Each of the resource guides below has been condensed to a single page that may not be accessible to people with different visual, or content chunking, needs.

To access accessible versions of the guides, please visit www.biasresistantcourts.org/accessible





This resource system has been designed for courts and their varied personnel, including dispute resolvers, to help them incorporate trauma-informed and bias-resistant practices into their regular day-to-day work. Visit www.biasresistancourts.org to access the corresponding training programs for each of the included tools and www.biasresistantcourts.org/accessible to download plain-text Word and PDF versions of these guides designed to be accessible (searchable, scannable, readable, legible) for screen readers and modifiable for other processing needs.

These tools are designed to be used as a complete set or as separate pieces, depending on your specific setting and needs. Feel free to adapt them to your particular context, and pick the tools that resonate most with your goals and values.

Key Concepts

- **Trauma-informed practices** refer to interventions that assume that anyone may have experienced trauma in their lives, so it's essential that practices be developed that feel safe and supportive for everyone.
- **Bias-resistant practices** refer to routine ways of interacting that anticipate that all people have implicit or unconscious biases and therefore must try to mitigate them.
- **Procedural fairness** refers to the development of a consistent processes and decision-making criteria that help reduce the chance of acting based on unconscious biases.

Areas Covered

These resources will help you understand and appreciate trauma, develop trauma-informed practices, be sensitive to diverse trauma experiences, and practice self-care for vicarious trauma. They will also help you be accessible, practice equitable e-mail communication, and be careful with comments and questions. Finally, they will help you respond to challenging behaviors in fair ways, including behavior-based ways to address capacity concerns, respond effectively to complaints, and understand power dynamics as they relate to your processes regarding trauma.





Resource List

Becoming Trauma-Informed

- Appreciate How Trauma Manifests Differently For Different People
- Develop Trauma-Informed Practices to Support Anyone Who May Have Had Difficult Experiences
- Understand Power Dynamics and How They Relate to Trauma
- Be Sensitive to Diverse Experiences and Traumas Associated with Protected Classes of People

Being Bias-Resistant on a Daily Basis

- Use Accessibility Principles to Make Your Practices Welcoming, Inclusive, and Usable for All
- Have Equitable E-mail Practices that are Responsive, Friendly, and Thorough
- Be Careful with Identity Comments to Avoid Microaggressions
- Understand Improper Disability Inquiries and Other Inappropriate Questions

Responding to Challenges with Unbiased Procedures

- Respond to Challenging Behaviors Consistently, Safely, and Without Acting on Backstories
- Use Behavior-Based Capacity Criteria to Address Capacity Concerns Without Stigmatizing Conditions
- Respond Effectively to Complaints About Stigma, Microaggressions, and Discrimination
- Practice Self-Care to Cope When Experiencing Secondhand, Vicarious Trauma

Visit <u>www.biasresistantcourts.org</u> to access additional links that will help you locate local trauma-informed resources and other helpful tools





Becoming Trauma-Informed



Appreciate How Trauma Manifests

Differently For Different People

Different people experience trauma differently, based on any number of factors including those related to their diverse backgrounds, mindsets, and lived experiences. This worksheet provides a reminder not to assume someone has or hasn't experienced trauma based on a narrow definition of what trauma responses look like. Instead, the aim should be to be trauma-informed in interactions with everyone and open to validating people whose trauma manifests in different ways.

Anyone may have experienced trauma and they may react differently

The term "fight or flight" response has been around for a century, describing the reaction an animal may have to harmful events or stress. Over time, there have been many new "f" words coined to describe different types of reactions to trauma. The list below is included to help you be prepared for the many different ways trauma can manifest:



Fight

Anger, Rage, Talking Back, Blaming, Showing Aggression, Combative, Protective



Flight

Anxious, Afraid, Overwhelmed, Leaving, Distracting Behavior, Avoiding



Freeze

Panicked, Numb, Overwhelmed, Frustrated, Giving Up, Not Listening



Fawn

Nervous, Accommodating, People-Pleasing, Submissive, Ingratiating



Flop

Dissociated, Limp, Disengaged, Checked Out



Fix

Intellectual, Problem-Solving, Proactive, Solution-Oriented



Flashback

Distressed, Fixated, Reliving Memories and Sensations, Flooded, Out of Control



Fragment

Disoriented, Disjointed, Unmoored, Lost of Sense of Self, Incoherent, Confused

Offer trauma-informed, empowering practices to everyone under the assumption they may be experiencing trauma, which can look different for different people



