaching/learning methodologies; this is often accomplished through:
 - i. Establishing the relevance of issues, defining terms, discussing concepts, etc.
 - ii. Using examples that highlight the actions of others so learners have an opportunity to identify problematic behaviors while being an observer
 - iii. Actively engaging learners in hypothetical situations, role play situations, self assessment, etc. that require personal involvement
 - b. Assisting learners to explore their own identities, fears, and biases in a non-threatening and non-judgmental manner; this requires protecting learner confidentiality while involving each learner in both group and personal assessment
 - c. Engaging learners in reflection and higher order thinking skills based on key concepts of diversity and fairness; this is often accomplished through addressing low-risk issues initially and progressing to higher-risk content when learners are ready

- d. Encouraging open discussion about materials, activities, and concepts addressing fairness; this requires faculty to be patient, encourage learners, and remain persistent with content
- e. Accepting conflicting views and working with those views in a non-judgmental manner to make progress toward greater understanding of issues; this often involves use of open-ended questions and skillful management of individual learners
- f. Making learning relevant by connecting the education to the work learners perform; this provides as much reality as possible to concepts; this often means using theory, concepts, or statistics only as a basis for education and relying more on experiential activities as the key to learning
- g. Protecting all learners and appropriately managing hurtful situations (such as a learner using inappropriate terminology, blaming another learner, etc.); this may involve a variety of actions, including taking a break from the content to confer privately with a learner(s) and then effectively addressing the event with the group and reengaging with content
- h. Avoiding common pitfalls such as:
 - i. Allowing a personal experience or issue to dominate a discussion – any education should meet the needs of learners and not focus on the needs or issues of the faculty member or a dominating participant
 - ii. Treating an individual as representative of the perceived group to which he or she is a member – learners may have experiences with diversity, fairness, and access issues, but educating others is not necessarily their responsibility or their area of expertise; faculty should not single out any learner for purposes of having him or her take responsibility for content, speak on behalf of any group, or justify the rights of the group

- iii. Engaging in any form of inappropriate behavior or language, such as reacting in anger to a learner’s comment – inappropriateness from the faculty member diminishes the safety of the learning environment and the openness of learners to new perspectives
 - b. Avoid ineffective approaches to diversity, fairness, and access education
 - i. Individual courses – judicial branch educators may need to monitor courses and consult with faculty if these occur:
 - 1. Allowing diversity, fairness, and access education to become an accusatory experience for the learners – the learning environment should be safe, which includes a non-judgmental atmosphere; if learners feel targeted, their ability to learn and change may be diminished; this does not mean that faculty should refrain from managing inappropriate language or behaviors that arise with an individual(s)
 - 2. Incorporating too much content and/or too many experiential activities for learners to effectively absorb, process, or internalize – learners may simply disengage if too much is happening in a course
 - ii. Judicial branch education practices – judicial branch educators should be aware of certain departmental practices that may be detrimental for effective diversity, fairness, and access education
 - 1. Expecting one educational event to change learners – changing beliefs, attitudes, and behavior takes time, involves self-reflection, and is an individual process
 - 2. Offering education sporadically (such as an annual event only) – the importance of diversity, fairness, and access education may be unintentionally diminished if it is not considered vital and demonstrated to be vital in a system of education
 - 3. Using only one faculty member – diversity, fairness, and access education is diminished if it is perceived by learners to be one person’s “agenda”; education is enhanced with a diverse group of faculty, possibly using teaching teams that include a person(s) of a minority and a person of the majority group, and using different teams for different courses

- c. Encourage organizational approaches to diversity, fairness, and access – to bring about change, addressing these issues should be a shared goal within the organization and the judicial branch
 - i. Provide suggestions for organizational goals regarding diversity, fairness, and access – organizations that may adopt goals include the judicial branch education department, the overarching administrative organization, individual courts, and the court system [see CCJ/COSA “Access and Justice Resolutions” at <http://ccj.ncsc.org/Policy-Resolutions.aspx>]
 - ii. Educate and support all faculty regarding diversity, fairness, and access issues and ensure that all faculty are able to:
 - 1. Create and maintain a safe learning environment for every learner – that includes the ability to effectively and appropriately address issues of unfairness that may arise in a course
 - 2. Incorporate diversity, fairness, and access into content as appropriate (visuals, materials, activities)
 - a. Visuals need to include people of color, varied ages, varied dress, etc.
 - b. Materials need to address diversity in a respectful, relevant manner
 - c. Experiential activities need to include names of various ethnic origins, incorporate varied roles for both genders, reflect the various forms of families, include physical and psychological access issues, etc.
 - 3. Establish a mentoring or coaching process that provides faculty with peer feedback and suggestions on effectively incorporating diversity, fairness, and access issues into his or her content
 - 4. Set clear expectations for faculty with regard to fair treatment of all learners, inclusive language, etc.
 - iii. Incorporate diversity, fairness, and access in practices
 - 1. Educate all judicial branch education department personnel regarding diversity, fairness, access issues
 - 2. Ensure course planning and implementation provides all judges and court personnel with equal access
 - a. Course dates that do not conflict with ethnic or religious holidays
 - b. Course announcements in multiple formats (e.g., electronic, hard copy, large print, etc.)
 - c. ADA compliant site selection and room set-up for in-person courses

- d. Registration processes that gather requests for special needs
- e. Content and materials in multiple formats
- f. Sight and sound enhancements as necessary
3. Incorporate diversity on planning committees, task forces, work groups, etc.
4. Assess departmental personnel practices with regard to diversity and fairness (hiring, assignments, promotions, leadership opportunities, etc.)

12.1.1.5 Resources for Faculty:

(This is a list of documents, reference materials, and other sources of information that faculty may find useful. In addition to the attached materials, links are provided to more detailed resources.)

- 12.1.2.1 [The Iceberg of Culture](#), pg. 35
- 12.1.2.2 [From Stereotyping to Discrimination](#), pg. 37
- 12.1.2.3 [The Array of Stereotypes](#), pg. 39
- 12.1.2.4 [Pyramid from Bias to Hate](#), pg. 41
- 12.1.2.5 [The Context of Individualism](#), pg. 43
- 12.1.2.6 [The Reality of Individualism](#), pg. 45
- 12.1.2.7 [The Path to Equity Literacy](#), pg. 47
- 12.1.2.8 [Bloom's Taxonomy and the Path to Equity Literacy](#), pg. 49

NOTE: Many states include issues of diversity and fairness in their codes of judicial conduct and professional standards for attorneys; these may be helpful in developing judicial branch courses locally [e.g., *Ohio Code of Judicial Conduct* at <http://www.supremecourt.ohio.gov/LegalResources/Rules/conduct/judcond0309.pdf> and *Professional Ideals for Ohio Lawyers and Judges* at <http://www.supremecourt.ohio.gov/Publications/proIdeals.pdf>]

NOTE: All of NASJE's curriculum designs identify topic-specific issues of diversity, fairness, and access. Other curriculum designs may include content that complements this curriculum design, which is devoted to these issues.

12.1.1.6 Related Educational Areas:

(This is a list of content and/or contextual issues that are relevant to this educational area; faculty should be familiar with these areas and may include or reference some of this material in courses developed from this curriculum design.)

Other relevant NASJE curriculum designs or curriculum-based courses:

[Challenges in Instructional Design](#)
[The Basics of Governance in Judicial Branch Education](#)
[Assessing Judicial Branch Education Governance](#)

Other relevant topics or educational areas:

Ethics

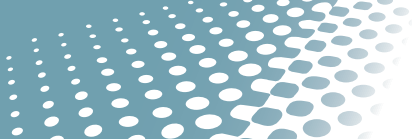
The Journey Toward Diversity, Fairness, and Access through Education

12.1.1.7 Learning Objective, Resource, and Activity Chart

This chart shows the relationship between learning objectives, certain faculty resources, and participant activities; there are faculty resources that are not directly linked to learning objectives and thus are not referenced in this chart.

