REIMAGINING THE NORM: THE FAMILY AND MEDICAL LEAVE-TAKING PRACTICES OF FACULTY IN HIGHER EDUCATION WHO IDENTIFY OUTSIDE OF STRICT HETEROSEXUAL FAMILY STRUCTURE

By

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To the Faculty of Washington State University:

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REIMAGINING THE NORM: THE FAMILY AND MEDICAL LEAVE-TAKING
PRACTICES OF FACULTY IN HIGHER EDUCATION WHO IDENTIFY
OUTSIDE OF STRICT HETEROSEXUALITY

Abstract

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By employing a theoretical and methodological framework that I call bio/cartographic activism, detailed through biography, cartography, and activism, and influenced by Queer Theory, dasein (Heidegger, 1962), and ubuntu (Tutu, 2000), this study addresses family and medical leave for LGBTQ faculty families in higher education. Integrating elements of discourse analysis (Foucault, 1972) and case study (Creswell, 1998; Merriam, 1998; Patton, 2002; Stake, 1995, 2005), an examination and analysis of the federal realm through the discourse of the federal Family and Medical Leave Act of 1993 (FMLA) details the spaces of oppression in this legislation: exclusionary definition, the guise of the natural and normal, the implementation of violence and punishment, the reproduction of silences, and the pursuit of nationalism and patriotism. An exploration of the state realm focuses on the discourse around family and medical leave in Washington state, specifically for the LGBTQ community: the quest for marriage equity, the financial considerations to allowing same-sex marriage, and why a LGBTQ higher education faculty member might choose Washington state. A specific regional comprehensive institution of higher education in the state of Washington is analyzed through the inclusion of LGBTQ faculty experience in higher education, how the FMLA plays out in higher education,
work/family balance, the importance of human resource offices and professionals, the role of informal policy in the workplace, and tenure considerations. This study concludes by detailing recent accomplishments in LGBTQ equity, federal, state, and academic institution recommendations, and implications for future research, for LGBTQ faculty in higher education, and for me.
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Chapter 1
Exposition

A toddler’s cry interrupts Robin as she helps guide a student presentation during a class meeting at a faculty member’s house. The group of university students and faculty stops for a moment and discovers a bee sting as the culprit. Robin excuses herself to join her partner Beth in caring for their adopted daughter. The couple is especially concerned because, early in their parenting of their adopted daughter, she was diagnosed with Respiratory Syncytial Virus (RSV), which causes mild respiratory infections such as colds and coughs in adults but in young children can produce severe pulmonary diseases including bronchiolitis and pneumonia. Some infants with RSV become very ill, and RSV is highly contagious as it is spread through close contact with infected persons or contaminated surfaces or objects. For infants, the symptoms include fever, runny nose, congestion, and wheezing. Children with severe manifestations of RSV may require oxygen therapy and sometimes mechanical ventilation. It is not uncommon for babies with RSV to be hospitalized and die. Robin and Beth’s adopted daughter contracted RSV when she was three months old. At one point in her treatment, if her oxygen had been one point lower, they would have hospitalized her. They went through a process of giving her treatments where epinephrine was breathed into her open lungs every hour. Because of her illness, she was unable to go to daycare, and the family was required to figure out alternate care options. The inability to use daycare services meant that for approximately the first 10 months or so, Robin and Beth’s daughter went to a lot of meetings, flew to a graduation at a remote university site, and on one occasion fell asleep in the Provost’s lap on a plane. At times, the Provost, Robin’s boss, sat and held the infant during meetings because he could make her relax and sleep while Robin would be working on the computer. Robin and Beth’s daughter was a fixture on campus.
Robin is a 40 year old, white, female, professor at a regional comprehensive university in the state of Washington. Growing up in the Midwest region of the U.S. and spending a portion of her young adult years in the southeast, Robin identifies as “working class” and claims this positionality as having strong influence on her work and family decisions. Robin claims that she is not big on gay identity politics and never designated a particular label for herself. With that said, for approximately five years, Robin has been in a committed same-sex relationship with Beth, and together they have a three-year-old adopted daughter. Prior to her relationship with Beth, Robin was in a long-term same-sex partnership with a woman who was a stay at home mother to their 13 foster children over a three year period. Five of these foster children were long-term placements, lasting six months or longer.

Robin’s partner, Beth, is a white, female in her mid 40s. Beth grew up in the area of Washington where the academic institution of this study is located. She grew up in what she calls a “faculty family”—her father was a long-time professor at the university in question. Beth is a local Unitarian Minister and works part time in the grants office at the same university where Robin is employed. Prior to her relationship with Robin, Beth was in a long-time heterosexual marriage. In addition to Robin and Beth’s adopted daughter, Beth has three teenage sons, from this previous marriage, who live half-time with their father and half-time with Robin and Beth.

Robin and her family provide an example of a larger narrative around faculty families in higher education who identify outside of strict heterosexual family structure. The specific focus of this study is the family and leave-taking practices of faculty families outside of normalized family structure. This particular family experience is one portal to exploring, examining,
analyzing, and ultimately altering LGBTQ faculty family and medical leave-taking practices in three distinct, but interactive, contexts—the federal realm, the state realm, and the institutional realm.

**Outline of Study**

This study attempts to address issues related to family and medical leave for faculty in higher education who identify outside of strict heterosexual family structure. Chapter One, titled *Exposition*, supplies the reader with the essentials necessary to gain a clear understanding of the study. Much of this study is tied to epistemology: of me as the researcher, of the study participants, and of the sources that create and develop language to refer to those who identify outside of established norms of sexual identification and practice. In an attempt to address these epistemological issues, I first introduce to the reader those who participated in this study. The perspectives from which participants understand their lived experiences reverberate throughout the study, so this initial biographical introduction serves as a foundation for how to read the data and analysis as it appears. Following this family introduction, I begin to expose my positionality as a researcher, which is intimately enmeshed with my positionality in all aspects of my life. Because I don’t believe that it is my right or responsibility to provide labels to study participants or groups of people in general, I include a statement concerning language which speaks to the difficulties associated with reporting data and analysis that is centered on a particular group of people. With the multiple aspects of positionality addressed, I am able to introduce the research problem, purposes, and questions which guide this study’s completion and reporting.

Chapter Two, *Theoretical and Methodological Framework: Bio/Cartographic Activism*, unveils the theoretical and methodological underpinnings of this study. Using what I call *bio/cartographic activism*, detailed through biography, cartography, and activism, I begin to
establish the foundation on which this study stands. Following a specific treatment of each of the
tenets of bio/cartographic activism, the major influences which assisted in its creation are
examined. These influences include aspects of Queer Theory; the German philosophical concept
of *dasein*, popularized by Heidegger (1962) in his work *Being and Time*; and the notion of
*ubuntu*, a humanist philosophy originating in the Bantu languages of southern Africa, which can
be loosely defined as “I am because you are.” Bio/cartographic activism does not function in
isolation from other research methodologies and methods; therefore, an examination of this
relationship is included along with the specific elements of discourse analysis (Focault, 1972)
and case study (Creswell, 1998; Merriam, 1998; Patton, 2002; Stake, 1995, 2005) employed in
this study. It is important to note that elements of the theoretical and methodological framework,
elements of data and data analysis, and elements of literature review appear throughout each
chapter of this study. This deliberate reporting decision was made because each of these
elements is best developed and understood in relation to the others. To provide them piecemeal
would detract from an examination of the complexities involved in the research problem,
purposes, and questions.

The application of bio/cartographic activism, working from federal considerations to state
considerations to specific academic institution considerations, begins in Chapter Three, *Mapping
the Federal Realm*. This chapter examines and analyzes the discourse around the establishment
of the federal Family and Medical Leave Act of 1993 (FMLA), and details the spaces of
oppression, in reference to family structure outside of strict heterosexuality, inherent in this
legislation. Spaces of oppression identified include exclusionary definition, the guise of the
natural and normal, the implementation of violence and punishment, the reproduction of silences,
and the pursuit of nationalism and patriotism.
Chapter Four, *Mapping the State Realm*, explores how issues around family and medical leave in Washington state fit into the broader context of the FMLA. This begins with an examination and analysis of the discourse around Washington state family and medical leave laws, and then moves into areas specific to the LGBTQ community. Areas of focus include the quest for marriage equity in Washington state, the financial considerations to allowing same-sex marriage in Washington state, and why a LGBTQ higher education faculty member might choose Washington state.

With the FMLA and issues specific Washington state established, Chapter Five, *Mapping the Realm of the Academic Institution*, examines one specific institution of higher education in the state of Washington through the lens of a faculty family that identifies outside of strict heterosexual family structure. Areas examined include LGBTQ faculty experience in higher education, how the FMLA plays out in higher education, work/family balance, the importance of human resource offices and professionals, the role of informal policy in the workplace, and tenure considerations for faculty on the tenure track.

This study concludes with Chapter Six, titled *Denouement*. I have specifically chosen this title for its etymology. The French word, *denouement*, is derived from two origins: the Old French word *denoer*, which literally translates as “to untie,” and from the Latin *nodus*, which means “knot.” Commonly used in the context of deconstructing a story, dénouement is the unraveling and untying of the complexities of a plot. This seems like an appropriate ending to this study. The final chapter begins by detailing recent accomplishments in LGBTQ equity, including the repeal of the U.S. military policy of Don’t Ask Don’t Tell (DADT) and the U. S. Executive Branch direction to the federal judicial system to no longer use the Defense of Marriage Act (DOMA) in its opinions. Continuing in this final chapter, federal, state, and
academic institution recommendations are outlined, and the study ends with implications for future research, for the institution included in this study, for LGBTQ faculty in higher education, and for me.

**Positionality**

Historically, research considered “neutral” and “objective” has been the justification for oppression (Absolon & Willett, 2005), and this study attempts to combat that mode of justification. It is clear to me that a researcher must consider whether to be a neutral observer or an evaluative critical analyst, how much to try to serve the needs of participants and anticipated readers, how much to provide interpretations about the study, and how much to advocate for a position (Stake, 1995). My choice is to not participate in the charade of neutrality and objectivity in research. Research as neutral and objective is no longer considered a real possibility (hooks, 1992, 1993; Hesse, 1980; Mihesuah, 1998; Monture-Angus, 1995; Monture-Okanee, 1995; Owens, 2002; Said, 1994; Tuhiwai Smith, 1999; Tierney, 2002) and suffers under the guise of being value free when, in truth, advocacy, whether acknowledged or not, is ever present (Stake, 1995). Internalizing the norms, conventions, and standards of a profession, in this case the historically championed role of researcher as neutral and objective, is to assume the worldview of that profession (Thompson, 2004). But it is a fallacy to believe that research, in this case social science research, is not shaped by the intentions and purposes of the researcher.

Recognizing that neutral research does not exist enables an unapologetic commitment to ideological research that criticizes the status quo and begins to move social relationships toward equity (Lather, 1986). The researcher is an important component in the furthering of equitable social change; therefore, research should generate information sharing, build connections, and increase capacity for understanding, balance, and healing (Absolon & Willett, 2005; Nabigon,
Hagey, Webster, & MacKay, 1998). Social sciences research is especially political (Guba & Lincoln, 1989; Punch, 1994), and all researchers, again whether acknowledged or not, have political investment in the studies they conduct. Because of the inescapable positionality of the researcher, objectivity and neutrality are mythical research claims (Absolon & Willett, 2005). The research process inherently contains elements of consciousness-raising, emotional catharsis, and increased politicization and activism (Punch, 1994). If a researcher doesn’t have investment in the form of a personal valuing of the subject under study, he/she is incapable of adequately researching that topic (Absolon & Willett, 2005; Stake, 1995).

Acknowledging and locating one’s own positionality, which I will clearly identify with the purposes of this study, is an important aspect to all research because there is no such thing as a neutral positionality. When a researcher identifies his/her positionality, it is clear that he/she is collecting data in an effort to make things better and to be useful in some way. Identifying one’s positionality shows that the researcher is connected and committed to the study’s participants. If a researcher wants to ethically and accurately represent research participants and wants to have some impact through his/her research, it is necessary to be positioned in it and connected to it (Absolon & Willett, 2005), and my personal commitment, which will be detailed in the unfolding of the tenets of my theoretical and methodological framework, is to the betterment of humanity as whole. It is unethical for a researcher to conduct research within a context where he/she has no investment, because without this investment, there is no true concern for what the answers are to the research questions. When researchers locate and convey the positions from which they enter a research project, ownership and responsibility become a priority. Claiming positionality replaces objectivity and neutrality with subjectivity, credibility, accountability, and humanity (Absolon & Willett, 2005).
The policy and practice surrounding family and medical leave at institutions of higher education is complex terrain for faculty members who identify outside of strict heterosexual family structure. In attempting to take family and medical leave, faculty members in the LGBTQ community must navigate the intersectionality of federal, state, and academic institutions’ structural barriers that inhibit their family and medical leave-taking. It is necessary to examine and illuminate each of these intersecting nodes within this multifarious discourse to identify spaces of discrimination, advocate for equity, and transform social practices to engender a more just reality for LGBTQ faculty members and their families at colleges and universities.

Statement Concerning Language

Decisions in what language to use to denote particular meanings and what words to use to connote extrapolated ideas are complex issues embedded in this study. Language is not always, possibly rarely, transparent in communicating the linking of a word to an object in an innocent or direct way (Lather, 1986). Labels don’t only describe individuals or groups; they also inscribe a locale on the continuum of privilege and marginalization (Hill, 2006). This study uses terminology that is historically problematic in this regard: lesbian, gay, bisexual, transgender, queer, heterosexism, and heteronormativity to name a few. Much of this terminology elicits passionate response in a variety of forms from a variety of individuals and groups who identify all over the spectrum of sexual identification and orientation. Difficulty arises because we must use language to convey ideas. Recognizing this problematic, I choose two options for description that appear throughout this study. Although not a perfect solution, as it reinscribes categories of definition, LGBTQ is used as an umbrella term to refer to those who identify as lesbian, gay, bisexual, transgender, and/or queer. In addition to LGBTQ, I use “…who identify outside of strict heterosexuality” or “…who identify outside of strict heterosexual family
structure.” I find this terminology much more satisfying in terms of its lack of categorization through label, but it has the capacity to become cumbersome, thus its interchangeability with LGBTQ throughout this study. In the most respectful way possible, my hope is that this study, and the language choices therein, can serve as a challenge to question the labels we use to describe and inscribe people in our everyday interactions.

**Research Problem, Purposes, and Questions**

The problem, which initially prompted my thinking about this study, is that faculty in higher education who identify outside of heterosexuality must navigate institutionalized structural barriers that inhibit their family and medical leave-taking. These barriers are discriminatory in terms of their particularity in choosing which families to protect and which to deny protection. Faculty members at institutions of higher education who identify outside of normalized family structure are denied the same rights and privileges available to their colleagues who identify within the norm. Policy, both written and unwritten, whether intentional or not, either welcomes or discourages the participation of LGBTQ employees. Most, if not all, institutions of higher education claim to value diversity, but their implementation of federal, state, and institutional policies do not always reflect their claims. Many policies, including those related to family and medical leave, deny access or benefits to LGBTQ employees. These policies must be reviewed for their discriminatory impact on faculty members and their families. Including the needs of LGBTQ employees is a public statement of support and a legitimizing factor in reaching the purported goal of diversity in institutions of higher education (Hornsby, 2006).

My purposes with this study are tri-fold: 1) I pursue and expose the problem of discriminatory practice related to family and medical leave for faculty in higher education who
identify outside of the paradigm of heterosexual family structure. 2) I collect and attempt to
better understand the voices and documents required to access the history of the issues as well as
to assess the future for this segment of higher education faculty (Absolon & Willett, 2005), and
3) I work to affect change that promotes equity, in regard to family structure, at institutions of
higher education by countering the dearth of literature pertaining specifically to the lived
experience of LGBTQ faculty in higher education who have taken, or have attempted to take,
family and medical leave.

In composing research questions, my focus is on the issue of discrimination against
faculty members in higher education who identify outside of normative heterosexual family
structure. Stake (1995) suggests centering on issues in the development of research questions as
a way to structure a study. Issue questions focus the attention on complexity and contextuality,
which is intimately connected to political, social, historical, and personal circumstances. Issue
questions help to recognize problems in human interaction (Stake, 1995), and discrimination in
higher education based on family structure is a specified version of a problem in human
interaction. Three issue-based research questions emerged that address the problem and
purposes of this study as described above: 1) What is the lived experience of a faculty member
family in higher education that identifies outside of normative heterosexual family structure? 2)
How does an institution of higher education navigate the discourses of federal family and
medical leave policy, state family and medical leave policy, and institutional family and medical
leave policy that either includes or excludes the needs of a LGBTQ faculty family regarding
family and medical leave?
Attacca

“Attacca” is a direction at the end of a musical movement which indicates that the next movement is to follow immediately without pause. With the family portrait, the outline of the study, my positionality as the researcher, the statement concerning my choice of language, and the research problem, purposes, and questions exposed as necessary preliminary components of the study, it is now possible to begin without pause with the establishment of the theoretical and methodological framework of bio/cartographic activism. Attacca.
Chapter 2

Theoretical and Methodological Framework: Bio/Cartographic Activism

The existing power structures and dominant ideologies that shape the family and medical leave-taking practices of LGBTQ faculty in higher education can be unveiled using what I call bio/cartographic activism, which combines theoretical underpinnings of biography, cartography, and activism, as influenced by Queer Theory, the German philosophical concept of Dasein (Heidegger, 1962) and the humanist philosophy of Ubuntu (Tutu, 2000) originating in the Bantu language of southern Africa. Bio/cartographic activism is connected to other research methodologies in that a diverse collection of research methods can be employed to detail the map that is created. Depending on the research question(s), the researcher has the ability detail the cartographic representation by employing research methods from whichever research traditions are most appropriate.

The biographical subject in this study is the family and medical leave-taking practices of LGBTQ faculty in higher education. The details unearthed are the components that make up the intersectionality of influences on the biographical subject: the federal, state, and academic institution’s influence on the family and medical leave-taking practices of LGBTQ faculty in higher education. A bio/cartographic activist analysis of the specifics of these influences will create a map of each as methods of systematic discrimination and oppression. With this basic map it is possible to employ research methods of all sorts to further detail to the cartographic representation. Because the map is created from a particular positionality, that of working toward a more equitable reality, we are able to utilize certain historical facts that then serve as guidelines for research (Foucault, 1990), and because a biographical subject’s details only make sense through experience (Crary, 1992; Lash & Lury, 2007), the application of additional
research methods uncovers these examples. The best way to find out more about a biographical subject’s details is to uncover them from as many points of view as possible (Lash & Lury, 2007), simultaneously from the inside and from the outside (Kinchloe & McLaren, 2005), so the application of a variety of methods expands the map to include a multitude of points of view.

By naming the family and medical leave-taking practices of LGBTQ faculty in higher education as the biographical subject, it is then possible to explore the details that influence these practices. Through a bio/cartographic activist mapping of these details, it is possible to examine the discrimination and oppression housed in each of these singular components of the whole. By applying additional research methods, each space on the map becomes more expressive, and in this way it is possible to learn more about the biographical subject. Research methods exploring the experiences of faculty in higher education will show different intensities (Hardt & Negri, 2000) of discrimination and oppression imposed on LGBTQ faculty who require family and medical leave. This study borrows methods of discourse analysis and case study in an effort to collect the voices and documents necessary to address the research problem, purposes, and questions.

**Tenets of Bio/Cartographic Activism**

**Biography.** Biographies, traditionally written about individuals, are, at their most basic, an attempt to summarize a life, but this method of chronicling a person can be extended to events, objects, and ideas. A biographical approach to a broad variety of subjects draws from anthropological work that radically defamiliarizes the notion of “persons” (Gell, 1998). Writers of biographies have the capacity to move, shape, and alter their subjects, but this is not a relationship that works in one direction only. There is reciprocity in that these biographical subjects, which Latour (1987) describes as *actants*, direct the movement of individuals as well.
Actants are not stationary or ideal, but function in relation to other actants, both human and inhuman, and are continually coming into existence (Barry, 2001; Fraser, Kember, & Lury, 2005; Lash & Lury, 2007; Whitehead, 1978). The subjects of biographies’ gazes, in many ways, have lives of their own, transitioning from one state to another (Lash & Lury, 2007). Because individuals and biographical subjects are all swimming in the same sea of discourse, individuals are constantly altering the paths of biographical subjects, and biographical subjects are constantly altering the paths of individuals. In this way biography, and in effect, bio/cartographic activism, is a humanist approach to the inhuman (Lash & Lury, 2007). When viewing subjects of biography from this standpoint, it is necessary to explore these subjects in their remarkable complexity.

The common model of biography carries an air of authority in the way they are written, read, and understood. This authoritative posture is an apparition meant to focus readers’ attention on particular aspects of the biography and ignore other, perhaps less desirable aspects. From the expanse of what could be included, authors make choices to show the biographical subject in a particular light. Whether intentional or not, we speak and write from our own epistemological perspectives, points of view, and purposes. We highlight what seems important to us and what we believe is important for others to know, but with each new perspective and point of view come additions or subtractions in the telling of the totality of what there is to know about a biographical subject. This is the flaw of understanding biography as an authoritative rendering of a subject. All subjects of a biographical approach have biographies (plural) and not a biography (singular). A complete and singular biography is an impossibility; there are infinite readings of a biographical subject, and each reading depends on the biographer’s subjective interpretation, understanding, and explanation. Arriving at a totality of an object, event, or idea
is not feasible (Foucault, 1972). A familiar example of this phenomenon is the notion of eye-witness accounts of a crime. If there are ten eye-witnesses, it is likely that their versions of events will all vary from one another in some way. This occurs because the perspective of each witness is different from that of the other witnesses. Similarly, historical records of events differ depending on the subjectivity of the author. Howard Zinn’s (1999) *A People’s History of the United States* is an excellent example of a historical record that differs depending on the perspective from which it is viewed and portrayed. Zinn writes an account of United States history from the perspective of the politically exploited and economically downtrodden. This example leads to an understanding that there is an immense multiplicity of ways to view a biographical subject, and a complete record, in its totality is a constant, yet unobtainable, pursuit.

Biography, in this sense, borrows much from Foucault’s (1972) method of archeology. Each biographical perspective performed is another description of a biographical subject in the infinite mass of possible descriptions. The result of the multiplicity of biographies is, in many cases, a series of contradictions. In archeological analysis, contradictions do not necessitate solutions; they are particular moments in the totality of the biography, each to be pursued to the fullest extent. Pursuit of a complete biography can and should, in its multiple dimensions, contradict itself. Archeology is based on the principle that everything is never, and can never be, said (Foucault, 1972). Multiplicity and limitless possibility opens an infinite expanse of portals from which to access a biographical subject. Bio/cartographic activism revels in this infinite totality and exalts the subjectivity from which this totality can be explored.

**Cartography.** Just as there are infinite possibilities in the tellings of a biography, so there are limitless focuses that maps can illustrate. In the plotting of a map, the cartographer must make choices about what to include and what to exclude depending specifically on what it
is he/she wants to show with that map. This is a common consideration in cartography. A particular area may be mapped in different ways depending on its purpose. For example, a city planner might map for the purposes of navigation and travel. This map will include neighborhoods, streets, monuments, parks, etc. But if an engineer, for example, is designing water systems for this city, the map for navigation is not sufficient. The engineer requires a topographical map that shows elevation differences and contours of land formations to calculate appropriate water pressures. Each of these cartographers takes into consideration the potential utility of the map and creates it according to this purpose. Cartography in bio/cartographic activism works similarly. A method of organizing and differentiating a subject’s multiple biographies is to create maps that consider the multiple dimensions of the biographical subject’s whole. The bio/cartographic activist chooses a positionality in reference to a biographical subject and maps the moments of this specific positionality. Based on the positionality of the cartographer, each map will differ in appearance and will contribute to the totality of the biography.

As an example of cartographer positionality affecting the creation of maps, I refer to the maps of the world created by Worldmapper (2009). Worldmapper displays the world in an extensive variety of ways. If one is interested in seeing population density according to country, as shown in Figure 1, there is a map of the world that shows this. The size of each country on the map shrinks or grows in relation to other countries in reference to population density.
If one is interested in ecological footprint per country, there is a different map of the world, as shown in Figure 2, where each country shrinks or grows in relation to other countries in reference to ecological footprint.

*Figure 1: Population density by country (Worldmapper, 2009)*

*Figure 2: Ecological footprint by country (Worldmapper, 2009)*
An immense number of maps, including military spending, exploitation, disease, and education, to name a few, are made available in this way by Worldmapper. Depending on the perspective of the cartographer, and the utilitarian purpose of the map, each map is drawn from that particular positionality.

