

**Evaluating Employees Following FMLA Leave:  
Negative Personality and Financial Biases  
Against LGBT Employees**

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### **Abstract**

The current research examines justice perceptions related to the Family and Medical Leave Act of 1993 (FMLA) and the LGBT community. Undergraduate and graduate students were asked to role-play as a manager in an organization where an employee has requested leave for the adoption of a child. In this 4 (sexual identity: heterosexual, homosexual, transgender, no information) x 2 (outcome: high success, low success) design, participants completed evaluations designed to measure attitudes towards the employee and her decision to take leave. A main effect for success was found across several dependent variables indicating employees in the low project success group received more harsh judgments. An interaction for sexual identity and success indicated that homosexual and transgender individuals received significantly less bonus money than other groups. These results suggest that managers may not be directly discriminating against members of the LGBT community, but may have a subtler negative bias.

## **Evaluating Employees Following FMLA Leave: Negative Personality and Financial Biases Against LGBT Employees**

### **Review of Current Literature**

#### **Organizational Justice**

Research on organizational justice is currently a prominent area of interest in Industrial/Organizational psychology, as researchers are coming to see the importance of justice dynamics—how employees feel they are treated by their firm with respect to qualities such as fairness, dignity, and respect—on the behaviors of managers and employees and ultimately organizational outcomes. Organizational justice is comprised of three unique types of justice perceptions: procedural, interactional, and distributive justice (Greenberg, 2009). Procedural justice involves fairness in how resources are distributed (consistency, accuracy, bias suppression, etc.); interactional justice involves fairness in how outcomes and procedures are explained; and distributive justice involves fairness in the distribution of resources, tangible or intangible (Greenberg, 2009).

For example, if a firm to implement a new policy in which the number of breaks an employee could take was more strictly limited and enforced, one would expect employees to be disgruntled. However, employees' reactions are heavily influenced by their justice perceptions; while they may not be particularly pleased with the content of the new policy, their reactions will be more positive if the firm is deliberate in enforcing the policy consistently for each employee (procedural justice), informs the employees of the reasoning behind the policy in a respectful manner (interactional justice), and ensuring that every employee receives the same number and duration of breaks (distributive justice). The design of this study will focus primarily on

procedural and distributive justice by gathering data on the consistency of FMLA enforcement and resource allocation across employee sexuality.

It is important to note that organizational justice places importance on justice perceptions, as these may affect employee performance and reflect unfair or exclusive company policies. In recognizing organizational justice, it behooves a firm to emphasize the values of each individual employee's justice perceptions, not just a firm's self-evaluation of its justice philosophy.

Masterson (2001) demonstrates this notion using a trickle-down model of organizational justice. Under this model, employees demonstrate higher levels of organizational commitment when they perceive higher distributive and procedural justice (Masterson, 2001). In turn, customers react more positively toward the organization. It is easy to see the practical value of this data, particularly in service industries: In treating employees fairly, employees are more devoted to treating customers more favorably or completing their tasks to a higher quality, giving customers the best possible experience. Therefore, it would behoove organizations to be sensitive to their employees' experiences of justice within the company.

Because of the implications of current organizational justice research, the following discussion leans upon the importance of justice perceptions in examining the challenges of the LGBT community in the workplace and the limitations of the Family and Medical Leave Act. As the nature and design of the current study is delineated, the concept of justice perceptions will be used to marry the literature of the two topics of FMLA limitations and LGBT workplace rights. In addition to the support of equal rights for individuals of all sexual identities, it is worthwhile to explore FMLA as a potential host for organizational injustices for the LGBT community because organizational justice research suggests that both employee performance and firm outcomes may suffer as a result of poor justice perceptions. To clarify this stance, the following

is a review of current literature surrounding the LGTB community—in general and with respect to the workplace—and Family and Medical Leave Act, followed by an introduction to the current study.

### A Brief Overview on Issues Concerning the LGBT Community

While it is difficult to obtain precise data, it is estimated by several national studies that 3.5% of the adult population in the United States identifies as lesbian, gay, or bisexual, and 0.3% of the population identifies as transgender (Gates, 2011). These may seem like small proportions of the total population, but such numbers equate to approximately nine million people, or roughly the population of New Jersey (Gates, 2011). At times, certain aspects of day-to-day life can be challenging for some members of the LGBT community due to the heteronormative society that we live in. Social rejection and various forms of discrimination, violence, and economic disparity have been recorded as consequences of not following gender binaries (Bullough, 2000; Carroll, 2010; Sjoberg, Walch, and Stanny, 2006).

Because most Americans spend a significant portion of their lives at work, LGBT employees face these hardships in the workplace. This has serious implications for the LGBT community as general discrimination presents significant negative psychological consequences such as substance abuse, lower self-esteem, lower sense of competence, and a lower sense of control—all of which affect personal and professional life (Stacey and Lundberg-Love, 2012). Transgender employees have reported quitting their jobs because of incidents of discrimination; further, gender identity discrimination under the Minority Stress model suggests that discrimination is positively correlated to psychological distress, anxiety, depression, and suicide attempts; in other words, the Minority Stress model makes it evident that when LGBT employees experience discrimination-based stress at work, this stress is likely to permeate and negatively

affect functioning in other arenas of their lives (Gagné, Tewksbury, and McGaughey, 1997; Ruggs, Martinez, Hebl, and Law, 2015). Furthermore, legal protections for certain LGBT individuals are not comprehensive. Currently, the United States has failed to pass a federal anti-discrimination act that would explicitly protect sexual minorities. Nineteen states in addition to the District of Columbia have passed state protections, but for individuals in the other 31 states, discrimination claims are currently handled on a case-by-case basis. These claims rely mainly on the case *Macy v. The Department of Justice*, in which the Equal Employment Opportunity Commission (EEOC) that discrimination of an employee on the basis of sexual identity violates Title VII of the Civil Rights Act of 1964 (Stacey and Lundberg-Love, 2012; “What you should know,” n.d.). Overall, this demonstrates that LGBT individuals are short-handed when it comes to legal protections as they enter the workforce. In the following section, literature will be presented to highlight how sexual identity discrimination is ever-present in the workforce, leading to disparities in well-being and job outcomes for LGBT employees.

When examining this issue, we see that the United States displays a history of victimization and differential treatment of sexual minorities in and out of the workplace, with sub-par legal protections. As will be discussed later, workplace culture additionally contributes to perceived discrimination as well as how existing workplace supports are utilized. Because to the lack of existing legal supports for sexual minorities, the current study seeks to discuss the utility of an existing legal support that was designed to provide support to employees of all gender and sexual identities: the Family and Medical Leave Act of 1993. Further, the study focuses on managerial-based discrimination in order to gather data on the interpretation and implementation of the law. The following is a review of literature to highlight the relevance of

Family and Medical Leave Act for study and the prevalence of differential work experiences for LGBT employees, ultimately revealing the need for a union of these two research topics.

### Family and Medical Leave Act of 1993

The Clinton administration signed the Family and Medical Leave Act (FMLA) into law in 1993, requiring employers to provide up to 12 weeks per year of job-secure, unpaid leave to eligible employees for certain family and medical purposes. If an employee submits a valid request for leave under FMLA, they are also entitled to maintain their insurance coverage provided by the employer. In addition to taking leave for personal and immediate family medical emergency, FMLA also covers maternity disability and parental leave for the birth or adoption of a child. A recent executive summary on FMLA states that only approximately one in six worksites are covered by FMLA, with approximately 60% of employees working for covered employers receiving eligibility for FMLA leave (Klerman, Daley, and Pozniak, 2014). While these restrictions exclude a vast number of employees, proponents of FMLA lauded it as the measure that would finally address issues concerning work and family balance.

Nearly 24 years after the implementation of FMLA, scholars have begun to evaluate how FMLA is being used and if it is accomplishing its intended goals. Naturally, it appears to be accomplishing some goals while causing some unintended consequences. For instance, Armenia and Gerstel (2005) found that gender was the greatest predictor in leave-taking. Race actually was not as large of a predictor as expected, with most significant differences lying in the white male population taking significantly less parental leave than white women and black and Latino/a individuals. Differences were less significant with medical leave, but white men became stratified from the rest with respect to parental leave (Armenia and Gerstel, 2005). Ultimately this study suggests that FMLA has not fully equalized the culture surrounding work/family

balance and that it may encourage traditional cultural values surrounding it (Armenia and Gerstel, 2005).