Learning Objective	Faculty Resource	Participant Activity
1. Define and differentiate among basic terms relevant to diversity, fairness, and access.	12.1.2.1 The Iceberg of Culture , pg. 35; 12.1.2.2 From Stereotyping to Discrimination , pg. 37; and 12.1.2.3 The Array of Stereotypes , pg. 39	12.1.3.1 Understanding Key Terms , pg. 53
2. Describe how bias, prejudice, and discrimination may manifest in the court system.	12.1.2.1 The Iceberg of Culture , pg. 35; 12.1.2.2 From Stereotyping to Discrimination , pg. 37; and 12.1.2.3 The Array of Stereotypes , pg. 39	12.1.3.2 Examining the Court System , pg. 55
3. Discuss how bias prejudice, and discrimination may affect court users and employees.	12.1.2.5 The Context of Individualism , pg. 43 and 12.1.2.6 The Reality of Individualism , pg. 45	12.1.3.3 Unfairness from Three Points of View , pg. 58
4. Outline how judicial branch education may contribute to the reduction of bias, prejudice, and discrimination in the court system.	12.1.2.7 The Path to Equity Literacy , pg. 47 and 12.1.2.8 Bloom's Taxonomy and the Path to Equity Literacy , pg. 49	12.1.3.4 Examining Education's Role in Promoting Fairness , pg. 63
5. Choose ways to demonstrate and model fairness in a variety of hypothetical situations.	None	12.1.3.5 Modeling Fairness , pg. 65

<p>6. Identify one's own personal potential for bias, prejudice, and discrimination.</p>	<p>None</p>	<p>12.1.3.6 Identifying Personal Potential for Bias and Prejudice, pg. 71</p>
<p>7. List steps necessary to achieve greater diversity in faculty, committee membership, and staff in the local department.</p>	<p>None</p>	<p>12.1.3.7 Achieving Diversity with Faculty, Committees and Staff, pg. 73</p>
<p>8. Explore approaches to building and/or maintaining a robust system of diversity, fairness and access education locally.</p>	<p>None</p>	<p>12.1.3.8 Exploring Approaches to Diversity, Fairness, and Access Education, pg. 75</p>



NASJE

CURRICULUM DESIGN

 **FACULTY RESOURCES**



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The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Faculty Resource

12.1.2.1 The Iceberg of Culture

Purpose of resource/document

This resource visually depicts the complexity of a culture (any culture) and shows how little of it is visible or easily identifiable by those outside the culture. The “iceberg” is illustrative only and judicial branch educator learners may have additional suggestions for the depiction, either what is visible or what is not visible.

Use of resource/document

This resource would be useful after discussing race[‡] and ethnicity; it could be useful as part of introducing culture as a concept [see B, [Race, Ethnicity, and Culture](#), subpart a, iii, [Culture](#), pg. 11 in the curriculum design].

NOTE: Faculty may point out that the internal components of a culture may result in behaviors that could be negatively interpreted by those outside the culture (such as lack of eye contact or shyness in public).

Related documents or materials

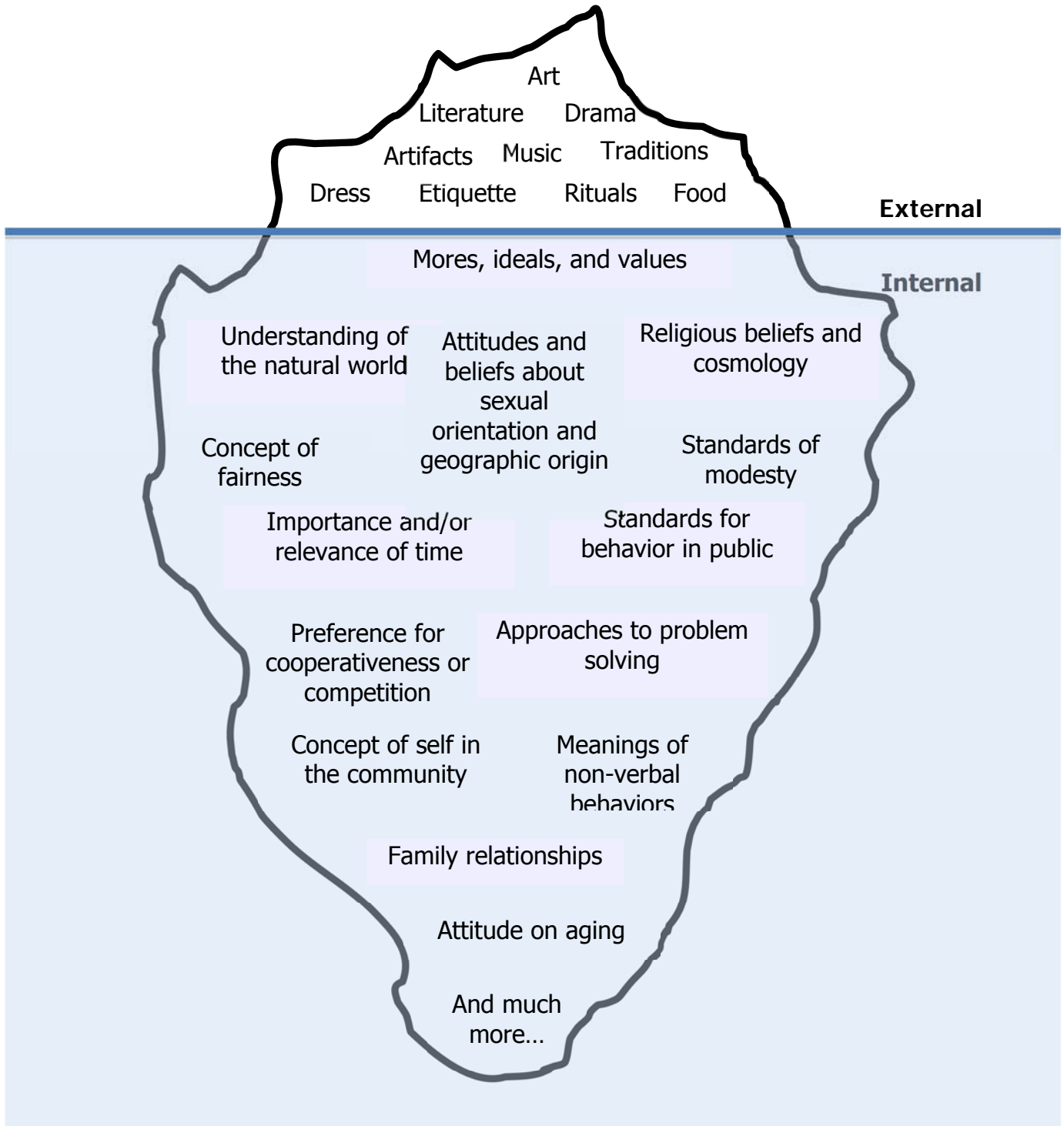
Faculty Resource

12.1.2.5 [The Context of Individualism](#), pg. 43

[‡] See [Appendix A](#).

The Journey Toward Diversity, Fairness, and Access through Education

The Iceberg of Culture



The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Faculty Resource

12.1.2.2 From Stereotyping to Discrimination

Purpose of resource/document

This resource illustrates the potential relationships between stereotyping, bias, prejudice, and discrimination. It is intended to show three things: stereotyping is generally the basis for and may lead to bias, prejudice, and discrimination; stereotyping is a more common occurrence than bias, prejudice, and discrimination; unchallenged negative stereotyping, bias, prejudice, and discrimination may lead all the way to extremism such as racism, homophobia, misogyny, etc.

Use of resource/document

This resource would be useful when discussing bias, prejudice, and discrimination [see C, [Stereotyping, Bias, Prejudice, and Discrimination](#), pg. 12 in the curriculum design]. Faculty needs to stress that the illustration is not intended to be proportional with regard to stereotyping, bias, prejudice, and discrimination, but is instead simply to show that negative stereotyping may lead to bias, and bias may lead to prejudice, and prejudice may lead to discrimination.