Cartography, in terms of bio/cartographic activism, is a way to own one’s epistemological orientation and to act from that space. There is no judgment, theoretically speaking, of the multitude of versions of maps of the same biographical subject. What this enables is an unbounded number of access points to understand the totality of the biographical subject. Each cartographer, in the act of map-making, opens a new portal into the biographical subject’s entirety. The bio/cartographic activist values parallaxic views of objects (Sameshima, 2007), and by honoring this multiplicity, attention is drawn to both the subjective stance of the cartographer and to the endless dimensions of the object in question (Lash & Lury, 2007).

A discourse, which will be explored in detail, is not smooth, continuous, or ideal, but instead is a multiplicity of contradictions, dimensions, and oppositions that can be described and mapped, simultaneously affirming and negating single propositions (Foucault, 1972). All of this is possible, in bio/cartographic activism, through the mapping of an object from the varied and subjective perspectives of each cartographer. It opens the possibility of maps to be understood as the “dispersion of centers from which discourses emanated, a diversification of their forms, and the complex deployment of the network connecting them” (Foucault, 1990, p. 34). Maps, both in their creation and their use, offer direction in the understanding and contemplation of a biographical subject. These maps can then be used by individuals, if they so choose, to reorganize a discourse to engender a more equitable and just configuration.
Activism. Creating biographies in the form of maps, in an attempt to reorganize a discourse to engender a more just and equitable reality, is, in essence, activism. Lash and Lury (2007), in *Global Culture Industry*, construct biographies of a series of popular brands. The methodology they adopt is to follow objects, which they read as out on their own, drifting in the world, completely separate from themselves as the researchers of the objects. Their choice is to follow what they call *the spectacle*. Bio/cartographic activism shifts this methodology in the direction of agency. Although creating a society where lived experience matches an egalitarian ideal may never be a possibility, it is possible to express an understanding of what it means to be human and to then act from that space (Nkondo, 2007). We can make our encounters in the world intentional, and therefore essentially social and activist (Boedeker, 2001). Instead of merely following the spectacle and reporting its travels, the bio/cartographic activist recognizes his/her unavoidable connection to objects and attempts to participate in the spectacle by moving in a desired direction. Within any given discourse, we are intimately connected to the other aspects of that discourse, and we have the agency to alter the ontological paths of objects. Heidegger (1971) explains, “For world and things do not subsist alongside each other. They penetrate each other. Thus the two traverse a middle” (p. 202). We are in that middle, in the world with the objects ontologically. Objects can be transformed, can be developed, can be metamorphosed, and can be modified into new objects, new strategies, and new concepts (Foucault, 1972). This is a process that emerges, changes, and develops as the participants act and are acted upon (Reason & Bradbury, 2008). The spectacle is there, in the discourse, for us to shift, to alter, and to create in an image that resembles a world in which we want to live. Participation in this work isn’t merely a research technique or an epistemological principle; instead, it is an embodied understanding that individuals are part of a social order that is radically
interconnected with the economic, political, psychological, and spiritual well-being of all humans and communities (Reason & Bradbury, 2008). Individuals’ emotional responses, for example, are essentially linked to particular people, objects, and events that act in the world in which they reside (Miller, 2005). As Reason and Bradbury (2008) conclude, “We are not bounded individuals experiencing the world in isolation. We are already participants, part-of rather than apart-from” (p. 4).

As participants acting the world, we are necessarily engaged with people, as well as objects, in collaborative and communicative relationships (Reason & Bradbury, 2008). Objects within discourse are in constant movement, as is the discourse itself. Because a discourse and its objects are always in flux, I argue that there is a responsibility on the part of the participants to rearrange the discourse to produce a reality that is more equitable than the history from which we come. Rolf von Eckartsberg (2008) claims that we internalize our culture and heritage through socialization. He writes, “We are the beneficiaries and spokesman, as well as ‘victims’ of our linguistic tradition, until and unless we become spokesmen and founders of our own way of life in our own right” (p. 15). We must listen to our past and examine our previous decisions to learn from our mistakes and then choose a future that is liberating and emancipatory. By looking to the past, we recognize that humanity as a whole has not inherited its current place, but has chosen it. We have to decide whether we want to repeat the injustices of our history or if we want to modify our actions to create something different. Our reality is a project that we create as we exist (Ortega, 2005). So what we have accepted throughout history as norms of human interaction must be rattled, and Foucault (1972) provides a template for the disruption of these accepted norms within a discourse:
These pre-existing forms of continuity, all these syntheses that are accepted without question, must remain in suspense. They must not be rejected definitively of course, but the tranquility with which they are accepted must be disturbed; we must show that they do not come about of themselves, but are always the result of a construction of rules of which must be known, and the justifications of which must be scrutinized; we must define in what conditions and in view of which analyses certain of them are legitimate; and we must indicate which of them can never be accepted in any circumstances. (p. 25-26)

We must operate within the confines of a discourse, but within that discourse there is agency to create a reality outside of that imposed from historically sanctioned positions of power, as they are simply social constructions.

Institutions of power and those who speak from those institutions have an influential role in establishing and maintaining a discourse, but again, it is possible to contribute to, and rearrange, the discourse. Altering the discourse is a necessity when considering the powerful institutions—the federal government, state governments, and colleges and universities—that govern how research is conducted is valued. There is a need to bring action to research, which has been historically mired in the false objectivism of positivistic traditions in academia (Reason & Bradbury, 2008). The entrenched structures and ethos of “acceptable” research work against investigation that values action (Levin & Greenwood, 2008), and pursuing knowledge aimed at effectuating justice has often been considered disreputable (Argyris, 2003). Bio/cartographic activism is a response to the call to disrupt this established discourse and “to act creatively in the face of practical and often pressing issues in [peoples’] lives in organizations and communities” (Reason & Bradbury, 2008, p. 3). Foucault (1991) suggests that knowledge and power are
generated through discourse, so if this is the case, then there is a duty to identify and open
dialogue concerning the spaces where there is continued inequity (Thomas-Jones & Shinew,
2007). Not only is there an opportunity to add to the discourse, but there is a responsibility of all
to explore the silenced spaces. This theoretical perspective challenges ideas of normalcy and
promotes a rejection of categories that are considered normal by societal standards (Phelan,
1997; Thomas-Jones & Shinew 2007). Constructs must remain fluid, changing in response to the
needs and wants of individuals and institutions within a society. Not to address the inequities is,
in effect, tacit support of the social hierarchies that allow oppression to continue. But an initial
spark of action can reverberate through the institutions of power that assist in the establishment
and reproduction of accepted norms. Change occurs as people come together to work on issues
in their communities and organizations, and this can lead to small scale positive change, but it
also has the capacity to lead to large scale, structural alterations (Reason & Bradbury, 2008). To
think that individuals, through intentional interconnected work with those around them, can
improve the ways in which our world functions, is not unreasonable. We are limiting our
potential influence if we think in isolated cases, but by thinking in larger, interconnected, and
broader directions, there is the hope of social movement. Bio/cartographic activism prompts the
manipulation of discourse to spark and ignite the creation of a reality that coincides with values
and beliefs based in justice and equity.

It is time to act. Subjects and objects all occupy the same world, constantly in a state of
becoming, all acting in some way (Lash & Lury, 2007). There is no reason why this movement
requires passive observation. As participants in a discourse, we have the power and agency to
create and to direct. In his conclusion to Walden, Thoreau (1981) encourages this type of social
engagement:
I learned this, at least, by my experiment; that if one advances confidently in the direction of his dreams, and endeavors to live the life which he has imagined, he will meet with success unexpected in common hours. He will put some things behind, will pass an invisible boundary; new, universal, and more liberal laws will begin to establish themselves around and within him; or the old laws will be expanded, and interpreted in his favor in a more liberal sense, and he will live with the license of a higher order of beings. (p. 343)

We must dream, imagine, and endeavor confidently to create realities of social change.

Bio/cartographic activism invites participants of a discourse to start from their own positionalities by making a claim about a biographical subject. Foucault (1972) points to the discontinuities, the ruptures, and the interruptions as the focal point of historical analysis. Bio/cartographic activism clings to this as an ideal and strives to be the impetus of discontinuation, rupture, and interruption. “The most radical discontinuities are the breaks effected by a work of theoretical transformation” (Foucault, 1972, p. 5), but “one cannot hope to obtain the desired results simply…from a theoretical discourse” (Foucault, 1990, p. 5). Change must come from praxis.

Queer activism in the United States has a long history of working theory and action into social movement. This history of change in and for the LGBTQ community has altered both the discourse and the lived reality regarding equity for those identifying outside of strict heterosexuality, and this culture of activism is essential to this conceptualization of activism and this study as a whole. Although a complete timeline of queer activism is not possible, the following moments in history can serve as an outline of this movement in the United States. In 1924, The Society for Human Rights in Chicago became the country's earliest known gay rights
organization. 1948 brought the publication of Alfred Kinsey’s *Sexual Behavior in the Human Male*, revealing to the public that homosexuality is far more widespread than was commonly believed. Essential organizations were formed in the 1950s, including The Mattachine Society, the first national gay rights organization, formed by Harry Hay who is considered by many to be the founder of the gay rights movement. A second organization, founded in 1956, is The Daughters of Bilitis, a pioneering national lesbian organization. In 1962, Illinois became the first state in the U.S. to decriminalize homosexual acts between consenting adults in private. A pivotal and very public event in 1969, The Stonewall riots, transformed the gay rights movement from one limited to a small number of activists into a widespread protest for equal rights and acceptance. Patrons of a gay bar in New York's Greenwich Village, the Stonewall Inn, fought back during a police raid on June 27, sparking three days of riots. In 1973, after a history of homosexual persecution in the mental health field, The American Psychiatric Association removed homosexuality from its official list of mental disorders (infoplease.com).

Also in 1973, Harvey Milk ran for city supervisor in San Francisco on a socially liberal platform that opposed government involvement in personal sexual matters. Milk won the Castro District and other liberal neighborhoods and received a lot of media attention for his passionate speeches, brave political stance, and media skills. Milk was later appointed to the Board of Permit Appeals, making him the first openly gay city commissioner in the United States. Milk decided to run for the California State Assembly, and upon his loss by fewer than 4,000 votes, he co-founded the San Francisco Gay Democratic Club. On January 8, 1978, Harvey Milk made national news when he was sworn in as a member of the San Francisco Board of Supervisors, winning the election by 30 percent. Milk began his term by sponsoring and getting passed a civil rights bill that outlawed sexual orientation discrimination. Tragically, on November 27, 1978,
Harvey Milk and Mayor George Moscone were assassinated by Dan White, another San Francisco city supervisor, who had recently resigned and wanted his job back, but was being passed over because he wasn't the best fit for the liberal leaning Board of Supervisors and the ethnic diversity in the district. Milk’s activism and reach of influence is still felt to this day (infoplease.com).

Fastforwarding to more recent history, in 2000, Vermont became the first state in the country to legally recognize civil unions between gay or lesbian couples, stating that couples would be entitled to the same benefits, privileges, and responsibilities as spouses. In 2003, The U.S. Supreme Court ruled in Lawrence v. Texas that sodomy laws in the U.S. are unconstitutional. The following years brought many changes to states’ laws regarding LGBTQ equity: In 2003, the Massachusetts Supreme Judicial Court ruled that barring gays and lesbians from marrying violates the state constitution. In 2004, same-sex marriages became legal in Massachusetts; in 2005, civil unions became legal in Connecticut; in 2006, civil unions became legal in New Jersey. 2008 saw a flood of activist work come to fruition: a New York state appeals court unanimously voted that valid same-sex marriages performed in other states must be recognized by employers in New York, granting same-sex couples the same rights as other couples; the state of Oregon passed a law that allows same-sex couples to register as domestic partners allowing them some spousal rights of married couples; the California Supreme Court ruled that same-sex couples have a constitutional right to marry; the Supreme Court of Connecticut ruled that same-sex couples have the right to marry, which made Connecticut the second state, after Massachusetts, to legalize civil marriage for same-sex couples. The court ruled that the state cannot deny gay and lesbian couples the freedom to marry under Connecticut's constitution, and that the state's civil union law does not provide same-sex couples
with the same rights as heterosexual couples. In 2009, this nationwide trend continued: the Iowa Supreme Court unanimously rejected the state law banning same-sex marriages and county recorders were required to issue marriage licenses to same-sex couples; the Vermont Legislature voted to override Gov. Jim Douglas's veto of a bill allowing gays and lesbians to marry, legalizing same-sex marriage and becoming the first state to legalize gay marriage through the legislature; New Hampshire becomes the sixth state in the nation to allow same-sex marriage. In the following years, the District of Columbia, and most recently, the state of New York began to allow same-sex marriage (infoplease.com).

On February 23, 2011, at the direction of President Barack Obama, the Justice Department announced that the Defense of Marriage Act (DOMA) is unconstitutional and will no longer defend the law in federal court. This change in federal policy is a major advancement for the LGBTQ community and signals a tremendous change in how the federal government views equity rights for those identifying outside of heterosexuality. Attorney General Eric Holder stated that this change was based on the President’s opposition to a documented history of discrimination. Obama concluded that Section 3 of DOMA, which defines “spouse” as a member of the opposite sex, “fails to meet that standard and is therefore unconstitutional. Given that conclusion, the President has instructed the department not to defend the statute in such cases” (Ambinder, 2011). In addition to DOMA, on December 18, 2010, the U. S. Senate voted 65 to 31 to repeal the military’s DADT policy that banned gay men and lesbians from serving openly in the military, which ended the 17 year policy that forced thousands of Americans to leave the military and caused others to keep their sexual orientation secret. This action ended government sanctioned discrimination that treated gay and lesbian troops as lesser citizens than their peers (Hulse, 2010).
This extensive culture of queer activism is essential to the foundations on which this theoretical and methodological framework are constructed. It is the work of people, in concert with one another for the greater good, that has provoked the changes we have seen and will continue to see. The interconnectedness of humanity is joyfully inescapable, and although bio/cartographic activism can be employed by anyone and from any perspective, it is created in the vein of Paul Hawken’s (2007) *Blessed Unrest*. The innumerable organizations and individuals working toward social and environmental justice is the largest social movement in the history of mankind. It is a grassroots movement that is possibly the most complex assemblage of people ever. Bio/cartographic activism originates from the expansive variety of work done by, with, and for those within the movement and can be utilized in an attempt to rectify the injustices and inequities that we encounter in the spaces where we reside.

**Major Influences of Bio/Cartographic Activism**

**Queer Theory.** The limitless possibilities that Queer Theory enables has had major influence in the formation of bio/cartographic activism. There is no dependence in Queer Theory for the theorist to come from any specific perspective or identity (Britzman, 1995). Bio/cartographic activism appreciates the multitude of ways to view and understand an object, and Queer Theory explicitly challenges any kind of finality, closure, or settlement, so any attempts at definition are inadequate (Plummer, 2005). Queer Theory, in its refusal to be defined or fixed to a set of rules or guidelines, is in constant movement, always in flux (Gasman, 2000), and the act of queering, questioning and dismantling established norms, is never complete (Loutzenheiser, 2007). According to Edelman (2004), Queer Theory suggests a refusal of any firm identity formulation resulting in disidentification (Munoz, 1999), of history as a linear narrative, and of every social structure or form. In the political spectrum, it has no position other
than opposition to all sides, including its own oppositional stance. It is “the ceaseless disappropriation of every propriety” (Edelman, 2004, p. 24). Attempting to define Queer Theory, in many ways, is antithetical to what Queer Theory attempts to accomplish in its relentless pursuit of addressing objects from continually fresh angles and perspectives. Definition is not necessary; instead, it is the processes of Queer Theory from which bio/cartographic activism mostly draws.

Queer Theory constantly decenters and continually searches for the alternative questions, the questions not asked, the things we cannot bear to know (Britzman, 1995). In this way, the normalizing messages from institutions of power can be addressed. A purpose of using Queer Theory is to scrutinize how unequal power relations and the status quo are maintained and exacerbated (Loutzenheiser, 2007). This is the responsibility, from a queer perspective, of all those involved in the discourse, and it is through the processes of queering that oppressive ideology is altered and advances in social justice are realized.

As society and culture shift, reorganize, and alter as the processes of queering are inserted, institutional power attempts to maintain its control by defining and legislating normality via the production of normalization. The very idea of “normal” is a phantom, impossible to locate. Whether normalcy is the act of mastering a practice, or renouncing and refusing difference itself, is not important. Queer Theory posits that the production of normalization, in any form, is a problem of culture and thought (Britzman, 1995). It is within culture, in its array of appearances, including institutions of governance, that we must challenge the normalizing forces that attempt to guide us to hegemonic ideals. As long as social institutions are permitted to proceed with their normalizing processes without being questioned, deciding who and what qualifies as legitimate, discrimination can continue.
Queer Theory provides a useful framework to bring attention to the discriminatory nature and normalizing processes emanating from locales of power in all its forms, and it also necessitates a move towards change. Bio/cartographic activism relies on both of these aspects as necessary to put queer to work in its insurrection of subjugated knowledge and power which, in turn, opens and proliferates the processes of praxis (Coloma, 2003). Understanding any aspect of modern Western culture is incomplete without critical analysis from anti-heteronormative perspectives (Sedgwick, 1990). Exploring objects from perspectives outside of established norms enables both inquiry and action. These queer spaces (Britzman, 1995) are the points from which change can blossom, providing an opportunity for institutionally sanctioned discrimination to be exposed and negated.

**Dasein.** Another major influence in the creation of bio/cartographic activism is the concept of Dasein, popularized by Heidegger (1962) in his work *Being and Time*. Heidegger used Dasein as a way to describe a human entity’s critical importance of being, in terms of his/her expression in relation to the world. Dasein is a constant existing, understanding, interpreting, and uncovering of the primal nature of being in the world. Heidegger attempted to maintain the definition of Dasein as the way in which we all are in our average every day existence, and he most concretely characterizes Dasein’s being as care for the whole (Boedeker, 2001). It is a constant being with others (Meylahn, 2010), and “is not in the world in the same way as a quantity of water is in a glass. Instead, the ‘in’ is meant to signify involvement or engagement with or in the world” (Cerbone, 2000, p. 214). Dasein’s being is about relationship and possibility and is not a self-contained substance, but exists in its reference to its surroundings, both human and worldly (Boedeker, 2001). “The person, as dasein, is a historical

When a person repeats actions of the past, he/she is responding in a reciprocal way where the past is simultaneously informing the present and the present is perceived in reference to the past. The process of repeating actions contains elements of retrieval, reclamation, and recovery of a shared heritage. These acts of accessing the past happen in moments when those who are living Dasein choose a path as opposed to blindly following the masses. When we make these choices, which happen in an instant, we are either doing what we have always done, or we are modifying or changing a norm or practice. It is possible that we can be authentic in our repetition of norms and practices, but what seems a greater possibility is that we can alter inherited norms and practices to reshape them and establish new understandings of them (Ortega, 2005).

This reshaping does not happen when individuals are isolated; instead, it relies on a connection to the world and all that it contains. A person’s authentic being, his or her Dasein, is only possible in the interwoven context of the world and its inhabitants (Meylahn, 2010). One cannot theoretically position him/herself in this authenticity; it requires a practical investment of being-in-the-world (Cerbone, 2000). Heidegger recognized the importance of the contexts in which beings reside, so he specifically focused on conceptualizations of relationship. He was searching for a transcendental unity of beings but recognized that this could only be possible with an original occurrence, which he called an irruption, a fissure that allows beings to show the genuine versions of themselves. This metaphysical awakening transforms beings into Dasein (Miller, 2005), which already exists in the world that it shares with all beings (Ortega, 2005).
Accessing Dasein is possible through the acts of care and love: “Somehow joy, the authentic bliss we find in the present existence of another person whom we love, attunes our understanding of ourselves and helps us recognize our relationship to beings as a whole” (Miller, 2005, p. 384). Boedeker (2001) argues that Dasein’s whole being, according to Heidegger, is most concretely characterized as care. Authentic care helps its recipient to become transparent in his/her own care (Ortega, 2005). Dasein is not a self contained substance. The relationships that we forge with individuals, with our surroundings, and with society as a whole, contribute to the meaning we feel in our lives, and it is impossible to break from this relational method of defining ourselves. A self is only possible within the context of the world in which we are engaged (Boedeker, 2001). It is therefore necessary to overcome individualistic thinking, even dialogical thinking, in favor of a multidimensional approach that values all voices and all contributions of participants (von Eckartsberg, 2008).

Ubuntu. Philosophically connected to Dasein is the concept of Ubuntu, the humanist philosophy originating in the Bantu languages of southern Africa. There is no single definition of Ubuntu; each person seems to understand it in a vocabulary he/she finds relatable. All attempts at definition, though, speak to the interconnectedness of humanity. For our purposes, I choose to include the following definition that I feel encompasses the most widely held tenets of Ubuntu:

It is a spiritual foundation, an inner state, an orientation, and a good disposition that motivates, challenges and makes one perceive, feel and act in a humane way towards others. It is a way of life that seeks to promote and manifest itself and is best realized or evident in harmonious relations in society. (Mnyaka & Mothlhabi, 2005, p. 218)
Those with Ubuntu are available to and affirming of others and do not feel threatened that others are able and good. They understand that belonging to the greater whole of humanity is essential to existing, and they are diminished, as individuals and as a whole, when others are humiliated, tortured, or oppressed. Ubuntu is the essence of being human and speaks particularly to the fact that human beings cannot live in isolation and are interconnected. People think of themselves far too frequently as individuals, separated from one another, but what people do as individuals affects the entire world and the whole of humanity (Tutu, 2000).

A person with Ubuntu demonstrates care, humility, thoughtfulness, consideration, understanding, generosity, hospitality, maturity, sensitivity, and virtue (Le Roux, 2000). It is a way of life focused on the wellbeing of people, community, and society and is opposed to all inhumane behavior (Sindane & Liebenberg, 2000). This way of life is based in generational wisdom and is practiced in intentional thinking, choosing, acting, and speaking (Nkondo, 2007). It is a call to practical participation and service that links us to the greater whole of humanity in an effort to connect around issues of disadvantage, marginalization, inequity, and suffering (Mnyaka & Motlhabi, 2005). Living Ubuntu elevates the needs of the whole above the needs of the individual: social and communal interests, obligations, and duties become the priority (Nkondo, 2007). Ubuntu increases human value, trust, and dignity in a move toward social harmony beginning with the family, extending to the community, and eventually encompassing all of humanity (Le Roux, 2000). Meylahn (2010) calls the work of Ubuntu a “continual becoming” and “an invitation to the dance of be-ing (p. 6).

Genuine interfacing, as Cilliers (2008) understands as essential to Ubuntu, is about a willingness to be transformed through an encounter with the other. This potential transformation is the essence of being human achieved through the daily cultivation of love and relationship
(Mnyaka & Motlhabi, 2005) that binds individuals, communities, and humanity (Blankenberg, 1999). Humanity held in common has a particular dignity, integrity, and value that should be acknowledged and respected, regardless of status, position, or labels. Every single person belongs; there is no one excluded. Within this paradigm, it is possible for each individual to both provide and accept meaningful support from all fellow human beings (Mnyaka & Motlhabi, 2005). Research that originates from this space puts an emphasis on togetherness, community, and collaboration in pursuit of the realization of shared goals (Muwanga-Zake, 2009).

**The Integration of Discourse Analysis**

The development of bio/cartographic activism, and its implementation in this study, is indebted to Foucault’s (1972) conceptualization of discourse analysis in *The Archeology of Knowledge*. The research questions of this study speak to the lived experience of a faculty member family in higher education that identifies outside of normative heterosexual family structure and the discourses of federal family and medical leave policy, state family and medical leave policy, and institutional family and medical leave policy that either includes or excludes the needs of a LGBTQ faculty family regarding family and medical leave. These research questions lead to the conclusion that discourse analysis is a logical research methodology to incorporate into this study. In bio/cartographic activism, as in discourse for Foucault, the subject and object simultaneously act on one another resulting in the constant movement and change of both. Discourse is not originated in the subject nor the object, but in the totality. Both subject and object occupy space in the network of a discourse. Objects in a discourse, their content, their meanings, and their purposes, are simply a function of the larger structure of social networks. The same holds true for subjects; what people utter in regard to objects inhabits space in a discourse, but the amount of available space is infinite (Foucault, 1972). Bio/cartographic
activism adheres to similar principles in that there are infinite positionalities from which to develop a map of an object. The maps created by employing bio/cartographic activism originate from a multitude of perspectives, each attempting to, in some fashion, alter the direction and movement of the discourse. A discourse functions outside of the merely conceptual and relies on the materiality of subjects and objects to be transformed and mutated within that given discourse (Foucault, 1972). The bio/cartographic activist participates in a discourse by mapping a “group of statements that belong to a single system of formation” (Foucault, 1972, p. 107). A discourse is the infinite totality of possible maps, the space of diverse oppositions, drawn using bio/cartographic activism.