Armenia, Gerstel, and Wing (2013) expanded upon this study to highlight another shortcoming of FMLA. In 2005, Armenia and Gerstel demonstrated that a law cannot automatically change workplace culture. The 2013 study explains that this is in part because laws are not self-enforcing once they are enacted. Enforcement must be done by subjective, biased humans, leaving room for influence from various social, political, and economic forces (Armenia, Gerstel, and Wing, 2013). This study suggests that FMLA compliance rates, which are estimated to be between—54.3% and 76.8%—may be lower than previously believed due to the exclusion of firms that abstained from providing compliancy information (Armenia, Gerstel, and Wing, 2013). This is important because Armenia, Gerstel, and Wing found that organizations that refrain from providing compliancy information resemble noncompliant firms significantly more than they do compliant firms (2013). While it cannot be concluded with certainty the number of firms are truly noncompliant, the data does suggest that there may be an abundance of workplaces that are not providing its employees with adequate and supportive resources and environment (Armenia, Gerstel, and Wing, 2013). As a result, the Family and Medical Leave Act may not be as inclusive as intended. It is also noteworthy to consider how this research is heavily biased towards the binary, as none of the methodologies include sexual minorities. This begs the question as to how inclusive the law is for sexual minorities, laying a foundation for the current research.

What is clear from evaluating FMLA research is that the law is limited with respect to implementation by employers and usage by employees. While FMLA has the potential to make a positive—life-altering even—impact on employees' lives, current research questions whether it

is adequately reaching all of the employees that it should be. It is currently argued that there may be further concerns surrounding FMLA that previous research has not yet examined. For one, current research has been focused on the gender binary. Armenia and Gerstel (2005) suggest that FMLA is currently shaped by America's current culture surrounding the gender binary and family, with women taking more parental leave than men. Further, Armenia, Gerstel, and Wing (2013) illustrated how a law is not self-enforcing, and other factors may influence how it is implemented. Therefore, when considering the LGBT community, a number of hurdles become apparent. For an LGBT individual to qualify for FMLA coverage, they will already be in the minority of U.S. employees. Once, or if, they get to that position within a workplace, they still face the potential for the current cultural climate to influence how they may choose to enforce FMLA and treat the LGBT employee before or after utilizing leave.

Knowing these limitations of FMLA, it is now important to place FMLA in perspective with protections offered by other developed countries. The Organization for Economic Cooperation and Development (OECD) Family Database released a compelling comparison in 2015, illustrating how the United States' precedent of offering zero weeks of paid parental leave earns it a last place ranking out of 41 developed nations with respect to paid parental leave (Livingston, 2016). While the majority of paid leave is still allocated for just mothers, 31 of these 41 nations also have paid leave opportunities for fathers as well. These nationwide leave mandates are typically made possible through a system similar to Social Security that prevents the financial burden from falling completely on the employer (Livingston, 2016). See Figures 1 and 2 for an abridged illustration of paid parental leave across the world. This contextual background is important when considering research on FMLA because it makes any limitations of the law look even more obviously inadequate. It is already clear that the United States is

lagging behind most other developed nations with respect to parental leave. The current research seeks to probe FMLA further with respect to individuals’ perceptions toward the law, as there is an array of implications if the data suggests that individuals respond negatively toward this legislature.



Fig. 1 An international comparison of paid maternity leave (Peck, 2014).

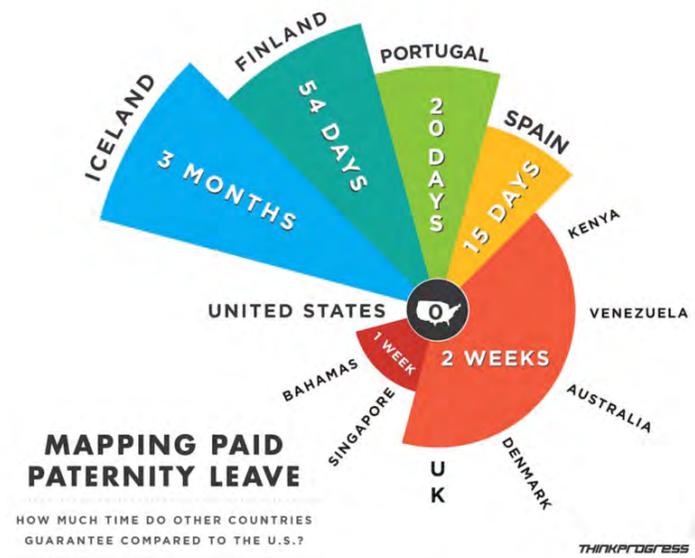


Fig 2. An international comparison of paid paternity leave (Peck, 2014).

Expanding on the aforementioned limitations, one can further hypothesize other concerns, namely with respect to more diverse populations of employees. Current research is

focused on when and how FMLA is used, but little has been done to explore what happens when employees return from their leave. If social, political, and economic factors are influencing who takes leaves, these same factors could very well affect an employee upon return to work. The current study seeks to open up dialogue regarding these possibilities. Due to the lack of current research and excess of research questions, this study could take an overwhelming number of paths with respect to employee diversity. However, it has been limited to include female employees who vary by sexual identity to include heterosexual, homosexual, and male-to-female transgender individuals. The following sections will address poignant workplace concerns for individuals who identify as homosexual or transgender and how this could overlap with concerns regarding FMLA parental leave.

### **Experiences of LGBT Individuals in the Workplace**

To say this is a loaded topic to unpack is an understatement; it would be an injustice to the LGBT community to attempt to compartmentalize the entirety of the community's experiences into one brief research discussion. What is an experience for one transgender individual may not be the same experience as another transgender individual, let alone a homosexual or bisexual individual. Thus, the purpose of this section is to highlight some of the prominent research that has explored this subject to extract current emergent themes. Though not comprehensive by any means, this discussion opens up questions that the current study seeks to contribute dialogue to, furthering our understanding of LGBT experiences and concerns in the workplace.

It is worthwhile to clearly define what is meant when the transgender community is referenced as there are many common misconceptions as to what it means to be transgender. Current literature uses *transgender* as an umbrella term to describe individuals who identify with

gender roles, expressions, and expectations that are different from those of their assigned sex (Gates, 2011). The term may also include individuals who are *intersex*, meaning they are born with ambiguous genitalia; this occurs in approximately one in every 2,000 births (O’Neil, McWhirter, and Cerezo, 2008). Therefore, this definition is contingent upon self-identification, and does not necessitate hormone therapy, surgery, or legal names changes—though some transgender individuals choose to pursue these routes as a means of “transitioning” genders. Therefore, the current study does not make an effort to give excessive detail to the participant regarding the hypothetical employee’s expression of sexual identity. The focus lies in the employees’ self-identification.

What is suggested by current research is that the LGBT community does experience workplace discrimination in many forms. One study conducted by Brown et al. reported that between 16% and 43% of lesbian, gay, and bisexual individuals express having experienced discrimination at work (2012). In a 2012 meta-analysis, Katz-Wise and Hyde reported that 55% of lesbian, gay, and bisexual individuals have experienced verbal harassment at work, whereas 41% have experienced discrimination. Following suit, a study conducted by Ruggs, Martinez, Hebl, and Law (2015) found that around 20% of transgender employees reported having experienced workplace discrimination, Minter and Daley (2003) reported 50% of transgender employees facing harassment, and, finally, Brewster, Velez, Mennicke, and Tebbe (2014) reported at least 80% of transgender employees report experiencing discrimination, whether it be overt or covert in nature. Examples of such harassment include the refusal of coworkers to recognize the employee’s preferred pronouns, harassment when using the restroom that matched the employee’s identity, and the refusal of a company from allowing the employee to wear a uniform that matched their identity (Minter and Daley, 2003).

Overall, we see varying levels of reported harassment across studies, but harassment is always heavily reported nonetheless. These varying levels may be due to a variety of reasons, including how harassment was defined by the researchers and participants, how sensitive the participants are, and how representative the dataset is. While it may be difficult to pinpoint the most accurate statistic regarding workplace harassment in the LGBT community, the data still suggests that harassment is pervasive, affecting anywhere from a fifth to over half of the community.

This is compelling data because such discriminatory workplaces yield negative consequences. When employees are at risk of facing stigma and discrimination, this can affect their internal perceptions of their workplace, increasing levels of distress and fear of identity disclosure (Sjoberg, Walch, and Stanny, 2006). Furthermore, it can increase the risk of workplace isolation, which can result in missed opportunities for workplace collaboration and lowered workplace productivity (O'Neil, McWhirter, and Cerezo, 2008). Brown et al. (2012) used a qualitative approach to understand career experiences of male-to-female transgender individuals and found that participants actively sought out vocational change after transitioning. Participants explained that they left their male-dominated careers to seek out female-dominated careers for fear of being discriminated against and not fitting in. These participants also expressed facing difficulties obtaining a job after starting the transition process, indicating potential career barriers because of one's transgender status (Brown et al., 2012).

