

An illustration of a diverse crowd of people, all wearing face masks. The people are rendered in various colors and styles, representing different ethnicities and ages. The background is a solid dark blue. The text is overlaid on the left side of the image.

CRISIS MANAGEMENT FOR COVID-19

Week 14: Legal and Regulatory Changes & Crisis and Workplace Culture

*Presented by:
Hanna Resource Group and
Morris & Morris, PSC*

INTRODUCTIONS



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WHAT WE'LL COVER

1

Legal &
Regulatory
Updates

2

Crisis and
Workplace
Culture



Another Opportunity for Hope!

Donation Update

Non-Profit	Amount
Coronavirus Relief Fund	\$550
Arts Resilience	\$320
Nourish Lexington	\$1370
Mayor's Fund for Greater Good	\$420
TOTAL	\$2660

**A special thank you to Morris & Morris, PSC and KEMI
for making these donations possible!**



1

Legal Updates – New EEOC Guidelines



James M. Morris, Esq.
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EEOC says not so fast! Pulls the reins back on COVID-19 Testing! (6/17/2020)

Disability-Related Inquiries and Medical Exams

A.7. CDC said in its Interim Guidelines that antibody test results “should not be used to make decisions about returning persons to the workplace.” In light of this CDC guidance, under the ADA may an employer require antibody testing before permitting employees to re-enter the workplace? (6/17/20)

No. An antibody test constitutes a medical examination under the ADA. In light of CDC’s Interim Guidelines that antibody test results “should not be used to make decisions about returning persons to the workplace,” an antibody test at this time does not meet the ADA’s “job related and consistent with business necessity” standard for medical examinations or inquiries for current employees. **Therefore, requiring antibody testing before allowing employees to re-enter the workplace is not allowed under the ADA.** Please note that an antibody test is different from a test to determine if someone has an active case of COVID-19 (i.e., a viral test). The EEOC has already stated that COVID-19 viral tests are permissible under the ADA.

1 PPP Update

*Buyer Beware! Personal details being released!
(6/19/2020)*

On June 19, 2020, the SBA and U.S. Treasury issued the following declaration:

SBA will disclose the business **names, addresses, NAICS codes, zip codes, business type, demographic data, non-profit information, jobs supported**, and loan amount ranges as follows:

\$150,000-350,000

\$350,000-1 million

\$1-2 million

\$2-5 million

\$5-10 million

These categories account for nearly 75 percent of the loan dollars approved. For loans below \$150,000, totals will be released, aggregated by zip code, by industry, by business type, and by various demographic categories.

1 COVID-19 Legal Update

U.S. District Court Precludes Enforcement of Non-Compete (6/15/2020)

In a new case, the United States District Court for the Eastern District of Pennsylvania, *Schuylkill Valley Sports, Inc. v. Corporate Images Co.*, 2020 U.S. Dist. LEXIS 103828 (E.D. Pa. June 15, 2020), denied a motion to temporarily restrain an employee laid off due to the COVID-19 pandemic from competing against his former employer.

The Pennsylvania court concluded that the COVID-19 layoff, while characterized as a temporary “furlough” by the employer, was actually a termination. In balancing the equities, the district court decided that **the public interest did not favor an injunction prohibiting competitive employment when the United States was facing the highest unemployment rates in more than seven decades.**

The impact of this decision is not yet clear the employee in this case had a non-compete that did “not apply in situations where, through no fault of the Employee, the position is eliminated[.]”

However, the focus of the Court upon the current economic climate could foretell attempts by other employees around the country to fight against enforcement of non-compete clauses during COVID-19

On June 15, 2020, the United States Supreme Court issued a decision in three consolidated cases: *Bostock v. Clayton County, Georgia*, No. 17-1618; *Altitude Express Inc. v. Zarda*, No. 17-1623; and *R.G. & G.R. Harris Funeral Homes Inc. v. EEOC*, No. 18-107

The implications for workplaces across the country is significant. The decision requires reversal of many measures that effectively allow sexual orientation or gender identity discrimination.

The Court ruled Title VII's ban on "sex"-based discrimination prohibits discrimination based on sexual orientation. It also ruled Title VII prohibits discrimination against transgender claimants based on their transgender status: ***"When an employer fires an employee for being homosexual or transgender, it necessarily intentionally discriminates against that individual in part because of sex [in violation of Title VII]."***

By finding Title VII bars workplace discrimination on the basis of sexual orientation and gender identity, the Court's decision effectively extends that prohibition to state and local jurisdictions that were silent on the topic or explicitly allowed such discrimination.