Develop Trauma-Informed Practices to Support Anyone Who May Have Had Difficult Experiences

Traumatic experiences are common, and anyone you meet may have had them. Rather than attempt to guess who has, and probe them with questions that make them relive it, you can practice in trauma-informed ways that are supportive to everyone who crosses your path. This checklist will show you how.

BE PATIENT			
	Reduce Urgency Have you noticed any aspect of your practices that may feel time-pressured or overwhelming and provided options to engage more calmly, with less paperwork, and on a more relaxed schedule?		
	Be Patient with Problems Are you prepared for delays, challenging behaviors, and conflicts that may be stressful? Are you ready provide supportive, less urgent ways to address problems that arise (while also maintaining consistent boundaries)?		
BE FLEXIBLE			
	Provide Options Are you providing multiple types, timings, and durations for communication?		
	Be Receptive to Feedback Do you have an open policy welcoming feedback if people feel uncomfortable?		
BE TRANSPARENT			
	Develop Consistent Practices in Advance Have you developed clear, consistent practices, policies, and procedures?		
	Communicate Practices Are you clearly communicating your practices on intake and when asked?		
BE SAFE			
	Clear Boundaries for Emergencies, Disruptions, and Disconnects Have you determined when these challenges necessitate intervention?		
	Action Plans Do you have clear prompts and action steps so you know what you will do when challenges occur?		
BE SELF-AWARE			
	Self-Care Are you aware of your warning signs for when you may need to practice self-care, and have you normalized a self-care routine for yourself, as well as prepared for coping with vicarious trauma?		
	Bias Mitigation Are you accepting that you have biases you are not conscious about, and ready to implement procedures and receive feedback to mitigate their impact on your practices?		



Understand Power Dynamics and How They Relate to Trauma

There are many different types of disparities that can impact how two or more people relate to one another, leaving someone feeling like they have less power. That helplessness can cause or exacerbate traumatic experiences. This worksheet provides some open-ended questions you can ask all parties to check for power imbalances.

Ways People Might Feel Disempowered

Inherent Power Differentials

- <u>Authority Dynamics</u> such as those that occur between supervisors and employees, parents and children, and healthcare providers and patients, where people may feel like they do not have control of their environment or outcomes and may fear harm or retaliation from speaking up and seeking support.
- <u>Systemic Disparities</u> from structural biases in society, such as embedded racism, sexism, homophobia, or ableism or embedded healthcare disparities affecting some populations and subcultures, or political oppression in some regimes.
 Historical injustices and other systemic problems may lead to complex, intergenerational trauma.
- <u>Culture and Language Barriers</u> can cause challenges with self-expression, being heard, and being respected that may leave people feeling unwelcome, isolated, helpless and rejected and may exacerbate traumatic experiences.

Difficult Experiences

- <u>Intimate Partner Violence</u> where the abuse survivor may feel helpless, trapped, vulnerable, and afraid to leave or report what is happening.
- **Financial Exploitation** where one person manipulates and controls the financial resources that another is dependent on, leaving them afraid of the other and amplifying trauma.
- **Bullying and Harassment** where one person feels helpless, unsafe, and humiliated because of a cycle of embarrassments, threats, and verbal or physical violence. In cases of cyberbullying it is also possible that the anonymity of the Internet adds to a sense of a constant, inescapable threat.

Six Questions to Check if Someone Feels Disempowered

- Are you comfortable speaking freely?
- Do you feel at a disadvantage for any reason?
- Is there pressure impacting your decision?
- Is there help you wish you had to feel better in the conflict?
- Are there choices you feel are not options because the consequences would be too severe?
- Do you feel hopeless or helpless in this conflict?



Be Sensitive to Diverse Experiences and Traumas Associated with Protected Classes of People

People from diverse backgrounds have different levels of exposure to trauma and different ways that they may experience trauma. It is not our place to make guesses, assumptions, or predictions about peoples' experiences and reactions based on our perception of their culture, background, or identity. Rather, this resource helps you develop a perspective of general openness and awareness toward diversity groups.