Although this multitude of possibilities in the infinite space of a discourse can appear overwhelming, it is, as previously argued, through discourse that knowledge and power are generated (Foucault, 1991). If the ultimate function of a discourse is to create a reality, then discourse in not merely conceptual; instead, it is grounded in practice, in the material, in the concrete reality of the lived world (Foucault, 1972). This study attempts to create that reality, first in the form of bio/cartographic maps and later in their use in the lived world, by analyzing the discourse of the literature and documents related to the family and medical leave-taking practices of LGBTQ faculty in higher education. What is problematic is that it is the institutions of power that produce the reality in which we reside. Foucault (1995) writes, “Power produces; it produces reality; it produces domains of objects and rituals of truth” (p. 194). Truth is only in appearances, in rituals produced through positions of power within a given discourse, which can be understood as a set of ideas and practices that organize the way a society defines certain truths about itself and the way it manipulates social power (Collins, 2005). Power is based in the reproduction of hegemony through compulsory participation. The formation and establishment
of laws is calculated and relentless in its pursuit of instigating and perpetuating structures of domination and violence (Foucault, 1998). The law and policy analyzed in this study includes the federal, state, and institutional realm.

People’s behavior is systematically coerced and manipulated in an effort to discipline bodies to perform hegemony appropriately, thus producing subjected and practiced docile bodies (Foucault, 1995). Discipline oppresses those outside of hegemonic norms and acts on docile bodies to force obedience. Foucault (1995) explains:

Discipline increases the forces of the body (in economic terms of utility) and diminishes these same forces (in political terms of obedience). In short, it dissociates power from the body; on the one hand, it turns it into an ‘aptitude’, a ‘capacity’, which it seeks to increase; on the other hand, it reverses the course of the energy, the power that might result from it, and turns it into a relation of strict subjection. (p. 138)

While discipline is acting on docile bodies, the bodies are simultaneously becoming highly productive and highly obedient. Disciplining forces act upon individuals who obediently maintain the oppressive limits while tacitly producing support for the oppressor. In this way, discipline creates individuals through specific techniques of power that dually consider individuals as objects on whom to impose particular structures, as well as instruments that unwittingly reproduce those same structures (Foucault, 1995). In this way, individuals are both objects and subjects of discourse.

Even though discourse is inescapable, there is space within a discourse to renegotiate, rearrange, and reorganize the objects and subjects therein; this is the goal of bio/cartographic activism and the goal of this study. Subjects and objects of a discourse continually act upon one another, and these actions reverberate throughout the discourse. In discourse, things come alive
and generate their own power by acting upon both individuals and other artifacts of the discourse; objects become social entities (Appadurai, 1986). By operating through becoming and movement, or what Foucault (1990) calls *bio-power*, power escapes structures and enters flows within discourse (Lash & Lury, 2007). Because individuals are also enveloped in the flows of discourse, there is opportunity to influence the directionality of the flows of objects and biographical subjects. Bio-power constantly works through chronic production (Foucault, 1990), and as artifacts of a discourse produce meaning, subjects of the discourse produce meaning as well, and there is constant reciprocity of subject and object acting upon one another. Bio/cartographic activism, and this study, locate themselves within this terrain, attempting to alter the discourse’s manifestations in the lived and experienced world.

**Data Collection.**

**The Literature.** In order to create a bio/cartographic activist representation of an issue, literature pertaining to the specifics of that issue are a necessary inclusion. Within bio/cartographic activism, the literature plays an important role as data that serves various purposes: existing literature occupies its own space in the map as what has already been researched and published on the issue; it informs additional data collection, which for this study includes site, participants, observations, and interviews; and it guides the creation of interview questions in an effort to illicit information that fills gaps in the literature. Literature that was collected and analyzed for this study includes the history and development of the federal FMLA; Washington state family and medical leave policy; and policy formation at federal, state, and institutional levels that pertains to the LGBTQ community. Additional literature collected speaks to LGBTQ faculty experience in higher education, the federal FMLA in higher education, work/family balance for faculty in higher education, and issues related to faculty tenure.
**Documents.** Almost every study requires the researcher to examine documents (Stake, 1995). Collection, examination, and analysis of documents is an important aspect of this project because the study deals with how a variety of policy directly affects a faculty participant and family. Documents collected, examined, analyzed, and mapped using bio/cartographic activism include federal, state, and academic institution policy and proceedings regarding family and medical leave. Federal information and state information was collected by searching public records that included legislation signed into law, proceedings of legislative sessions, and case law. Academic institution information was collected by accessing documents available from websites, documents available through human resource offices, and faculty handbooks. As documents were collected and simultaneously analyzed, I was able to progressively focus (Parlett & Hamilton, 1976) my document collection to include sources that became apparent. It is necessary to complete document collection and examination prior to conducting interviews so that the interview questions are formulated to reflect the specificity of the documents in question, and I adhered to this principle.

**The Integration of Case Study Methods**

In order to develop a bio/cartographic activist representation of the family and medical leave-taking practices of faculty in higher education who identify outside of strict heterosexuality, it is useful to draw from established research traditions. The research questions of this study are specific to lived experience and institutional response; therefore, case study methods are a promising path to address these questions. Case study researchers attempt to perceive and represent what is occurring in the data and in the data collection process through their own interpretations. These interpretations, provided in the form of narrative, allow the reader the vicarious experience of the case (Stake, 1995) and attempt to provide an opportunity
for readers to gain an empathetic understanding through thick description (Geertz, 1973; Stake, 1995). Although there is no standard format for the reporting of case study research (Merriam, 1988), I loosely follow an approach suggested by Stake (1995): including vignettes so the reader can develop vicarious experience; identifying the issues, the purpose, and the method of the study; extensively describing the case and its context; probing the issues further to convey the complexity of the case; and presenting assertions about the case.

The intention of this approach is to move readers toward naturalistic generalizations (Stake & Trumbull, 1982), which are the conclusions readers arrive at through their own experiences or through vicarious experiences presented in a compelling manner (Stake, 1995). In an effort to guide and support the reader, I follow Stake’s (1995) strategies for assisting in the validation of naturalistic generalizations. The guidelines include providing accounts of aspects of the study that readers are already familiar with so they can gauge the accuracy, completeness, and bias of accounts they are not familiar with; providing enough raw data before providing interpretation of that data so that readers have the opportunity to form their own interpretations; describing the methodology of case research in ordinary language; making information available about the researcher and other sources of input; providing reactions to the data for the reader; and deemphasizing the idea of validity based in replicability. The hope is that through these processes, readers will gain a vicarious experience of LGBTQ faculty in higher education who struggle against the discriminatory and oppressive confines of the inequitable implementation of federal, state, and institutional family and medical leave policy.

The researcher is, in many ways, a biographer who makes particular methodological choices (Stake, 1995), and case study methods make the most sense to include as a way to address the research problem, purposes, and questions. I made this choice because I believe that
knowledge is constructed rather than discovered, and understandings of the world are constructed through experience (Stake, 1995). Accessing these experiences thoroughly requires close study of the multifaceted aspects of the case. In terms of this study, the federal realm of family and medical leave, the state realm of family and medical leave, and the institutional realm of family and medical leave emerged as the primary facets of exploration. Case study methods allow for complex life experience to be analyzed in its juxtaposition to the thematic network—the federal, state, and institution—where it resides (Stake, 1995) and is an exploration of a bounded system involving the detailed collection of data from multiple sources of information rich in context (Creswell, 1998). These multiple sources include a thorough collection of existing literature; federal, state, and institutional documents; observations of the faculty member in personal and professional contexts, both with her family and without; participatory observations of human resource training events at the institution included in this study; and interviews with a faculty member, her partner, and a human resource professional at the institution included in this study. Additionally, case study is about particularization and not generalization. The focus is about understanding the particular case within its context. The researcher looks at the issues of a case because the issues are portals to view the conditions and complexities of the case (Stake, 1995). For this reason, issue-based research questions have been established, and bio/cartographic activism relies on this wide variety of access points to view the subject, which is the family and medical leave-taking practices of faculty in higher education who identify outside of strict heterosexuality.

This study employs elements of intrinsic case study and of instrumental case study (Stake, 1995). Intrinsic case study is pursued because there is a need to understand a particular case. A case study is intrinsic when the researcher takes responsibility for an issue, and the case
presents itself and is unavoidable. Instrumental case study is used when there is an established research question, and the researcher feels that the best way to gain insight into that question is by exploring a particular case. This study is intrinsic because I feel a responsibility to act on the issues. As explained in the formulation of bio/cartographic activism, Dasein and Ubuntu have become an essential lens through which I view the world. With these philosophical concepts as a guide, spaces of inequity, injustice, oppression, and discrimination are not tolerable. Therefore, this study presented itself as necessary and unavoidable. The study also contains elements of instrumental case study in that the research problem, purposes, and preliminary questions were established prior to any formal collection of data. These established parameters, explored in the federal, state, and institutional realm, are addressed through the exploration of a particularly rich case, which is the faculty family’s lived experience included in this study.

Stake (1995) argues that case study is non-interventive, trying to not disturb the ordinary activity of the case. This study departs from that convention. Bio/cartographic activism, as a theoretical and methodological framework, asserts altering the landscape of an issue to engender a more equitable and just reality as an essential component of the research process. As will be explained in the findings in the last chapter of this study, I do believe that this case was disturbed, but this disruption was for the purpose of changing how the needs of its LGBTQ faculty in higher education are met at the federal, state, and institutional levels. I do not believe that the case was disturbed in any negative way during data collection, and the data collected is used to attempt to move the discourse forward to place of increased equity that will hopefully assist the faculty participant and those who identify with her. Why preserve the multiple realities, as Stake (1995) suggests, when there is an opportunity, and even a responsibility, to work towards a more equitable reality? Cases are chosen because of their special interest to the
researcher (Stake, 1995), and I have a sincere interest in learning about the case, and I am attempting to understand it in greater detail (Stake, 1995).

Researchers have great privilege to decide what they consider worthy of their attention and incredible obligation to draw conclusions that are meaningful. Case study is an opportunity to see and report what others have not seen and to advocate for ideals that the researcher values. The researcher eventually offers a personal view, much of which has been formed before the collection of data. In this way, case study research is highly personal as participants are studied in depth and researchers include their own perspectives and interpretations. All researchers have recognized a problem, and they study these problems in an attempt to connect it to what is already known. The issues raised are, at their most basic, complicated problems within situations and contexts that inspire public disagreement. I believe I have the opportunity to contribute to this public discourse by recognizing and validating new ideas and knowledge (Stake, 1995). Detailing the bio/cartographic activist representation of the subject using case study methods enables this capacity.

**Sampling.** Cases for study are chosen because they offer particularly illuminative or information rich examples of the phenomenon in question, and purposeful sampling provides the opportunity to look specifically at the phenomenon (Patton, 2002). In some circumstances, the researcher is obligated to study a particular case (Stake, 1995), and the researcher selects cases which serve the purpose of the study (Bernard, 2000; Patton, 2002). The purposes of this study obligated me to be purposeful in my participant selection because of my commitment to issues of equity and social justice. Because of these guiding principles, I chose a faculty participant that potentially provided the best opportunity to maximize what can be learned (Stake, 1995, 2005).
Understanding the case to the fullest extent greatly depends on finding appropriate informants (Stake, 1995). Purposeful sampling requires the researcher to be diligent in following leads in an effort to deepen understanding; therefore, the design of the study emerged in a flexible manner as new paths of inquiry were opened as potential participants were identified (Patton, 2002). My original intent was to collect data from multiple faculty members, at multiple institutions of higher education, who identify outside of strict heterosexual family structure. As I collected existing literature and documents, it became apparent that there were three distinct contexts that required exploration: the federal realm, the state realm, and the institutional realm. Each of these contexts has its own laws and policies that at times work in conjunction with the others and at other times work in contradiction. Because of these emerging themes, the decision was made to explore how one faculty family’s experience plays out in these three distinct levels of governance. A second example of emerging design is exemplified in my exclusion of data from a second faculty member at the same academic institution in question. This faculty member agreed to participate, but then became difficult to contact. We did one formal interview, but he was not very forthcoming. Following the formal interview with this participant, it was clear that the data collected was a pale comparison to the breadth and depth unearthed in the observations of, and interviews with, the faculty member and her family included in this final reporting. The data from this second faculty participant felt too extraneous to include, so I made the decision that the study was better served by focusing on one faculty member family as an example of family and medical leave-taking practices of faculty in higher education who identify outside of heterosexual family structure. A single case can be extremely telling and lead to new insights for research (Patton, 2002), and since the logic behind purposeful sampling is to
understand something in depth, information rich cases provide an opportunity to learn details specifically related to the purposes of the research (Patton, 2002).

Establishing a rationale for purposeful sampling strategies is required by the researcher (Creswell, 1998). Patton (2002) suggests several different strategies to conduct purposeful sampling and advises that the variety of approaches is not necessarily mutually exclusive. Each approach contributes to a different purpose, and more than one may be necessary for a research project. A combination, or mixed purposeful sampling approach, was undertaken for this study. This study used a combination of intensity sampling, critical case sampling, and snowball sampling.

I used intensity sampling which involves choosing a case that manifests the phenomenon in highly interesting ways while not being highly unusual. This required some prior knowledge of the phenomenon and the good judgment of the researcher to choose an appropriate participant (Patton, 2002). I chose a faculty participant that fit the required criteria which were established based on my extensive literature review and my development of the theoretical and methodological framework of bio/cartographic activism to both explore the lived experience of faculty member in higher education who identifies outside of the federally recognized heterosexual norm of family structure and to move the political discussion toward a more equitable reality. The other participants were based on their relationship to the faculty member selected—one is the partner of the faculty member, and the other is a human resource professional at the institution included in the study.

Critical case sampling is employed when the researcher is attempting to make a dramatic point regarding the research problem as a whole. Critical cases show that the occurrences of the particular case are possible in every other similar case. It was important here to choose a case
that yielded information that will have the greatest impact (Patton, 2002). This also contributed to the decision to exclude the second faculty participant previously mentioned. Because this is activist research, a dramatic point is necessary to alter the discriminatory treatment of the faculty participant in question and those who identify with them. By exploring a critical case, my intent is to alter the inequitable distribution of rights and privileges based on differences in family structure.

Snowball sampling begins by asking well-situated people to facilitate connections with potential participants who are specifically suited to the study. These people inform more potential participants, and those lead to more, until the names of potential participants are repeated. These repeated names often are likely to be the few key participants necessary for the study (Patton, 2002). I contacted a variety of higher education faculty that I know are connected to LGBTQ issues and requested their assistance in identifying potential participants. These suggestions snowballed into a pool of more potential participants from which I chose one most suited to the study. As a note, the faculty member included in this reporting is the person who suggested the second faculty participant that was eventually excluded.

**Site.** This study took place at a regional comprehensive institution of higher education in the state of Washington. The site was determined by the employment locale of the faculty participant selected through the processes of mixed purposeful sampling: intensity sampling, critical case sampling, and snowball sampling (Patton, 2002). Once the faculty participant was identified, the research site was determined to be the public academic institution that employs the faculty participant, the state where the academic institution is located, and the nation that encompasses it all.
Data Collection. The aim in the collection of data is to understand the case as thoroughly as possible. To gain a thorough view of the case in this study, I collected, examined, and analyzed existing literature; existing federal, state, and institutional documents, observed participants in a variety of contexts, and conducted interviews with individuals vital to a comprehensive understanding of the case. In case study research it is possible that preliminary interview questions might not illicit useful data and that new issues will present themselves (Stake, 1995). When this occurred, I employed progressive focusing (Parlett & Hamilton, 1976), which I understand as a constant refining of the study to pursue relevant issues raised during the collection of data that pertain to the research problem, purposes, and questions. Thus, the emergent design as previously described.

Further, a brief description of the case to be undertaken should be provided to participants. Included in this description should be how the findings will be distributed, the processes of participant reviews, and the plan for the participants to remain anonymous (Stake, 1995). In compliance with these principles set forth by Stake, participants in this study were provided with a brief description of the study, the potential distribution of the findings, the system by which participants can review my renderings of the data, and my plan for participant anonymity. This information was included in a consent form (Appendix A). Additionally, Institutional Review Boards at universities have regulations for the protection of human subjects (Stake, 1995). This proposed study was certified exempt by the Washington State University Institutional Review Board (Appendix B).

Observations. Observations, connected to research issues, enable the researcher to gain a better understanding of a case. The keeping of good observation records provides the researcher with relatively incontestable descriptions that are then used for further analysis and eventual
reporting (Stake, 1995). Over the course of a year, I was able to interact with and observe the faculty participant, her partner, and their adopted daughter in both professional and personal settings on numerous occasions. Observations of the family, in social situations and in private, occurred multiple times over the course of a year. In these various observation settings, both personal and professional, I took notes regarding the faculty participant’s interactions with colleagues, with students, with her partner, and with their adopted daughter. Following these observations, I wrote a narrative description of what I observed and included my own interpretations. These notes and narrative descriptions served as data, which eventually informed my interview questioning. A second space of observation was my participation in human resource led training sessions for new faculty members at the institution included in this study. Included in these training sessions were issues related to family and medical leave for faculty members. Over a two week period, I attended four training sessions. As with the faculty participant observations, I took notes during the sessions and wrote a narrative description after each that included my interpretations. These notes and narrative descriptions focused specifically on anything relating to family, family and medical leave, diversity on campus, non-discrimination policies, and LGBTQ concerns. This material served as data that eventually informed my formal interview with the human resource professional. Observing both this faculty family and the human resource training sessions has had invaluable influence in my understanding, and eventual reporting, of the complexity of the issues raised by this study.

Interviews. Because researchers are unable to observe the totality of a case by themselves, they rely on the observations of others. The case will not be seen in the same way by everyone, so it is important to collect these descriptions and observations. The multiple views of the case are what the researcher is seeking, and interviews are one method of exploring these
multiple realities (Stake, 1995). Formal interviews were conducted with the faculty participant identified through mixed purposeful sampling (Patton, 2002), with the partner of the identified faculty member, and with a human resource professional at the institution where the selected faculty member is employed. Following a thorough collection of existing literature, necessary documents, and observations, an in-depth 90-minute interview was conducted with the faculty participant. Following the interview with the faculty participant, a 60-minute formal interview with the faculty participant’s partner was conducted. When this was concluded, both the faculty participant and her partner were interviewed together for approximately 30 minutes. Clarifications and further questioning occurred with each participant via email exchanges. With this data collected, in addition to the data collected through existing literature, documents, and observations, I conducted a 60-minute formal interview with a human resource professional, whose specific job included family and medical leave policy, at the institution included in this study. Following each of these formal interviews, I completed a narrative description that included initial interpretations.

The direction of formal interviews must be driven by the researcher in an effort to address the research problem, purposes, and questions (Stake, 1995). Therefore, preliminary semi-structured interview protocols were designed (Appendices C, D, and E). These preliminary interview protocols gained specificity following the collection and examination of existing literature, documents, observations, and other interviews. Following the specification of the preliminary interview protocols, the questions were amended as the participants provided avenues of potential exploration because each participant conveyed unique experiences in the interview process. Ample time was required immediately following interviews to prepare interpretive commentary (Stake, 1995).
Data Analysis

Data analysis brings order, structure, and meaning to the collected data. It involves organizing the data; familiarizing one’s self with the data; generating categories, themes, and patterns; coding the data; searching for explanations of the data, creating meaning from the data, and reporting findings (Fabiano, 2006). Analysis is the taking apart of the data, the researcher’s impressions, and the researcher’s observations, and it shouldn’t be separated from the continual effort to make sense of things (Stake, 1995) through speculation and interpretation. Speculation and interpretation increase the abstraction of the study, but the abstraction was driven by the empirical evidence.

Coding was used to classify collected data for the purposes of simplifying access to the data for the researcher (Stake, 1995). A code is a theme, concept, or idea that emerges from the data, and once all data was coded, the data was sorted according to these codes. This grouping of data was then analyzed within and across categories to create an integrated explanation that addresses the research problem, purposes, and questions and also makes sense to the reader (Fabiano, 2006). The coding of the collected data occurred in various contexts. As I began to collect existing literature and documents, three main themes emerged in how faculty in higher education identifying outside of heterosexual family structure manage family and medical leave. These three main themes were the federal realm, the state realm, and the institutional realm. Specific codes within each of these contexts were then identified, and they appear in this reporting as the subheadings within each specific chapter. The codes identified in the federal context are exclusionary definition, the guise of the natural and normal, the implementation of violence and punishment, the reproduction of silences, and the pursuit of nationalism and patriotism. In the state context, the codes identified are Washington state family and medical
leave, the quest for marriage equity in Washington state, financial considerations to allowing
same-sex marriage in Washington state, and choosing Washington state as a place of residence.
In the context of the academic institution, the codes identified are LGBTQ faculty experience in
higher education, the federal FMLA in higher education, work/family balance, the importance of
human resources, informal policy, and tenure considerations.

The researcher is in an ongoing interpretive role during the entirety of the study (Fabiano,
2006; Stake, 1995). It is a constant synthesis of data and contexts in which the researcher
describes, compares, and demonstrates cases in an effort to make an interpretation of what he/she
has seen (Noblit & Engel, 1991). The researcher objectively records what is happening within
the study, but simultaneously delineates meaning and redirects his/her data collection to refine or
substantiate those meanings through progressive focusing (Parlett & Hamilton, 1976).
Preliminary research questions were under constant scrutiny to decide how they should be
modified or replaced (Stake, 1995), and this analysis informed me in how to rework the design as
the study progressed (Fabiano, 2006). The emergent design of this study, as previously detailed,
was based in the consistent analysis of the collected data.

**Validity and Reliability**

A systematic approach to establishing the trustworthiness of data is necessary in
academic research, and there must be techniques in place to check the credibility of data (Lather,
1986). Validity and utility are not grounded on the reproducibility of the data; instead, it depends
on the extent to which the researcher and the reader value the meanings generated through the
research process (Stake, 1995). There is an ethical obligation to make research as valid and
reliable as possible (Stake, 1995), and this can be accomplished by clearly delineating the
purposes and limitations of a study (Patton, 2002).
Historically, validity has been a problem in social science research (Cronbach & Meehl, 1955). Due to this difficulty, I have chosen to synthesize validation methods from a variety of sources that are appropriate for this study. Validity beyond objectivity is necessary for research that moves beyond positivism (Lather, 1986), and for this reason I look to Lather’s (1993) notions of a nomadic and dispersed validity, which I understand as the collecting of a variety of validating methodologies appropriate for the circumstances. Lather (1993) suggests rupturing validity as it is known, in the positivist model, as a regime of truth. Validity in research doesn’t necessarily mean truth; it is simply a method of increasing the trustworthiness of the researcher and the study, and this is what I am attempting to accomplish.

Lather (1986) suggests face validity as one method of increasing the credibility of data. Face validity involves member checks (Guba & Lincoln, 1981; Stake, 1995), which is the recycling of analyzed data back through study participants so that they can confirm or deny accounts. This process should be a standard part of any emancipatory research (Reason & Rowan, 1981), which this study claims as one of its primary purposes. The development of credibility checks is necessary in openly ideological research. It is essential to make data and analysis both as public and as credible as possible (Lather, 1986), and this can be accomplished with continued involvement of study participants, which is an essential component of this study.

Additionally, Lather (1986) proposes catalytic validity (Brown & Tandom, 1978; Reason & Rowan, 1981) which is especially useful for research as activism. Research that re-orientes, focuses, and energizes the transformation of oppressive conditions has validity in its influence on the discourse under consideration. Catalytic validity recognizes the reality-altering impact of the research process for the researcher, the participants, and society at large (Lather, 1986). This study empowers faculty participants and their families by increasing public awareness and
support of the issues present. Additionally, validity of work based in activism can be judged by its effects on social policy (Lather, 1986; Mies, 1984; Sharp & Green, 1975; Willis, 1977), and legitimation can occur through political processes and social action (McGowan, 1991). In this way, validity can be established through its transgression (Lather, 1993) of systems of power that are in place. Additionally embedded in this study are qualities of rhizomatic validity which functions through connections, reciprocal causes and effects, and multiple openings. Rhizomatic validity allows for contradictory and paradoxical findings that show the complexity of cases and how each relates to the context in which it resides. The research problem, purposes, and questions in this study coincide with the qualities of rhizomatic validity in their work against authority and regularity, while simultaneously encouraging creative constructions of thought and socio-political action (Lather, 1993).

Each of these methods of establishing validity and reliability will be revisited in the implications reported in the final chapter of this document.