Deferred Action for Childhood Arrivals (DACA) Continues

On June 18, 2020, the U.S. Supreme Court ruled that the Deferred Action for Childhood Arrivals (DACA) can continue, at least temporarily, based upon violation of the Administrative Procedures Act (APA). [Department of Homeland Security v. Regents of the University of California](#), No. 18-587

Based upon this ruling, DACA beneficiaries do not face immediate risk of losing status, allowing them to continue to live and work in the United States under the DACA program.

The Supreme Court held, however, that “[t]he dispute before the Court is not whether DHS [Department of Homeland Security] may rescind DACA. All parties agree that it may. The dispute instead is primarily about the procedure the agency followed in doing so.”

“We do not decide whether DACA or its rescission are sound policies. ‘The wisdom’ of those decision ‘is none of our concern.’ ... **We address only whether the agency complied with the procedural requirement that it provide a reasoned explanation for its action.** Here the agency failed to consider the conspicuous issues of whether to retain forbearance and what if anything to do about the hardship to DACA recipients.”

Like many SCOTUS Decisions, this fails to address the legality, but, instead, focuses upon a technicality. While it allows for temporary clarity to employers of DACA recipients, now the matter will potentially be addressed by Congress or by the Administration rescinding the program on more clear grounds.

Questions & Answers





2

Crisis and Workplace Culture



Michelle Hollingshead
Founder, Impact

CRISIS AND WORKPLACE CULTURE





MICHELLE HOLLINGSHEAD, M.Ed., PCC

EXPERTISE

- Organizational culture change
- Executive coaching
- Leadership + team development
- Inclusive workplaces
- Mindfulness and stress management

GUIDING PRINCIPLES

- Be grateful + generous
- Be trustworthy
- Do your best
- Have a good cause

IMPRINT

The background of the image is a microscopic view of several spherical virus-like particles. These particles are covered in numerous small, protruding spikes or glycoproteins. The overall color palette is a mix of teal, light blue, and white, with a slightly grainy, high-magnification texture. The particles are scattered across the frame, with some appearing more prominent than others.

THE WORLD IS
CHANGING
FASTER
THAN EVER.

WE LIVE IN A VUCA WORLD

V

olatile

U

ncertain

C

omplex

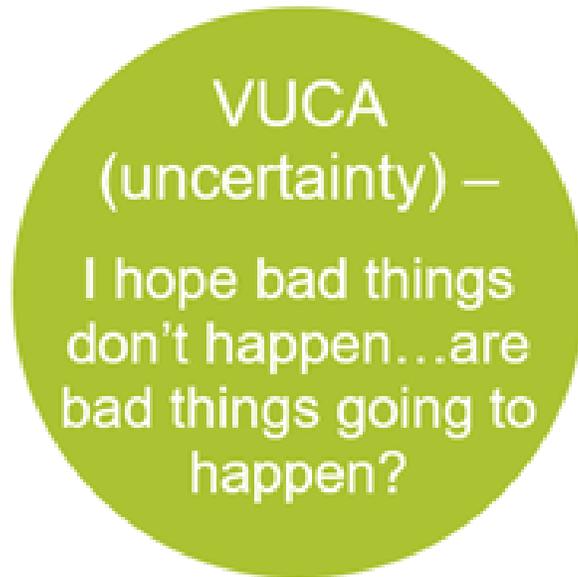
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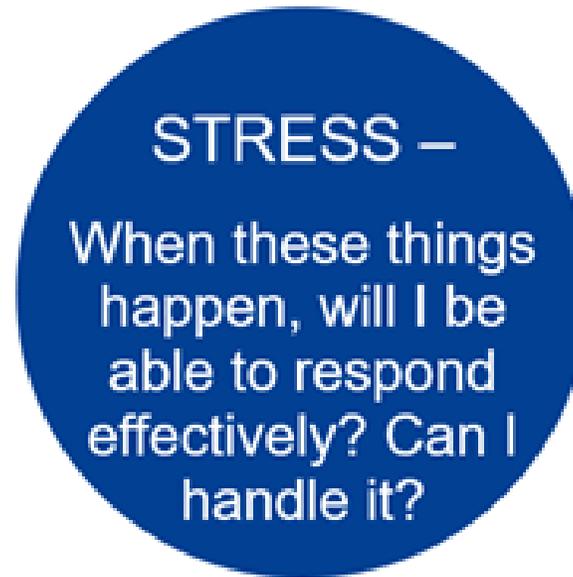