Trauma Experiences Affect Every Individual Differently

- The objective severity of the trauma is not all that determines the trauma response how people experience it also affects it.
- Diversity identities (i.e., culture, ethnicity, gender, sexual orientation, disability, etc.) enrich all of our lives. They can also expose people to chronic stressors such as stigma, discrimination, and oppression, which can increase psychological trauma.
- Cultural differences can also manifest in the perception and interpretation of traumatic events, and the perceptions of trauma can be subjective.

People Have Different Beliefs About If, When, And How Trauma Occurs, Whether To Seek Help, And How To Resolve It

- Because traumatic experiences vary across cultures, individuals from different cultures and subcultures may use different idioms of distress. Their reactions may be different than what you might expect from your culture and experiences.
- It is important to practice **cultural humility** (reflecting on power imbalances and differences across culture, respecting other cultures, and being open to other perspectives).
- **Cultural competence** means being sensitive and careful not to act on stereotypes and assumptions. This includes being aware of historical circumstances affecting cultural groups (such as structural racism) and being prepared for defensiveness or other reactivity in cross-cultural interactions, educating oneself about different cultures, and being culturally sensitive.

According to SAMHSA, some causes of trauma may include:

- Abuse Emotional, Sexual, Physical, Institutional, Domestic violence, Bullying, Witnessing violence
- Loss Death, Abandonment, Neglect, Separation, Natural disaster, Accidents, Terrorism, War
- Chronic Stressors Poverty, Racism, Underemployment, Community trauma, Historical trauma

Seven Strategies for Cultural Competence and Sensitivity

- Have a broad conception and be open-minded as to what diversity is
- Question your own stereotypes and assumptions
- Take steps to prevent and mitigate bias
- Earnestly listen to peoples' stories and validate their perspectives
- Acknowledge there may be systemic barriers and challenges
- Take a holistic, empowering approach
- Be prepared to ask the same question in different ways.





Becoming Bias-Resistant on a Daily Basis



Use Accessibility Principles

to Make Your Practices Welcoming, Inclusive, and Usable for All

People come to us from all backgrounds and ability levels. One goal is to ensure that we provide services in ways that are welcoming, inclusive, and accessible to everyone. This checklist reviews principles of universal design to help make your practices accessible.

Being **accessible** means anticipating that anyone may have disabilities or other needs, and designing our practice to be functional for people who have different abilities and without their having to disclose. It means giving equitable access to everyone along the continuum of human ability and experience. Note that many disabilities are **invisible**, and it is important we do not assume someone's ability level or ask invasive questions probing the nature or severity of their possible impairments. These **universal design** principles can help make your process accessible:

I. Equitable Use

How do you ensure your practices are appealing and usable for all participants? How do you avoid practices that segregate and stigmatize the participant?

II. Flexibility In Use

How do you ensure your practices accommodate a wide range of individual preferences and abilities?

III. Simple And Intuitive In Use

How do you ensure your practices are easy to understand regardless of the user's experience, knowledge, language skills, concentration level, abilities, etc.?

IV. Perceptible Information

How do you ensure you are communicating necessary information effectively regardless of ambient conditions or the participants' abilities?

V. Tolerance For Error

How do you ensure your practices minimize hazards and consequences of accidental or unintended actions?

VI. Low Effort

How do you ensure your practices don't require too much exertion for the parties? (including intense amounts of effort to maintain composure).

VII. Appropriate Space

How do you ensure there is a comfortable and supportive environment?

A Note About Reasonable Accommodations

In many situations, the Americans with Disabilities Act and other local, state, and federal laws give people with disabilities the right to ask for reasonable accommodations (adjustments to how we normally provide our services). This is relevant when we have failed to provide accessibility features and the person feels a need to exercise their legal rights to ask for changes. Because courts are components of government, they are public entities, and therefore under Title II of the Americans with Disabilities Act must ensure that their services, programs, and activities are accessible to people with disabilities. Courts must make reasonable accommodations when necessary, unless doing so constitutes an undue administrative or financial burden, or fundamentally alters the nature of the court's programs, services, and activities.