Ultimately, research has indicated that both actual discrimination and perceived discrimination in the workplace has negative consequences for the LGBT community. This appears to be caused by a culture of ignorance that permeates many workplaces. For instance, O'Neil, McWhirter, and Cerezo (2008) argue that negativity towards the transgender community

in the workplace is due to a lack of awareness and understanding of the transgender identity and their needs; phobic attitudes or general ignorance causes harassment or mere aloofness towards transgender employees. However, there are ways that workplaces can reduce such negativities; Ruggs, Martinez, Hebl, and Law (2015) found that external supports—such as company-implemented inclusivity policies—help reduce perceptions of discrimination. Further, coworker reactions were the most salient factor in predicting employees' openness regarding their sexuality (Ruggs, Martinez, Hebl, and Law, 2015). Therefore, while the current workplace environment may not be optimal to many LGBT employees because of over and covert discrimination, it is within a workplace's power to make improvements to meet the needs of a more diverse workforce, ultimately improving coworker relations and overall productivity.

In sum, while the typical American workplace may not be as inclusive as it should be, it is worthwhile to examine current policies that are in effect. If a manager upholds the Family and Medical Leave Act with its LGBT employees, then this may work to counteract stress experienced by these employees and improve their comfort in their workplace. The more consistently the LGBT workforce is treated with equality by its employers, then hopefully this will contribute to a culture shift in which the LGBT community becomes less vulnerable to discrimination. With this ideal in consideration, the current study's experimental design seeks evidence that supports or refutes the notion that FMLA is being used as a support for sexual minorities with respect to parental leave amidst the current culture that more readily accepts heterosexual, nuclear families.

## **The Current Study**

The current study acknowledges the pervasiveness of LGBT discrimination in the workplace as well as the various shortcomings of the Family and Medical Leave Act in providing proper leave for all employees in the United States. Based on these current research findings, it is hypothesized that differential treatment of LGBT employees may influence the interpretation and implementation of the Family and Medical Leave Act. The current study seeks to explore experimental interpretations and evaluations of Family and Medical Leave Act requests based on the sexual identity of the employee requesting leave. Focusing on the issue of parental leave, the leave request implemented in experimental design is for child adoption.

Previous research suggests that current legislature such as FMLA is not self-enforcing, with implementation being influenced by various social, economic, and political forces; the current study seeks to examine whether interpretation of Family and Medical Leave Act varies based on the sexual identity of the employee requesting leave, and if perceptions of this employee by the evaluator change upon their return to work (Armenia, Gerstel, and Wing, 2013). Data was collected from both undergraduate students and graduate students to explore interpretations of the Family and Medical Leave Act requests.

Further, the study seeks to add nuance to this topic by incorporating company success as a salient variable during evaluations of employee quality upon return from leave. The notion of a fundamental attribution error would hypothesize that poor company outcomes following employee leave would result in more negative evaluations of employee quality across sexual identities upon their return to work. Further, it is hypothesized that the employee will still fail to receive high ratings regarding responsibility for positive company outcomes across sexual

identities due to their period of absence. Finally, interactions are expected across sexual identity and company success.

- Hypothesis 1: Participants in the low success groups will rate the employee more harshly upon their return to work regardless of sexual identity.
- Hypothesis 2: Participants in the undisclosed sexuality groups will rate the employee similarly to the participants in the heterosexual groups.
- Hypothesis 3: Participants in the homosexual and transgender groups will rate the employee more harshly than participants in the heterosexual and undisclosed sexuality groups.

### **Materials**

All data was collected through pen-and-paper packets. The experiment utilized a 4 (sexual identity) x 2 (project success) design, yielding 8 different participant packets. Sexualities included heterosexual, homosexual, transgender, and undisclosed. Success included high and low. The packets consisted of 3 phases. The first phase in all packets began with an overview of Family and Medical Leave Act guidelines. Participants were then presented with the company mission statement and an abridged organizational chart detailing the participant's ranking and the employee of interest's ranking within the company. Next, participants were presented with 1 of 4 employee profiles. All profiles contained the same first and last paragraph, but each profile varied based on the middle paragraph to include the sexuality manipulation. The employee of interest, Jessica, was described in the first paragraph as a fairly good worker who has been with the company for 10 years. The middle paragraphs for the heterosexual, homosexual, and transgender conditions all described a life transition for Jessica that insinuates her sexual identity. The undisclosed conditions lacked a middle paragraph to provide no information on

sexual identity. The final paragraph introduced Jessica's conflict of being unable to start a family with her spouse.

The next section of Phase 1 described Jessica's project. This high-stakes project required Jessica to lead her team in an expedited editing venture that had the potential to result in great economic benefit to the company if her team could complete the project by an ambitious deadline. However, it is then revealed to the participants that—with 1.5 months until the project deadline—Jessica is requesting 12 weeks of parental leave under FMLA due to the adoption of an infant. Participants are asked to consider all of the presented information while completing an evaluation. The evaluation included three manipulation checks to ensure participants read the previous information. The rest of the questions consisted of Likert scale, yes/no, and other forced-choice questions for participants to evaluate the appropriateness of Jessica's leave request as well as how much the participant would compensate Jessica during her leave. In sum, the first evaluation was process- and behavior-focused, and focused less on Jessica's personal qualities.

Phase 2 presented the participants with the outcome of the project. The 4 high success conditions were told that the project reached full completion despite Jessica's leave, providing a \$10,000 bonus pool to the project team. The 4 low success conditions were told that despite the team's best efforts, the project was completed late and the company will not receive economic benefits. The project team was still granted a \$2,500 bonus pool for their efforts. Participants were then prompted to complete a second evaluation in which participants ranked the qualities of Jessica as an employee as well as future decision-making with respect to Jessica. Participants were also asked what percentage of the bonus pool they wished to allocate to Jessica. The second evaluation concluded with the collection of participants' demographic information. In sum, this evaluation was person-focused.

The third phase of the experiment consisted of a one-question manipulation check. This multiple-choice question asked participants to circle the sexual identity that best fit Jessica based on the information provided. This question was presented in isolation at the end of the packet to prevent it from skewing participants' responses during the other evaluations. See Appendix 1 for a full illustration of the project materials.

## **Methods**

### **Participants**

138 undergraduate students and 35 graduate students ( $n = 173$ , 71 male, 101 female, 1 non-binary) at a college in the Midwestern United States participated. Undergraduate students were enrolled in an introductory psychology course and participated in exchange for course credit. Graduate students were enrolled in either a human resources course or an education course. Age ranged from 17 to 50 years ( $M = 21.22$ ).

### **Procedure**

For undergraduate participants, the experiment was carried out in a quiet classroom with up to ten participants participating at a time. Sessions took no longer than 30 minutes to complete. For graduate participants, the experiment was carried out as a class in quiet classrooms. The human resources class participated in a group of 11, the first education class participated as a group of 7, and the second education class participated as a group of 17. Graduate students took approximately 45 minutes to complete the experiment.

The 8 packets were ordered using a random number generator to ensure random distribution in each session. After receiving written consent, participants were given their packets and instructed to continue until they reached the first stop sign after the first evaluation. Participants were informed that they could reread materials as much as they wished within the

current section. Once the researcher confirmed everyone was finished with the first section, the experimenter instructed participants to complete the second section of the packet in the same manner as the first. Participants were instructed not to return to the previous section. Once participants completed the second section, they were instructed to complete the last manipulation check and reminded that they could not return to previous sections. Packets were then collected and participants were provided with a written debriefing form. After any questions were answered, participants were dismissed.

## **Results**

### **Manipulation Checks**

Frequency data of the four manipulation check variables was obtained from the combined undergraduate and graduate data pool ( $n = 173$ ). When asked what type of company PageRight is, 95.90% accurately identified the company as an editing firm. 89.70% of respondents accurately acknowledged that FMLA covers leave for adoption. Similarly, 92.50% of respondents accurately reported that FMLA covers requests for 12 weeks of leave. When asked to indicate which sexual identity best fit Jessica, the heterosexual group was correct only 45.70% of the time. Notably, 28.60% of participants mistakenly identified Jessica as transgender in the heterosexual group. In the transgender group, participants were accurate 87.76% of the time. The homosexual group correctly identified Jessica's sexual identity 80.00%. Finally, the group that was not provided information on sexual identity correctly stated this only 51.61% of the time, with 45.16% of participants making an assumption of heterosexuality.