Related documents or materials

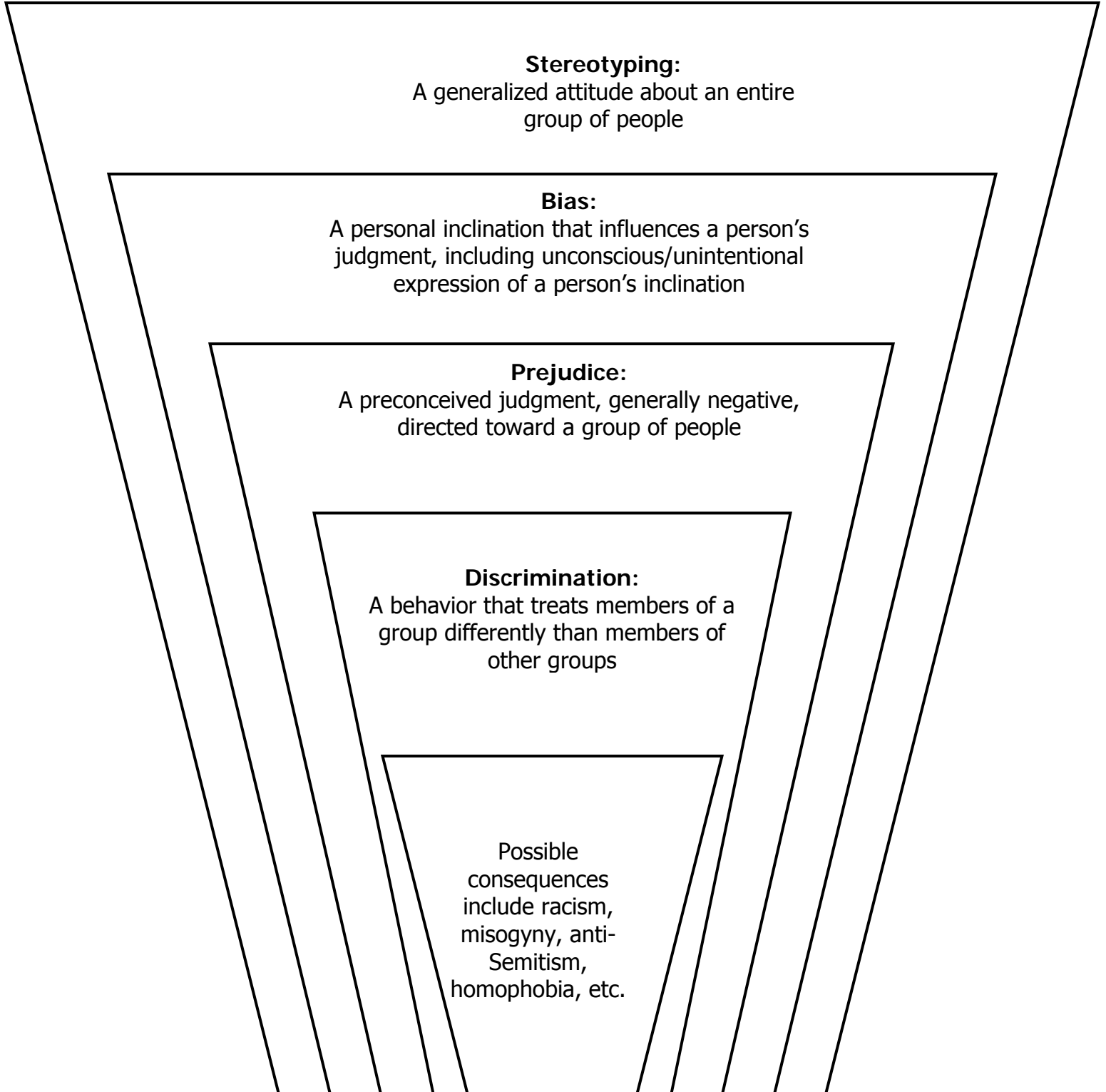
Faculty Resources

12.1.2.3 [The Array of Stereotypes](#), pg. 39

12.1.2.4 [Pyramid from Bias to Hate](#), pg. 41

The Journey Toward Diversity, Fairness, and Access through Education

From Stereotyping to Discrimination



The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Faculty Resource

12.1.2.3 The Array of Stereotypes

Purpose of resource/document

This resource provides an overview of many types of stereotyping. It is intended to show that both positive and negative stereotyping may lead to unfair judgment and actions. The examples of positive and negative stereotyping are illustrative only. Faculty and judicial branch educator learners may have additional examples of stereotyping and of positive and negative illustrations.

Use of resource/document

This resource would be useful when discussing the types of stereotyping [see C, [Stereotyping, Bias, Prejudice, and Discrimination](#), b, [Types](#), pg. 13 in the curriculum design].

NOTE: Faculty may choose to use an activity rather than disseminate this resource. If so, one possible activity is to have small groups each take one or two of the groups that are often the target for stereotyping and record what “they have heard said” about the groups they have been assigned, both positive and negative.

A question to conclude a discussion about the resource or to conclude the activity would be, “How would these stereotypes affect someone’s judgment and/or behavior?” Then give a few positive stereotypes and a few negative stereotypes to get learner responses.

Related documents or materials

Faculty Resources

12.1.2.2 [From Stereotyping to Discrimination](#), pg. 37

12.1.2.4 [Pyramid from Bias to Hate](#), pg. 41

The Journey Toward Diversity, Fairness, and Access through Education

The Array of Stereotypes

Category	Negative Stereotypes	Positive Stereotypes
Age	Older people are inflexible and out-of-date	Older people are dependable and wise
Disability	A person with a hearing disability lacks interpersonal communication skills	A person with a hearing disability pays close attention to what others are trying to communicate
Nationality	People from the Middle East are anti-American	People from India and China are technologically superior
Geographic Location	People from the US southern states are slow minded	People from the US southern states are hospitable
Ethnicity	Native Americans are not business-minded	Native Americans have preserved their ancestry with pride
Culture	Latinos do not want to speak English	Latinos have a strong sense of family
Religion	Muslims want to eliminate nonbelievers	Muslims demonstrate their faith through regular prayer
Gender	Women are not rational	Women are nurturing
Gender Identity	Men are biologically men and behavior contrary to that is a lifestyle choice	People are brave to confront their challenges with gender identity
Sexual Orientation	Gays are not capable of committed relationships	Gays are artistic
Socioeconomic Status	Poverty is a lifestyle choice by lazy people	The wealthy have worked hard for what they have
Education	People who did not graduate from high school are not bright	People with college degrees are smarter than those without
Social Status	School athletes do not excel academically	School athletes generate more school spirit than non-athletes
Group Affiliation	People who like heavy metal music are prone to violence	People who like classical music are cultured
Physical Attributes	Obese people have no self control	Attractive people are smart
Appearance	People with tattoos and/or body piercings are deviants	People who are well groomed are more likely to be successful

The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Faculty Resource

12.1.2.4 Pyramid from Bias to Hate

Purpose of resource/document

This resource, based on an illustration from the Anti Defamation League, illustrates the potential evolution of bias toward more serious negative feelings and behavior against others.

Use of resource/document

This resource would be useful when discussing why stereotyping, bias, prejudice, and discrimination remain factors in human interaction [see C, [Stereotyping, Bias, Prejudice, and Discrimination](#), d, [Perpetuation](#), pg. 15 in the curriculum design].