Have Equitable E-mail Practices that are Responsive, Friendly, and Thorough

Research shows that e-mail responses are often biased based on race, gender, and other diversity categories. Disfavored groups may receive no response, less thorough responses, or less friendly tones. The checklist below can be used to help you be consistent when you e-mail to avoid inadvertent discrimination.

Prom	pt		
	Do you acknowledge receipt? How long is the longest you expect someone to wait for a response? Do you let people know when to expect a response?		
	How do you prioritize who to answer first, or who to answer faster?		
	Are you answering the questions that are being asked? Are you removing tangential information? If you are unable to answer a question, are you letting the recipient know why? If you can answer a question with more research, are you letting the recipient know? Are you avoiding assumptions such as gender pronouns?		
	Did you include all of the appropriate information to answer the inquiry? Did you explain any boundaries limiting the scope of your response?		
Reada	able		
	Are you organizing your message into multiple paragraphs or bulleted lists to facilitate readability?		
	Are you explaining acronyms, terms of art, or other confusing language? Are you keeping your audience's comprehension in mind?		
Acces	sible		
	Is your e-mail content accessible, usable, and readable for individuals with disabilities?		
	Can a person with a mobility impairment navigate the content using a keyboard only?		
	Do images contain alternative text describing them for blind individuals who use screen readers?		
	Are your attachments (e.g., PDF files, graphs, charts, etc.) accessible using a screen		
_	reader or merely scanned images?		
Ш	Do your videos and other content contain captions for deaf individuals?		
	Accessibility References 13 Ways to Create Accessible Emails Enjoyed by All - Litmus		
	☐ Creating accessible emails AbilityNet		
	☐ Email Accessibility Best Practices Accessible Email Guidelines (emailonacid.com)		
	Email Accessibility - How to Craft the Perfect Accessible Email (uplers.com)		
	 ☐ Make your Outlook email accessible to people with disabilities (microsoft.com) ☐ How to Make Your Emails Accessible: A Concise Guide InsideTechno 		
	Create and verify PDF accessibility. Acrohat Pro (adohe com)		



Be Careful with Identity Comments to Avoid Microaggressions

A comment or gesture related to someone's identity may unintentionally be a **microaggression** if it contains implicit, embedded negative assumptions about a marginalized group. This worksheet helps you prevent inadvertent microaggressions by being careful any time you make an identity comment.

Microaggressions Are Damaging

- A microaggression may contain stigmatizing, disempowering, and prejudiced ideas about a marginalized group of people such as race, gender, disability, religion, sexual orientation, age, or other categories. They can be hurtful, traumatic, and offensive.
- Microaggressions reflect a lack of awareness of the experiences of marginalized groups, and stem from implicit bias — the assumptions and stereotypes everyone carries.

It's Hard to Realize Identity Comments Contain Microaggressions

- People who participate in microaggressions don't always realize what they are saying or doing and are often well-intentioned, with friendly or positive-seeming sentiments. However, their words, behaviors, and actions include assumptions about someone's background and send the message that members of the marginalized group are outsiders who don't fully belong.
- Because microaggressions tend to take the form of jokes, casual remarks, or innocent questions, they often go unchallenged.
- The negative sentiments in a microaggression could rise to legal liability if they become part of harassment, hostile work environment, or discrimination claims.

Questions to Ask Yourself to Notice Inappropriate Comments or Actions Related to Someone's Identity

Did someone make a comment or take an action containing an implicit message implying any of the following is associated with a marginalized identity?
Dangerousness Inferiority Helplessness Infantilization Treated Like a Burden Minimization of Seriousness of their Experiences Social Undesirability or Exclusion
Did someone ask a question that invaded someone's privacy by seeking information about their diversity background?
Is there a screening process to deny access to services, or provide different services, based on a person's identity background?
Is someone providing unequal treatment relative to another person based on their belief or knowledge of the person's diversity background?
Are you careful to notice when you are making comments that are related to someone's identity, ability level, or cultural background?
Have you translated any possible identity-related comments into an identity you are sensitive to in order to check if it may be more offensive than you realized?