This data has implications on the remainder of the data analysis. First, participants who responded incorrectly to the manipulation check regarding the legality of adoption leave and the 12-week leave period were removed from data analysis, as this indicated a misinterpretation of

FMLA. As a result, the final dataset was comprised of 156 participants (62 male, 93 female, 1 non-binary). Age ranged from 17 to 50 ( $M = 21.53$ ). Second, it was decided that the majority of the data collection would focus on the perceived sexual identity of Jessica rather than the actual sexual identity expressed in the manipulation. This more closely aligns the data with the main research question, which focuses on how participants' perceptions affect their attitudes and evaluations. While high levels of variation were expected with the unknown identity group—particularly with respect to the assumption of heterosexuality—it is not immediately clear why such a large proportion of participants in the heterosexual group identified Jessica as transgender. However, the research is focused on the influence of different sexual identities on participants' judgments, and therefore data analysis will focus on the sexual identities that the participants perceived. These implications will be further speculated in the discussion section.

### **Pre-Outcome and Post-Outcome Groups**

For ease of understanding, data was divided into two groups based on the project success manipulation. The pre-outcome group consists of the 6 dependent variables that were presented prior to the success manipulation. These variables are more process-focused and hone in on the appropriateness of Jessica's decision to take leave. The remaining 12 dependent variables consist of the post-outcome group. These variables are more person-focused, honing in on participants' perceptions of Jessica's qualities as an employee and on future decision-making based on these qualities. See Table 1 for an illustration of these groups.

Pre-Outcome Variables
<b>Based on this situation, was it appropriate for Jessica to request leave?<sup>1</sup></b>
<b>Based on this situation, was it appropriate for Jessica to request 12 weeks of leave?<sup>1</sup></b>
<b>As manager, how many weeks of lead-time do you think an employee should give before they start FMLA leave?</b>
<b>Do you think employees requesting 12-weeks of FMLA leave should give more lead-time notice than those taking less leave?<sup>2</sup></b>
<b>As manager, what percentage (0-100) of Jessica's salary would you grant her during her leave?</b>
<b>Would you offer this employee an incentive for returning to work before the full leave is over?<sup>1</sup></b>
Post-Outcome Variables
<b>Jessica is (not) very responsible for this outcome.<sup>1</sup></b>
<b>Jessica is (not) a team player.<sup>1</sup></b>
<b>Jessica exhibited good/poor judgment.<sup>1</sup></b>
<b>Jessica has the right/wrong priorities.<sup>1</sup></b>
<b>I would (not) like to work with this person.<sup>1</sup></b>
<b>Jessica is a good/bad employee.<sup>1</sup></b>
<b>As manager, I see my responsibilities more focused on company/employee outcomes.<sup>1</sup></b>
<b>As manager, I see my responsibilities more focused on addressing individual employee needs/being fair to every employee in the company.<sup>1</sup></b>
<b>In the future, how confident are you in assigning Jessica a complex project?<sup>1</sup></b>
<b>As manager, what percentage of the bonus pool (from 0 to 100) would you grant to Jessica?</b>
<b>Would you recommend Jessica for a bonus at the end of the year?<sup>1</sup></b>

Table 1. Organization of pre-outcome and post-outcome variables

<sup>1</sup>Seven-point Likert scale question

<sup>2</sup>Fixed-choice question

## Perceived Sexual Identity

For preliminary analysis, a 4 (perceived sexual identity) x 2 (project success) ANOVA was conducted for each of the 18 dependent variables. The combined undergraduate and graduate data pool was utilized after removing participants who responded incorrectly to the manipulation checks regarding comprehension of FMLA (n = 156).

### Pre-Outcome

ANOVA revealed a main effect for perceived sexuality on *Was it appropriate for Jessica to request leave?*,  $F(3, 155) = 5.10$ ,  $p < .01$ , and *Would you offer Jessica an incentive to return early?*,  $F(3, 155) = 3.37$ ,  $p < .05$ .

### Post-Outcome

ANOVA revealed a main effect for success across several variables in which the high success group received more favorable judgments: *Jessica exhibited good/poor judgment*,  $F(1, 138) = 4.74$ ,  $p < .05$ ,  $\eta^2 = 0.03$ ; *I would (not) want to work with this person*,  $F(1, 137) = 5.14$ ,  $p < .05$ ,  $\eta^2 = 0.04$ ; *Jessica is (not) responsible*,  $F(1, 139) = 6.31$ ,  $p < .05$ ,  $\eta^2 = 0.04$ ; *Jessica is a good/bad employee*,  $F(1, 139) = 4.37$ ,  $p < .05$ ,  $\eta^2 = 0.03$ ; *In the future, how confident are you in assigning Jessica a complex project?*,  $F(1, 139) = 6.589$ ,  $p < .05$ ,  $\eta^2 = 0.05$ ; *What percentage of the bonus pool would you grant to Jessica?*,  $F(1, 139) = 8.29$ ,  $p < .01$ ,  $\eta^2 = 0.06$ ; *Would you recommend Jessica for a bonus at the end of the year?*,  $F(1, 139) = 6.49$ ,  $p < .05$ ,  $\eta^2 = 0.05$ . A main effect for perceived sexuality was also found for two variables: *I would (not) want to work with this person*,  $F(3, 137) = 2.77$ ,  $p < .05$ ,  $\eta^2 = 0.056$ ; *Jessica is a good/bad employee*,  $F(3, 139) = 2.63$ ,  $p < .05$ ,  $\eta^2 = 0.05$ . Finally, an interaction between sexual identity and success was found for two variables: *I would (not) want to work with this person*,  $F(1, 137) = 5.12$ ,  $p < .05$ ,  $\eta^2 = 0.04$ ; *In the future, how confident are you in assigning Jessica a complex project?*,  $F(1, 139) = 4.74$ ,  $p < .05$ ,  $\eta^2 = 0.03$ .

Furthermore, in addition to a main effect of success, *What percentage of the bonus pool would you grant to Jessica?* yielded other noteworthy trends (see Figure 1). First, a main effect for gender was found in which males allotted significantly less of the bonus pool to Jessica

compared to females,  $F(2, 139) = 5.21, p < .01, \eta^2 = 0.07$ . An interaction between success and perceived sexuality was also found for this variable,  $F(3, 139) = 2.61, p < .05, \eta^2 = 0.05$ .