Related documents or materials

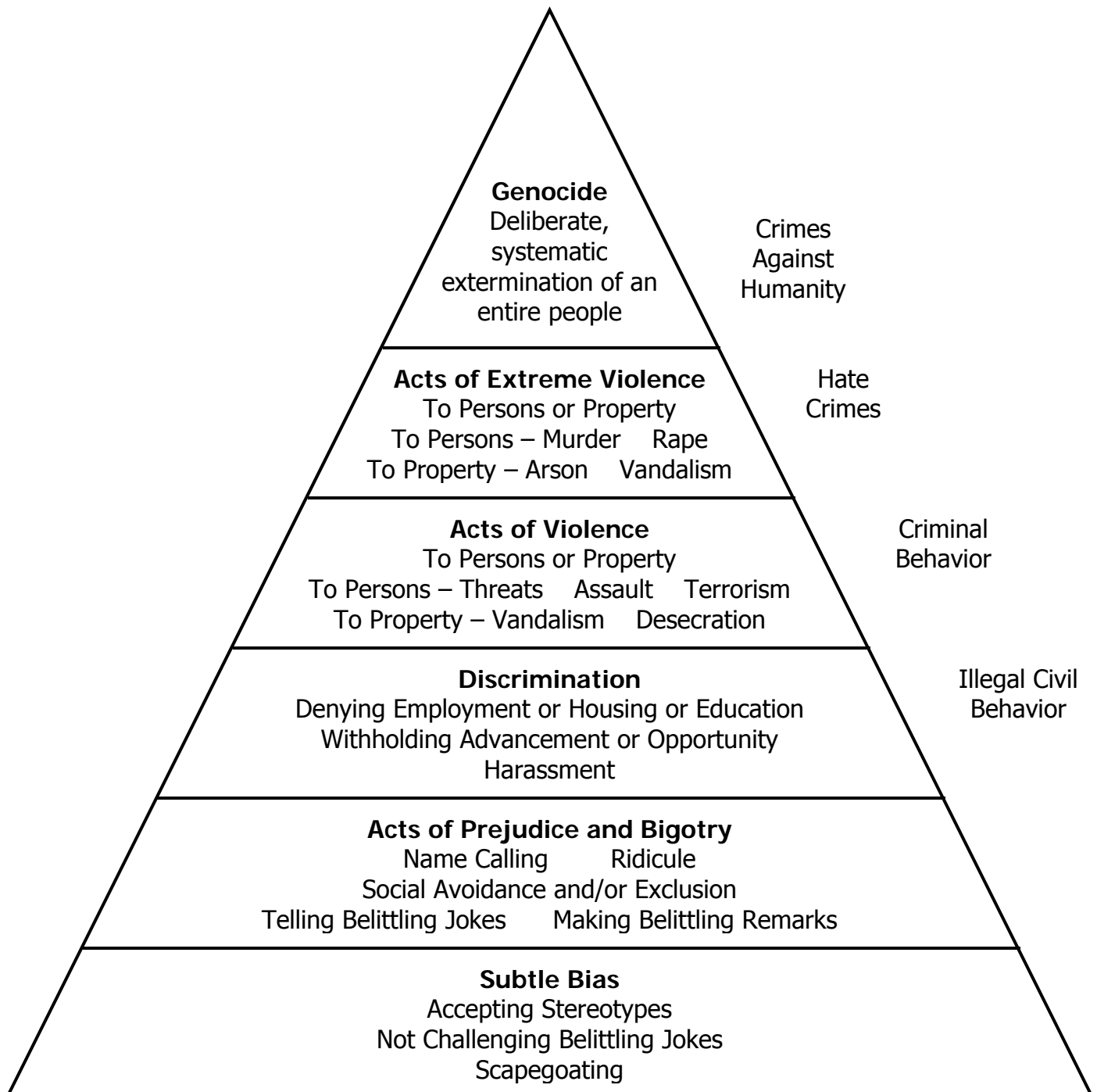
Faculty Resources

12.1.2.2 [From Stereotyping to Discrimination](#), pg. 37

12.1.2.3 [The Array of Stereotypes](#), pg. 39

The Journey Toward Diversity, Fairness, and Access through Education

Pyramid from Bias to Hate
(Based on an Anti Defamation League Image 2005)



The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Faculty Resource

12.1.2.5 The Context of Individualism

Purpose of resource/document

This resource highlights the importance and uniqueness of a single individual within the context of global origin, ethnicity, and culture. The purpose is to negate stereotyping. The resource is intended for use in conjunction with 12.1.2.6 [The Reality of Individualism](#), pg. 45 in the curriculum design, which shows that despite the influence of many factors, each person is unique.

Use of resource/document

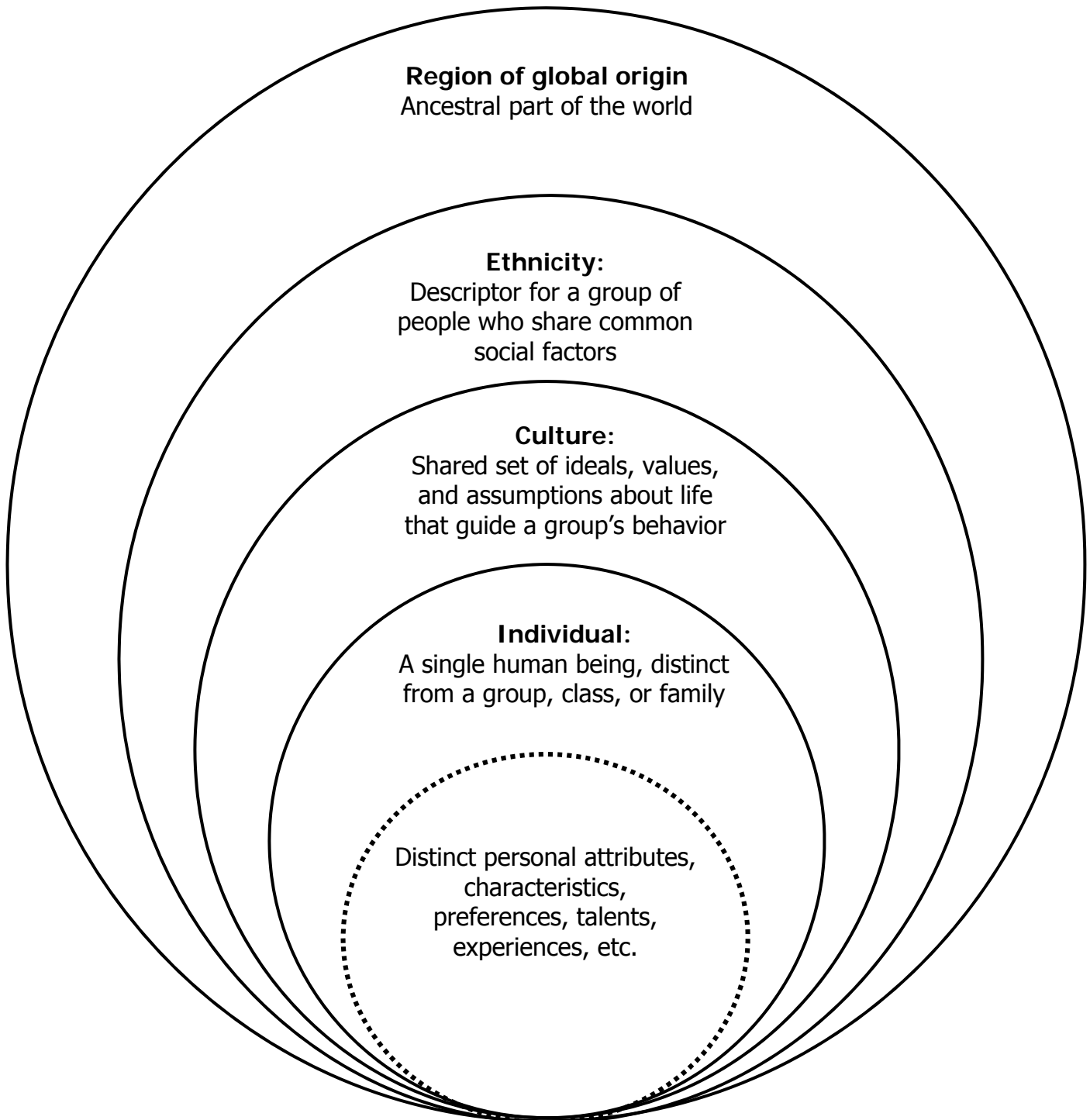
This resource would be useful when discussing the definitions of fairness [see D, [Fairness](#), a, [Definitions](#), pg. 16 in the curriculum design]. Faculty needs to clarify and emphasize that within any group that shares global origin, there may be several distinct ethnicities; and within any ethnicity, there may be several cultures; and within any culture, there may be many subcultures. This resource, for simplicity, illustrates only one person and his or her global origin, ethnicity, and culture; another person, with the same global origin, ethnicity, and culture would be unique himself or herself.

Related documents or materials

12.1.2.6 [The Reality of Individualism](#), pg. 45

The Journey Toward Diversity, Fairness, and Access through Education

The Context of Individualism



The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Faculty Resource

12.1.2.6 The Reality of Individualism

Purpose of resource/document

This resource is another illustration of individualism; it shows that although potentially influenced by many factors (including but not limited to region of global origin, ethnicity, and culture), each person is unique. It may be effectively used with 12.1.2.5, [The Context of Individualism](#), which illustrates a single unique individual within racial, ethnic, and cultural groups.