**Limitations**

**Breadth of Study.** Potential limitations to this study include those inherent to research in general. This study is limited in that it only explores the lived experiences of a particular faculty member and her family, in a particular department, at a particular institution, in a particular state. Because it is not possible to perform a complete study of all possible participants or to observe all possible situations, there are limitations based on the selected faculty participant (Patton, 2002). This study works to increase equity for faculty in higher education who identify outside of strict heterosexual family structure, but the family chosen to highlight this is only one version of family that fits this definition. As bio/cartographic activism promotes, there is an infinite expanse of portals to accessing a biographical subject. What is accessed through each of
these portals will show different avenues of addressing the research questions, purposes, and problem.

**Positionality Revisited.** My positionality as a researcher is also a potential limitation. Because I am clearly approaching the study from a space of activism, participant responses may have been influenced by this knowledge. Participants may have provided responses that they thought I wanted to hear, or conversely, may have withheld information that could potentially portray them in a way they consider negative. My intention was to ensure confidentiality for all participants in an effort to reduce these limiting possibilities. An additional quality of my positionality that is a potential limitation is that I am an outsider to the group for whom I am advocating. I identify as a member of normative heterosexual family structure. Because I am an outsider, participants may have potentially been reserved in their responses out of fear that I am incapable of representing their experience accurately. This was a possible contribution to what I perceived as reservations of the second faculty participant whose data was excluded. I attempted to assuage all of these hesitations through the use of member checks (Guba & Lincoln, 1981).

**Time Frame**

The collection of documents relating to the federal context of family and medical leave, which served as the impetus for this study, began in the spring of 2008. The faculty participant was identified upon approval of the dissertation proposal in the spring of 2010. Following the identification of the faculty participant, documents from Washington state and the academic institution were collected and analyzed beginning in the summer of 2010. Using this information, informal observations were conducted, interview protocols gained specificity, and formal interviews were conducted in the fall of 2010. Analysis of data occurred both during and after its
collection. Following analysis, the results and findings of the study will be published in the summer of 2011 in dissertation form.

**Word Clouds**

In keeping with the framework of bio/cartographic activism, each of the realms under analysis—federal, state, and institutional—is represented visually at the end of each respective chapter. These visual representations are created using the web-based image generator called Tagxedo (2011). Tagxedo allows its user to insert any section of text, which is then transformed into a word image that displays the most repeated words as larger than the others. Each image is a visual representation of a group of ideas and shows relational value. There are many possible ways to create a map of an idea, and Tagxedo can be a useful tool to create one version of a bio/cartographic activist rendering of a subject that allows an additional level of analysis.
Chapter 3

Mapping the Federal Realm

The FMLA is the United States government’s attempt to provide safety and recourse to those who might otherwise risk employment due to taking leave for family or medical purposes. The federal law, enacted February 5, 1993, claims “to grant family and temporary medical leave under certain circumstances” (United States Department of Labor, 1993). “Under certain circumstances” is an especially problematic phrase, as the FMLA is written in such a way that leave is only provided to a narrowly limited segment of the United States’ citizenship. Those identifying outside of heterosexual family structure are, in many cases, excluded. It is estimated that in 1987 three million non-heterosexual parents raised between eight and ten million children, and in 1998 six to ten million non-heterosexual parents raised as many as fourteen million children. The effects of discriminatory laws on these parents and children are incalculable (Bell & Miller, 2004). The existing power structures and dominant ideologies that shaped the formation and the current embodiment of the FMLA can be unveiled using bio/cartographic activism. From this theoretical perspective, it is possible to map the terrain of the FMLA’s discriminatory language and practice. The FMLA is a socially produced artifact in the discourse of family structure in the United States, and as such, invites analysis in the form of bio/cartographic activism. As established, the FMLA, like all biographical subjects, is open to an infinite multitude of cartographic representations.

The aspect of the FMLA to be mapped, for the purposes of this analysis, is the discriminatory language and the oppressive nature inherent in the Act in terms of sexuality and family structure. Through exclusionary definition, its guise of the natural and normal, its implementation of violence and punishment, its reproduction of silences, and its pursuit of
nationalism and patriotism, the FMLA is a tool of discrimination and oppression. Analysis, through the lens of bio/cartographic activism, of each of the methods by which the FMLA (re)produces power and domination enables the mapping of the discrimination and oppression inherent in the FMLA. This analysis provides a template with which to examine, and ultimately improve, the lived experiences of faculty in institutions of higher education who identify outside of the federally established norm of family structure. Because the FMLA, the institutions wherein it is enacted, and the faculty and their families upon whom it acts, are all moments in the totality of this discourse, there is opportunity for a rearrangement of the discourse to engender increased equity and justice. As a participant in this discourse, I have chosen to identify my subjectivity and positionality, through bio/cartographic activism, as one who is acting from a space of discontent. Because I claim activism as essential to this study, I believe it is my responsibility to out the inherent discrimination and disrupt the established norms embedded in the FMLA that are harmful to those outside of the federally recognized norm of family structure. Passive observation of objects tells us what is already occurring; bio/cartographic activism generates change by creating a spectacle.

Establishment of the FMLA

The FMLA grants eligible employees up to a total of 12 workweeks of unpaid leave during any 12-month period for the birth and care of the newborn child, for placement with the employee of a son or daughter for adoption or foster care, to care for an immediate family member (spouse, child, or parent) with a serious health condition, or to take medical leave when the employee is unable to work because of a serious health condition (United States Department of Labor, 1993). Additionally, the FMLA requires employers to recognize the family responsibilities of employees and claims to forbid employers from acting on the assumption that
it is the woman’s role to care for family members (Burstein & Wierzbicki, 2000). To guide conversations about policy, to offer different ways to think about the issues in the discourse, and to provoke change in institutions of higher education to reflect greater equity, it is essential to understand the history of the FMLA. An exploration of its origins and development, as well as some findings which address the effects of the FMLA after its enactment into law, are essential in working toward a more equitable and just reality.

The most thorough work examining the history of the FMLA is Richard Elving’s (1995) Conflict and Compromise: How Congress Makes the Law. His biography of the FMLA begins by examining the years between 1984 and 1986 when federal legislation concerning work/family balance was first brought to the 98th and 99th Congress. He continues with 100th Congress in 1987 to 1988 when the potential legislation made its way through committee before being shelved, and then to the 101st Congress in 1989-1990 when the legislation made its way through the House and Senate to eventually be vetoed by President George H. W. Bush. The 102nd Congress in 1991 to 1992 worked the legislation through both Houses once again, only to be vetoed for a second time by the same President. Elving’s (1995) meticulous rendering of the history of the FMLA concludes with the 103rd Congress’s passing of the FMLA and its signing into law on February 5th, 1993 by President William J. Clinton. Embedded in the saga of the history of FMLA legislation are some particularly important moments which merit attention.

In the mid 1970s, the issue of pregnancy entered the equal employment opportunity debate. Previous to this political discussion, employers would routinely fire pregnant employees, refuse to hire pregnant employees, or treat pregnant women as lesser employees. In 1976 the United States Supreme Court ruled that discrimination based on pregnancy was not sex discrimination because it didn’t distinguish between men and women but between pregnant and
non-pregnant. The backlash to this decision was so strong that Congress overruled the Court by passing the Pregnancy Discrimination Act of 1978 (PDA) in an effort to define discrimination on the basis of pregnancy as sex discrimination. The PDA was the first piece of legislation in the United States that linked work, family, and equal employment opportunity (Burstein & Wierzbicki, 2000).

Legislation regarding family and medical leave was debated nationally since the mid-1980s (Burstein & Wierzbicki, 2000; Decker, 2000). The Congress of 1983 and 1984 was the first in which work/family accommodation bills won many sponsors. In 1984 the first work/family accommodation bill was enacted, and in 1985 family and medical leave bills were first introduced (Burstein & Wierzbicki, 2000). The FMLA surfaced out of frustration with existing maternity leave laws that were inadequate (Aitchison, 2003). A precursor to the FMLA, the Parental and Disability Act was introduced into Congress in 1985, passed committee in the House which was controlled by Democrats, but was never heard by the Republican controlled Senate. It was then filibustered by the Senate in the following year (Aitchison, 2003). The first committee report on a family and medical leave bill came in 1986 (Burstein & Wierzbicki, 2000). A 1988 version of a FMLA was stopped after an anti-pornography bill was attached to it by Senator Strom Thurmond (Aitchison, 2003).

At this point, family and medical leave policy was perceived as becoming more of a necessity. A study conducted by Cornell University in 1988 concluded that working women were losing $31 billion annually in wages, benefits, and seniority due to childbirth. Also, mandated leave laws would save 150,000 jobs per year and save corporate America $244 million annually in employee turnover costs (Worker & Kleiner, 1997). Proponents of family and medical policy decided that for legislation to pass federally, the reach of the bill needed to be lessened
(Aitchison, 2003), and by 1989, following the withdrawal of many of its proposed benefits, the FMLA had 20 cosponsors in the Senate and 136 in the House (Bernstein, 2001).

The 1990 draft of the FMLA, similar to the final 1993 legislation, passed both houses of Congress and was then vetoed by President George H. W. Bush. This occurred a second time in 1992 (Aitchison, 2003). In opposing the Family and Medical Leave Act of 1990, Bush argued that businesses would be harmed by having to continue employing unproductive workers. Because of the competitive world market, businesses would be unfairly put at risk by federal policy requiring them to provide leave for family or medical reasons. He argued that businesses should be able to adjust programs specific to their workers’ needs. Congress failed to overturn Bush’s veto, so the legislation did not pass (Crothers & Lind, 2002).

The work/family issue became central to the 1992 presidential campaigns and election (Aitchison, 2003; Crothers & Lind, 2002). When Clinton supported legislation focused on work/family balance, he drew a lot of support, especially from women who were upset by Bush’s vetoes. This was significant because the 1992 election was the first in American history where more women than men voted, and women overwhelmingly supported Clinton (Crothers & Lind, 2002). The FMLA of 1993 was introduced in the House of Representatives in January of 1993, was passed by the Senate on February 4, 1993, and was signed into law by President William J. Clinton on February 5, 1993 (Decker, 2000).

Passage of the FMLA was generally supported by Democrats, labor organizations, and health care professionals (Worker & Kleiner, 1997). The organization that took the lead in working for family and medical leave was the Women’s Legal Defense Fund, and they were joined early on by the National Women’s Law Center, the Women’s Equity Action League, the National Federation of Business and Professional Women, and the National Association of
Junior Leagues. The willingness of liberal activists to work with pro-life advocates was an essential cause of the legislation becoming law. An influential lobby for the FMLA was the United States Catholic Conference who argued that the FMLA would discourage abortions. The coalition working for family and medical leave policy agreed to make it clear that the FMLA could not be used by women recovering from abortions. This helped the FMLA gain support from pro-life members of Congress (Bernstein, 2001).

Working within this broad coalition necessitated the compromise of much of what was called for in original versions of the FMLA. Compromise began almost immediately when paid leave was taken out because advocates decided paid leave would never pass. Flexibility regarding the number of employees covered, the type of employees covered, and the number of weeks provided were other aspects that were compromised (Bernstein, 2001). Among other more robust provisions, original versions of the FMLA guaranteed up to 26 weeks of leave in a 12 month period (Aitchison, 2003). A decision was made to focus on the essential principles to get initial legislation passed and then return to get the bill amended to include its original intentions, but the FMLA has never been successfully amended (Bernstein, 2001). Amendments proposed included income replacement while on leave, adequate health care, quality childcare, better schools, and better housing. There was much feminist criticism of the FMLA during its eight years of Congressional debate. This criticism included that the benefits were too limited to be useful to those who needed them most, and its gender-neutral language constructed women as just like men in all respects by not considering the specific needs of women (Vogel, 1995). Many who need the law do not use it because they can’t afford unpaid leave or because they are subtly discouraged by their employers from doing so. The only issue leaders of the advocacy coalition would not compromise was the gender-neutrality of the law (Bernstein, 2001).
The law signed by Clinton accomplished significantly less than was originally hoped. The law applies to about 11 percent of employers and 55 percent of employees, many of whom already had access to the provisions of the law (Bernstein, 2001). The minimum requirements of the FMLA were already included in corporate policy in a number of the largest corporations in the United States by the 1993 passing of the federal legislation (Dubeck & Dunn, 2006). When Clinton became president in 1992, questions were raised regarding going back and adding compromised issues back into the bill, but there was little interest from the administration or from the coalition (Bernstein, 2001).

By 1997, very little use of the FMLA had been recorded. The long debate preceding the passage of the FMLA gave employers who saw its implementation as inevitable time to address the issue before the law’s passage. Both supporters and opponents of the FMLA agreed that its usage was less than expected. Reasons for this were that employers did not fully understand the FMLA, and employees were unaware of the benefits it afforded. Additionally, employees who can afford unpaid leave work for employers who already offered leave benefits, or conversely, employers who were forced to implement the FMLA often have employees who couldn’t afford unpaid leave (Worker & Kleiner, 1997). Many employers voluntarily provided some form of leave for employees, and 69 percent of employers indicated that they had some sort of family and medical leave policy available (Decker, 2000). In a survey report completed by the Society for Human Resource Management in 2007, it is concluded that organizations want to support the spirit and intent of the FMLA as evidenced by 40 percent of organizations offering leave provisions that go beyond those available under the FMLA. Further, human resource professionals reported no noticeable effect of the FMLA on their organizations (Bernstein, 2001).
A congressional study conducted 18 months after the passage of the FMLA found that nearly two-thirds of those who needed the protection of the FMLA could not use it because they couldn’t afford unpaid leave. A Labor Department survey showed that, of those who qualify for protection under the FMLA, 78 percent of workers who need leave don’t take it because they can’t afford to go unpaid (Bernstein, 2001). Following the passage of the FMLA, a Commission on Family and Medical Leave was charged with reporting to Congress on the impacts of the FMLA. The Commission’s reports have sparked multiple proposed changes to the FMLA, but thus far none have passed (Aitchison, 2003). In 2001, some of the leaders of the FMLA movement attempted to lobby for paid leave. It appears that grassroots support for paid leave was as difficult to muster as it was for unpaid leave. The proponents of paid leave are mainly the same elite advocates who worked on the current FMLA (Bernstein, 2001). This knowledge shows the FMLA, as it reads now, is still a largely symbolic piece of legislation in need of amendment that will provide increased benefit to all citizens.

Spaces of Oppression and Discrimination in the FMLA

Exclusionary Definition. The language of the FMLA is a good starting point to create a map of the discriminatory intent of the legislation. One methodology of subjugation is the placing of strict limitations in terms of who is considered on the inside, the privileged, and who is on the outside, the disadvantaged. Section Two of the FMLA establishes the rationale for the policy by providing both the findings and purposes of the Act. The FMLA defines particular terms, such as “spouse,” “parent,” and “son or daughter,” in a way that benefits certain citizens and oppresses others. By simultaneously manufacturing and maintaining dominant and subordinate cultures, the federal government, through the implementation of the FMLA, destructively promotes discrimination against a large section of its citizenry.
Exclusionary language begins with the Second Finding of the FMLA, as it narrowly defines family by stating that “it is important for the development of children and the family unit that fathers and mothers be able to participate in early childrearing and the care of family members who have serious health conditions” (United States Department of Labor, 1993). What is implied in this finding is that the family unit, as defined by the FMLA, should contain a father and mother. If one were to open any basic English grammar book, it would be easy to turn to a section regarding modifiers and find that, to avoid misplaced and dangling modifiers, the modifiers should appear in close proximity to the modified. The Second Finding does just this as the phrase, “the family unit” is immediately modified by the use of “father” and “mother,” thus delineating the federally recognized exemplar of “family.” The emphasis is placed on an idealized version of a family unit that consists of a father, mother, and children.

The difficulty with this is that Second Purpose of the FMLA is “to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition” (United States Department of Labor, 1993). The limiting of leave for the care of a child, spouse, or parent is problematic, as this terminology is defined in an extremely stringent manner that excludes many types of family members. The FMLA defines “spouse” as “a husband or wife, as the case may be” (United States Department of Labor, 1993). Because current federal law governing legal marriage excludes all possibilities other than a heterosexual union between a man and a woman (Defense of Marriage Act, 1996), all people in any other kind of partnership do not fall under the definition of “spouse.” In addition to denying FMLA protection to heterosexual couples who choose not to be legally married, same-sex couples, polyamorous partnerships, and many transgender individuals
in partnerships are excluded. The definition of “spouse” intentionally excludes those outside of the hegemonic ideal.

Additionally problematic is how parents and children are defined: “The term ‘parent’ means the biological parent…or a person who stood in loco parentis,” and “the term ‘son or daughter’ means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis” (United States Department of Labor, 1993). Unless legally defined as a parent or child through biology or adoption, those in non-legally binding heterosexual partnerships, same-sex partnerships, polyamorous partnerships, and many partnerships of those who identify as transgender are denied FMLA protection in regard to their partner’s legally defined children. The same is true of these children in being denied FMLA protection in regard to their non-legal parents. This is all especially problematic in the LGBTQ community because, in many cases, only one parent in the partnership may obtain legal guardianship.

The repercussions of excluding everyone outside of the federally promoted norm of child, spouse, or parent in the language of the FMLA are immense. Many legal and social benefits are denied to those who are not legally married (NOLO, 2005; Thomas-Jones & Shinew, 2007). Couples, of all types, who are not legally married, have no legal right to collect social security benefits after the death of a partner (Bennett & Gates, 2004; Thomas-Jones & Shinew, 2007), have increased difficulty accessing family health insurance, pay higher income taxes than legally married couples, and are denied medical rights to their partners (NOLO, 2005; Thomas-Jones & Shinew, 2007). Maybe most importantly, it leaves open the possibility that partners and family members will not be provided an opportunity to care for one another in times of trauma when it is most necessary.
The exclusionary ideal of family structure set forth in the FMLA ignores the fact that over half of families in the United States do not fit this mold (Siebert & Willets, 2000; Thomas-Jones & Shinew, 2007). Consequently, a large portion of families in the United States are not eligible to receive the benefits of the FMLA. This legislation is specifically meant to protect people from termination of their employment for family or medical reasons, but what it does, in addition, is proclaim that only certain families and individuals are worth protecting. The clearly stated message is that families who reside outside of heteronormative ideology are not important enough to protect. The federal government, through the implementation of the FMLA, is promoting discrimination against those outside of the established heterosexist norm even though this norm is a hegemonic ideal and not a reality. Within this framework, what is viewed as normal must be reexamined to clarify if it is in fact a norm, meaning a majority fit the category, or if it is merely a hegemonic ideal, as in the case of the FMLA, in place to discipline citizens to conform to a particular family identity. By severely limiting a broad implementation of the FMLA through its reproduction of heteronormativity, the federal government has established sanctions against families and individuals it views as outside of the norm.

Societal assumptions of normalcy are influenced by the dominant ideology of family as consisting solely of a mother and a father (Nagel, 2000; Phelan, 1997; Thomas-Jones & Shinew, 2007). The hegemonic idealized version of family, still held as the norm by many in the United States, is based on institutional messages, like the FMLA, intended to make citizens conform to a specific code of acceptability. This narrow definition of family is based in sociologist Talcott Parsons’ (1949) limiting of family as exclusive to married heterosexual couples with children (Thomas-Jones & Shinew, 2007). A large section of people in the United States still hold fast to this constricted view of family even though Parsons description emerged from mid 19th century
America (Dailey, 2005; Seibert & Willets, 2000; Thomas-Jones & Shinew, 2007). It seems problematic that the FMLA, a legislative act passed in 1993, is based in outdated heterosexist ideology. The construct of “family” and how we define what that means, is something that is negotiated by the citizens of a society and culture and, therefore, must remain malleable as society and culture adjust and change.

Defining terminology with exclusionary intent creates a dominant culture that exercises the privileges of power and a subordinate culture where everyone else resides. Because of this imbalance of power, subordinate cultures are subjected to oppressive actions, like those sanctioned by the FMLA, taken to keep them in inferior positions (Ore, 2003; Thomas-Jones & Shinew, 2007). Considering this power dynamic, it is clear that an interrogation of the ways that heteronormativity maintains the status quo and unequal power relations is required (Loutzenheiser, 2007), and this is the purpose of examining the exclusionary definitions in the FMLA.

**The Guise of the Natural and Normal.** Heterosexual marriage, an inherent goal of the FMLA, is an important component in the positioning of the hegemonic structure of family as natural and normal, and occupies an important space in this cartography. The ideology of the natural and normal, when inscribed in laws and regulations, produces a guise of natural authority, but the natural and normal are socially constructed realities. If marriage were in actuality a natural and normal occurrence between heterosexual couples, there would be no need to regulate it, and people would naturally choose partners of the opposite sex. There would be no need for a series of laws designed to regulate marriage (Collins, 2005). Family structure, therefore, is a socially manufactured phenomenon, and social institutions such as school, community, and government either legitimate or condemn families’ structures (Butler, 2002;
Thomas-Jones & Shinew, 2007; Young, 1996). Societal norms install heterosexuality, and the family structure that results, as the only way to be normal. The term sexuality is used so synonymously with heterosexuality that these social institutions treat heterosexual oriented families as natural, normal, and inevitable (Collins, 2005). Because family structure is socially constructed, laws and regulations, such as the FMLA, are required to maintain a hegemonic ideal that appears natural and normal. The messages provided by institutions, in this case government, are presented as if they are normal, thus representing a specific version of what is an acceptable family (Delpit, 1995; Nardi, 2003; Thomas-Jones & Shinew, 2007). Institutions of power, through legislation such as the FMLA, provide normalizing categories to establish, maintain, and govern the order of things (Foucault, 1990). Societal norms have established what is acceptable and what is deviant, and current social and legal practices allow punishment for those differing from the hegemonic norm.

Because heterosexually oriented family structure is set up as natural, to avoid punishment in the form of the denial of certain rights and privileges, one must attempt to conform to the hegemonic ideal. This systematic compulsory heterosexuality is reproduced through the categorization of individuals and their bodies into discrete sexes with “natural” appearances and “natural” heterosexual dispositions (Butler, 2003). It is important to note that what is proposed as natural is only an illusion promoted by institutions of power. The Fifth Finding of the FMLA states that “due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men” (United States Department of Labor, 1993). The policy refers to the “roles” of men and women in our society. “Roles” is a telling choice of words in that it implies performance, and if these roles are, in fact,
performed, then they are not natural as the FMLA implies. The reality of gender is performative and, in essence, exists only to the extent that it is performed (Butler, 2003). Institutions of power, whether political or social, serve as regulating forces in how gender is perceived in the reality of daily performances.

The hegemonic ideal of family structure promulgated by the FMLA is enmeshed with the performance of gender in that the FMLA offers narrowly limited options. Current social structure, including how family is defined in the FMLA, only allows an either/or performance of gender in the form of male or female, masculine or feminine. To benefit from the privileges of the FMLA, individuals must perform gender, in the context of family structure, as one of these two roles which are presented as not only proper, but natural. But either/or binaries of gender performance are a hegemonic myth. Gender identity is malleable, and individuals can have multiple identities performed differently at different times (Walters, 1996). Butler (2003) argues:

Genders, then, can be neither true nor false, neither real nor apparent. And yet, one is compelled to live in a world in which genders constitute univocal signifiers, in which gender is stabilized, polarized, rendered discrete and intractable. In effect, gender is made to comply with a model of truth and falsity which not only contradicts its own performative fluidity, but serves a social policy of gender regulation and control. Performing one’s gender wrong initiates a set of punishments both obvious and indirect, and performing it well provides the reassurance that there is an essentialism of gender identity after all. (p. 422-423)

In the model of gender formulation set forth by Butler, citizens are compelled to perform the role of either male or female, and there is no space in between these two binaries. The establishment of this binary serves the political and social agenda of maintaining hegemonic notions of family
and how the roles of male and female are essentially performed. The implication of policies, like the FMLA, that require particular performances is that outsiders should do their best to act like those who fit the hegemonic norm (Thompson, 2004).

Gender performance in the context of sexuality is part of what the FMLA attempts to regulate. Particular understandings of sexuality are systemically ingrained in ideas and social practices that play a role in the formation of social inequalities in the United States (Collins, 2005). When sexual alternatives are denied and eliminated, and the public debates that do exist are shaped according to narrow understandings of sexuality, regulation and repression of sexuality becomes the norm (Collins, 2005). This is precisely what the FMLA does with its narrowly defined terminology around issues of sexuality. American social inequalities are (re)produced by the continued discrimination promoted by exclusionary language as found in the FMLA. The hegemonic norms established in the FMLA create either/or options that are rewarded for conforming to the ideal or punished for difference. Nothing outside of the either/or proposition is valued due to a discourse controlled by institutions of power that disciplines people to understand sexuality as a natural binary. The act of gendering, the categorizing of all individuals into one of the necessary positions in the binary, is compulsory practice and forcible production (Butler, 1993). What results from these socializing practices is limited possibility for anyone to comfortably exist outside of normalized expectations of gender identification and family structure.