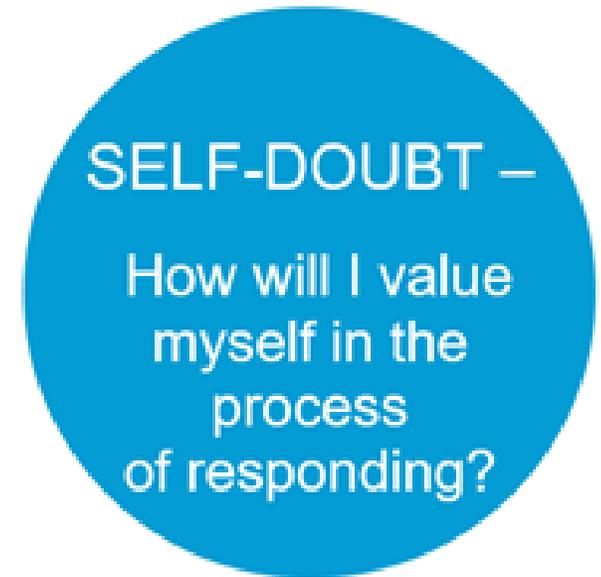
“AMYGDALA HIJACK” TRIGGERS



Fight for certainty



Fight for control



Fight for self-worth

WHAT IS CULTURE?

CULTURE IMPACTS PERFORMANCE

HAVE

- Market share
- Profitability
- Customer satisfaction

Visible

DO

- How we work every day
- Coordination/implementation
 - Negotiation
 - Communication