Use of resource/document

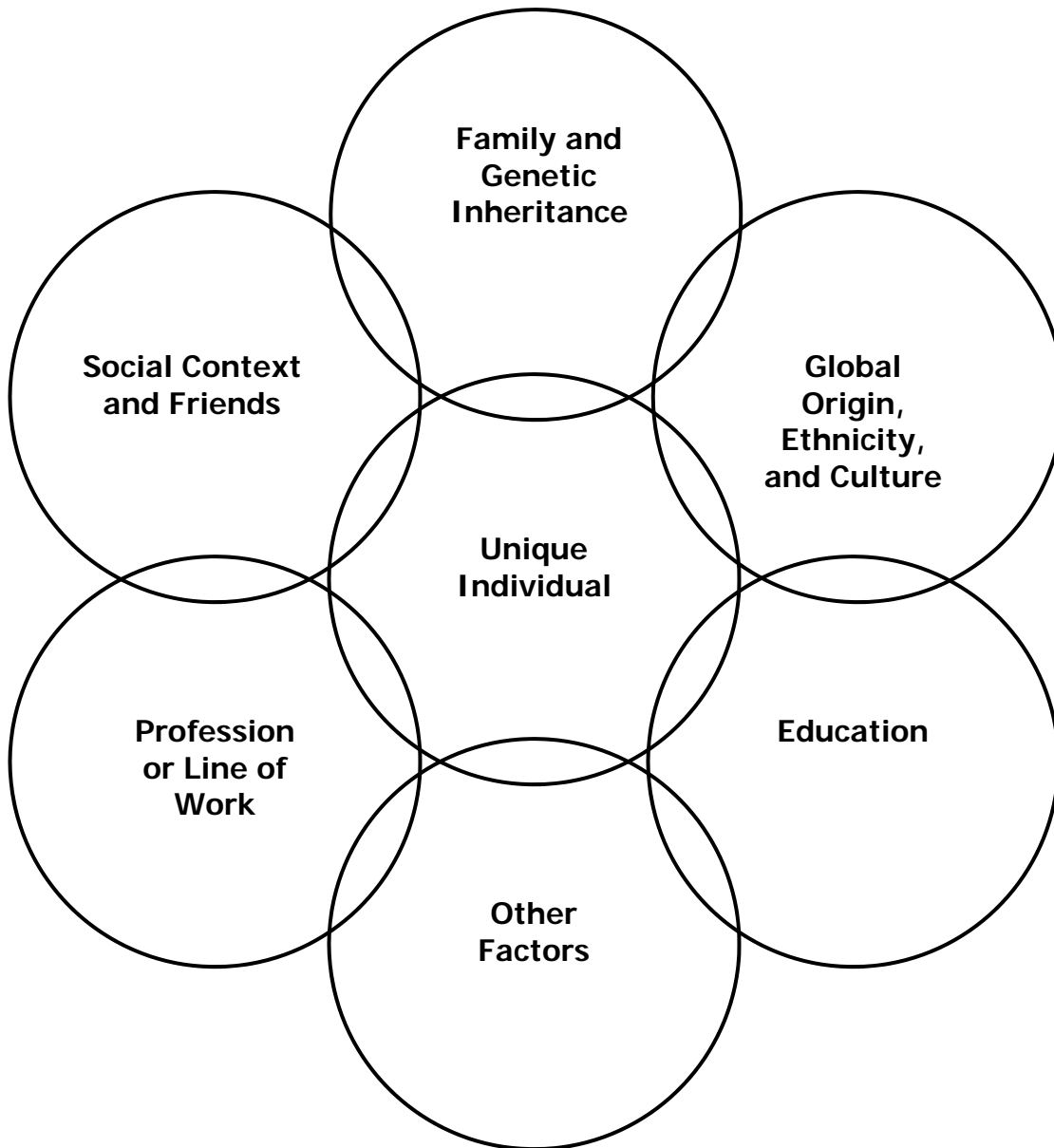
This resource would be useful when discussing the definitions of fairness [see D, [Fairness](#), a, [Definitions](#), pg. 16 in the curriculum design].

Related documents or materials

1.1.2.5 [The Context of Individualism](#), pg. 43

The Journey Toward Diversity, Fairness, and Access through Education

The Reality of Individualism



The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Faculty Resource

12.1.2.7 The Path to Equity Literacy

Purpose of resource/document

This resource shows the stages or phases leading to equity literacy. While all stages may not apply to each individual, the overall point is that it takes time to change personal values and beliefs and to prepare for effectively interacting with diverse individuals.

Use of resource/document

This resource would be useful when discussing equity literacy [see D, c, [Equity literacy](#), pg. 16 in the curriculum design]. Faculty needs to emphasize that while education has an important role in reducing bias, prejudice, and discrimination in the judicial branch, it will take time and a continued effort to foster equity literacy for self, judges, and court personnel.

Faculty may lead a discussion about how individuals move from one category to another (e.g., education, travel, etc.)

Related documents or materials

Faculty resource

12.1.2.8 [Bloom's Taxonomy and the Path to Equity Literacy](#), pg. 49

The Journey Toward Diversity, Fairness, and Access through Education

Path to Equity Literacy

Level	Title	Description of Individuals
1.	Cultural Destructiveness	<ul style="list-style-type: none"> • Believe their culture or ethnicity is superior (in-group vs. out-groups) • Hold beliefs and behave in ways that are destructive to other cultures • De-humanize people in other cultures
2.	Cultural Incapacity	<ul style="list-style-type: none"> • Unintentionally destructive toward other cultures or groups • Are unable to effectively work with minorities based on fear, ignorance, and/or devaluation of people in other cultures • Believe the dominant culture (their own) is superior
3.	Equity Blindness	<ul style="list-style-type: none"> • Believe they are unbiased • Hold the belief that culture and ethnicity make no difference • Believe that the dominant culture's approaches are universally applicable
4.	Equity Pre-competence <i>(Danger of "tokenism" at this level – addressing diversity in superficial and ineffective ways)</i>	<ul style="list-style-type: none"> • Recognize their own weaknesses in understanding and working effectively with people from other cultures • Work toward improving their knowledge and practices
5.	Basic Equity Competency	<ul style="list-style-type: none"> • Demonstrate acceptance and respect for differences between and among people • Continue their own self-assessment journey regarding diversity and expansion of their knowledge and resources • Observe and assess the dynamics of diversity around them
6.	Equity Literacy <i>(This term replaces cultural competency and cultural responsiveness)</i>	<ul style="list-style-type: none"> • Hold all people in high esteem • Address situations of inequity • Demonstrate equity in their behavior • Continually seek to improve equity • Advocate for equity in the organization and beyond

Explanation of Faculty Resource

12.1.2.8 Bloom's Taxonomy and the Path to Equity Literacy

Purpose of resource/document

This resource highlights Bloom's Taxonomy as it relates to education about equity literacy. It is intended to assist judicial branch educators in identifying the phases or stages necessary to bring about changes in personal values and beliefs that lead to more effective interaction with diverse people.

Use of resource/document

This resource would be effective as part of a discussion about how education can foster fairness [see G, [Education's Important Role](#) c, [Foster equity literacy](#), pg. 22 in the curriculum design]. Faculty needs to emphasize that the levels of the taxonomy may not exactly match the stages of the path to cultural competency. The taxonomy does, however, offer judicial branch educators suggestions for how to address the three types of learning objectives in fairness education.

NOTE: Faculty may find useful information on use of Bloom's Taxonomy in another curriculum design - [Instructional Design: The Backbone of Effective Education](#).

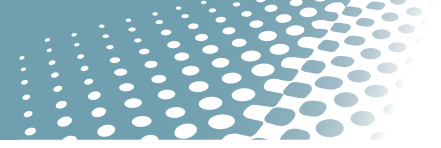
Related documents or materials

12.1.2.7 [The Path To Equity Literacy](#), pg. 47

The Journey Toward Diversity, Fairness, and Access through Education

Bloom's Taxonomy and the Path to Equity Literacy

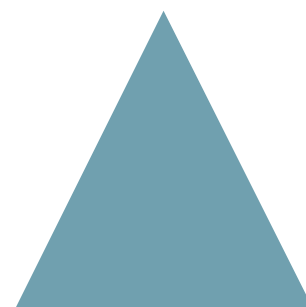
	Cognitive (Knowledge)	Psychomotor (Skills/Behaviors)	Affective (Attitudes)
1.	Knowledge: Recalls facts and information	Imitation: Observes others; copies action of another	Receive: Open to new experiences
2.	Comprehension: Understands meaning of information	Manipulation: Reproduces activity from instruction or memory	Respond: Participates in discussions
3.	Application: Can put theory into practice in response to a situation	Precision: Executes skills without assistance	Value: Gives values to information; gives personal opinions
4.	Analysis: Interprets structures; sees relationships	Articulation: Adapts skills to solve problems	Conceptualization: Compares different information; reconciles internal conflicts
5.	Synthesis: Creates or develops new structures; reconciles internal conflicts		
6.	Evaluation: Thinks critically	Naturalization: Performs automatically; shows unconscious mastery of skill	Internalization: Adopts a belief system; values work to change behavior



NASJE

CURRICULUM DESIGN

▲ PARTICIPANT ACTIVITIES



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The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Participant Activity

12.1.3.1 Understanding Key Terms

Purpose of activity

This activity is to familiarize judicial branch educators with the terms associated with diversity, fairness, and access. In the courts and in private life, learners may have heard some of these terms used interchangeably, although their true definitions are distinct and unique. It is important for judicial branch educators to use terms accurately and consistently to reflect their understanding of these important issues.

Use of activity

This may be used in two ways when addressing terminology associated with diversity and fairness [see A, [Diversity](#), pg. 10; B, [Race, Ethnicity, and Culture](#), pg. 10; C, [Stereotyping, Bias, Prejudice, and Discrimination](#), pg. 12; and D, [Fairness](#), pg. 16 in the curriculum design].

It may be used as an introductory self-assessment at the beginning of a course based on this design; used in this manner, with the worksheet, the activity can help judicial branch educators understand the complexities of terminology associated with diversity and fairness.

It may also be used after discussion of the relevant terminology as a group activity; used in this manner, the activity can reinforce understanding of the terms. As a group activity, faculty should prepare printed sheets of paper, each with one term or the definition of a term. Faculty would randomly provide each learner with one sheet and have him or her find the matching term or definition through interaction with other learners. Faculty may add terms and definitions as appropriate.