The Implementation of Violence and Punishment. In the drawing of the map of the FMLA’s discrimination in regard to sexuality and family structure, a necessary inclusion is the implementation of violence and punishment for those who do not conform. As previously argued, the formation and establishment of laws is calculated and relentless in its pursuit of
instigating and perpetuating structures of domination and violence (Foucault, 1998). Institutions such as schools, the prison system, commerce, and, in the case of the FMLA, governance through law, are mechanisms in place to assert power over the citizenry. These institutions promote violence in the form of oppression while cloaked as systems of rules touting the natural and normal (Scheurich & McKenzie, 2005). Regulation, in the form of documents, in this case law, makes discrimination possible because it normalizes certain practices while simultaneously oppressing others through a process of categorization: some families are permissible while others are not. All structures of family outside of the established norm are categorized, marginalized, restricted, correlated, seriated, compared, hierarchized, homogenized, and classified in an effort to proliferate an idealized norm (Foucault, 1995). Benefits are intended and allowed only for those who fit the norm delineated in the FMLA.

Law, in this case the FMLA, permits new types of domination and privilege based in binaries of acceptable and unacceptable practice. Categorization of identity allows value to be assigned to established heterosexist distinctions – the hegemonic norm is privileged while all others are punished. The normalizing imposition of law is a perpetual penalty that traverses all points and supervises every instant in disciplinary institutions (Foucault, 1995). Normalizing institutions penalize differences, coded as shameful offenses, within the established discourse. In terms of analysis of the FMLA, within the discourse in which it functions, the hegemonic ideal of family structure, there operates a system of compulsory heterosexuality if one wishes to not be punished. Everyday performances of gender are governed by clearly punitive and regulatory social conventions. Performing one’s gender wrong initiates both obvious and indirect punishments (Butler, 2003). Within the confines of the FMLA, performing one’s gender wrong, that is, not performing as either acceptable male or acceptable female, incites punishment in the
form of the denial of the rights and privileges afforded to those who perform their roles in a way that satisfies FMLA requirements.

Those who do not conform to the imposed structures of the FMLA subject themselves to punishment based on residing outside of the established norm. The infinite expanse of what is outside of this norm, including active resistance, perceived inadequacy, and simple non-observance, is punishable. But it is important to recognize that this order is artificial. The order is based in laws, programs, and regulations that are birthed from a history of socialized ideology (Foucault, 1995). The FMLA serves as part of the artificial order which permits punishments based on difference. Foucault (1995) calls the implementation of this normalizing gaze an examination. The examination is a constant surveillance that makes it possible to punish:

The examination combines the techniques of an observing hierarchy and those of a normalizing judgment. It is a normalizing gaze, a surveillance that makes it possible to qualify, to classify and to punish. It establishes over individuals a visibility through which one differentiates them and judges them. That is why, in all the mechanisms of discipline, the examination is highly ritualized. In it are combined the ceremony of power and the form of the experiment, the deployment of force and the establishment of truth.

(p. 184)

Under the FMLA, citizens are qualified, classified, and punished based on sexuality and the performance of sexuality in the context of family structure. Hegemonic norms are established through the implementation of law that forces people into one of two categories – satisfactory expression of family or deviant refusal to conform. The examination establishes an appearance of truth that holds power within the established discourse.
Institutions of power produce fear in those who are outside of ideal practice based in the appearance of truth, and this is clearly the message of the First Purpose of the FMLA. It claims to attempt “to balance the demands of the workplace with the needs of families, to promote the stability of economic security of families, and to promote the national interests in preserving family integrity” (United States Department of Labor, 1993). As previously established, when “family” is used in the FMLA, it only refers to the idealized hegemonic version of what family should strive to be, and the connotation of the First Purpose of the Act is that those outside of the proposed ideal family structure have no family integrity. Therefore, one of the purposes of the FMLA is to balance the demands of the workplace with the needs of a particular version of family and to promote the stability of economic security of this same particular version of family. Therefore, but not overtly stated, one of the purposes is also to discriminate against families outside of the norm, causing fear based in non-compliance. This is easily observed when families whose structure is outside of idealized norms choose to be open but are still continually silenced out of fear of losing their parental rights and the negative treatment they may potentially receive from society (Ariel & McPherson, 2000; Thomas-Jones & Shinew, 2007).

Deviance from the hegemonic norm, that is, whatever is condemned by a community, is established by institutions of power, which here is the implementation of the FMLA in its current form, and punished through marginalization, oppression, and violence. “Most societies,” Anzaldua (1987) writes, “try to get rid of their deviants. Most cultures have burned and beaten their homosexuals and others who deviate from the sexual common. The queer are the mirror reflecting the heterosexual tribe’s fear: being different, being other and therefore lesser, therefore sub-human, in-human, non-human” (p. 18). In the context of the FMLA, those outside of hegemonic family structure, those who deviate from the ideal, are treated as lesser citizens,
denied the rights provided to those who conform. Difference is not deviance, and these two ideas should not be conflated (Stacey & Biblarz, 2001; Thomas-Jones & Shinew, 2007). Institutions of power portray difference as deviance to influence peoples’ understanding of particular constructs (Delpit, 1995), but an inclusive and flexible definition of family, not coded as deviant, is possible. A family could be described as two or more people who may or may not reside in the same place and may or may not have a legal or biological connection, but do maintain a supportive relationship (Seibert & Willets, 2000; Thomas-Jones & Shinew, 2007). In this definition, the maintenance of a supportive relationship is the binding component of a family and is most highly regarded. The FMLA punishes uncountable numbers of families who belong to families such as these.

The Reproduction of Silences. The map continues to take shape as the FMLA, through the specific inclusion and exclusion of particular segments of the population, makes it clear that discrimination, under certain circumstances, is completely acceptable. The section of the FMLA titled “Effect on Other Laws” contains a statement about federal and state antidiscrimination laws. It reads, “Nothing in this Act or any amendment made by this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability” (United States Department of Labor, 1993). This long and familiar series of persons protected from discrimination does not include any reference to issues of sexuality or sexual orientation. Much is said, in this case, by saying nothing at all. What is not said functions in parallel to what is said and makes up equal parts of the discourse. Silences, aspects of a subject omitted and ignored, convey just as much importance to the subject’s meaning as what is said (Foucault, 1990). Therefore, by omitting sexuality and sexual orientation from the list of categories to not discriminate against, the
FMLA, in effect, promotes and supports discrimination based on sexuality and family structure outside of the established norm. Sexuality remains a safe location to express intolerance, prejudice, and bigotry (Collins, 2005).

Simultaneously, and perhaps consequently, much of the silence around sexuality and sexual orientation in the FMLA is echoed by those forced into positions of inferiority. Discussion of sexuality is commonly considered to be taboo and is silenced to the point of nonexistence (Foucault, 1990). The omission in the “Effect on Other Laws” section of the FMLA supports this contention. For those who identify in a space other than heterosexuality, forcible silence to the extent of nonexistence is palatable. Violence in the form of imposed fear, as previously discussed, creates a situation where open discussion of these issues takes on the appearance of intentional transgression of acceptable social codes, which is again punishable. The open inclusion of sexuality, especially non-heterosexuality, in public discourse does not exist and is made to disappear (Foucault, 1990). The cause of this nonexistence is undeterred omission, to the extent of disappearance, of the needs and rights of non-heterosexuals in public policy such as the FMLA. This exclusion pronounces that there is nothing to say, nothing to see, and nothing to know concerning those families outside of a strict heterosexual paradigm (Foucault, 1990).

**The Pursuit of Nationalism and Patriotism.** The last space identified on the map of the FMLA’s discrimination is the uncovering of the FMLA as a piece of legislation which intentionally contains intonations of nationalism and patriotism in its purposes. The First Purpose of the Act, “to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity,” (United States Department of Labor, 1993) indicates that it is patriotic to be a member
of the idealized heterosexual version of family. Family, as established through the definitions of terminology, strictly excludes those who identify outside of heterosexuality. As a result, those who do not conform to the very limited field of what is considered family are perceived as working against the national interests of their government. This is currently a very dangerous stance in the United States. The most prominent discourse of patriotism calls those working against the national interests traitors and terrorists. The First Purpose of the FMLA, in effect, is stating that heteronormativity is patriotic. Any conflicting ideology is working against national interests and can be perceived as unacceptable unpatriotic aggressive acts.

Nationalism and patriotism, in the First Purpose of the FMLA, are incestuously enmeshed with a primary national interest: the advancement of capitalism. The “demands of the workplace” and “stability and economic security” are specifically referred to in this Purpose. With the development of capitalism, modes of (re)production become intimately tied to the discourse of sexuality. From the perspective of a powerful capitalistic government, sexuality must be managed, regulated, and used for the good of the nation as a whole. In economic terms, an increase in the population of a nation directly translates into that nation’s labor capacity and economic usefulness (Foucault, 1990). In this way, the FMLA does not concern the nation’s people or families, but instead its population. At the center of the issue of population is sex and sexuality. Marriage rules and family organization directly relate to a nation’s wealth and power. To increase a nation’s international standing and clout, it is essential that the government know the sexual practices of its citizens and how to best manipulate these practices to its advantage (Foucault, 1990). The limiting of FMLA benefits to citizens who identify as heterosexual is one such way to manipulate the nation’s population towards economic productivity.
Political discussion of LGBTQ concerns is fairly commonplace, but much of this debate is divisive, derogatory, and combative. Politics, and, in the case of the FMLA, law, are extensions of an ideology of warfare meant to prevent civil disorder (Foucault, 1995). From this perspective, the installation of fear in those outside of the hegemonic norm is not only a product of the discriminatory practice of the FMLA, but it is also an intent. Fear is produced by institutions of power to maintain civil order and appropriate behavior. Foucault (1998) contends that “humanity does not gradually progress from combat to combat until it arrives at universal reciprocity, where the rule of law finally replaces warfare; humanity installs each of its violences in a system of rules and thus proceeds from domination to domination” (Scheurich & McKenzie, 2005, p. 378). Law does not replace warfare; law is warfare on those who do not conform to it. The patriarchal heteronormativity of the FMLA legitimates historical representations of the nation, nationalism, and imperialism (Coloma, 2003). War has been waged by the United States government upon its people in the form of acceptable discriminatory practice.

Laws, political leaders, and governing bodies are important voices in how normalcy gets defined in terms of nationalism and patriotism. The normalizing process allows the conditioning of people to understand particular constructs from particular perspectives. Even though the concept of family takes a variety of forms, relentless messages of the ideal family are provided, usually from positions of power, in societal discourse (Thomas-Jones & Shinew, 2007). As an example, President George W. Bush’s proclamation of National Family Day designated increased funding for initiatives promoting “responsible fatherhood and healthy marriages” (Bush, 2005, Family Day, paragraph 3). Bush called the family an “American institution,” and it is clear through the funding appropriations that he was specifically referring to one type of family structure—legally married heterosexual couples. As an additional example, this same
President, in an address to Congress in 2001 promoted a “Blueprint for New Beginnings” that, again, directed funding to the cause of strengthening families. Bush was specific in his description of the kind of family for which the funding was earmarked. In regard to children, Bush stated “that every child deserves to live in a safe, permanent and caring family, with a loving father and mother” (Blueprint for New Beginnings, 2001, Strengthening Families, paragraph 1). The proclamation that every child needs a family with a father and a mother institutionalizes heterosexual discourse (Foucault, 1990) and excludes all types of families outside of this limited paradigm. Because these words come from people in positions of power and institutions of power, a hegemonic notion of a nationally acceptable family structure and practice is promoted; to be otherwise is unpatriotic.

**Federal Realm Word Cloud**

As explained earlier, the word cloud is a visual representation created using the web-based image generator called Tagxedo (2011). Tagxedo allows its user to insert any section of text, which is then transformed into a word image that displays the most repeated words as larger than the others. Each image is a visual representation of a group of ideas and shows relational value. The word cloud of the federal realm, as shown in Figure 3, is one version of a visual bio/cartographic representation of the family and medical leave-taking practices of faculty in higher education identifying outside of strict heterosexual family structure on the national level. It is constructed by inserting the entire text from this chapter of this document, the federal realm as seen through bio/cartographic activism, which is employing discourse analysis and case study methods, into the Tagxedo image generator. Not surprisingly, the most prominent words in this image, and in this chapter, are “FMLA” and “family.” Strikingly, a second level of textual prominence in this image seems to be the underlying codes which all speak to the specific spaces
of oppression detailed in this chapter. It is difficult to avoid noticing the importance of "discrimination," "hegemonic," "institutions," "punishment," "norm," and "punishment" as supporting vocabulary to "FMLA" and "family." As background to these primary and secondary textual images is the human and personal element for which the FMLA is intended. Words such as "parent," "children," "citizens," "women," "spouse," "partnerships," and "father" underscore the need for fair and just policy that applies to the constituents for whom it is intended.

Figure 3: Federal realm word cloud (tagxedo, 2011)
Chapter 4

Mapping the State Realm

Although the state laws are similar in many ways to the federal FMLA, exact terms may have different meanings. Employers must comply with the greater benefit of each provision of the state and federal laws. For example, the FMLA allows leave up to a total of 12 weeks during a 12 month period, while the state of Washington provides for 12 weeks within a 24 month period. Furthermore, employees are not required to designate whether they are taking leave under the FMLA or under state law: it is the responsibility of the employer to comply with both (Jasper, 2005). The FMLA does not override state laws that provide greater leave rights and benefits. Additionally, an employer is still held under state statutes when an employee is not covered under the FMLA (Blair, Keegan, Newman, Peabody & Sullivan, 1996; Decker, 2000). Employers are subject to, and must comply with, all of the laws. If an employee’s leave qualifies under state and federal law, the leave must comply with both laws and counts against the rights and/or benefits of both laws (Blair, et al., 1996).

Studies of states with early family and medical leave laws show that the policies that were passed had very little financial effect on businesses, and these studies refuted pro-business arguments, much like those cited in Bush’s veto, concerning the harms of legislated family and medical leave. In states that were able to successfully pass family and medical leave policies, the bills had early support from legislators with political clout. Eventually, those with moderate records and bipartisan experience supported the bills (Bernstein, 2001). A family values perspective helped to keep the FMLA a bipartisan issue. Advocates used state enactments of leave laws as indicators of how a federal leave law could be successful, and public officials from these states were integral in influencing federal support. Advocacy groups were ultimately
successful on the federal level by defining the FMLA as a family issue and by using state laws to build support for national legislation. A large coalition of 250 national organizations, with a wide variety of political ideologies, was formed in support of the Act (Levine, 1997).

Before the FMLA was passed in 1993, over 30 states had some form of family and/or medical leave in place (Decker, 2000). Levine (1997) shows that state leave laws that preceded the passing of the FMLA were influential in the federal decision making process. She examines all thirteen Congressional subcommittee hearings on the FMLA and all state leave laws enacted between 1982 and 1992 to correlate conceptual and contextual relationships. Because advocates of work/family policy had difficulty in the federal realm, they turned their efforts to state governments. A 1987 Supreme Court decision upheld a California law that provided leave for pregnancy related disabilities, and in the subsequent two years, nine states passed legislation related to issues of leave from work (Levine, 1997).

Washington State Family and Medical Leave

In 1988, the Family Care Law, which formulated basic family leave stipulations allowed by the state, was successfully passed through the Washington State Legislature. As a result, the Family Care Rules were created and added to the Washington Administrative Code. In September of 1989, a preliminary version of the Family Leave Act was enacted into law as part of the state’s Family Care Rules. This law, originally only supportive of heterosexual couples and single parents, was a precursor to the 1993 federal FMLA and provided further clarification to the state’s 1988 Family Care Law (Washington State Department of Labor and Industries, 2009, December 3). According to the Legislative Findings of the state Family Leave Act, it is in “the public interest to provide reasonable leave for medical reasons, for the birth or placement of a child, and for the care of a family member who has a serious health condition” (Washington
In 2002, the Family Care Act, which added detailed definitions, administration, and penalties to sections of the 2003 paid time off rules, was passed. The 2003 paid time off rules, titled “Sick Leave, Time Off – Care for Family Members,” details the legal stipulations of paid leave, which allows employees with accrued paid time off, such as sick leave and vacation, to use this paid time off to care for sick children that have contracted childhood illnesses; to care for a spouse, registered domestic partner, or immediate family member when diagnosed with a serious health condition; and to care for disabled adult children (Washington State Department of Labor and Industries, 2009, December 3).

In 2006, the Family Leave Act was revised to include parameters for allowable leave. An extraction from a 2006 Q&A on Washington state family and medical leave laws clarifies that homosexual relationships and domestic partners were not protected by the law at that time (Ainsworth & Hess, 2006). Following the expansion of the rights of domestic partnership and the passage of the 2009 Everything but Marriage Law, the original legislation on family leave was amended, and a new section was added. This addition explains the application of the law to registered domestic partners (Washington State Legislature, 2007/2011a). The current law expands on the existing comparable benefits that are available under the federal FMLA to protect the citizens of Washington in the event of major modifications to the federal law. Notably, the Washington state Family Leave Act offers increased benefits to expecting females and to state registered domestic partners (Washington State Department of Labor and Industries, 2010, March). Current benefits of Washington state’s Family Leave Act that match the federal FMLA include 12 weeks of leave during a one year period for the following: the birth of a child of an employee, placement of a child with an employee (foster care or adoption), family member care in the event of a serious health condition, and/or a serious health condition experienced by the
employee where daily work functions are impeded (Washington State Department of Labor and Industries, 2010, March; Washington State Legislature, 1989b). A human resource professional at the academic institution involved in this study explained the additional privileges under Washington state’s Family Leave Law:

Well, Washington state has the Washington Leave Law which sometimes you get more of a benefit and it runs concurrently, the Washington Leave Law and the Family and Medical Leave. Sometimes they run concurrently; sometimes they don’t. Especially for pregnant women, you know, that’s where they get a bit more time under the Washington Leave Law. Yeah, each case is different, so I’d have to look, but that’s the one that I use the most, and it is you get the extra 12 weeks for pregnancy, because you get the Family and Medical Leave, and then you get the Washington Leave Law if there is some problems. But if everything’s straight, it’s usually just the 12 weeks, but the Washington Leave Law has some extra benefits for the pregnant woman.

Additional benefits are granted by Washington’s Family Leave Act: “…employees with a newborn child in Washington receive 12 weeks of leave through [Washington state’s Family Leave Act] in addition to the leave granted by [the federal] FMLA for a pregnancy disability. Depending on when the [federal] FMLA leave begins, an employee could be granted up to 24 total weeks of leave before and after the birth of a child. Registered domestic partners may apply for leave under [Washington state’s Family Leave Act] to care for a partner, but [federal] FMLA guidelines do not allow this leave as of 2010” (Hornaday, 2010, November 23).

Similar to State Unemployment Insurance, Washington provides Family and Medical Leave Insurance as well. The legislation that established Family and Medical Leave Insurance in the state of Washington is Senate Bill 5659. This bill was initially brought before the
Washington State Senate in January of 2007. Shortly thereafter, the bill was passed to the House for debate, where it was amended and not adopted. Following two more rounds in House and Senate committees, the bill was finally signed by Governor Christine Gregoire in May of 2007 and enacted into law in July of the same year (Washington State Legislature, 2007/2011b). According to the original bill, the intent was to protect families that “do not have access to family and medical leave laws, who may not be in a financial position to take unpaid medical and family leave” (Washington State Legislature, 2007a). It also noted that employer-paid medical and disability benefits are inadequate to meet the actual needs of the citizens of the state of Washington. The bill declared the issue to be beneficial to the public interest insofar as it would allow parents to bond with a newly adopted child or newborn and would allow employees to care for themselves or other family members during a serious health condition while providing limited income support (in addition to employer provided benefits) for a short amount of time while a person is away from work on family or medical leave. The goal of the legislation is to increase an individual’s ability to care for a family member while maintaining employment, which in turn decreases the impact on the state’s income support program (Washington State Legislature, 2007a).

Washington's paid Family and Medical Leave Insurance program exists in state law, but has yet to be implemented. Bills to expand and fund it through a payroll premium had strong political support in the beginning of the 2009 legislative session, but in the face of the deep recession and large state budget deficits, the legislature postponed implementation of the program until October of 2012 (Equal Opportunity Institute, n.d.). Washington’s paid Family Leave Law, originally intended to go into effect on October 1, 2009, is now scheduled to go into effect on October 1, 2012. Washington Governor Christine Gregoire has signed a law that pushes
back the program’s effective date because budget shortfalls made it impossible to implement the law in 2009 (HR.BLR.com, 2009). When implemented, the program will provide up to five weeks of time off with a weekly benefit of $250 to all parents with a newborn or newly adopted child. It covers all employees who have worked at least 680 hours in the previous year and provides job protection for workers in companies of more than 25 people (Equal Opportunity Institute, n.d.).

The Quest for Marriage Equity in Washington State

The long legal journey toward marriage equity in Washington state began in 1971 when two Seattle gay rights activists attempted to obtain a marriage license in a peaceful demonstration meant to showcase the disparity between gay and heterosexual couples. The license was denied, and as a result, the couple filed a lawsuit challenging Washington state’s 1972 Equal Rights Amendment. The Washington state Equal Rights Amendment was adopted in November of 1972. As a corollary, the federal Equal Rights Amendment was up for ratification in early 1973; however, the federal amendment failed to pass and was not adopted (Lange, 2003). Article 31 of Washington state’s Equal Rights Amendment, titled Sex Equality Rights and Responsibilities, reads, “Equality of rights and responsibility under the law shall not be denied or abridged on account of sex” (Washington State Legislature, 2011). The activist’s argument that “prohibiting same-sex marriage violates the new [Equal Rights Amendment] to the Washington Constitution because the denial was a gender-based prohibition” was heard by the Appeals Court. The Appeals Court ruled that the Equal Rights Amendment was not violated, thereby upholding the state’s Constitution, and the Supreme Court refused to review the Appeals Court decision (Seattle University School of Law, n.d.a). The Equal Rights Amendment was not violated in the eyes of the Appeals Court because denial of same-sex marriage applies to both
male and female relationships; therefore, there was no gender discrimination, and the decision could not be repealed.

Following the Appeal Court’s denial, the first gay rights legislation, aimed at adding sexual orientation to the state’s law against discrimination, was introduced in 1977, although it didn’t pass until its 2006 version as the Anderson-Murray Civil Rights Bill. While the effort did not initially pass, it opened a door for increased activism. For example, in 1985 Governor Booth Gardner mandated that Washington State Universities and Colleges ban discrimination against sexual orientation in the hiring process. Countering the 1985 mandate, 1986 brought several proposed bills that would limit the rights of homosexuals, including employment at public institutions (Washington State Legislature, 1986). These proposals did not make it past committee.

The first out, gay legislator in the state of Washington, Cal Anderson, was elected into the House in 1987 and remained in legislation until his death in 1995. Anderson stayed in the House until moving to the Senate in 1994. During his tenure, an AIDS bill was passed that included an anti-discrimination clause and legislation adding sexual orientation definitions to laws in opposition to hate crimes failed (McGann, 2006). As a result of a 1996 Hawaii Circuit Court decision that held that a ban on homosexual marriages defied equal protection clauses of the state’s Constitution, several states tried to pass statutes banning same sex marriage to prevent gay residents from marrying in Hawaii and being recognized as married couples in their home states. Additionally, in Washington state, bills were created and introduced to the state’s Congress in 1997 and 1998 in the shadow of the 1996 federal Defense of Marriage Act. Initiative 677, The Anti-Discrimination/Sexual Orientation Initiative, was brought as a people’s initiative in the November 1997 election. The initiative was asked on the ballot as, “Shall
discrimination based on sexual orientation be prohibited in employment, employment agency, and union membership practices, without requiring employee partner benefits or preferential treatment?" (Ballotpedia, 2010). Washington voters indicated by a vote of 60% to 40% that discrimination based on sexual orientation should remain intact (Ballotpedia, 2010).

Governor Gary Locke was successful in vetoing the proposed same-sex marriage banning legislation, State Bill 5398: Reaffirming and Protecting the Institution of Marriage, that was introduced in 1997. However, in 1998 the Governor was unsuccessful in blocking the passage of the Washington state’s Defense of Marriage Act (DOMA) legislation. This was due to subversive tactics used by the legislation’s proponents, traditional marriage supporters. Proponents of Washington state’s DOMA threatened to pass an alternative bill that would include a referendum that would push same-sex marriage to a public vote. Because Democrats in Washington state wanted to avoid a public vote on same-sex marriage during an election year, they changed their position and voted to override the Governor’s veto, therefore implementing Washington state’s DOMA. As a result of the passage of Washington state’s DOMA in 1998, Washington’s Legislative Code was amended to forbid gay marriage (Seattle University School of Law, n.d.b).