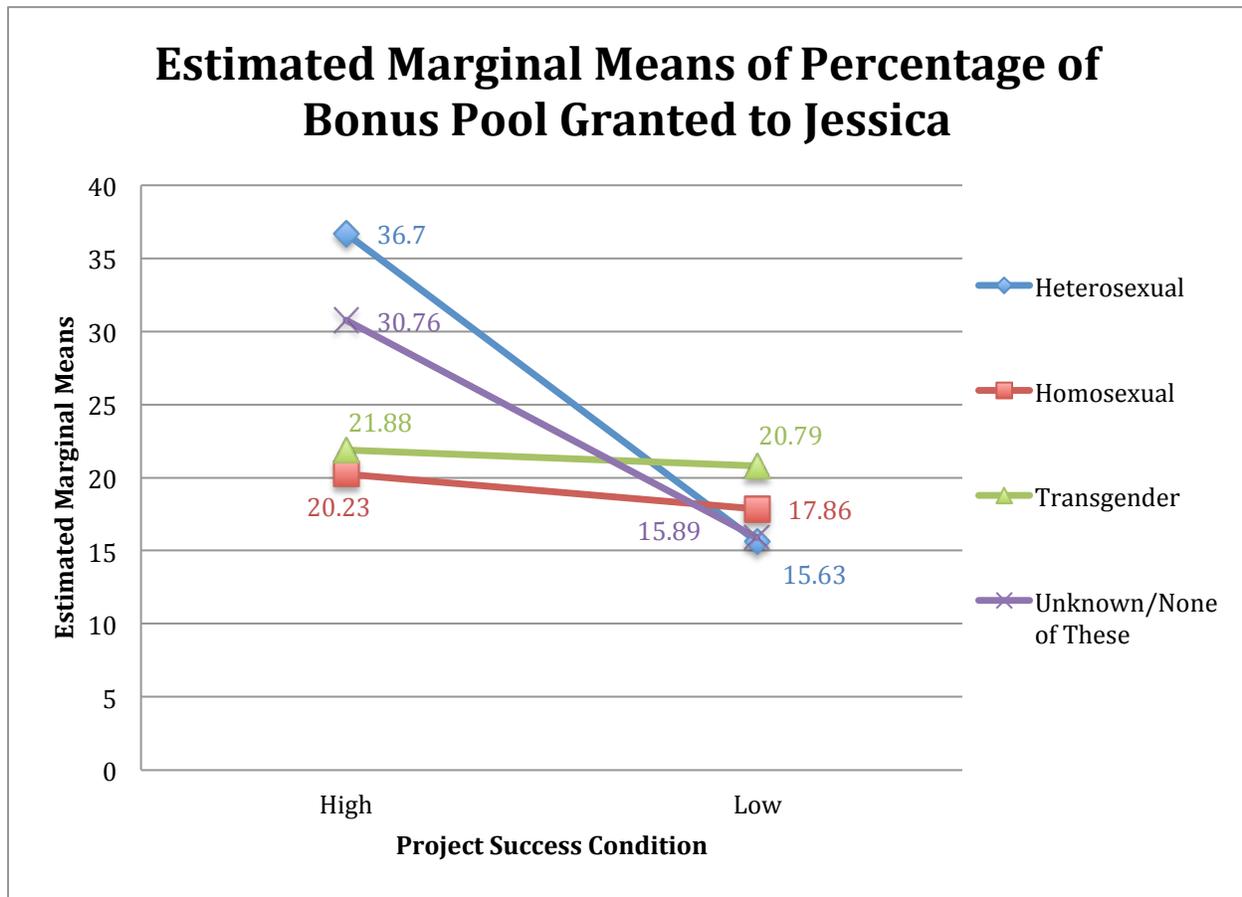


Fig. 3 Estimated Marginal Means of Percentage of Bonus Pool Grated to Jessica as a measure of perceived sexuality and project success.

To further analyze the success/perceived sexuality interaction, independent t-tests were performed. Significant differences were found for 4 pairs of means: heterosexual, high success ( $M = 36.70, SD = 22.33$ ) and homosexual, high success ( $M = 20.23, SD = 10.28$ ),  $t(30.15) = 2.92, p < .01$ ; heterosexual, high success ( $M = 36.70, SD = 22.33$ ) and transgender, high success ( $M = 21.88, SD = 18.01$ ),  $t(43) = 2.46, p < .05$ ; heterosexual, high success ( $M = 36.70, SD = 22.33$ ) and heterosexual, low success ( $M = 15.63, SD = 10.24$ ),  $t(29.55) = 3.83, p < .01$ ; unknown, high success ( $M = 30.76, SD = 25.79$ ) and unknown, low success ( $M = 15.89, SD =$

6.54),  $t(21.220) = 2.51$ ,  $p < .05$ . Mean differences were not significant for the homosexual, high success group ( $M = 20.23$ ,  $SD = 10.28$ ) and the homosexual, low success group ( $M = 17.86$ ,  $SD = 14.53$ ).

### **Sexual Identity Manipulation**

The sexual identity manipulation was analyzed using the undergraduate and graduate data pools ( $n = 156$ ). ANOVA yielded no significant main effects of sexual identity for the six pre-outcome variables.

### **Post-Outcome**

ANOVA analyses indicated significant main effects for several dependent variables. A main effect for project success on *Jessica is (not) very responsible for this outcome*,  $F(1, 165) = 5.63$ ,  $p < .05$ ,  $\eta^2 = 0.03$ , in which employees in the low project success condition were rated more responsible for the project outcome than employees in the high project success condition. A main effect for project success was also found for *Jessica is (not) responsible*,  $F(1, 165) = 5.67$ ,  $p < .05$ ,  $\eta^2 = 0.03$ , in which employees in the low project success condition were perceived as less responsible employees. For *In the future, how confident are you in assigning Jessica a complex project?*, a main effect for success was found in which the high project success condition was rated more favorably than the low project success condition,  $F(1, 165) = 7.47$ ,  $p < .01$ ,  $\eta^2 = 0.05$ . Two additional variables yielded a significant main effect for project success: *What percentage of the bonus pool would you grant to Jessica?*,  $F(1, 164) = 15.29$ ,  $p < .01$ ,  $\eta^2 = 0.09$ , and *Would you recommend Jessica for a bonus at the end of the year?*,  $F(1, 165) = 3.81$ ,  $p < .05$ ,  $\eta^2 = 0.02$ . Both main effects indicate less willingness to allocate bonus funds to employees in the low project success condition.

Due to an apparent trend involving the homosexual group, independent samples t-tests were conducted for several variables where ANOVA yielded insignificant results. For three of the four variables, a significant difference was found between the high success and low success groups, indicating a significant sexual identity/project success interaction in which the homosexual, low success group receives more critical judgments to the other groups. For *Jessica is (not) a team player*, there was a significant difference in scores for the homosexual, high project success group (M = 4.00, SD = 1.80) and the homosexual, low project success group (M = 5.18, SD = 1.19);  $t(32) = 2.25, p < .05$ . Low scores indicate favorable judgment, meaning that in that the high project success group rated the employee as more of a team player than the low project success group. For *Jessica exhibited good/poor judgment*, there were no significant differences in scores for the homosexual, high project success group (M = 3.58, SD = 1.42) and the homosexual, low project success group (M = 4.00, SD = 1.41),  $t(30) = -0.82, NS$ . For *Jessica has the right/wrong priorities*, there was a significant difference in scores for the homosexual, high project success group (M = 2.29, SD = 1.05) and the homosexual, low project success group (M = 3.41, SD = 1.91),  $t(32) = -2.12, p < .05$ . Finally, for *In the future, how confident are you in assigning Jessica a complex project?*, there was a significant difference in scores for the homosexual, high project success group (M = 4.71, SD = 1.61) and the homosexual, low success group (M = 3.12, SD = 1.36),  $t(31.15) = 3.10, p < .01$ . Again, these scores indicate that, for these variables, the low project success group was perceived more poorly when Jessica was in the homosexual condition, whereas this discrepancy did not exist for the heterosexual, transgender, and no information groups.

## Discussion

This study sought to add to the limited body of organizational justice research that utilizes an experimental design to examine the treatment of the LGBT community in the workplace. Qualitative research exists that highlights the pervasiveness of discrimination in the workplace along with the negative outcomes LGBT individuals face as a result of them (Brewster, Velez, Mennicke, and Tebbe, 2014; Brown et al., 2012; Minter and Daley, 2003; Ruggs, Martinez, Hebl, and Law, 2015). In addition, this research recognizes the limitations of FMLA in providing accessible parental leave for all U.S. employees—a benefit that makes a satisfying work and family life balance more achievable (Klerman, Daley, and Pozniak, 2014; Livingston, 2016). Because of the limitations of FMLA lie both in the laws' content as well as the subjective interpretation and unregulated enforcement, the research question arose regarding how effective FMLA is in accommodating parental leave for employees of the LGBT community, and how usage of this law may affect LGBT individuals upon their return to work. Several trends both anticipated and unanticipated were found amongst the data analysis, offering robust implications for future research questions regarding the organizational justice and the LGBT community in addition to recommendations for future methodologies for experimental research.

### **FMLA, Success, and Sexual Identity**

A main effect for project success was found across numerous variables and sexual identities, indicating harsher evaluations when project success was low supporting the first hypothesis. This effect appears to be an attribution effect in which participants justified harsh judgment by assigning blame to the employee for the poor outcome rather than recognizing the employee's right to FMLA—regardless of the project outcome—or considering factors external

to Jessica that could contribute to the poor success of the project. This supports research that has already highlighted the limited nature of organizational policy; while regulations can be enacted, their interpretations and implementations cannot be wholly regulated, leaving room for supervisor bias (Armenia and Gerstel, 2005; Armenia, Gerstel, and Wing, 2013). Therefore, before even considering our more nuanced variable of sexual identity, we see evidence of subjective interpretation of FMLA and differential judgments of the employee upon return to work.

Findings regarding sexual identity are more complex. As identified in the results section, data analysis was shaped largely by the unexpected findings in the manipulation check for sexual identity, leading to most data being analyzed as a function of the participants' perceived sexual identity of Jessica rather than the actual sexual identity intended by the research design. In contrast to the project success manipulation, effects of perceived sexual identity were not as prominent. Perceived sexuality did not affect direct, person-focused judgments such as the employee's quality and level of responsibility. However, trends were detected in which perceived sexuality influenced responses to future decision-making and resource allocation questions.