This may be an individual and/or large group activity.

Relevant Learning Objective

1. Define and differentiate among basic terms relevant to diversity, fairness, and access.

The Journey Toward Diversity, Fairness, and Access through Education

Understanding Key Terms

Write the appropriate term in the box that corresponds to its definition.

***Bias Culture Discrimination Diversity Ethnicity Fairness
Prejudice Stereotyping Race***

	Historically, a descriptor for a group of people who share common biological features, such as skin color, bone structure, etc. no longer considered by most as a valid term
	Equal opportunity for and treatment of all people in all situations
	The shared set of ideals, values and assumptions about life that are widely shared and guide a group’s behavior
	Behaving in ways that treat a person or perceived group of people differently from other persons or groups
	A preference in favor of or against a person, group, ideas, or value (an attitude, conscious or subconscious)
	Generalized assumptions about a whole perceived group of people (generally negative) that discount individuality
	Preconceived opinion(s) or judgment(s) (generally negative and unreasonable) about a person, group, ideals, or value
	Descriptor for a group of people who share common social factors such as ancestry, language, beliefs, etc.
	The uniqueness of each individual, which involves internal and external dimensions and differences

The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Participant Activity

12.1.3.2 Examining the Court System

Purpose of activity

This activity involves judicial branch educators in examining the many ways in which bias, prejudice, and discrimination may appear in the courts. Understanding the potential for bias, prejudice, and discrimination in the courts will assist judicial branch educators in making decisions about relevant approaches to educating judges and court personnel.

Use of activity

This activity would be effective as part of the discussion of the potential for bias, prejudice, and discrimination in the court system [see E, [Potential for Bias, Prejudice, and Discrimination in the Court System](#), pg. 17 in the curriculum design]. Faculty may select a few of the scenarios or choose to use this activity in its entirety as an introduction to this content; or faculty may choose to use scenarios incrementally as each part of the content is discussed.

This may be an individual, small or large group activity.

Relevant Learning Objective

2. Describe how bias, prejudice, and discrimination may manifest in the court system.

The Journey Toward Diversity, Fairness, and Access through Education

Examining the Court System

*Consider and identify the **potential** for bias, prejudice, and/or discrimination in the following scenarios.*

The court as a branch of government and a public service:

- A. A judge directs three youths to remove baseball caps while in the courtroom. A man in a turban enters the courtroom.
- B. A well-dressed attorney and a disheveled, self-represented litigant appear before a judge for a court hearing.
- C. A woman seeks an order of protection from her boyfriend, explaining that she had been “partying” with friends and returned home, drunk, after midnight and got into an argument with her boyfriend, who became violent.
- D. A juvenile offender appears in court for a determination whether she will face detention or be placed into a diversion program. She has numerous tattoos and body piercings, some resembling those of another juvenile offender who self-identifies as a member of a gang.
- E. A judge is hearing a forcible detainer case in which the landlord (a loud, very large, muscular man) accuses the renter (a quiet, petite woman) of threatening him with her fists when he tried to collect the rent.
- F. Due to a rising caseload, a visiting judge has been assigned to the court and needs a temporary courtroom. The easiest, quickest, and least expensive solution is a vacant room, accessible only by a flight of stairs.
- G. The court clerk’s office employs bilingual (English/Spanish) personnel. The community includes large number of Limited-English Proficient citizens, including Vietnamese and Korean.
- H. A deaf individual is in a jury pool.

The Journey Toward Diversity, Fairness, and Access through Education

Examining the Court System

*Consider and identify the **potential** for bias, prejudice, and/or discrimination in the following scenarios.*

The court as a place of work or an employer:

- A. A 45-year old judge is interviewing six law school graduates for a single position of law clerk. All are well qualified. Five are under 25 years of age and one is 50.
- B. A presiding judge is making judicial assignments; each assignment involves a single judge. The court has five male judges and a female judge. The presiding judge has received complaints from two treatment providers that the current male judge in juvenile court is harsh and brash with juvenile offenders and parents.
- C. A woman with a speech impediment is applying for a position of data entry clerk. She can make herself understood, but needs additional time to speak.
- D. A man applying for a job as a court reporter, with required certification, voluntarily shares with the male interviewer that his gay partner is a court reporter in another court.
- E. A white court administrator is determining whom to hire for the court's Self-Help Center. The two top candidates are white. The community is predominately Hispanic.
- F. A human resources manager needs to send one department employee to a course on the use of a new recruitment protocol the department is considering. One of the four likely employees is a pregnant woman.

The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Participant Activity

12.1.3.3 Unfairness from Three Points of View

Purpose of activity

This activity engages judicial branch educators in one of three roles: (a) a court employee who is generally effective in her role, (b) an individual who is the target of unfair behavior by the court employee, and (c) a bystander who witnesses the act of unfairness. The purpose is to create for judicial branch educators an experiential incident that may heighten sensitivity to the impact of unfair acts in the court system.

Use of activity

This activity may be effective as a conclusion to the discussion of the potential for bias, prejudice, and discrimination in the court system [see E, c, [Outcomes and effects of bias, prejudice, and discrimination in the courts on individuals](#), pg. 19 in the curriculum design]. Two options:

Without sharing the circumstances of the players, have three individuals perform the role-play and conduct a large group discussion about the interaction. Part of the discussion may include having each player briefly outline his or her situation and why he or she acted/reacted in the manner seen.

Or divide judicial branch educators into triads and assign each individual one of the three roles. NOTE: Each individual in the role-play situation does not know the circumstance of the other players. Instruct the groups to take a fixed amount of time in the interaction and then discuss the questions that follow the descriptions of the roles. Part of the discussion may include having each player briefly outline his or her situation.

Relevant Learning Objective

3. Discuss how bias, prejudice, and discrimination may affect court users and employees.

The Journey Toward Diversity, Fairness, and Access through Education

Unfairness in Action

Participate in this role-play situation and then discuss the experiences of each player with your partner.

Person A

You are a court employee staffing the court's self help center for the day while the regular staff member is on vacation. You have had a harrowing morning trying to communicate with a variety of individuals, some who do not speak English well, some who are not able to comprehend court forms and processes, and some who are lacking adequate personal hygiene. You are tired and are currently unable to take a lunch break because a fellow staff member has not arrived to assume responsibility during the lunch hour.

You are about to interact with yet another individual who is not familiar with the court; he has come to the self-help center on someone else's behalf. He clearly does not have enough information to enable you to properly assist him. You become frustrated, eventually lose your temper, and suggest the individual leave and get his "act together" before coming back.

The Journey Toward Diversity, Fairness, and Access through Education

Experiencing Unfairness

Participate in this role-play situation and then discuss the experiences of each player with your partner.

Person B

You are a recent high school graduate and are living with a friend in the basement apartment of his sister's house. You speak English well, although Spanish is the language spoken in your mother's home. You are unsuccessfully looking for full-time work. Six months ago, your father passed away and, due to very limited income, your mother had to be moved from your family's modest home into a small apartment. She is just now adjusting to this change in her living arrangements.

Earlier today, your mother told you she had received a notice from her landlord, a person she clearly does not like. She said the notice indicated she had not paid rent for the past three months and needed to pay the rent or leave the apartment. Your mother told you she had paid the rent when it was due and she was so mad that she threw away the notice. She angrily told you of how the landlord had promised to do repairs and renovations to the small apartment but had failed to do so. She cried about the thought of having to move again.

Your mother cannot afford a lawyer so you believe you need to file papers with the court in response to the notice your mother received. You took time from your hourly-paid, part-time job as a waiter and came to the court. You initially went to the clerk's office, stood in line for an hour only to be directed to the self-help center when you reached the clerk's window. You are tired and frustrated. You are fearful that any delay in getting the proper papers filed with the court will have serious and dire consequences for your mother.

You do not have the notice, you have no proof of your mother paying the rent, you do not know the name of the landlord, etc.

You are so anxious that you keep interrupting the court employee because you are trying to make her understand your situation and your need to resolve it quickly.

The Journey Toward Diversity, Fairness, and Access through Education

Witnessing Unfairness

Person C:

You are in the self-help center and witness the interaction between the court employee and the court user. You know nothing of either person's circumstances.

Some potential questions to answer:

For person A (court employee):

- What observations did you have about the interaction?
- What feelings did you experience as the court employee?

For Person B (court user):

- What observations did you have about the interaction?
- What feelings did you experience as the court user?

For Person C (bystander):

- What observations did you have about the interaction?
- What feelings did you experience while watching the interaction?