In 2003, the House voted to pass a bill that would “ban discrimination against homosexuals in housing, employment and financial transactions” (McGann, 2006; Washington State Legislature, 2005). The Senate was unwilling to approve the legislation, even going as far as adjourning in 2004 to prevent voting on the House-approved bill. The Senate formally rejected House Bill 1515 in 2005, which would have prohibited discrimination based on sexual orientation and would have added a definition of sexual orientation to the Law Against Discrimination. However, in 2006, a gay-rights bill, the Anderson-Murray Civil Rights Bill, or
House Bill 2661: Expanding the Jurisdiction of the Human Rights Commission, was passed in the Washington State Senate, almost 30 years after the first piece of gay rights legislation was introduced in 1977. This bill prevents sexual orientation as a basis for discrimination. Also noteworthy, this bill provided a definition for sexual orientation and gender expression, which did not exist prior to the passage of House Bill 2661 (Washington State Legislature, 2006). The definitions included in House Bill 2661 explain that sexual orientation “… means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, ‘gender expression or identity’ means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth” (Washington State Legislature, 2006).

Following the passage of Washington state’s DOMA, the state’s judicial system was tested with several court cases challenging the ban on same sex marriage. In March of 2004, eight gay and lesbian couples sued King County, and thereby the state of Washington, for marriage denial stemming from Washington state’s 1998 DOMA. The case was dubbed Andersen v. Sims and determined that the state’s DOMA was unconstitutional. According to the Judge’s ruling, the limitation of marriage to heterosexual couples “is not rationally related to any legitimate or compelling state interest” (Lambda Legal, 2004). The ruling was immediately appealed to the State Supreme Court (Lambda Legal, 2004).

While Andersen v. Sims was moving through the judicial system, a second court case, Castle v. Washington State, was filed by the American Civil Liberties Union on behalf of 11 same-sex couples who desired to be married within the state of Washington. The 11 couples requested that the Thurston County Court “nullify the State's discriminatory marriage restrictions
and enforce the constitutional protections of liberty, equality, privacy, autonomy and human
dignity guaranteed to all Washington residents” (American Civil Liberties Union, 2004). The
Court’s decision mandated that prohibition of same-sex marriage violates Article I, Section 12:
Special Privileges and Immunities Prohibited, of the Washington State Constitution. This article
states, “No law shall be passed granting to any citizen, class of citizens, or corporation other than
municipal, privileges or immunities which upon the same terms shall not equally belong to all
citizens, or corporations” (Washington State Legislature, 2011).

As a result, Castle v. Washington State was appealed to the State’s Supreme Court and
combined with Andersen v. Sims to form Andersen v. King County. Andersen v. King County
was argued in March of 2005, and in July of 2006 the court ruled in a 5-4 decision to uphold the
Washington state DOMA. The plaintiffs filed a petition with the State Supreme Court for a
decision reversal; however, the Supreme Court refused to reconsider the case in October of 2006
(Lambda Legal, 2004). A result of the Anderson v. King County decision was Initiative 957,
which was withdrawn without coming to fruition, but would have mandated all married couples
within the state of Washington procreate within three years of the marriage’s inception. The
intended purpose of Initiative 957 was to test the ruling in Andersen v. King County that stated
marriage of opposite sex couples is “a genuine state interest to promote procreation” (McGann,
2006). It was hoped that a test case could be compiled where the ruling could be subjected to
scrutiny showcasing faulty logic and unconstitutionality. Too few signatures were collected to
place the measure on the November 2007 ballot, killing the Initiative 957 (McGann, 2006).

After the Andersen v. King County court decision, the Washington State Senate passed
Senate Bill 5336 in April of 2007, which mandates protection of individuals in domestic
partnerships by granting them certain rights and benefits. In July of 2007, after three revisions,
the Bill became effective. Shortly thereafter in 2008, House Bill 3104 was passed which expanded the rights and responsibilities of domestic partnerships (Washington State Legislature, 2007b). This bill was added following California’s incremental model of expanding the rights of domestic partners. According to Washington’s Secretary of State, Sam Reed, the expansion of the domestic partnership law included the following: visitation, health care decision making, information-access rights, inheritance and administration rights, burial, disposition, organ donation, autopsy, wrongful death claim rights, testimonial privileges in court, application of community property and dissolution laws, the ability to sue on behalf of a community, application of domestic violence statutes, non-taxation on certain property transfers, and application of state veterans benefits (Washington Secretary of State Sam Reed, 2008). For domestic partnerships to take advantage of the expanded rights, the new bill contained a clause requiring all domestic partnerships to officially register with the Secretary of State. The purported intention of the registration database is to protect domestic partners during a period of crisis. It claims to provide a quick resource for those who are unfamiliar with the laws and regulations surrounding the rights of domestic partners, hopefully easing the interaction between registered partners and those enforcing rules and regulations during times of emergency (Washington Secretary of State Sam Reed, n.d.).

Following the rights expansion of domestic partnerships, two House bills were proposed but have not been adopted into state law. Both of these bills addressed civil marriage equality. The 2009 bill, House Bill 1350: Concerning Civil Marriages, piggy-backed on the 2007 House Bill 1745: Addressing Civil Marriage Equality. Each bill proposed civil marriage equality be enacted for all Washington state citizens, as marriage is an “intrinsic right” even when regarding homosexual couples. Both bills proposed amendments to the established Revised Code of
Washington (Washington State Legislature, 2007c, 2010). The three amendments to the Revised Code of Washington served the purpose of eliminating the verbiage citing that only a male and female are permitted to marry in the state of Washington. These proposed bills were referred to the Judiciary for review to deem whether or not the legislative act is true to the Constitution. Having been deemed constitutional, the aforementioned House Bills, 1350 and 1745, are currently still alive but are either stalled or slowly working their way through the Washington State Legislature.

In the 2009 regular legislative session, Senate Bill 5688 was introduced to further expand the rights and privileges of registered domestic partners. Deemed the Everything but Marriage Bill, the legislative intent was for all state registered domestic partners to be treated in the same manner as married spouses. The bill was revised three times before being passed by the House and Senate in April. In May of the same year, the Everything but Marriage Bill was signed into law (Washington State Legislature, 2009). In response to the signing of Senate Bill 5688, the Everything but Marriage Bill, an organization called Protect Marriage Washington collected enough signatures for the Bill to not be enacted into law, forcing a vote on Referendum 71 (Protect Marriage Washington, 2011). The state of Washington’s Constitution provides a 90 day waiting period where state citizens can attempt to force a referendum, in part by collecting a number of signatures in support of the matter. The number of required signatures is a function of the number of voters in the previous gubernatorial election. When the number of supportive signatures has been reached and given to the Secretary of State for review within the 90 day waiting period, then the law is placed on hold, and will not become enacted until voters approve the law by referendum during the following election (McGann, 2006). In November of 2009, the initial legislative decision to enact the Everything but Marriage Bill into law was preserved as
voters within the state of Washington voted to pass Referendum 71 by a margin of 53% to 47%.
The passage of Referendum 71 resulted in the following: it made available the use of sick leave
to care for a domestic partner; it provided rights to injured partners’ wages and benefits and
unpaid wages upon death of a partner; it provided access to unemployment, disability insurance,
and workers’ compensation coverage; it provided access to insurance continuance rights after the
death of a domestic partner; it provided rights related to adoption, child custody and child
support; and it provided business succession rights (Approve Referendum 71, 2009).

**Financial Considerations for Allowing Same-Sex Marriage in Washington State**

In 2006, The Williams Institute on Sexual Orientation in Law at University of California
Los Angeles published a study titled The Impact of Washington’s Budget of Allowing Same-Sex
Couples to Marry. The authors estimate a net gain of approximately $3.9 million to $5.7 million
each year for the state of Washington if same-sex couples were allowed to legally marry. These
savings are attributed to a lessening of expenditures in public benefit programs and from an
increase in sales tax revenue from weddings and tourism related to weddings. The study
reported that approximately 7,950 of Washington’s same-sex couples would marry in the short
term. The 2000 Census showed that there were 15,900 cohabitating same-sex couples, and based
on other states extension of marriage rights to same-sex couples, half of those would marry
during the first three years of access to legal marriage (Badgett, Sears, Kukura & Lau, 2006).

State public assistance expenditures would be reduced by extending marriage rights to
same-sex couples. Because spouses are obligated to provide for one another’s basic needs,
legally married same-sex spouses’ income and assets would be required to be included in
assessing eligibility for public benefits. This revised calculation would reduce the number of
people who would qualify for benefits that are currently awarded. The savings in public
spending on public benefit programs is estimated to be at least $300,000 per year and possibly as much as $2.1 million (Badgett, et al., 2006).

Extending marriage rights to same-sex couples will allow the state of Washington to collect approximately $3.7 million in sales tax revenue in the first three years from money spent on weddings by Washington residents. Additionally, it is likely that couples from other states will travel to Washington for marriage ceremonies and celebrations, which will increase tax revenues from tourism, will increase business profits, and will create jobs. Again using 2000 Census data, it is estimated that that out-of-state same-sex couples travelling to Washington for marriage purposes would generate approximately $8.5 million in tax revenue over the first three years. Total tax revenue increase over the first three years would be approximately $12.2 million (Badgett, et al., 2006). Although these financial considerations shouldn’t be the primary reason for allowing marriage equity in Washington state, it is difficult to ignore these numbers in times of financial crisis like the current situation in the state of Washington.

**Choosing Washington State**

In comparison to most other states, Washington state provides greater benefits to same-sex partners and families. For the faculty family introduced in the first chapter of this reporting, Washington state is a place where their family feels supported by the implementation of the state laws previously outlined. During a formal interview with Robin, the faculty member included in this study, it became clear that moving to Washington state and staying in Washington state were conscious decisions for her and her family. The decision to be in the state of Washington was and is related to benefits that are not provided in many other states. Robin speaks of her time in the southeast region of the U. S. and discusses the difficulty in attempting to start and raise a family while in a same-sex partnership:
And I like parts of the South. I was interested in having a family then. And in Mississippi there was just beginning to enact its state law – which I believe it’s still in effect, and I’m not sure even how it’s constitutional, but where no same-sex couple can have an adopted child in the home, or no same-sex – no child could be in the home with a same-sex pair. But, like, it could be that my sister and I or my mother and I couldn’t raise a grandbaby and both be adults in this house or something. Really, some sort of wacky, wacky law.

What Robin outlines as acceptable practice in Mississippi is not tolerated in Washington state. Because the laws of each state vary, families that do not fit within normative structure must make important decisions, such as where to live and work, based on where they will be treated most equitably:

Some parts of Mississippi they claim Memphis is Northern Mississippi. So, yeah, I mean, it’s a beautiful area, but – and I think it gets a bad rap in some ways, but at the same time I didn’t – I had a girlfriend then and had we been at the point of having kids, we would not have stayed there, I’m sure, just because it’s so – well, we have it very good in Washington. Let’s put it that way.

It’s important to note that Robin’s decisions concerning family were absolutely influenced by the laws of the state where she resided. The imposition of state law has effect in personal decisions about family for those who identify outside of strict heterosexuality. Washington state is further along in the move toward equity for LGBTQ people and families, but there is still much work to be done.

Although not at the point of marriage equity, Robin recognizes that Washington state is more progressive than other states, in terms of LGBTQ issues, and this in many ways dictates
decisions about her career and family. Robin speaks to the benefits allowed under Washington state law, and how this influences her family’s decision to stay, even when there is a possibility of career advancement in a different state:

Well, you know, when I was – I interviewed for several academic positions this spring…but I had interviewed a few places and we really sort of – when Beth and I were kind of I was looking, you know, you look at The Chronicle, and you’re like, well, could you stand to live in, I don't know, Wilmington, North Carolina or Louisville or somewhere? And I applied and did go interview for a pretty good position in South Dakota, which the downside was that it’s South Dakota. And I didn’t end up getting the offer, but I probably would have refused it, I mean, for lots of reasons, but one being that politically it’s so conservative and going from what we have here, with sort of in many ways one of the most liberal states, you know, to not only two women senators because…two fairly progressive senators, a relatively progressive woman governor, and Seattle pulling the whole state left enough that we have domestic partner benefits, that we have health insurance and kind of survivors’ rights, a lot of those different things that you would never have in – probably even in Oregon and certainly not in Idaho. And what I found in South Dakota, for instance, was there was an economic – I would have made more money… but I would have had to pay – Beth could not have been covered on my benefits, and so for us that’s I think something in Washington that you take – we, anyway, take very much for granted, and we both work for the state still…So that’s a real tangible thing… But in general, for the perfect opportunity we would probably reconsider relocating out of Washington…I’m sure that we would have a very different set of benefits and workplace support…
Because of the variety in state law, employment opportunities for Robin, and for LGBTQ faculty as a whole, are limited to the states that support their family structure. Robin indicates that, to cover the cost of health insurance for her partner, her compensation, in terms of salary, would have to be increased. This necessity limits the faculty positions that could be a possibility for Robin. In this way, her career could potentially be stifled because of her family structure. This discriminatory situation can be extrapolated to apply to all faculty members residing outside of normative family structure.

The work toward LGBTQ equity in Washington state has been underway for many years, and much has been accomplished, but the work is not yet completed. LGBTQ family decisions are still bounded by the discriminatory limitations of state law. Until there is equity for LGBTQ families, the work must continue. Until then, families identifying outside of heterosexual family structure are limited in terms of where they live and work, and must base these important life decisions on the laws of each particular state.

**State Realm Word Cloud**

Again, the word cloud is a visual representation created using the web-based image generator called Tagxedo (2011), which allows its user to insert any section of text that is then transformed into a word image displaying the most repeated words as larger than the others. Each image is a visual representation of a group of ideas and shows relational value. The word cloud of the state realm, as shown in Figure 4, is a visual bio/cartographic representation of the family and medical leave-taking practices of faculty in higher education identifying outside of strict heterosexual family structure as related to Washington state. It is constructed by inserting the entire text from this chapter of this document, the state realm as seen through bio/cartographic activism, which is employing discourse analysis and case study methods, into
the Tagxedo image generator. As expected, the most prominent words in this image, and in this chapter, are “Washington,” “state,” and “family.” The second level of prominence includes words such as “legislature,” “constitution,” “bills,” “initiative,” “vote,” “referendum,” and “amendment.” These words, related to governing, show the importance and power of state governments to influence, change, and support the lived experience of the citizens of their state. Much like the federal realm word cloud, the background to these primary and secondary textual images is the human and personal element for which state law and policy exist. Words such as “couples,” “citizens,” “adopted,” “partnerships,” and “care” again underscore the need for fair and just policy that applies to the constituents for whom it is intended.
Figure 4: State realm word cloud (tagxedo, 2011)
Chapter 5
Mapping the Realm of the Academic Institution

LGBTQ Faculty Experience in Higher Education

The processes of “coming out” are constant and never-ending in the lives of faculty members in higher education who identify outside of strict heterosexuality (Sedgwick, 1990). For LGBTQ faculty, decisions about public sexual identification are made every single day, and there is a constant concern with biased treatment based on this identification. While in the work environment, LGBTQ employees must invest energy into managing the disclosure of their sexual orientation, in terms of whether, when, and to whom (Blanford, 2003; Schneider, 1982). Coming out in the workplace is dependent, among other things, on political and institutional climate, one’s relationship status, the degree of one’s perceived safety, one’s emotional energy on any given day, and the nature of relationships in the work environment (Bettinger, Timmins, & Tisdell, 2006).

In organizational settings, like academic departments and institutions where they reside, sexuality intersects with an established culture that is entrenched in heteronormativity (Hill, 2006). Organizational heterosexism is a system that privileges heterosexuality as the only form of expression, sexual or relational, that is acceptable (Griffin, 1998). Heterosexism in organizational settings manifests itself as “rights” that are taken for granted: discussing personal and family issues at work, displaying family pictures, and bringing partners to work events (Gedro, 2006). Additionally, heterosexist workplaces make it difficult for LGBTQ employees to deal with family issues such as illness, death, birth, and adoption (Rocco & Gallagher, 2006). Individuals identifying outside of strict heterosexuality but inhabiting spaces in mainstream organizational settings are swimming upstream against the current while being constantly
reminded that they don’t belong (King & Biro, 2006). Due to identifying within subordinate sexual orientation (Wishik & Pierce, 1991), LGBTQ faculty sexual identity is a daily concern in the workplace (King & Biro, 2006).

LGBTQ employees must concurrently navigate heterosexism, sexism, homophobia, and their own sexual identity development while pursuing their careers (Gedro, 2006). Coming out in the workplace adds stress to the LGBTQ faculty member’s experience because there is a need to consider the risks and the benefits of these decisions. The process causes LGBTQ faculty members to invest mental and emotional energy which potentially detracts from performance. The regular encountering of discrimination toward LGBTQ faculty causes those who identify outside of the norm to participate less in the workplace resulting in the waste of their abilities and knowledge (Rocco & Gallagher, 2006). Institutions can and should foster solutions to these issues in a move toward greater equity for LGBTQ faculty on their campuses.

One such step, which some colleges and universities have undertaken, is to include sexual orientation and practice in institutional non-discrimination policies, but the vast majority of institutions of higher education follow the federal exemplar which excludes these categories (Hornsby, 2006). Additionally, institutional documents must be explored because, in many cases, LGBTQ faculty and their families receive different work/family benefits than their heterosexual colleagues. This varies by institution, and as institutions compete to employ high quality faculty, including those who identify outside of a heterosexual paradigm of family structure, a wide range of benefit packages to recruit and retain faculty are offered (Munn & Hornsby, 2008).

Regarding these policies and benefits at the institution included in this study, the institution’s website and the collective bargaining agreement mimic Washington state’s domestic partnership laws and family leave laws. The institution’s collective bargaining agreement
includes a section titled Prohibition of Discrimination and Harassment that reads, “Neither the
University nor the Union shall discriminate against or harass any employee because of age, sex,
national origin, race, color, creed, religion, sensory, mental or physical disability, sexual
orientation, marital status or union membership.” The institution’s Equal Opportunity Statement
is similar, but specifically adds gender identity:

No person shall, on the basis of age, race, religion, color, gender, sexual orientation,
gender identity, national origin or disability, be excluded from participation in, or be
denied the benefits of, or be subjected to discrimination under any program or activity of
[the institution].

These policies and benefits can be especially important to non-heterosexual families because of
the denial of federally sponsored benefits that are unquestioningly provided to heterosexuals.
Human resource professionals, and institutions on the whole, could be concerned that employees
who are distracted by discrimination, economic disadvantage, and the denial of benefits may be
less productive. Further, it is unjust and inhumane to not be concerned about obvious
discrimination in policy. In politics and organizations, work/family policy generally excludes
non-heterosexual employees and rarely provide for non-heterosexual families. If these policies
extended to non-heterosexual families, their productivity in the workplace would increase (Munn
& Hornsby, 2008). Employees who take advantage of work/family benefits perform at a higher
level and are less likely to leave an organization (Galinsky & Johnson, 1998; Fredriksen-Goldsen
& Scharlach, 2001).

Current law makes it difficult for institutions of higher education to provide equal
benefits to non-heterosexual families. State legislation is often discriminatory against non-
heterosexual families, which makes it difficult for employers to support all family types. When
discrimination is prohibited by law, equity for employees of organizations is ensured. Munn and Hornsby (2008) recommend that institutions of higher education review all benefits and mandate their extension to all families regardless of structure, require similar documentation of hetero and non-heterosexual partnerships, and include sexual orientation in non-discrimination policies. Domestic partners in Washington state, and therefore employees at the institution included in this study, must register with the state as domestic partners. In a move toward greater equity, policy changes can and should be implemented by asking for guidance from well-informed non-heterosexual employees, examining each policy for biases, training human resource professionals and department leadership, and allowing employees to define their own families (Munn & Hornsby, 2008).

For college and university faculty who identify as LGBTQ, the complications associated with leave-taking for family and medical reasons are especially intensified. Euben and Thornton (2002) address federal FMLA issues for faculty in higher education by providing a series of questions and answers, and embedded in these questions and answers are issues of particular importance to the LGBTQ community. The authors pose a question which considers who qualifies as a family member. In the answer it is noted that a spouse is considered a husband or wife as defined by state law. Although they advise readers to consult a lawyer within the appropriate jurisdiction, it is suggested that if state law recognizes non-heterosexual marriages, then the federal FMLA is applicable. An additional question raises the issue of a same-sex domestic partnership where one person is pregnant. The answer provided guides readers to consult how their state, municipality, faculty handbook, and collective bargaining agreement treat adoption and same-sex domestic partners (Euben & Thornton, 2002). Again, policy at the
institution included in this study mimics Washington state domestic partnership laws and family leave laws.

**Federal FMLA in Higher Education**

Institutions of higher education in the United States are one locale where family and medical leave is especially problematic because institutions of higher education, and the faculty employees at these colleges and universities, have specific issues to consider in regard to family and medical leave because colleges and universities function differently than other work environments. Special considerations include sabbaticals, tracking employees’ work hours, tenure pressures, and semester schedules. Much of the federal FMLA was written with a 40 hour week and 50 weeks per year schedule in mind, and this becomes difficult to transfer to faculty in higher education because the schedule is much different (Euben & Thornton, 2002). Williams (2005) contends that illegal limits to leave that affected her in 1985 are still common in 2005. She claims that one in three academic institutions violates federal anti-discrimination law in their parental leave policies (Williams, 2005). Many faculty members and administrators in academe are unfamiliar with how the federal FMLA applies to colleges and universities because as faculty members are promoted to positions in administration, they often receive little information about the federal FMLA and how it applies (Euben & Thornton, 2002). Additionally problematic is that institution-wide policy implementation has very little effect. This leaves department level supervisors as integral in setting the tone for leave policy use (Ward & Wolf-Wendel, 2005).

Upon federal passage of the federal FMLA, human resource departments at colleges and universities had to rewrite existing leave policies to incorporate the requirements of the federal FMLA (Hunsicker, 2000). Although some argue that employees covered by the federal FMLA are fairly well protected under their contracts and collective bargaining agreements that have
been modified to include provisions to comply with the federal FMLA (Hendrickson, 2000), it is increasingly important for colleges and universities to consider accommodating familial demands of faculty members (Ward & Wolf-Wendel, 2005), as the makeup of faculty is no longer men with wives who stay home to take care of children (Tierney & Bensimon, 1996; Williams, 2000). The federal FMLA is required at all institutions that fall under its guidelines, but at many colleges and universities, this is the only leave policy in place. The federal FMLA needs to be examined in the context of institutions of higher education, as it serves the purpose of a conscience assuaging policy for institutions that do nothing additional to accommodate faculty with work/family tensions (Ward & Wolf-Wendel, 2005).

Work/Family Balance

The work/family dilemma needs to be addressed by college officials because it cannot be resolved by federal and state laws alone (Alger, 1999). Colleges and universities should develop policies regarding the federal FMLA, include them in employee handbooks, and prepare a standard statement to be given to employees who take federal FMLA leave that details employees’ rights and obligations before, during, and after the leave (Weeks, 1998). Some colleges and universities provide more generous leave than the federal FMLA, which may include partial or paid leave for family and medical purposes (Euben & Thornton, 2002), and over the past 20 years family-friendly policies have been increasingly implemented (Ward & Wolf-Wendel, 2008). The institution included in this study, for example, follows Washington state laws which allow greater benefits than the federal FMLA. Faculty members should become familiar with their institution’s family and medical leave benefits that can be found in letters of appointment, faculty handbooks, and collective bargaining agreements (Euben & Thornton,
As previously stated, Washington state domestic partnership laws and family leave laws guide the policy decisions of the institution included in this study.

Perna (2001) points out the well established fact that faculty at colleges and universities, due to the culture of the academic world, feel tension between work and family roles (Cole & Zuckerman, 1987; Finkel, Olswang, & She, 1994; Marshall & Jones, 1990; Sorcinelli & Near, 1989). Robin, the faculty participant of this study, addresses issues specific to faculty members with foster children and how she and her family managed:

But prior to – well, for the first probably eight years that I was here – and I did have foster kids, so I’ve had other – while being at [the institution where I work] and being in higher ed as a faculty member, I’ve had caregiving responsibilities in a different way, because they were more temporary, but some of those kids were with me for probably up to two years, so I definitely had the struggles of being a faculty member trying to juggle scholarship, teaching, service, home, and with foster kids in some ways you have more, I don’t know, outside entities to deal with. You know, social workers and counselors and visits with birth parents and all of these kinds of things that we don’t really have with [our adopted daughter].