Most notably, when participants were asked to allot a percentage of the bonus pool to Jessica, a stark interaction emerged. While a clear main effect for success was apparent for both the perceived heterosexual and unknown groups in which the high success group enjoyed a more generous percentage, this was not the case for the perceived homosexual and transgender groups. Not only did the high success groups under these conditions receive significantly less than their heterosexual and unknown counterparts, but they also did not differ significantly from the homosexual and transgender, low success groups. In sum, this means that homosexual and

transgender employees received lower project bonuses than the heterosexual and unknown groups, regardless of project success.

Another point of interest, when analyzing the data as a function of the actual sexual identity manipulation, a trend was found in which project success only had a significant effect on the homosexual group. Significant differences existed for both direct, person-focused questions such as *Jessica is (not) a team player* and *Jessica has the right/wrong priorities* as well as decision-focused questions, such as *In the future, how confident are you assigning Jessica a complex project?*. However, unlike the results of the bonus pool question, these findings did not extend to the transgender group, as would be expected.

Therefore, results are laden with both expected and unexpected findings, with unpacking their meaning quite the feat. First, the research findings support the existing body of research that warns of the presence of LGBT workplace discrimination. The current research is significant in that it suggests that discrimination may not always be explicit in nature. An LGBT individual may initially feel that they are receiving equal treatment in interpersonal interactions with their supervisor, but this research indicates that subtle biases may emerge with respect to policy implementation, resource allocation, and future decision-making. When considering the importance of organizational justice in employee wellbeing and organizational outcomes, these findings have serious implications for both LGBT employees and their companies. While LGBT employees may receive their legal right to FMLA leave, the research demonstrates that this does not protect them from negative perceptions from their supervisor upon their return to work, which can potentially create a hostile work environment or stunt their ability for upward mobility in their position.

Overall, data supports the first hypothesis, as numerous variables displayed significant effects of project success in which the low success conditions fared worse than the high success conditions. Hypotheses two and three also receive support from the data, but support is not as robust as that for hypothesis one; as noted earlier, effects of the sexuality manipulation were subtler in nature. The data displayed an emergent trend that supports the two hypotheses, particularly from the bonus pool evaluation. Therefore, it is concluded that there is evidence for subtle negative biases against LGBT employees taking FMLA leave.

However, caution is suggested when interpreting these conclusions and generalizing these findings. This project was an experimental study aiming to quantify participants' perceptions and analysis of FMLA parental leaving taken by LGBT employees. As much as this study aims to unpack individuals' attitudes towards FMLA usage amongst the LGBT community, the study serves as a starting point for refining and expanding methodology used to gather this type of data. The quantitative nature of this study was rather unique from the existing literature in its arena, and therefore, in order to make progress in strengthening the conclusions being made, the study needs to be refined and expanded.

### **The Manipulation Check and Methodological Implications**

Methodological implications are derived from three main points from the data analysis:

- the error rate found in the manipulation checks,
- the inconsistent findings between the homosexual and transgender groups when data was analyzed as a function of the actual sexual identity manipulation, and
- the trend for indirect questions to elicit the strongest effects for sexuality.

When designing the sexual identity manipulations, it is important to be subtle as not to direct the participants too much; however, the manipulation check indicates that the current design may

have been too subtle or vague, leaving participants to either make undo inferences or guess Jessica's sexual identity. In particular, the mislabeling of the heterosexual condition as transgender was striking. It is hypothesized that confusion was caused by the middle paragraph in which Jessica is described undergoing a major life transition by visiting a therapist and losing weight, ultimately giving Jessica a renewed sense of self. While this paragraph was meant to mirror the homosexual and transgender profiles in which Jessica reconciles her identity with a therapist, it appears that participants may have interpreted this change in body and self image as a gender transition, hence the transgender misidentification on the manipulation check.

By the same token, the salience of the transgender profile is questioned due to the discrepant findings between the homosexual and transgender groups in which the homosexual group received harsh judgments where the transgender groups were evaluated more similarly to the heterosexual and unknown sexuality groups. These findings only occurred when data was analyzed as a function of the actual sexual identity manipulation. When data was analyzed as a function of perceived sexual identity, the transgender evaluations mirrored the same negative evaluations that the homosexual group received—as expected. While it is indeed possible for participants to provide differential evaluations of the transgender and homosexual groups based on attitudinal differences towards these groups, the current data does not appear robust enough to yield and explain such a phenomena. Rather, these incongruent evaluations may be the result of a difference in salience between the two sexuality profiles. Perhaps the homosexual manipulation was more easily understood and imagined in the “real-world,” causing the profile to resonate more with participants as they completed the evaluations of Jessica. Per contra, the concept of a transgender identity may be more difficult for participants to process and imagine seeing in their

own workplaces, leading them to dismiss the profile after reading it. In sum, the transgender profile may need to be revised such that it is less subtle in explaining Jessica's identity.

Another possible explanation for this discrepancy focuses more on the manipulation check question rather than on the actual profile. The very last question in the study prompted participants to circle the identity that best matched Jessica: heterosexual, homosexual, transgender, or unknown/other—in that order. The design of this question fails to recognize that sexual orientation and gender identity are not mutually exclusive, especially with respect to the transgender identity. In other words, classifying Jessica as transgender does not automatically assign her a sexual orientation, nor can her sexual orientation be gleaned from the profile. Rather, Jessica herself would best categorize her own sexual orientation, had she been a real person. Therefore, because the manipulation check answers were led by the heterosexual and homosexual orientations, participants may have been primed to interpret the question through the lens of sexual orientation rather than gender identity. Because the transgender profile insinuates that Jessica has transitioned from male to female and explicitly states that she is married to a man, participants may have been quick to circle the heterosexual identity—and they are not necessarily incorrect. It may be advantageous in the future to create separate manipulation checks for both sexual orientation and gender identity as not to confuse or mislead the participants. As a result, it is argued that conclusions surrounding the current research question could be improved in the future by exploring and refining the sexual identity manipulation.

In addition, a reworking of the evaluation questions is suggested based off of the trends in which questions elicited significant results. Generally, questions which directly asked participants to judge Jessica's character and quality yielded insignificant results with respect to sexual identity. However, indirect questions such as, *As manager, what percentage of the bonus*

*pool (from 0 to 100) would you grant to Jessica?* produced the most powerful effects of sexual identity. These results suggest that, while bias exists, it is subtler in nature, at least in an experimental setting. It is possible that participants, when presented with questions that blatantly required them to judge Jessica, responded in a more socially accepted manner, having picked up on the nature of the study or being unable or unwilling to recognize one's own bias. Therefore, for future methodologies, it may be more beneficial to develop more indirect questions in order to avoid any demand effects.

### **Future Research**

In addition to refinement and replication of the current methodology, future research can be expanded to address the numerous nuances within this research topic. Perhaps the most difficult step in the process of this research was narrowing the research down to a specific set of variables and scenarios.

First, this study focuses on supervisor/employee interactions. However, coworker interactions are also imperative to one's workplace experiences, with supporting coworkers being linked to improved employee wellbeing (Rumens, 2010; Sloan, 2012). Further, strong coworker relationships serves as a buffer from stress experienced from unfair treatment (Sloan, 2012). Therefore, this study could be repeated, but modified so that the participant takes on the role of Jessica's coworker on the project team. If participants view Jessica negatively based on her FMLA leave, then this could potentially affect their treatment of her upon her return to work. Further, because this study suggests the existence of bias and differential treatment of the LGBT community based on FMLA parental leave, qualitative studies could expand upon this to seek out the experiences of LGBT individuals who have taken FMLA leave.

Second, the gender of the study's employee of interest likely holds implications for the participants' evaluations. Based on current trends in FMLA usage, it is hypothesized that if the employee's gender was male rather than female, evaluations may have been harsher across all sexual identities (Armenia and Gerstel, 2005). Following this notion, it would also be interesting to change the reason for the FMLA request, as FMLA covers a wide variety of leaves in addition to parental leave. Attitudes could be evaluated for reasons such as physical or mental illness of a partner or to care for a parent or child. Again, current research suggests that these details can have effects on participants' evaluations of the employee (Kelley, Cadwallader, and Styles, 2013). Third, it would be worthwhile to explore a population pool comprised of professionals who currently work in the field of management. The vast majority of participants in the current study did not have managerial experience, and perhaps, as a result, some of the evaluation questions were too difficult for participants to conceptualize. For example, it may have been challenging for a young college student to imagine what they would actually do if required to allocate \$10,000 to their employees. Most college students do not have experience managing other employees beyond perhaps a shift leader position in a service job. However, if actual managers were surveyed, they may have real-life experience to help them conceptualize what the questions entail, and thus respond more realistically.