For all:

- What was the outcome of the encounter?
- What was unfair about the situation itself?
- What might have the court user have done differently?
- What might the court employee have done differently?

The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Participant Activity

12.1.3.4 Examining Education's Role in Promoting Fairness

Purpose of activity

This activity involves judicial branch educators in thinking about the role of education in promoting fairness. The purpose of the activity is to encourage comprehensive thought about education, beyond the obvious cognitive outcomes.

Use of activity

This activity would be effective as an introduction to discussing what can be expected of educational efforts regarding fairness [see G, [Education's Important Role](#), pg. 21 in the curriculum design]. Faculty may need to prompt learners to think beyond education as simply informing judges and court personnel.

This is a large group activity.

Relevant Learning Objective

4. Outline how judicial branch education may contribute to the reduction of bias, prejudice, and discrimination in the court system.

The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Participant Activity

Examining Education’s Role in Promoting Fairness

List answers to each question with regard to education’s role in contributing to reduction or elimination of bias, prejudice, and discrimination in the courts.

- A. Who needs education on fairness issues?

- B. What are the purposes of courses on diversity?

- C. How can educational practices reflect and support diversity and fairness?

- D. How can education highlight the impact of unfair practices?

- E. How can an educational setting be used to assist people in examining their own potential for unfairness?

The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Participant Activity

12.1.3.5 Modeling Fairness

Purpose of activity

This activity incorporates both cognitive and affective aspects of decision making for judicial branch educators through hypothetical situations. The purpose of the activity is to demonstrate the complexities of achieving fairness in a real-world setting.

Use of activity

This activity would be effective when discussing how bias, prejudice, and discrimination may manifest in the court system [see E, [Potential for Bias, Prejudice, and Discrimination in the Court System](#), pg. 17 in the curriculum design] and an individual's potential for bias and prejudice [see F, [Potential for Personal Bias and Prejudice](#), pg. 20 in the curriculum design]. It may also be useful when discussing the role of the judicial branch education department [see H, [The Role of the Judicial Branch Education Department](#), page 24 in the curriculum design]. Each situation may have more than one potential resolution, based on a variety of circumstances, and no single choice is right or wrong. The activity is intended to generate discussion and thoughtful examination of possible behavior in difficult circumstances.

NOTE: Hypothetical situation #5 may lead to further discussion about how the incident may prompt: (a) a review of departmental practices, (b) a revision of content for faculty development courses, (c) how/when expectations for faculty are conveyed, etc. [see H, [Role of the Judicial Branch Education Department](#), pg. 24 in the curriculum design].

This is a small group activity.

Relevant Learning Objective

5. Choose ways to demonstrate and model fairness in a variety of hypothetical situations.

The Journey Toward Diversity, Fairness, and Access through Education

Modeling Fairness

Review the hypothetical situation and choose one course of action.

Hypothetical Situation 1

You are the director of the judicial branch education department. Two administrative assistants (AAs) share common workspace near your office. One is your administrative assistant and the other is one of three administrative assistants supporting the work of two education specialists in the department whose offices are near yours. Your AA has been employed in her position for three years; your AA is a white female, as are you, and has received positive performance appraisals over the years. The other AA is a black male; he has been employed three months and until now you have received positive feedback on his performance. One of the department supervisors comes to your office very upset that the two AAs are openly hostile to one another and the work is suffering. She insists that you move the new AA to the only vacant workspace in the department -- an open workstation near the entrance to the department, which would make him a de facto receptionist (in addition to his AA duties) due to the location of the workspace. You worry that relocating the new AA as suggested, and consequently adding to his duties, could give the appearance of discrimination. You have been aware of small differences between the two individuals, but were not aware of the level of dysfunction the supervisor reports.

Choose one option:

1. You comply with the supervisor's request and move the new AA to the receptionist workspace to prevent further disruption of work.
2. You have the new AA swap places with another AA in the department; this will be an undesirable change of workspace for the other AA who is currently located near the specialists served.
3. You leave the two AAs in their current locations and counsel them both about their behavior; you also counsel the supervisor about the appearance of discrimination if you relocate the new AA and, as a consequence, add to his duties.

The Journey Toward Diversity, Fairness, and Access through Education

Modeling Fairness

Review the hypothetical situation and choose one course of action.

Hypothetical Situation 2

You are a judicial branch education staff with responsibility for a committee of judges who help plan conferences and courses. The chair of the committee is an openly gay judge. You have worked well with him for more than a year. A long-time committee member comes to your office and complains that the committee chair's behavior during meetings is reflecting negatively on the work of the committee. The behavior involves the chair's frequent references to and jokes about being gay. The committee member says the remarks make him and others uncomfortable and that he will resign from the committee unless the chair is asked to resign.

Choose one option:

1. You speak to the chair about the situation and ask that he refrain from the comments and jokes.
2. You explain to the complaining committee member that the chair is simply trying to make everyone comfortable with his sexual orientation.
3. You suggest that the committee member speak directly with the chair.
4. You do nothing.

The Journey Toward Diversity, Fairness, and Access through Education

Modeling Fairness

Review the hypothetical situation and choose one course of action.

Hypothetical Situation 3

You are support staff for a judicial branch education department. Your work requires you to interact directly with committee members, faculty, and departmental staff; you are also required to travel to conferences and courses. As your conference begins, you witness the banquet supervisor berating an employee who does not speak English well. The supervisor indicates that the employee failed to follow instructions with regard to properly arranging a meeting room. When the employee tries to explain the circumstances of the incident, the supervisor becomes angry and calls her a “wetback who should return to her country,” implying that the employee was an illegal and unwelcome immigrant from Mexico. The banquet supervisor has been kind to staff and faculty, efficient with meeting needs, and is well informed and responsible for meeting your needs during this conference.

Choose one option:

1. You immediately speak with the banquet supervisor about the incident.
2. You console the employee when the supervisor leaves.
3. You speak later that day with the judicial branch education staff member who is responsible for the conference.
4. You report the incident to the hotel site manager.

The Journey Toward Diversity, Fairness, and Access through Education

Modeling Fairness

Review the hypothetical situation and choose one course of action.

Hypothetical Situation 4

You are a judicial branch education staff member in a meeting with experienced faculty members discussing a mentoring program for faculty that the department is planning. After discussion, you and the judges are deciding how to promote participation of experienced faculty to serve as mentors. You decide that having interested faculty speak directly with one of the judges on this committee would be an effective approach. Each judge speaks briefly about when he or she would be available for these conversations. One judge says, "No problem for me. My girls know how to manage things when I have an important call." No one says anything.

Choose one option:

1. You do nothing and continue the discussion.
2. You make light of the situation, hoping humor will get the point across or one of the judges present will take action.
3. You take a break from the discussion to talk with the judge privately.
4. You take a break from the discussion and enlist the help of another judge to speak with the judge who made the remark.
5. You report the incident to the department director later.

The Journey Toward Diversity, Fairness, and Access through Education

Modeling Fairness

Review the hypothetical situation and choose one course of action.

Hypothetical Situation 5

You are a judicial branch education staff member observing a course taught by an experienced and respected faculty member. Her opening comments include a statement that she was almost late for the course, not because of the torrential rain, but because of a traffic problem at the Civic Center; she jokingly adds that the group of black-cloaked, rain-soaked people going into the building seemed like the death ghosts from the Harry Potter movies. The event is a publicized gathering of Orthodox Jews who are attending a statewide meeting. A few participants laugh, some moan, and some gasp. The faculty member is unfazed.

Choose one option:

1. You do nothing and allow the course to continue.
2. You decide to talk with the faculty member at the next break, which is 1.5 hours away.
3. You raise your hand and ask the faculty member for a private moment to discuss an important matter.
4. You raise your hand, explain the gathering referenced is a religious group, and hope the faculty will apologize for the inappropriate comment.
5. You report the incident to the department director immediately
6. You report the incident to the department director later.

The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Participant Activity

12.1.3.6 Identifying Personal Potential for Bias and Prejudice

Purpose of activity

This activity assists judicial branch educators in assessing his or her potential for bias and prejudice. The activity will hopefully assist judicial branch educators in understanding that everyone is subject to the potential for bias and prejudice.

Use of activity

This activity would be effective when discussing the personal potential for bias and prejudice [see F, [Potential for Personal Bias and Prejudice](#), pg. 20 in the curriculum design].

Faculty may choose and administer a self-assessment prior to a course based on this design. Possibilities include the “Implicit Association Test” or IAT from Harvard, the “Personal Self-Assessment of Anti-Bias Behavior” from the Anti Defamation League, the “Test Yourself for Hidden Bias” from the Southern Poverty Law Center (all listed in the bibliography), or other self-assessment tools for bias). Faculty may provide personal results to each judicial branch educator before the course date or results may be given during the course, provided that each learner’s confidentiality is protected.