As Robin indicates, in many ways, providing foster care includes additional responsibilities. Other than caregiving, foster parents must manage the many entities involved in the children’s lives. Robin specifically mentions social workers, counselors, and birth parents, and this list is very limited. If these outside entities applied to each of Robin’s thirteen foster children, there are approximately 30 additional people to consider in terms of scheduling work life and family life. This is a prime example of ways in which people with varying identities and familial structures make meaning of family life as connected to faculty life (Descartes, 2007). The flexibility of
faculty life, for Robin, was a necessity to make this manageable:

     And I was able – as a faculty member, I could go and teach my – and we usually taught in four-hour blocks, so people teach two, three, two, give or take, in [my field]. And so your two could be in one day, 8:00 to 12:00, 1:00 to 5:00, boom, you’re done for the week. And that would’ve been – when I had foster kids, that was much more the arrangement and I had – I mean, I did other work, but I did it from home. I did scholarship from home, I did community types of things where more based out of [the city close to the institution], because it was just an easier kind of commute, and then I was able to have the kids with me quite a bit.

It is worthwhile to note that Robin makes no mention of institutional level support, but instead focuses on personal adjustments that were necessary to balance work and family roles. Higher education, historically, has a bad record of responding to the needs of faculty (Wolf-Wendel, 2006), and we can see this poor response embedded in Robin’s focus of what changes were necessary personally because there was no institutional response.

     Work/family balance becomes the sole responsibility of faculty members when there is no institutional response to the needs of LGBTQ faculty. Relying on colleagues, working odd hours, and organizing life around work becomes a necessity. Robin continues to describe her understanding of the pressures of faculty life and how she has organized her family life around it:

     Oh, I just didn't sleep…I’m also kind of a night owl, but I did a lot of my publication work and grant writing late at night and independently and learned to multitask and work while on the road, and to find a couple of coworkers who – I want to say we pinched hit for each other, but I’m not sure that that’s necessarily – maybe we’ve kind of rotated duties around, like the one guy who I mentioned, he’s in Africa…But like he used – he’s
a single dad, so I covered his son one night a week before [our adopted daughter] came around, and would just sleep at his house. So he would go and do his work… I mean, I don't doubt that everybody works more than 40 hours a week. I think the question is just like for faculty you get a little bit more latitude about what that 40 hours looks like. And I was at another comprehensive before, and it was not a place where, you know, you didn't have to punch a time clock. I didn't have kids or foster kids then, but people kind of did their work, stuck around some, but there wasn’t the culture or the expectation of having to be there every day, all the time.

I observed Robin and her partner, Beth, in professional settings, when they had their adopted daughter with them. What Robin describes as colleagues “pinch hitting” for each other was a reality in these situations. Robin and Beth took turn with their daughter and other colleagues stepped in when both parents were required to either participate in the professional activity or when both were needed to care for their daughter. Robin’s partner, Beth, corroborates the lifestyle that Robin describes. Although the flexibility in faculty schedule allows work from locales other than the office, it does not necessarily mean that faculty members aren’t constantly working:

I mean, Robin worked all the time. She didn't not work, but she didn't also – like she would go to Costco in the middle of the day, but then she’d also just grade papers at 8:00 at night. You know, it was always sort of a stream of life. And so her interactions with us, like I remember before [our adopted daughter], when she was a faculty member, like she would just disappear into her office and work in the evenings or whatever…But then she would go do things, you know, go out to lunch with her friends or something in the middle of the day or, you know, so it was more like work was all the time and the rest of
life was all the time. It was not differentiated. So it wasn’t differentiated. And so family
just came up as it sort of had to or whatever. It just was.

Beth describes Robin as working all of the time. There was very little opportunity to
differentiate between work life and family life. Both worlds were constantly functioning at all
times. Academic work around issues of family, as Daly (2003) points out, has become distanced
from real lives and real families and ignores the experience of being family. This is exacerbated
by the academic culture in which higher education faculty are employed. There is a plethora of
literature pertaining to how men and women work to maintain their families within various
cultural constraints (Aschenbrenner, 1975; Jarrett, 1992; Kennedy, 1980; Kibria, 1993; Menjivar,
2000; Min, 1998; Pattillo-McCoy, 2000; Sharff, 1998 & Zollar, 1985), but the focus of these
texts is more on demographic information and not on the culture of academic life. The demands
of faculty life—teaching, publishing, grant writing, traveling, community interaction—all
interfere in many ways, as Beth describes, with having any sort of family life separate from
work:

She works really, really, really hard. She’s had a lot of overload. She traveled a lot.
[Her] department includes – you know, they have three different sites, so she would
usually be gone one night a week to travel. She did this thing which faculty tell me is
impossible to do, but I know it’s not because she did it, where she got this research class
and she would have like 90 people in the class, and each student would have a – maybe it
was groups of students, would have research projects, like community research projects
in agencies, and she would go and visit with every agency and every group of students.
In my professional job as a grant writer, I am told that that is impossible, faculty can’t do
that, it takes way too much time. And I’m like, you know, I mean, she probably worked
50 or 60 hours a week, but it wasn’t like – but it was kind of that stream of work, you know, thing that I was talking about, so it’s kind of so hard to sort of think about it in the same way. She did work really hard.

The demands of Robin’s job are not uncommon for faculty in higher education. With this wide variety of responsibilities, family life struggles to find its own space separate from work life. In the world of higher education faculty, the culture dictates the assumption that everyone is available and working all of the time. Beth describes the lack of differentiation between work life and family life as a stress on Robin and Beth’s relationship:

But – because this constant stream of work, like there’s no boundaries – I have to really stick to boundaries, like work is work and home is home. You know, in my ministry work, it’s not quite as clear, but in my work as a grant writer at a university, it’s totally clear. And I remember when we first moved in together, the faculty member I was working on a grant with in her department called here on a Sunday and asked for me. I mean, called – because Robin lived here, called Robin’s phone and asked to talk to me because they wanted to talk about the grant. And I told her, “Absolutely not.” I can’t even believe that. But they did it all the time. That’s the way they worked. You know, they would call and do committee work or whatever all the time. You know, it’s interesting to think about how that would’ve been with the baby, because that wouldn’t have worked out. She would have had to differentiate, and so her days would have been fuller and her evenings would’ve been, because that was getting into the – so that’s kind of interesting…Yeah. It’s interesting, because I was pretty happy when she started differentiating, but I have a hard time exactly remembering like why. I think it drove me crazy. I did not like it. I did not like that they called and did committee work, but I don’t
know if I didn't like it because it really infringed on our relationship or I just found that
sloppy, like it’s just not my value system, you just don’t do that, you know? Like right
now I’m having a hard time sort of knowing whether which way was which.

Robin and Beth speak to the “stream of life” as Beth calls it. Life for a faculty member in higher
education, as described by these participants, involves working all of the time and living the rest
of life all of the time without any differentiation. Working 40 plus hours per week, traveling for
work, working at night, relying on coworkers, and the general lack of sleep described causes
stress for the faculty member and family. Because of the lack of differentiation, the “stream of
life,” the natural consequence is that all areas of life—work, home, family, friendships—are
constantly stressed. This constant stress without reprieve is problematic for the faculty members
and for the institutions where they are employed.

Academic institutions are far behind businesses in terms of policy that responds to family
needs: in academe, only 38 percent of tenured women and 61 percent of tenured men have
children, which could be a reflection of the out of date family policies in higher education
(Williams, 2005). The Faculty and Families Project at Pennsylvania State University found that
between 1992 and 1999 only four of 257 tenure track faculty took any formal leave for family
purposes. There are biases against care-giving in academe that cause faculty to avoid taking time
off. It is these biases that penalize faculty for utilizing policies meant to protect them. To avoid
these penalties, which are often unstated and hidden, faculty members avoid taking advantage of
formal leave policies or even asking about existing policies. Faculty careers in higher education
are structured so that those with few family responsibilities are more likely to be successful
(Drago, Colbeck, Stauffer, Pirretti, Burkum, Fazioli, et al., 2005).
Research shows that work/family policies are underutilized for a variety of reasons including faculty being unaware of existing policies (Ward & Wolf-Wendel, 2005), concern that taking advantage of leave policies will hurt academic careers due to experienced or perceived bias against time off for family reasons (Armenti, 2004a, 2004b, 2004c; Colbeck & Drago, 2005; Drago, Colbeck, et al., 2005; Ward & Wolf-Wendel, 2005 & Ward & Wolf-Wendel, 2007), and faculty sense of agency (O’Meara & Campbell, 2011), as defined by having a sense of power, will, and desire to make work life adhere to individual goals (Elder, 1997). New policies and support mechanisms to assist in work/family balance have been implemented over the last decade at many universities: some combination of tenure clock stoppage, parental leave, reduced teaching loads, child-care subsidies, and part-time options are available at institutions such as University of California, Berkeley; University of California, Los Angeles; University of Michigan; Stanford University; the University of Massachusetts Amherst; and MIT (O’Meara & Campbell, 2011). But family-friendly institutional policies are still widely underused. A survey at one university showed that 70 percent of tenured and tenure-track faculty believed that taking leave after the birth of a child would be detrimental to their academic careers (Finkel, et al., 1994). Additionally, faculty members are often discouraged from taking advantage of leave policies in that they are either not made aware of the policies, or when they are made aware, they have to go through gatekeepers such as chairs, deans, and human resources, who may not regard the policies as entitlements (Spalter-Roth & Erksine, 2005). Not discussing family issues with anyone seems to pay off in terms of career advancement (Drago, et al., 2005), especially for those whose family does not fit the federal FMLA’s definition of “family.”

The federal FMLA’s strict definition of “family” must be problematized. What “counts” as family? As a comparison, unlike the largely strong family support systems of racial
minorities, for example, who encounter and manage racial discrimination, it is common for those identifying outside of strict heterosexuality to have little to no family support (Ragins & Wiethoff, 2005). Reasons for this include the disowning and ostracizing of LGBTQ family members, family members’ possible ignorance of LGBTQ issues, and family members struggling to defy heterosexist norms (Rocco & Gallagher, 2006). When traditional families are no longer available to those who identify outside of strict heterosexuality, surrogate families are created. Robin speaks to this familial adjustment in the LGBTQ community:

And so you have that – some gay people have a thing about like that your friends become part of family. And so I think that there are a couple of people who I’ve had those kinds of connections with that may or may not have happened had I had a more, you know, traditional, whatever that means, family structure. So this guy who’s in Africa whose kid I watched, well, you know, if he had a wife he wouldn’t have some weird girl over one night a week, or if he did he would have more trouble. And in having that kind of – to me, that’s in some ways part of the family structure. Extended, but still – I mean, I view his son as my nephew, and I believe that he views our adopted daughter in that same way, and I’ve had in my life constantly probably people like that since my 20s who I felt a family affiliation with, so that has carried out some into adult and parenting identity, too, which I didn’t – wouldn’t have really necessarily said it had to do with sexuality. I think it more has to do with maybe in-group or out-group or you end up with this different constellation of folks around. So for me it’s been I think like a buffering mechanism that, I mean, the more the merrier, you know? He’s a single guy and it’s hard to find somebody in [the city we live in] especially if you’re looking for another guy, I would assume, and he didn't want to have lots and lots of dating of other guys when, you
know, he’s got a kid and he needs to make that his primary thing. And so there’s me and then an older woman faculty member who have been sort of – that perform those pseudo-family functions. You know, on the emergency parent list at school and stuff like that.

And I think I’d do that for two or three different people and they’d do it for me.

Due to a variety of hurdles to traditional family support, extended families, according to Robin, are a normalized part of life in the LGBTQ community. If this is the case, then limited definitions of “family” are again problematic for those who identify outside of strict heterosexuality. This complex family makeup, although potentially difficult for policy-makers and higher education administrators, must be considered to move toward a more equitable work/family life for LGBTQ faculty in higher education. Work, such as this study, that include qualitative approaches such as interviews and observations of faculty families and the institutions where they are employed “illuminate the functioning and meaning-making of individuals and families within their social and cultural contexts” (Descartes, 2009, p. 26). How it feels to experience family life in a particular environmental and cultural context, in this case academic culture, is essential to understanding the lived reality of LGBTQ faculty members in higher education. This work has the potential to provide intimate perspectives work and family, family functioning, and individual and family development in the context of an academic community (Descartes, 2009).

**Importance of Human Resources**

Human resource offices and professionals play an important role in how institutional policies are communicated. The implementation of formal work/family policies, in combination with individuals questioning what is expected and permissible, can assist in fostering change in policy and culture (Drago, et al., 2005). Human resource practitioner concern for LGBTQ issues
should go beyond diversity training. Monitoring the diversity climate of the organization to understand where difficulties are emerging is essential to organizational success in terms of LGBTQ issues and diversity in general (Jayne & Dipboye, 2004). Robin speaks to the importance of the university climate:

Well, just I think how the people at some of the places like HR and benefits and stuff like that, I think when you identify outside the mainstream in any way, you know, they could kind of make or break the experience for somebody. And I know like my ex and I – I think we’re the first ones at [the university] to have ever applied for her to have my benefits. And everybody was really trying to do the right thing, but they were all very sort of nervous and it just felt sort of like small town, backwoods, rural America…And then years later, though, when it was time – and partially I wasn’t new to the institution anymore, but when it was time to then be this nervous new mom and go add [our adopted daughter] to our benefits and stuff like that, you know, and that probably was ten, eight years later, anyway, people were – it was less outside their normal experience…I wouldn’t say that they were negative, but it was just that they were – they didn't have enough familiarity with diverse kinds of families that I felt a little odd. And I don't usually feel like that, because I’m usually like, “Take it or leave it. Fuck you if you don’t like that.” And I just remember thinking like the lady had to go get her supervisor who then had to look in the – some sort of [Washington Administrative Code] summary sheet that somebody had given them of the new policies on healthcare and health insurance, and then they needed to know what kind of documentation they needed, and that’s all fine, but I mean it’s like if we had been a heterosexual and married couple, I would not have had to get a court order that my husband could be on my benefits. He just would’ve
Robin addresses issues that arise for every employee who identifies outside of strict heterosexuality. By not being prepared to address Robin’s needs, the human resource professional created a situation where Robin was forced to feel that her positionality was outside of the norm, and in many ways, less important than her heterosexual colleagues. This human resource professional would not have needed to consult documents and supervisors if Robin had identified as heterosexual. By knowing the rules for heterosexuals, and not knowing the same information for those identifying outside of heterosexuality, this human resources professional, as a representative of the academic institution, showed that heterosexual employees are more valued than those that are not. Human resource professionals need to be more conscious of LGBTQ family concerns and be prepared in the same ways that they are prepared to assist heterosexual employees. Robin continues to speak about human resource professionals’ reactions to her requests regarding her family:

I think just not having gone through the process and not really being able to put a name with a face…So it was more like unfamiliarity. They had seemed to have understood that there was some bureaucratic way to make it happen. I don't feel like they were obstructionists. They just weren’t really like – like weren’t really – because I think they were nervous. And then that – nervous and it was outside their check this box or check that box. And so then that translated to making me feel a little like I was outside some box, which I don't really ever feel like. This doesn’t occur to me that that’s – you know, my normal is my normal and it’s just not that weird. And I left feeling like, wow, they think it’s kind of weird…it just seemed uncomfortable for them to actually put into a box, check yes or no, but then how do we document that, you know? And in that way – but
then that’s just sort of human nature, but I guess I was a little bit surprised at the – what felt like – and it still feels like that to me here, in [the city in close proximity to the university], and especially at [the university] where it’s just like a lot of people really still operate under mom & pop 1950s model. After being there ten years, I certainly know like who to go to and who doesn’t act like that…

It is important to note that the human resource professional that I spoke with, and those that Robin dealt with, showed no outright hostility toward LGBTQ concerns. What was shown was neglect and ignorance, which may be common in the human resource offices of organizational settings. Human resource managers often ignore LGBTQ issues because they lack the education in these areas (Lucas & Kaplan, 1994), and this reinforces systems and feelings of oppression in the workplace (Gedro, 2006).

All employees, regardless of sexual identification, learn an organization’s values regarding LGBTQ issues through human resource practices. Antidiscrimination policies, harassment policies, and benefit policies that either include or exclude sexual orientation, teach all members of an organization the degree to which LGBTQ employees are valued (Munoz & Thomas, 2006). In a formal interview with a human resource professional at the university included in this study, it became clear to me that LGBTQ employees were not a priority. In multiple contexts, the human resource professional indicated that these were issues that did not occur to her. I offer the following responses from the human resource professional as support of that conclusion. During a discussion of time off under state law for adoption of a child as opposed to pregnancy, she explained, “I could check on the adoption piece, because I don't really know.” In attempting to detail the processes for same-sex partners who adopt a child, continued unfamiliarity was apparent:
Yeah, leave for placement of a child with the employed for adoption or foster care, so I mean I don't ever ask if it’s – who it’s for. I mean, if it’s the parent, it’s the parent. I don't ever question that. I don’t ever question whether they’re heterosexual or homosexual. I don't even think about that. To be honest, I didn't even think about it until you mentioned it. And I went, “Really? This didn't – I didn't think about that piece.” I don't know. I think that’s handled through benefits.

It is surprising that a human resource professional was unaware of the processes LGBTQ families need to complete to access benefits to which they are entitled. Continuing to push this line of questioning revealed that human resource office ignorance regarding LGBTQ family issues, specifically same-sex partners taking leave to care for their partner’s child, forces employees to be cryptic in accessing benefits and family and medical leave:

You know, I know this has happened just recently and I don't think that was checked, because I don't really – I didn't really realize that they were two different people that were together. I don't necessarily know that. You know, someone comes and says, oh, they’ve just adopted a child. I don't ask them if – and then another one comes, so I don't know that they’re together. You know what I mean? I know that’s happened, and I didn't even realize that it was the same couple with the same baby. Neither one was pregnant, so they both came for a baby, but they didn't come together, and so I didn't ask. That’s nothing that I really pay attention to. So if I wasn’t really told, I wouldn’t know.

It appears as though the faculty members cited above made a concerted effort to avoid disclosing their sexual identity. They went in separately to request family and medical leave, making it so that they didn’t have to disclose their non-heterosexual family structure. The human resource professional explains that most people do not disclose non-heterosexual family structure:
So I do think – so that’s for spouses – and I would just have to look more on the partner piece just for you because, like I said, I really don’t ask that question and people really haven’t necessarily mentioned it. So, you know, I mean, that’s not really a question that I ask. I’d even check with my supervisor to see if that would be some question I would need to be asking. Did you find that people ask that question?...Because I really never thought about it until you mentioned something, because I just think everyone should have the same benefits, and so I could be – we’re missing some things.

Her belief that everyone should have the same benefits is admirable, but it is possible, based on Robin’s perception that her family structure was an oddity, that this human resource office at this institution is not a place where people feel comfortable disclosing that they are a member of a family structure outside of heterosexuality. She recognizes that it is not her place to ask these questions, but she also acknowledges the possibility that people might feel like they are not able to safely disclose information to human resources:

So, anyway, so I just never say, “Hey.” And maybe they don’t feel it’s necessary, either. I don't know how they think, you know, if that’s – so, yeah, I don't think, you know, like I said, I don't know if people feel like they can’t say anything here. I think it’s pretty open between benefits and this office, but like I say, everyone’s different. You know?

The fact that this human resource professional does not know whether they have established a safe environment for LGBTQ faculty to disclose family structure my be an indicator that they have not done enough to support their LGBTQ faculty. Human resource development has stopped short of thoroughly studying organizational issues of oppression including diversity, equality, power, heterosexism, discrimination, sexism, and racism (Bierema, 2002). This lack of
understanding is further exemplified in the training procedures, or lack thereof, regarding family 
and medical leave for faculty of all sexual identification at this institution.

Department chairs, even those progressive in their thinking about family and medical 
leave, consistently leave it up to faculty members to request leave options, and it is often the case 
that department chairs do not receive training on offering and implementing leave options (Ward 
& Wolf-Wendel, 2008). This dynamic was consistent with the human resource professional’s 
understanding of how faculty members are informed of leave options. She specifically mentions 
faculty orientation. Based on my observations of new faculty orientation, it is true that family 
and medical leave is briefly addressed in these meetings, but there was never any mention of 
LBGTQ issues in relation to family and medical leave. Family and medical leave training for 
those in administrative positions is also fairly sparse:

Well, we’re just starting our training again. So I mean it’s always been open for people 
to attend. It’s whether or not they want to attend. And I can’t speak for the past. I’m not 
sure how that was handled. I only know now that we have leave training that we offer 
persons, which covers family and medical leave...It’s offered once a month...And we have 
it on our website, our training website, for people to go out and look at. But since we’ve 
just kind of reorganized and we’re kind of trying to figure out what works, so right now 
we’re just getting our training back on track on the calendar, so we might reach out with 
emails. And that’s what we do. We’ll do emails saying, “Hey, we’ve got leave training.”
It’s whether or not they want to come, because we can’t require it. So it just depends. 
But if we get a lot of calls from certain departments, like I was just dealing with a 
department not on the faculty side that was having a lot of questions about leave, and so 
instead of them waiting to sign up for training, I’m just taking the training to their
department next week and doing it for all their supervisors. So that’s something that we can do, too. And the deans and chairs all know that, that they can have special training. And I believe over the years our different associates have gone to the different meetings and just said, “Get some highlights and brief synopsizes of what’s going on.” But it just depends on a lot of times on training on FMLA stuff, until they need it they don’t really think they want to attend, because they forget, they don’t deal with it all the time. So it’s training. I mean, training is out there for faculty, but I don't know if necessarily if they’ve got time to come and do it. But we are really now pushing the training schedule and this and that, and it’s available for everyone…There are certain things that we can require…when we do the ethics training, but as far as forcing them to come, no. Well, any of our training, we can’t really force them to come unless it was some sort of – we’ve had some ethics training that people had to sign off on, and then that’s more of a forced training we need to get everybody to sign off on it. But, yeah, training is not a requirement. It’s just suggested.

It is clear that the training process is not very formalized or thorough for administrators who deal with faculty who require family and medical leave. Training is not mandatory for anyone, so those who are not interested in fostering a supportive atmosphere for faculty families are able to continue to ignore this issue. It is difficult to expect that LGBTQ family concerns are in any way addressed if the family concerns of those who identify within the norm of heterosexual family structure are not included in mandatory training. Human resource development practitioners are in a vital position in enabling learning about LGBTQ issues (Gedro, 2006), but heterosexism dominates the organizational culture, human resource policies and procedures, and access to training and mentoring in organizational spaces (Rocco & Gallagher, 2006).
Again, through formal interviews with a human resource professional and through observations of new faculty orientation meetings, it is clear that there is no formal process for training or for the gathering of information at this institution concerning family and medical leave, regardless of sexual identity:

And, you know, it’s nice for someone else to come in and look at it and then give suggestions, because sometimes it’s hard. And it’s hard to get people to come to training. You know, it really is. And then you get people that come to training and it’s so much, then they forget, then they just call and…I mean, it’s a work in progress all the time trying to get the information out to people in the best way possible and…I just don’t think they’re interested until it’s – but we need to at least – like the business manager, the [specific people who lead these areas], all of those people so they know about family and medical leave so then when a faculty member comes to them and says, “Oh, I’m going to be off,” then they know to immediately say, “Oh, well, contact me,” or they’ll contact me so that I can contact the person just, you know, just like I have a note right here from someone saying, “Oh, contact so-and-so for family and medical,” because they went through their supervisor. So that’s usually how it works, and then you can do more of a one-on-one to give them all the paperwork. I just had an email today from a gal who wants to know about family and medical, so we set an appointment. So that’s really the best, because the training is usually for the supervisors, not each individual employee. So for the supervisor to disseminate the information, so – which I think is probably common.

The informal procedures outlined above exemplify the difficulties for faculty to get the information they require regarding family and medical leave. There is no formal policy, and everyone does it differently:
Everybody does it differently. Some people just come here immediately and I tell them the process, because they do have to talk with their supervisor to let them know what’s happening. So, yeah, the faculty will – and so it just depends. Sometimes they go and talk to the dean and they’ll go, “Oh, you need to call human resources,” and so then I let them know and then they end up going back to the chair and whatnot, because these forms kind of tell you to get the two weeks of sick leave, and then they get more according to how many years they’ve been here. So it’s one way or the other. Sometimes they just call here first and I let them know the process, or they meet with their dean or chair, or a fellow employee and then they hear the process, and so yeah.

Leaving it up to the individual faculty members to figure out the processes, both formal and informal, puts the onus on the faculty member and relieves the institution of the responsibility to provide support to faculty with family concerns. As previously detailed, there are a variety of reasons why faculty avoid leave for family and medical purposes (Armenti, 2004a, 2004b, 2004c; Colbeck & Drago, 2005; Drago, Colbeck, et al., 2005; Ward & Wolf-Wendel, 2005 & Ward & Wolf-Wendel, 2007), and it is clear that, for those faculty identifying outside of the norm, these concerns are increased exponentially. Formal policy, as opposed to faculty figuring it out on their own, could go a long way to redressing some of this concern.