Understand Improper Disability Inquiries

and Other Inappropriate Questions

Sometimes innocent-seeming questions can be problematic because they are invasive to people from certain diversity backgrounds. The Americans with Disabilities Act protects people with disabilities from fielding unnecessary disability inquiries. Inquiries about diversity backgrounds can also be evidence of discrimination under other laws.

Many people are uncomfortable and don't know how to interact with people with disabilities or people from other cultures and backgrounds. They inadvertently ask things that are offensive, rude, insensitive, or embarrassing and they make the person feel uncomfortable. This worksheet illustrates questions to avoid asking by sharing examples from the Equal Employment Opportunity Commission (EEOC) and Fair Housing NYC:

Guidance About Disability Inquiries (From EEOC)

Impermissible inquiries may include:

- Asking whether someone has (or ever had) a disability
 Questions that are not likely to elicit information
- Asking how someone became disabled
- Asking about the nature or severity of a disability
- Asking for medical documentation
- Asking someone else about their disability
- Asking about genetic information
- Asking about prior workers' compensation history or other disability-related benefits and services
- Asking about the use of medications or other forms of medical treatment
- Asking broad questions about someone's impairments (ex. What impairments do you have?)

Permissible inquiries may include:

- Questions that are not likely to elicit information about someone's disability
- General questions about well-being (ex. How are you?)
- Questioning an employee about drinking or using illegal drugs
- Questioning an employee about whether they can perform job functions
- Asking for an emergency contact person's information
- Asking a pregnant person when their baby is due

Example Questions That May Be Evidence of Discrimination (From Fair Housing NYC)

- Do you have a disability?
- What is your religion?
- How old are you?
- Where were you born?

- Are you gay?
- Are you married?
- What is your race

Avoiding Asking Inappropriate Questions

- ☐ Are you careful when asking someone to share private information related to their identity?
- ☐ Are you exercising care to notice when you are asking any questions about someone's identity?
- ☐ If you are asking questions about someone's abilities and limitations, are they necessary and permissible?





Responding to Challenges

with Unbiased Procedures



Respond to Challenging Behaviors

Consistently, Safely, and Without Acting on Backstories

When emergencies, disruptions, and disconnects occur, it can be hard not to act on gut feelings, which often may be biased based on race, gender, sexual orientation, disability, or other identity groups. This worksheet outlines ways to be prepared to respond consistently and safely to challenging behaviors.

Step 1: Ignore Any Backstories You Are Imagining

- You may form ideas and labels as to who this person is or what is causing their behavior. That is human nature even though it is often biased and improper to act on.
- Remind yourself that it is not helpful to profile a person or make guesses about their backstory to
 explain the behavior, and that incorporating a backstory into your intervention may seem biased or
 may be counterproductive to addressing the behavior.

Step 2: Be Specific About The Behavior

- List all of the problem behaviors using language that is objective, unemotional, and neutral. Avoid using generalizations like "delusional," "angry," or "aggressive" and focus on the specific details of each behavior.
- When you finish the list, rank them in order of most serious to least serious, and put a star next to
 each one that is the reason that you need to take action so you are clear which behaviors are
 violations of laws, policies, or norms.
- Now write a statement for the most serious behavior explaining why it is a problem: Describe how it is your role to address it. What steps you are going to take? How can you ensure they match how you would treat others?

Step 3: Evaluate the Behavior Based on Universal Criteria

- Reflect on your normal values and policies.
- Ask yourself what the general criteria are for when this kind of behavior is a problem.
- Ask yourself what the typical response is for when this kind of behavior is a problem.
- If there is no normal way of handling this behavior, plan one using the 5-step framework below:







Use Behavior-Based Capacity Criteria to Address Capacity Concerns without Stigmatizing Conditions

Sometimes you may question whether someone has the capacity, or ability, to make their own decisions. Basing this analysis on their possible health conditions or disabilities can be a form of inadvertent discrimination. Instead, use this tipsheet to apply behavior-based criteria.