As part of a debriefing, faculty needs to engage learners in a discussion of a general nature, such as discussing the overall results for the group. Before having learners reflect on their individual results, faculty may want to discuss F, a, [Self perspective](#) pg. 20 in the curriculum design; this content may assist judicial branch educators in understanding their initial reactions to results.

The assessment is an individual activity; discussion may be in small groups or in the large group.

Relevant Learning Objective

6. Identify one’s own potential for bias and prejudice.

The Journey Toward Diversity, Fairness, and Access through Education

Identifying Personal Potential for Bias and Prejudice

Answer the following questions and share answers if you desire.

- A. What about the results of the group surprises you?

- B. What about your results surprises you?

- C. What will you do as a result of this information?

The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Participant Activity

12.1.3.7 Achieving Diversity with Faculty, Committees, and Staff

Purpose of activity

This activity involves judicial branch educators in examining three groups of individuals that the educator may be able to influence toward greater diversity. Judicial branch educators may find that diversity is lacking in one or all groups and, if so, determine how to address the issue.

Use of activity

This activity would be most effective as part of the conclusion of a course based on this design. At the conclusion of a course, judicial branch educators should be more sensitive to diversity issues, be more aware of the benefits of diversity, and have ideas about their local work environment and the possibilities for increased diversity.

This is an individual activity.

Relevant Learning Objective

7. List steps necessary to achieve greater diversity in faculty, committee membership, and staff in the local department.

The Journey Toward Diversity, Fairness, and Access through Education

Achieving Diversity with Faculty, Committees, and Staff

Answer questions 1 and 2; if the answer to question 2 is "yes," list steps in question 3 to address increasing diversity.

Faculty

What is the level of diversity in the faculty pool?

Is diversity adequate or would greater diversity be desirable?

What steps can be taken to increase diversity of faculty? (Such as: specifically inviting diverse individuals to attend faculty development courses; asking current faculty to mentor new faculty into their content area; seeking nominations for potential faculty from the target audience, etc.)

Committees

What is the level of diversity on education-related committees?

Is diversity adequate or would greater diversity be desirable?

What steps can be taken to increase diversity on committees? (Such as: specifically inviting individuals of diversity to serve on committees; asking current committee members to suggest diverse individuals to serve; seeking to engage diverse individuals from other court-related committees, etc.)

Staff

What is the level of diversity in the department?

Is diversity adequate now or would greater diversity be desirable?

What steps can be taken to attract a wider and more diverse pool of applicants? (Such as: advertising vacant positions in a variety of ways and in a variety of publications; stating "equal opportunity" in job announcements; recruiting diverse applicants through public, college, or university job fairs, etc.)

The Journey Toward Diversity, Fairness, and Access through Education

Explanation of Participant Activity

12.1.3.8 Exploring Approaches to Diversity and Fairness Education

Purpose of activity

This activity engages judicial branch educators in reflecting on the status of diversity, fairness, and access education locally. The purpose of the activity is to have them focus on the broad nature of a robust system of diversity, fairness, and access education. The outcomes of the activity have many possibilities for judicial branch educators and include: (a) Can judicial branch educators answer the questions or do learners need to do some research in order to answer them? (b) Are answers to the questions satisfactory/acceptable/adequate for learners or is local action needed? (c) For questions with unsatisfactory answers, which can the judicial branch educator address independently and which will need broader support and involvement of the judicial branch education department? (d) What are next steps for each judicial branch educator?

Use of activity

This activity would be most effective at the conclusion of a course based on this curriculum design. At the conclusion of a course, judicial branch educators will have a broader perspective of diversity, fairness, and access education. In addition, they will realize that courses on diversity, fairness, and access are only one component of a robust system of education.

This is an individual activity.

Relevant Learning Objective

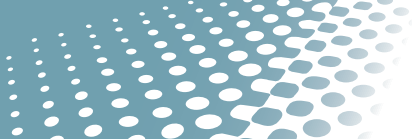
8. Explore approaches to building and/or maintaining a robust system of diversity, fairness, and access education locally.

The Journey Toward Diversity, Fairness, and Access through Education

Exploring Approaches to Diversity, Fairness and Access Education

Answer the questions based on local practices.

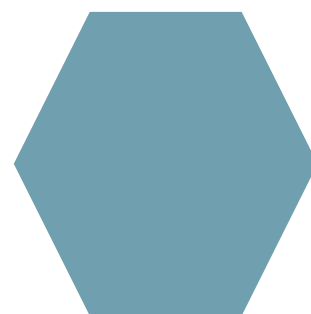
1. What is included about diversity, fairness, and access in faculty development courses? Are participants diverse? How do you choose participants?
2. How are departmental personnel educated about diversity, fairness, and access issues? What are departmental expectations about diversity, fairness, and access education for staff?
3. What are the judicial system's goals for diversity, fairness, and access? How do these goals impact education?
4. How often are diversity, fairness, and access courses offered for judges? For court personnel?
5. Do courses about diversity, fairness, and access address the topics generally? Do courses have a component that is directly relevant and applicable to the local courts?
6. How do you ensure effective treatment of diversity, fairness, and access in all courses (content and materials)? Are all department personnel responsible?
7. How do you choose faculty for diversity, fairness, and access courses? How many faculty do you have involved in developing and delivering diversity, fairness, and access education? How diverse are faculty members for fairness courses?
8. What are your short-range goals for diversity, fairness, and access education? What are your long-range goals? How will you ensure progress toward the long-range goals?



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CURRICULUM DESIGN

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The Journey Toward Diversity, Fairness, and Access through Education

12.1.5.0 Appendices

Appendix A

For many anthropologists, sociologists, and other academics and scientists, the term 'race' is a social construct and has no scientific standing. Genetics show that while there are differences among groups of people, frequently associated with their region of global origin, 'race' does not correlate with those differences and superficial characteristics (skin color, hair color, or other physical features) have no bearing. There are more genetic differences among individuals within so-called 'races' than between 'racial' groups.

Some anthropologists, sociologists, and others, place the term 'race' in single quotation marks to indicate that it is a social construct, created to imply superiority/inferiority.

American Anthropological Association Statement on "Race" (created in 1998 and still posted on their website)

<http://www.aaanet.org/stmts/racepp.htm>

Oxford Dictionary of Sociology (2009, only partially available online) page 624, definition of race: **race** the placing of the term 'race' in inverted commas is now seen by some sociologists as a useful way of indicating that this manner of categorizing individuals and populations is not based on any biologically valid distinction between the genetic makeup of differently identified 'races.'

The understanding of 'race' as a social construct does not change the tragic history of discrimination based on misplaced concepts of 'race' or the reality of discrimination today. While many social scientists and legal scholars agree that race has no scientific standing, they acknowledge that it continues to exert a powerful influence on/in the lives of people. The term remains in many legal and governmental documents and data indicates ongoing issues of disparity based on perceptions of 'race' (e.g., housing, income, employment). Research shows that, all things being equal for African Americans and whites similarly involved in the criminal justice system, they are sentenced differently for the same crime. More often than not (and statistically shown), African Americans receive harsher sentences than whites.

The Sentencing Project

http://www.sentencingproject.org/doc/publications/rd_Race_and_Punishment.pdf

Additional references about 'race' include:

[Race as a Social Construct:](#)

The concept of race in contemporary anthropology. Scott MacEachern
(PDF download) (2011)
http://www.academia.edu/831938/The_concept_of_race_in_anthropology.

Is race only a social construct? (2013)
<http://dish.andrewsullivan.com/2013/05/16/is-race-only-a-social-construct/>.

RACE – The power of an illusion (written summary of the PBS program)
<http://newsreel.org/guides/race/pressreleasecredit.htm>. Also see associated background readings and interviews with experts in the field.

Differences in human populations and regions of global origin

How humans evolved – human variation (2006)
<http://www.wwnorton.com/college/anthro/evolve4/ch/15/welcome.shtml>.

DNA tribes (2010) <http://www.dnatribes.com/sample-results/dnatribes-global-survey-regional-affinities.pdf>.

Race – Are we so different? (animated illustrations and map showing how location has affected genetic changes in the human population during migration from Africa)
<http://www.understandingrace.org/humvar/africa.html>.

RACE – The power of an illusion – Background readings – interview with Jonathan Marks http://www.pbs.org/race/000_About/002_04-background-01-08.htm; interview with Alan Goodman http://www.pbs.org/race/000_About/002_04-background-01-07.htm.