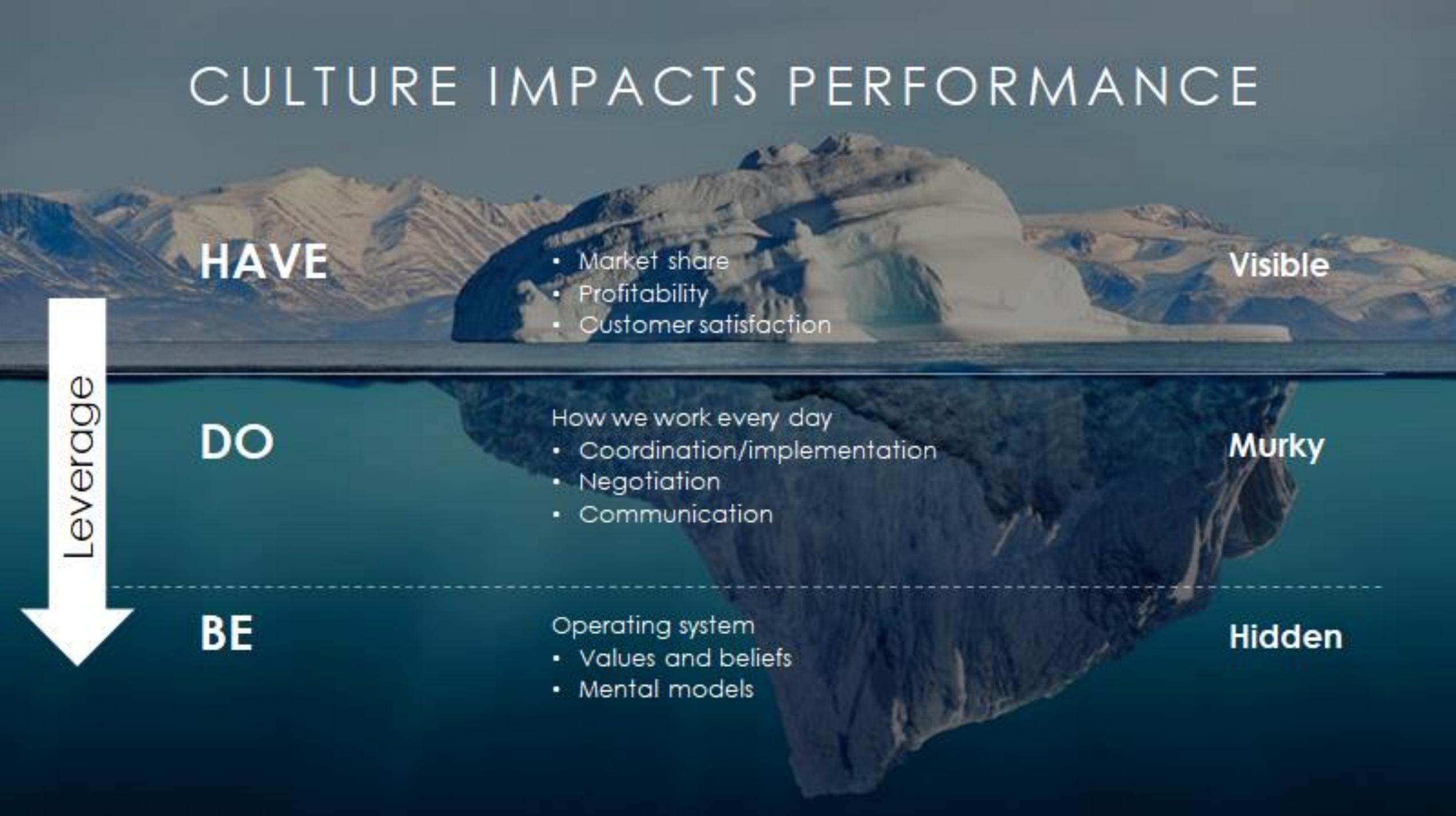
Murky

BE

- Operating system
- Values and beliefs
 - Mental models

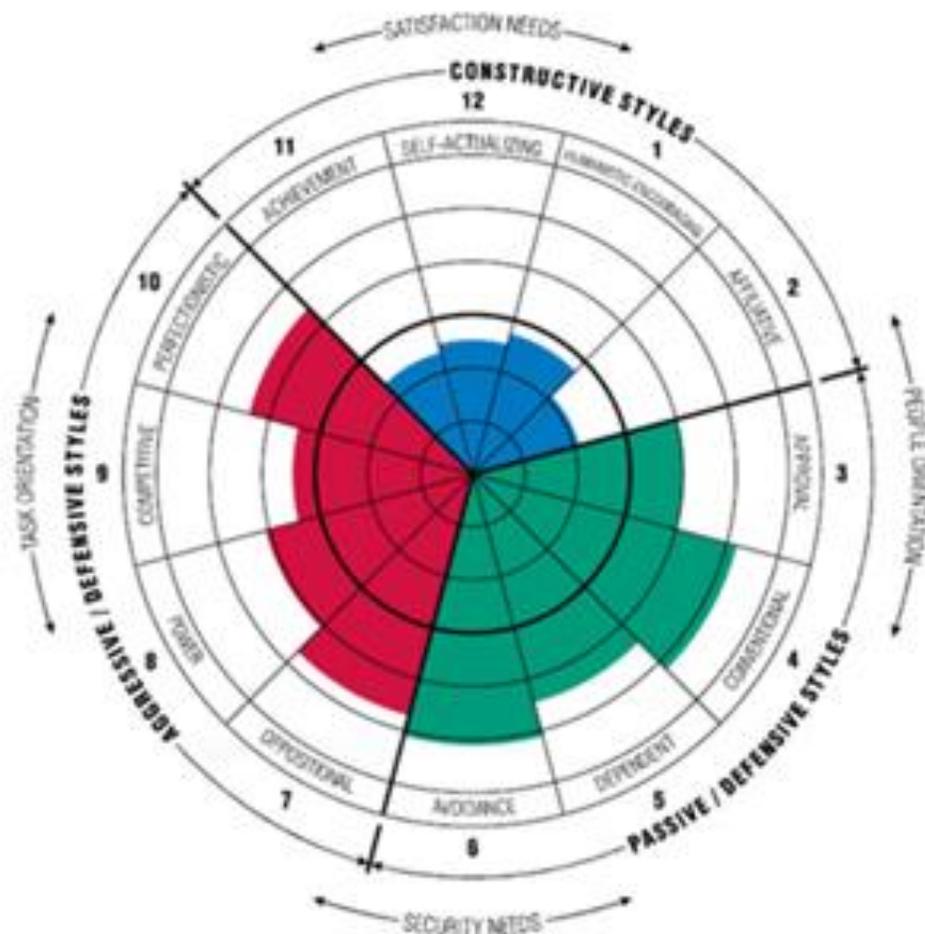
Hidden

Leverage



CONSTRUCTIVE VS. DEFENSIVE CULTURE

The Electronic Disintegration of Interpersonal Processes



Research and development by Robert A. Cooke, Ph.D. and J. Clayton Lafferty, Ph.D.
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PSYCHOLOGICAL SAFETY IS A BELIEF THAT ONE WILL NOT BE PUNISHED OR HUMILIATED FOR SPEAKING UP WITH IDEAS, QUESTIONS, CONCERNS OR MISTAKES."

AMY EDMONDSON

HARVARD BUSINESS SCHOOL PROFESSOR

WHAT CAN MANAGERS AND LEADERS DO?

- Check-in (meetings and self)
- Regulate and constructively redirect your behavior
- Be seen – video conference
- Focus on a unified sense of purpose
- Keep objectives realistic
- Be willing to adjust and adapt as new information is available
- Encourage discussion of alternative perspectives to stimulate thinking
- Highlight job significance
- Establish feedback loops
- Express appreciation

QUESTIONS



CONNECT WITH ME

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Questions & Answers



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