Finally, a replication of this study could make use of an Implicit Association Test (IAT). Current data suggests that any existing bias is predominately subtle. While there is currently no IAT exploring associations with transgender individuals, Project Implicit—founded by Tony Greenwald of the University of Washington, Mahzarin Banaji of Harvard University, and Brian Nosek of the University of Virginia—does have an IAT comparing implicit attitudes towards homosexual and heterosexual individuals (“About us,” 2011). Combining the current study with

IAT measurements could help expand our understanding of the relationship between implicit biases and actual behavior.

### **Concluding Remarks**

In conclusion, this study contributes to a starting point of research combining organizational justice, the LGBT community, and policy interpretation—namely the Family and Medical Leave Act. The results of this research stand in concordance with current literature that suggests the pervasiveness of discrimination in LGBT workplace experiences (Brewster, Velez, Mennicke, and Tebbe. 2014; Brown et al., 2012; Daley, 2003; Katz-Wise and Hyde, 2012; Ruggs, Martinez, Hebl, and Law 2015). While blatant discriminatory attitudes were not detected, subtler biases were found, suggesting potential financial and interpersonal disadvantages for transgender and homosexual individuals following FMLA parental leave. It is argued that these subtle biases are important because they could potentially have long-term consequences for LGBT employees as well as the company due to decreased employee performance and commitment to the firm. Furthermore, it is important to note the strong trend that was found with respect to project success, as this manipulation negatively affected all four groups.

This research echoes scholarly works that delineate the limitations of FMLA. Again, the law has robust restrictions as to who qualifies for leave, with coverage grossly lagging behind dozens of other developed nations (Klerman, Daley, and Pozniak, 2014; Livingston, 2016; Peck, 2014). Further, its usage by employees and interpretation by employers is also dictated by external socio-political factors and social norms (Armenia and Gerstel, 2005; Armenia, Gerstel, and Wing, 2013). Therefore, the current results emphasize the subjective nature of the law, putting both LGBT individuals and heterosexual employees at risk of having future work outcomes swayed by their decision to take FMLA leave. As aforementioned, the methodology

and research questions of this study need to be expanded, refined, and replicated in order to develop optimal methods to quantifying this data, ultimately making stronger statistical conclusions. With these conclusions, we can move forward to develop ways to control bias in workplace policy and provide supportive measures to help counteract these biases for LGBT employees.

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**Appendix A: Materials**



**Management Development Exercise**

## FMLA LAW

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### *Family and Medical Leave Act of 1993*

Public Law 103-3 Enacted February 5, 1993

To grant family and temporary medical leave under certain circumstances.

#### ENTITLEMENT TO LEAVE

Subject to section 103, an eligible employee shall be entitled to a total of 12 workweeks of leave during any 12-month period for one or more of the following:

- Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.
- Because of the placement of a son or daughter with the employee for adoption or foster care.
- In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.
- Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

#### EMPLOYEE ELIGIBILITY

To be eligible for FMLA benefits, an employee must:

- work for a covered employer;
- have worked for the employer for a total of 12 months;
- have worked at least 1,250 hours over the previous 12 months; and
- work at a location in the United States or in any territory or possession of the United States where at least 50 employees are employed by the employer within 75 miles.

#### MAINTENANCE OF HEALTH BENEFITS

A covered employer is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave.

In some instances, the employer may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

## JOB RESTORATION

Upon return from FMLA leave, an employee must be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

In addition, an employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave, nor be counted against the employee under a "no fault" attendance policy.

## NOTICE AND CERTIFICATION

Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable.

Employers may also require employees to provide:

- medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member;
- second or third medical opinions (at the employer's expense) and periodic recertification; and
- periodic reports during FMLA leave regarding the employee's status and intent to return to work.

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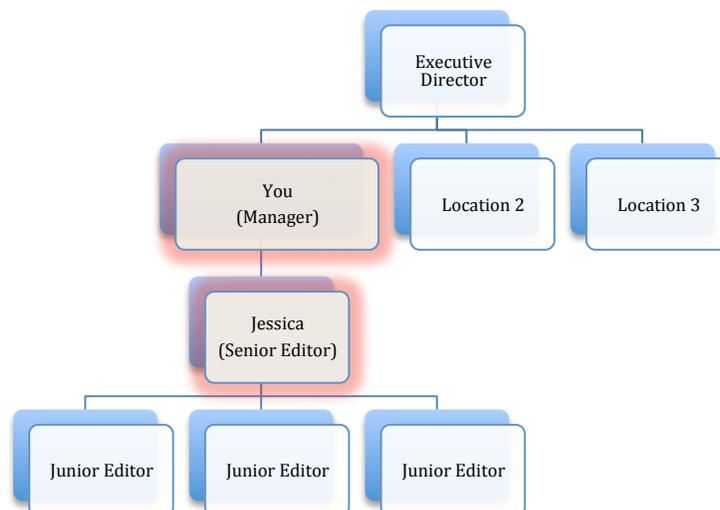
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As the leading educational editing firm in the Midwest, we at PageRight Editing Firm take pride in editing every project we accept to perfection—from elementary school to college level materials. We recognize and respect the quality of our clients' publications and make it our promise to produce an end product that fully reflects the quality of our clients' work. We excel through our collaborative strategy in which every project is assigned to a carefully crafted team of editors, working diligently to ensure no detail remains overlooked. Our team orientation is sure to produce a crisp, professional, and accurate final product following our clients' timetable, making PageRight Editing Firm the right choice for your editing needs.

## Current Situation

Imagine that you are the manager at a branch of PageRight Editing Firm. This firm has longstanding business relationships with several high profile educational publishing firms. There are three primary locations in addition to the main office. You have organized your office into five teams. Each team is composed of three junior editors and led by a senior editor. Your main job is to distribute projects to your teams, manage their progress, and serve as the final seal of approval for each project. The senior editors are responsible for delegating tasks and ensuring their projects are completed on time. Senior editors are also responsible for communicating with each other to review other teams' projects before they are submitted to you. Below is a simplified organizational chart; it does not contain all the office or organizational information.



## HETEROSEXUAL EMPLOYEE PROFILE: JESSICA REED\*

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Jessica Reed began working at PageRight Editing Firm as a Junior Editor ten years ago after graduating with a Bachelor's degree in English writing. Since that time, she has been a satisfactory performer. Two years ago she completed a Master's degree in Copy Editing, earning above average grades in her program. Her work is mostly on time and of good quality. She has a high attention to detail, but sometimes she has a difficult time completing large projects on time. Because of some recent retirements in the department six months ago, Jessica was determined to be the best fit to become a new Senior Editor.

Although friendly, she likes to maintain a clear boundary between her personal and professional life. However, about five years ago, Jessica went through a major transition. Prior to this transition, she would openly report being uncomfortable with her body and believed that it was a primary cause for her lack of a satisfying romantic life. Over a period of a year, she lost a great deal of weight, and would mention that in working with her therapist, she has finally found her true self. Since that time, she will often tell people she is "comfortable in her new skin." This change actually created some tension in the department, with several co-workers complaining she was flaunting her new self and it was making them uncomfortable. Some co-workers would actively avoid her, and some would even make unprofessional statements about her after this change.

Three years ago Jessica got married to her husband. She did not make a big deal about this event, but it was common knowledge around the department. Over the past few months she has been openly expressing some sadness to some of her co-workers about her inability to start a family. You have heard about this only indirectly from overhearing some general gossip around the department.

\*Actual packet only included on employee profile and did not include a sexuality label

## HOMOSEXUAL EMPLOYEE PROFILE: JESSICA REED

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Jessica Reed began working at PageRight Editing Firm as a Junior Editor ten years ago after graduating with a Bachelor's degree in English writing. Since that time, she has been a satisfactory performer. Two years ago she completed a Master's degree in Copy Editing, earning above average grades in her program. Her work is mostly on time and of good quality. She has a high attention to detail, but sometimes she has a difficult time completing large projects on time. Because of some recent retirements in the department six months ago, Jessica was determined to be the best fit to become a new Senior Editor.

Although friendly, she likes to maintain a clear boundary between her personal and professional life. However, about five years ago, Jessica went through a major transition. Prior to this transition, she would openly report being lonely and unable to maintain happy, romantic relationships with men. Over a period of a year, she would mention that in working with her therapist, she has finally found her true self. Since that time, she has told co-workers that she has never been happier with her dating life with other women. This change actually created some tension in the department, with several co-workers complaining she was flaunting her new self and it was making them uncomfortable. Some co-workers would actively avoid her, and some would even make unprofessional statements about her after this change.