Key Reminders About Capacity

- Capacity is decision-specific. It can be affected for non-medical reasons (such as intimate partner violence, or just having a bad day)
- It is not your role to inquire into someone's undisclosed medical condition, or the severity of a disclosed one. Focus on how observed behaviors impact your professional process as opposed to clinical assessments.
- Capacity assessments are biased, especially when we disagree with the person or find them unpleasant.
- Screen everyone the same way either as part of a universal process or with consistent criteria.

Behaviors That May Indicate Diminished Decisional Capacity

i. UNDERSTANDING: Are there signs they aren't comprehending relevant information?

- Not showing an awareness or inclusion of new information that arises in the conversation
- Repeating questions that were already answered without acknowledging they had been discussed
- Not demonstrating a way of distinguishing differences between different options

ii. REASONING: Are there signs they aren't comparing alternatives in a rational manner?

- Shares inconsistent or nonexistent logic when explaining positions
- Appears to randomly or superficially agree or disagree with options without expressing a rationale
- Nonresponsive to questions asking for their reasons for their choices or beliefs

iii. APPRECIATION: Are there signs they aren't relating information to their situation?

- Asks questions that evidence not applying information to their personal situation
- Nonresponsive to questions about applying information to their personal situation
- Not expressing differences between how alternative options relate to their personal situation

iv. CHOICE: Are there signs they aren't conveying a consistent decision?

- Agrees to mutually exclusive options
- Does not express any decisions at all
- Expresses choices that are inconsistent from moment to moment

Some Possible Next Steps When There Are Capacity Concerns

Different organizations have different practices regarding capacity concerns. Be transparent in disclosing your role, what behaviors trigger your process for addressing capacity concerns, and that you are following the same consistent behavior-focused protocols you use with any other party.



Respond Effectively to Complaints

About Stigma, Microaggressions, and Discrimination

Sometimes we may find ourselves accused of having stigmatized someone, or having perpetrated a microaggression or discrimination. This worksheet provides steps for responding to such an accusation with an open mind to learning from feedback and a focus on de-escalating the interaction.

focus on de-escalating the interaction.
One way to take responsibility for microaggressions or clear up misunderstandings is to use a 4-step Listen, Validate, Explain, and Ask method:
□ Listen
"I did not realize what I was saying was upsetting. Please tell me more about how you feel."
□ Validate
"I was not aware of the impact of what I was saying, so thank you for helping me understand how my words affected you."
□ Explain
"I try to do my best to recognize unconscious biases and prevent them from impacting my behavior. I have taken trainings and I use tools to help me be careful in how I speak and fair in my practices."
□ Ask
"I am always trying to learn. Do you have any feedback about how I can do better in the future?"
Write notes about ideas to improve communication with others below:



Practice Self-Care

to Cope When Experiencing Secondhand, Vicarious Trauma

Professionals working with trauma survivors can experience **vicarious trauma**, or **secondary traumatization**, from their exposure to the traumatic stories and experiences of others. They can also experience **compassion fatigue** (a gradual lessening of empathy over time) and **burnout** (emotional exhaustion and disillusionment). Self-care can help cope with trauma and mitigate these problems.

Self-Care may involve any of the following coping activities:

- **Mindfulness Techniques** to help feel grounded and relaxed, including meditation, deep breathing, progressive muscle relaxation, and focusing on your senses or trying positive affirmations and gratitude practices
- **Professional Help** through therapists and other mental health professionals provided by employee assistance plans, your health insurance, or on your own
- **Healthy Lifestyle Habits** focused on having consistent structures and routines, a balanced diet, regular exercise, and a restorative sleep regimen
- **Self-Reflection and Self-Expression** through creative outlets as part of therapy practices or as part of personal self-care
- **Informal Support** through networks of colleagues, friends, family, and support groups or other communities

Boundaries can help you anticipate when you might be exposed to traumatic experiences in the course of your work, and have appropriate limits and structure around these exposures. Something may cross a boundary when it takes too much time and hits a time constraint, requires too many resources and hits a resource constraint, is outside the scope of your role and hits a role constraint, or is illegal. Boundaries should be informed by professional ethics, the policies of your organization, and – when you have discretion – your personal preferences.

Setting a Boundary

Identify the prompts of when the behavior crosses a boundary using the chart below:.

Within Boundaries	
Approaching Boundaries	
Crossing Boundaries	