Three years ago Jessica got married to her wife. She did not make a big deal about this event, but it was common knowledge around the department. Over the past few months she has been openly expressing some sadness to some of her co-workers about her inability to start a family. You have heard about this only indirectly from overhearing some general gossip around the department.

## TRANSGENDER EMPLOYEE PROFILE: JESSICA REED

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Jessica Reed began working at PageRight Editing Firm as a Junior Editor ten years ago after graduating with a Bachelor's degree in English writing. Since that time, she has been a satisfactory performer. Two years ago she completed a Master's degree in Copy Editing, earning above average grades in her program. Her work is mostly on time and of good quality. She has a high attention to detail, but sometimes she has a difficult time completing large projects on time. Because of some recent retirements in the department six months ago, Jessica was determined to be the best fit to become a new Senior Editor.

Although friendly, she likes to maintain a clear boundary between her personal and professional life. However, about five years ago, Jessica went through a major transition. Prior to this transition, she would openly report feelings of discord between her mind and body. She did not feel comfortable in her masculine presentation, causing her to feel distressed and confused. Over a period of a year, she would mention that in working with her therapist, she has finally found her true self. It was after this time that Jessica began to request that her co-workers refer to as Jessica rather than John, as she was known when she first started at PageRight, and began to take on a more feminine presentation. This change actually created some tension in the department, with several co-workers complaining she was flaunting her new self and it was making them uncomfortable. Some co-workers would actively avoid her, and some would even make unprofessional statements about her after this change.

Three years ago Jessica got married to her husband. She did not make a big deal about this event, but it was common knowledge around the department. Over the past few months she has been openly expressing some sadness to some of her co-workers about her inability to start a family. You have heard about this only indirectly from overhearing some general gossip around the department.

## UNKNOWN SEXUALITY EMPLOYEE PROFILE: JESSICA REED

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Jessica Reed began working at PageRight Editing Firm as a Junior Editor ten years ago after graduating with a Bachelor's degree in English writing. Since that time, she has been a satisfactory performer. Two years ago she completed a Master's degree in Copy Editing, earning above average grades in her program. Her work is mostly on time and of good quality. She has a high attention to detail, but sometimes she has a difficult time completing large projects on time. Because of some recent retirements in the department six months ago, Jessica was determined to be the best fit to become a new Senior Editor.

Three years ago Jessica got married. She did not make a big deal about this event, but it was common knowledge around the department. Over the past few months she has been openly expressing some sadness to some of her co-workers about her inability to start a family. You have heard about this only indirectly from overhearing some general gossip around the department.

## JESSICA'S PROJECT

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You have taken into account Jessica's experience and reputation with the firm, and have recently assigned a large and complex project to the team that she leads. PageRight Editing Firm has promised to complete this 9-month project in only 5.5 months in return for the standard editing fee in addition to a substantial expediting fee. Due to the longstanding relationship between the firm and this high-status client and the ambitious timeline the project must follow, there is a lot of pressure on Jessica and her team to complete the project to a high degree of quality and on time in order to maintain the firm's reputation. The successful completion of this project promises a financial bonus for Jessica and her team members.

## TODAY

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Jessica and her team have been working hard on this project for two months. At this point, things seem to be going well, but her team still needs to work cautiously and diligently to ensure the project reaches full completion on time.

Today, Jessica comes into your office to inform you that she and her spouse have finally finalized a date to adopt their first child. Jessica states in two months when their child is brought home, she will be taking 12 weeks of Maternity Leave to care for the infant.

You realize that the timing for the requested leave occurs when the project will be in its final stages of editing, and you recognize that this could pose a difficulty for the completion of the project.

## EVALUATION

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Evaluate this situation to the best of your ability. Please circle your responses. It is important to note that PageRight Editing Firm is a covered employer under FMLA.

Which of the following best describes PageRight?

- a. an office paper distribution center
- b. an editing company
- c. a publishing company
- d. a consulting company

Does FMLA law cover requests for leave due to the adoption of a child?

YES                  NO

Is the request for 12-weeks of leave legal under FMLA law?

YES                  NO

Based on this situation, was it appropriate for Jessica to request leave?

1                  2                  3                  4                  5                  6                  7

Very Inappropriate

Very Appropriate

Based on this situation, was it appropriate for Jessica to request 12 weeks of leave?

1                  2                  3                  4                  5                  6                  7

Very Inappropriate

Very Appropriate

As a manager, how many weeks of lead-time do you think an employee should give before they start FMLA leave?

Do you think employees requesting 12-weeks of FMLA leave should give more lead-time notice than those taking less leave?

YES NO

FMLA does not require that an employee on leave receive any compensation. Compensating Jessica would require you to utilize additional funds from the overall company budget. As a manager, what percentage (from 0 to 100) of Jessica's salary would you grant her during her leave?

Would you offer this employee an incentive for returning to work before the full leave is over?

1	2	3	4	5	6	7
No, I definitely would not offer an incentive.						Yes, I definitely would offer an incentive.

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## \*PROJECT OUTCOME: HIGH SUCCESS

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In this case, Jessica decides take the full 12 weeks of leave. The remaining editors work on the project, and another Senior Editor covers for Jessica, often working overtime to keep the project on track. Fortunately, the project reaches full completion, and there will be positive economic consequences throughout the company for this success.

## PROJECT OUTCOME: LOW SUCCESS

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In this case, Jessica decides take the full 12 weeks of leave. The remaining editors work on the project, and another Senior Editor covers for Jessica, often working overtime in an attempt to keep the project on track. Unfortunately, the project does not reach full completion by the deadline. As a result, the company will not be receiving the full anticipated payment.

\*Actual packet only included one project success and did not include a success label.

## EVALUATION PART TWO

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Think again about this situation and the employee; then answer the following questions.

Please rate Jessica in this situation on the following items. To respond to these items, mark an 'x' in the appropriate column.

	1	2	3	4	5	6	7	
Very responsible for this outcome								Not very responsible for this outcome
Team player								Not a team player
Exhibited good judgment								Exhibited poor judgment
Has the right priorities								Has the wrong priorities
I would like to work with this person.								I would not like to work with this person.
Responsible								Not responsible
Good employee								Bad employee

As a manager, do you see your responsibilities more focused on?

	1	2	3	4	5	6	7	
Company outcomes								Employee outcomes
Addressing individual employee needs								Being fair to every employee in the company

In the future, how confident are you in assigning Jessica a complex project?

1	2	3	4	5	6	7
No, I definitely would not assign her such a project.				Yes, I definitely would assign her such a project.		

\*High Success: Due to the success of the project, a \$10,000 bonus pool needs to be allocated to the project team. Remember, the project team consists of the Senior Editor (Jessica), her three Junior Editors, and the Senior Editor who replaced Jessica for the final 1.5 months of the project. As manager, what percentage of the bonus pool (from 0 to 100) would you grant to Jessica?

\*Low Success: Because the project did not reach completion by the deadline, PageRight is unable to provide the \$10,000 bonus to the team. However, since the team did complete the project under pressure and to a high standard, the company can distribute a bonus pool of \$2,500. As manager, what percentage of the bonus pool (from 0 to 100) would you grant to Jessica? Remember, the project team consists of the Senior Editor (Jessica), her three Junior Editors, and the Senior Editor who replaced Jessica for the final 1.5 months of the project.

Would you recommend Jessica for a bonus at the end of the year?

1	2	3	4	5	6	7
No, I definitely would not recommend a bonus.				Yes, I definitely would recommend a bonus.		

\*Actual packets only contained one project bonus question and did not include a success label.

## DEMOGRAPHICS

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Please answer the following items about yourself. This information will be used for descriptive purposes only –Your answers will remain anonymous.

Write your response on the appropriate line below:

Gender: \_\_\_\_\_

Age: \_\_\_\_\_

Major: \_\_\_\_\_

Circle the answer that corresponds with your current employment status and year in school:

<b>Current Employment Status</b>	Full-time (40 hours per week)	Half-time (20 hours per week with benefits)	Part-time	Not employed	
<b>Year in School</b>	First-Year	Sophomore	Junior	Senior	Graduate Student

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Based on the information provided, circle the choice that best describes Jessica:

- a. heterosexual
- b. homosexual
- c. transgender
- d. unknown/none of these