**Informal Policy**

When formal institutional policy falls short of supporting a work/family balance for faculty, especially those identifying outside of strict heterosexuality, alternative measures are required to ensure continued success in academe. Much of this is due to faculty members avoiding involving human resource offices in the discussion. Robin chose not to take family or medical leave, but discussed what her process would have been:
Well, it would have depended how long – I think on the short-term basis I could have had, you know, two or three – well, certainly two or three weeks off with no question or concern. People would have just informally covered for me and each other. That’s just kind of a – if your class is covered, people didn’t really flip out. If I had needed, say, a full quarter off, I would’ve just gone to the dean and tried to – and asked for him to make an arrangement where I could do some sort of course release buyout and work from home. And I probably – in the old days, with the old budget, and the old dean who just did what he wanted regardless of whether he was supposed to or not, that would’ve been probably something that we could’ve worked out…I mean, that’s – my sense is I would have done anything and probably could’ve gotten people to work with me around not going through HR…

Robin’s efforts to avoid the human resources office shows that she went to incredible lengths to work around formal policy regarding family and medical leave. Robin explains, “And I think that I bet that people who are outside the norm in lots of different kinds of categories, they become very adept at working those connections and informal networks and passing the word in that.” The sense of agency that a faculty member feels, in reference to the ability to take family and medical leave, is constructed in the social and political context of the institution and department where he or she is employed (Elder, 1994, 1997; Marshall 2000), and the ability to activate this agency is dependent on the collection of support resources available (Marshall, 2000).

Faculty who identify outside of strict heterosexuality learn about how to be successful in organizations informally and incidentally, not through structured prearranged institutionally sponsored programs (Watkins & Marsick, 1992). Robin details her learned adjustment within
her institution and department. She revisits her familial relationship with a male colleague, mentioned earlier, who also identifies outside of heterosexuality and has an adopted child:

And then when [our adopted daughter] came, he had [her], oh, every – probably once every two weeks for the day while we were between daycares, so I guess having some coworkers who could either pitch in at home or cover for you at work some. You know, and so part of that for me was about writing with people. We would write – I mean, [a colleague] and I could do that, and that’s probably some of how it came about, and it’s been good because it keeps us both going, but that’s true for other people, too, where to collaborate with folks who you can send drafts back and forth with and who also would watch your kid. I think that’s probably some of what made it less insane.

Faculty members in departments with colleagues who also have young children feel an increased sense of agency around work/family balance and parental leave (O’Meara & Campbell, 2011). This was clearly the case for Robin, as she describes colleagues with children and the support systems they created to simultaneously be successful in their work roles and in their family roles.

An additional factor in faculty sense of agency regarding work/family balance and parental leave is the level of support from faculty colleagues (O’Meara & Campbell, 2011). Robin details the many ways in which her colleagues and administration were supportive of her family life:

Well, you know it’s interesting because [our adopted daughter] was unexpected. I’m not sure if [Beth] mentioned that, but it had been a long wait and we were in fact in contact with the agency to say, “You know what? Take us off the list, stop calling.” There had been some very close calls with adoption and some heartbreaking – like one time we had plane tickets and we were ready to go and it didn’t materialize…But at any rate, the baby
was a surprise and the workplace, both my office and Beth’s office and then probably, in general, the larger university was incredibly positive and welcoming and kind and generous. People were really – we had to limp along without daycare for a bit at different junctures throughout the first 10 months or so, and so she came to a lot of meetings, she had to fly to a graduation because my program had remote sites, and the provost – like she fell asleep in the provost’s lap, which is about – you don't hear a lot of nice things said about him, and her feet were – I mean, I was holding her, but she was stretched out in the plane ride and asleep on him and it was – I mean, and everybody was very, very nice. I didn't feel quite as relaxed around him, but…And so, Beth’s office allowed her to bring [our adopted daughter] at times. My boss sat and held her during meetings and would – if I had something I really needed to do, like frequently we would talk through situations or memos together, so he would hold her because he could make her relax and sleep, and then I would do the typing or the edits or whatever, and we’d just kind of, you know, she was just a fixture in the office for a while, and so everybody was – and there was a surprise shower for [Beth], and people brought gifts, people made quilts. I mean, it was – people were very generous.

Robin explains the wide variety of support she received, all informal and separate from formal institutional policy. Supportive departments are highlighted by a sense that it is normal and good for faculty to have families and by colleagues and chairs assisting in the balance of workload and family (O’Meara & Campbell, 2011). This was the case for Robin and her family, hence her positive experience with the adoption of a child.
Tenure Considerations

The lavender ceiling is a term used to “describe the kinds of systemic barriers which prevent recruitment, retention, and promotion of openly gay and lesbian people” (Swan, 1995, p. 51). Systemic barriers appear as the exclusion of sexual minorities and the inclusion of straight discourses in policies, rules, and career advancement (Wade, 1995). Heterosexism is a limiting factor in the career advancement of LGBTQ employees (Friskopp & Silverstein, 1995), as exemplified by corporations preferring LGBTQ employees to stay closeted (Miller, 1995). Heterosexism in the workplace, which often plays out in the distancing of LGBTQ employees, results in fewer promotions for LGBTQ people (Ragins & Cornwell, 2001). The distancing of LGBTQ employees leads to reduced access to networks that provide important performance and socialization information (Munoz & Thomas, 2006). For fear of disclosing sexual identification, LGBTQ faculty must be concerned about sharing personal information in daily casual conversations about life outside of the work environment. Secrecy around one’s personal life in the workplace has the potential to be misunderstood by colleagues and delay or prevent promotion (Rocco & Gallagher, 2006). The lavender ceiling in higher education may be encountered during the tenure and promotion process (McDonough, 2002).

It is possible for institutions to move toward easing work/family tensions by implementing leave provisions beyond those provided under the federal FMLA, creating more flexible tenure policies, clearly communicating tenure expectations, providing services that support faculty members who are also parents, and supporting policy that reflects the actual demographics of higher education faculty (Euben, 2004; Ward & Wolf-Wendel, 2005). The tenure process has changed very little since its inception, and it was developed when the family norm included a male breadwinner and a female caretaker (Ward & Bensimon, 2003). Policies
that include stopping the tenure clock or modifying duties because of the birth or adoption of a child recognize that having a child can have a negative impact on the finite amount of time faculty members have to achieve tenure (Ward & Wolf-Wendel, 2008). Robin speaks to their decision to delay adopting a child and to their decision to only adopt one:

You know, in some ways we had almost given up [on adoption], because it was taking forever…And so I thought, well, maybe I’ll just do the career thing instead or only. I think probably I delayed parenting some because of that. I think we would have – or I would’ve had kids younger or adopted younger or done something differently, and possibly – and part of it was faculty, too. It was like, well, after I get tenure I’ll have kids. Especially it’s not like for me it’s going to happen by accident. I mean, lots of people have a kid when they’re in their doctoral program or they’re a relatively new assistant professor, and intended or not it just happens, and they work with it. Some people say it’s a good time to publish because you’re just hanging out at home with the little one. Well, that kind of accident wasn’t going to happen for me, for us, in that way. So I probably delayed parenting some, because I wanted kind of like the faculty milestones where, okay, I’ll wait until I have tenure. Well, but then when you’re tenured, it’s just like, well, I’m probably not too far from full. I’ll do a couple of more publications. And then at the same time, [Beth] and I had probably only been together two or three years, and that’s also kind of a new time, and she already had three kids, but that’s also a relatively new time to enter into, “Oh, and by the way, I know you have three of your own and you’re five years older than me, but I really, really want the baby.” And probably the most tangible changes, we would have had more, I think, or I would have had more than one. And I waited long enough and [Beth] is – four is plenty. I don't
think she would be – five would be too much. Five would probably kill us both. But if we were five years younger, it would be different, I think, and so we might have had a larger family if had started sooner.

Robin and Beth’s decisions about family were influenced by the intense pressures of being a faculty member in higher education. There are steps institutions can take to alleviate some these pressures.

Many institutions of higher education offer an option to stop the tenure clock for professors in instances of pregnancy, illness, or caring for a family member (Alger, 1999; Thornton, 2006). In a recent study, faculty members reported that having access tenure clock-stopping policies provided the space required to pursue both work endeavors and family endeavors. Without the ability to take advantage of leave policies, some of these faculty members argued that they might have had to quit their jobs or might have failed to achieve tenure and promotion (O’Meara & Campbell, 2011). This is especially important because, generally, the guidelines for achieving tenure are ambiguous (Schoening, 2009). A survey of 4,500 tenure-track faculty members at 51 institutions shows that, on a scale from one five, with one being “very unclear” and five being “very clear,” clarity of tenure expectations was in the mid-threes (Fogg, 2006). A similar survey of 30 junior faculty members at six universities revealed that every participant mentioned the need for clarity in tenure processes to aid in their professional success. These faculty members pointed to vague and inconsistent tenure guidelines, the lack of constructive feedback, the negative stigma of asking questions about the tenure process, and the divergence between policy and practice (Trower & Gallagher, 2008). Robin’s experience diverges a bit from this common experience:

Oh, gosh, it seems like a long time ago now. Well, my tenure promotion felt – and I
think worked relatively safe bet/slam dunk, somewhere between a safe bet and a slam dunk…I had done the requisite – and [the institution included in this study] has a weird – and in some ways it was what drew me to either to come here or to stay or both was the way that you draw up the faculty activity plan and sort of a contract, and if you do this and if you meet the goals of the plan and you don’t cause trouble and you’re a good colleague, you’re probably pretty much going to be promoted, especially a long time ago. And so it felt less objective to me, where I know a lot of horror stories of people who – especially at the R1s, but other places where they’ve done every single thing, they’ve published and gotten this grant and that grant, and then some physicist says that their psychology research wasn’t good enough so that they don’t get tenure or something. And at [the institution included in this study], that’s not really – there’s not that outside body in that way. So it felt like it was more – I was being judged by my peers. And at least in terms of scholarship and teaching, I was well – of production, I was well ahead of the others, so I wasn’t concerned. I can’t say I wasn’t concerned, but I did all my work and I documented it very well and I took it seriously and made sure that the older people knew I took it seriously, too, and so I would’ve been shocked had they come back with anything else than a very positive review.

The fact that Robin had a contract that detailed the expectations for achieving tenure and promotion eased some of the concern around balancing work and family roles. In addition to contracts like the one described by Robin, entitlement policies can be useful for fostering work/family balance for faculty: Princeton University automatically stops the tenure clock if a faculty member has a child, and the University of Kansas grants an automatic one year suspension of the tenure clock for faculty if they have child (Ward & Wolf-Wendel, 2008).
An additional consideration for Robin, related to tenure and promotion, was the institutional type where she chose to work. The institution where she is employed is a regional comprehensive. The expectations at this type of institution are different from those at a Research 1. Robin speaks to this decision:

I knew I wasn’t cut out for – having done my doctoral work at an R1, it was just like – not even having a family, but having a life, but having a family, too. I mean, I definitely knew that I wanted to have some sort of family that involved kids, you know, whatever that looks like. And I probably thought I would biologically have my own, I would guess, is what I would’ve said when I was looking for a position. And this was my kind of backup plan, and I had applied to Arizona State, and I was really sort of intrigued with going there. I’m not sure why, but it just seemed like somewhere good to go at the time. And [the institution included in this study] seemed much more laidback. And that part of the Comprehensive, you know, where you could focus on teaching – or allegedly focus on teaching, that was a draw because it was also not as – maybe not as competitive and as cutthroat in that way, so you could also have a life in addition to, you know, doing – teaching your classes or whatever. And I know that that was a pitch even that the committee made when I was doing my interview was that people – this isn’t a place where there’s office hours and it’s not the kind of culture where you have to be there all the time. People do their work; they go home. Some work from home, some sit at their desk all day, but you won’t get micromanaged. So I found that very much a draw.

Flexibility, in terms of how much time must be spent in the office or on campus, is an important issue for those trying to balance work and family pressures (O’Meara & Campbell, 2011).
Robin’s choice to work at this institution was greatly influenced by the possibility of having flexible hours so that she could manage family responsibilities.

Although women are earning advanced degrees in greater numbers than ever before, they are choosing to avoid academic careers in higher education (Golde & Dore, 2001; Rice, Sorcinelli, & Austin, 2000; Schoening, 2009). Talented candidates avoid careers in academe to avoid biases against caregiving (Drago, et al., 2005). If the lack of family-friendly policies in academe makes these careers less desirable for female scholars, it is fair to assume that this is also true for LGBTQ faculty. Tenure issues are exacerbated for those who reside outside of established norms, and it is a liability for faculty who are untenured to identify outside of these established norms (McDonough, 2002). Organizations structure routines, such as tenure achievement, based on perceived norms (Perrow, 1979). Therefore, characteristics of difference, including identification within the LGBTQ community, serve as inhibitors to achieving academic goals (McDonough, 2002).

Institutional Realm Word Cloud

For the final word cloud, I have again created a visual representation formed using the web-based image generator called Tagxedo (2011) which allows its user to insert any section of text that is then transformed into a word image displaying the most repeated words as larger than the others. Each image is a visual representation of a group of ideas and shows relational value. The institutional realm word cloud, as shown in Figure 5, is a visual bio/cartographic representation of the family and medical leave-taking practices of faculty in higher education identifying outside of strict heterosexual family structure at the regional comprehensive institution in Washington state that is included in this study. It is constructed by inserting the entire text from this chapter of this document, the institutional realm as seen through
bio/cartographic activism, which is employing discourse analysis and case study methods, into the Tagxedo image generator. Again, we see that the most prominent words in this image are related to those in this chapter: “family,” “faculty,” “work,” “institution,” and “Robin,” who is our faculty member participant. The second level of textual prominence in this image is directly related to the essential aspects of family and medical leave at institutions of higher education. These include “tenure,” “human resources,” “training,” “policies,” “colleagues,” “department,” “benefits,” and “professional” as supporting both the main concepts in this word cloud, as well as the areas seen in the federal and state realms.
Figure 5: Institutional realm word cloud (tagxedo, 2011)
Chapter 6

Denouement

This denoument, including findings, recommendations, and implications, is meant to untie the complexity of family and medical leave for LGBTQ faculty members in higher education. By deconstructing the federal realm, the state realm, and the institutional realm drawn using bio/cartographic activism, my hope is to create a template for continued activism, in the spirit of Dasein and ubuntu, to be taken up by myself and those who value equity and justice in their communities and at their institutions of higher education. The findings specifically address the research questions posed in this study; the recommendations speak to continued pressure, marriage equity, honoring the original intentions of the federal FMLA, and changes required at academic institutions; and implications are outlined for future research, for the institution in this study, for LGBTQ faculty in higher education, and for me. Bio/cartographic activism, as influenced by Queer theory, Dasein, and ubuntu, is a theory and methodology that can and will be used to continue to work toward equity and justice for LGBTQ faculty families in higher education.

Findings

The first of the research questions of this study asks, “What is the lived experience of a faculty member family in higher education that identifies outside of normative heterosexual family structure?” Through a bio/cartographic rendering of the issue using discourse analysis and case study methods, which included formal interviews and observations in a variety of contexts, I found that this family that identifies outside of strict heterosexuality share the same concerns of any family but have the additional burden of constant opposition to heteronormative ideology in political spheres, in social interaction, and in the workplace. It is common for
LGBTQ families to find ways to work around these oppressive and discriminatory conditions: family extends to community members who share similar views and positions, allies at the institutional and department level are identified and relied on to provide assistance, and institutional policy is avoided if possible. It is left up to faculty members in higher education to figure out how to navigate family concerns without any institutionalized workplace support.

The second research question asks, “How does an institution of higher education navigate the discourses of federal family and medical leave policy, state family and medical leave policy, and institutional family and medical leave policy that either includes or excludes the needs of a LGBTQ faculty family regarding family and medical leave?” Again, through a bio/cartographic rendering of the issue using discourse analysis and case study methods, which included formal interviews and observations in a variety of contexts, it is shown that the federal FMLA is constructed in a way that excludes LGBTQ families from its benefits and provisions. The federal FMLA even goes as far as to villainize families outside of the norm. In some cases, as with the state of Washington, individual state law extends the definition of family to include those residing outside of strict heterosexuality. Institutions of higher education, in many cases, take their cues in how to treat LGBTQ families from top-down policy-makers. What results is that institutions of higher education are not doing enough to support their LGBTQ employees and their families: institutional policy mimics state and federal law, human resource offices are not equipped to handle LGBTQ family concerns with the ease with which they handle concerns of those in the norm, and department chairs are not sufficiently prepared to support faculty members outside of normative heterosexual family structure in balancing work/family pressures. More needs to be done at the institutional level to create an equitable atmosphere for LGBTQ faculty employees and families.
Recommendations

**Continued Pressure.** This study departs from non-interventive conventions of research and attempts to move the discourse forward to a place of increased equity that will hopefully assist LGBTQ faculty, and their families, in higher education. Activism is an essential component of the theoretical and methodological framework that I have established, and continued pressure to alter policy related to family and medical leave for those identifying outside of strict heterosexuality is essential to ongoing activism around this issue. Why preserve the multiple realities, as Stake (1995) suggests, when there is an opportunity, and even a responsibility, to work towards more equitable access to the rights and privileges afforded to faculty who reside within the heterosexual norm? Examples of continued pressure changing policy can be seen with recent changes regarding the federal Defense of Marriage Act (DOMA) and the military’s policy of Don’t Ask, Don’t Tell (DADT). On February 23, 2011, at the direction of President Barack Obama, the Justice Department announced that DOMA is unconstitutional and will no longer defend the law in federal court. This change in federal policy is a major advancement for the LGBTQ community and signals a tremendous change in how the federal government views equity rights for those identifying outside of heterosexuality. Attorney General Eric Holder stated that this change was based on the President’s opposition to a documented history of discrimination. Obama concluded that Section 3 of DOMA, which defines “spouse” as a member of the opposite sex, “fails to meet that standard and is therefore unconstitutional. Given that conclusion, the President has instructed the department not to defend the statute in such cases” (Ambinder, 2011). In addition to DOMA, on December 18, 2010, the U. S. Senate voted 65 to 31 to repeal the military’s DADT policy that banned gay men and lesbians from serving openly in the military, which ended the 17 year policy that forced
thousands of Americans to leave the military and caused others to keep their sexual orientation secret. This action ended government sanctioned discrimination that treated gay and lesbian troops as lesser citizens than their peers (Hulse, 2010). Both of these instances can serve as examples of continued activist work leading to social and political change.

Activism continues to be essential, as the intention of this study is to advocate for change, and studies such as this are essential to the implementation of that change, as evidenced by the increased publication of material focused on work/family issues as a precursor to federal family legislation. Dubeck (2002) uses data from JSTOR, searching “work and family” in sociology journal articles, that showed the discussion of work/family balance was present in the 1980s and peaked in the early 1990s. Additionally, a similar search concerning books showed that there was very little published in book form until 1989. One possible explanation of this is that the academic research in the 1980s was a necessary precursor to authors writing books on the subject and to the subsequent passing of federal work/family legislation by Congress in 1993 (Dubeck, 2002). Numerous polls show that trends in action by Congress are consistent with trends in public opinion: public opinion moved over time, government recognized the shift, and government reacted in response to the shift (Burstein & Wierzbicki, 2000). It seems important to note here that even though there was much public support of family and medical leave, there was never a grassroots movement; instead, the effort for family and medical leave was driven by political and social elites who found it important (Bernstein, 2001). With this knowledge, academic work is essential to promoting equity and justice for LGBTQ faculty and their families in higher education.

**Marriage Equity.** Although marriage equity would not solve issues related to the hegemony of legal marriage as a normalizing institution, access to legal marriage for all citizens
would go a long way in creating equitable access to family and medical leave benefits. There is a sizeable class of parents raising children who have no access to legal marriage or to the benefits associated with its protection. By denying the benefits of legal marriage, children of the excluded families are penalized because their government disapproves of their parents’ lifestyles. Not allowing those outside of a heterosexual paradigm of family structure to marry actually weakens the family unit because of the denial of benefits conflated with legal marriage. By allowing all persons, regardless of sexual orientation, to marry and obtain federal benefits, these families would be strengthened and would have greater opportunity for stability (Bell & Miller, 2004).

It is not appropriate to deny family and medical leave benefits to those who identify outside of the established norm because they contribute just as much to the federal government in taxes as heterosexuals. Denying benefits to non-heterosexual families is unconstitutional discrimination. All people, regardless of sexual orientation, should be able to gain access to legal, social, and economic benefits of family and medical leave. This should hold true regardless of family make-up. A shift to marriage equity acknowledges changing family structure, pushes culture toward a better acceptance of different family structures, and allows families to choose their own structures separate from social norms and cultural stereotypes (Bell & Miller, 2004).

The United States Supreme Court has explained that morality cannot be a basis for law. Further, they have acknowledged that homosexuals are fully capable of forming committed relationships. Family and medical leave benefits should not only protect traditional families but should protect the changing familial structure in the United States. The 2000 United States census reports 601,209 gay and lesbian families, which is a 314 percent increase since 1990.
Further, the Human Rights Campaign estimates that the 2000 census count of gay and lesbian families could be off by as much as 62 percent (Bell & Miller, 2004).

**Honoring the Original Intentions of the Federal FMLA.** Revisiting and implementing the original intentions of the federal FMLA would provide increased access to family and medical leave benefits. The FMLA is a largely symbolic piece of legislation that accomplished significantly less than was originally hoped. The law only applies to about 11 percent of employers and 55 percent of employees, many of whom already had access to its provisions (Bernstein, 2001). The FMLA signed into law in 1993 is a withered version of its earlier drafts, which were already minimalist. The first bill introduced to Congress guaranteed 18 weeks of parental leave every two years and 26 weeks for employee illness or disability each year. The Act applied to all employers with at least one employee. The bill enacted in 1993 did nothing to address the issues raised in earlier versions. The FMLA of 1993 provides relatively short unpaid leave, and a large percentage of employees in the United States are not covered. Leave taking patterns did not change significantly for biological mothers after the enactment of the FMLA. The FMLA of 1993 was largely seen as a placeholder to lay the groundwork for a better bill in the future, which never came (Grossman, 2004). Laws such as prohibitions on child labor, minimum wage, and maximum working hours, indicate that it is possible to achieve regulations in the name of family values. The FMLA has changed the political climate around work/family issues, but the Act in practice leaves much to be desired (Bernstein, 2001). The international community has successfully committed to policy that actually values work/family balance.

In an effort to promote greater equity in family and medical leave policy, which is one of the purposes of this proposed study, it is necessary to examine the FMLA in relation to family and medical leave policies in the international community. Exposing how the United States lags
behind in social policy regarding family and medical leave can potentially provoke a more equitable distribution of FMLA benefits. The international context also enables the exploration of the limitations of the current FMLA in the United States. Acknowledging these limitations prompts the discussion required to incite the change necessary for the LGBTQ community. Aligning the FMLA in the United States with international family and medical leave benefits would increase the potential use of federal FMLA benefits.

Before the federal adoption of the FMLA in 1993, the United States was one of the few industrialized nations to not set standards for family and medical leave (Bosland, 2007; Decker, 2000; Schlarlach & Grosswald, 1997; Worker & Kleiner, 1997). In 1988, the United States was the only developed nation in the world, besides South Africa, without federal family and medical leave policy (Kaitlin, 1994). In terms of global competition, some form of family and medical leave is provided by all competitors of the United States, and unlike in the United States, much of this leave is paid through a national paid sick leave system. The average minimum paid leave is 12 to 14 weeks, and many nations allow the possibility of unpaid leave for at least a year (Bosland, 2007; Decker, 2000). Because of the changing global economy, federal family and medical leave policy is necessary for United States businesses to compete in a global environment where these issues had already been addressed. Minimum maternity benefits are provided by 135 nations, 127 nations offer wage replacement in some form (Bosland, 2007; Decker, 2000), and many Third World nations have policies regarding these issues (Decker, 2000).

Prior to World War I, legislation requiring maternity benefits was in place in France, Great Britain, and Italy (Bosland, 2007; Decker, 2000; Marks, 1995). By 1916, Germany, Austria, Hungary, Luxembourg, Norway, Serbia, Great Britain, Russia, Rumania, Italy, and the
Netherlands had compulsory health insurance programs that included maternity leave, and Sweden, Denmark, Belgium, France, and Switzerland had voluntary plans that included maternity leave (Marks, 1995). In 1919, 33 European countries signed the Maternity Protection Convention which provided a minimum of 12 weeks of leave, job protection, and wage benefits. In 1992 the European Community Commission directed member countries to provide a minimum of 14 weeks of paid maternity leave. The European Union (EU), which is the successor to the European Community Commission, enacted the Directive on Parental Leave in 1996, which guarantees three months of job protected, unpaid leave to all employees (Bosl and, 2007; Decker, 2000; Hall, 1998) and provides the framework that enables nearly every other nation to offer maternity leave to women that is at least partially paid (Bernstein, 2001). The EU Directive is designed to reconcile parental and professional responsibilities for working parents (Hall, 1998; Morris, 2002), but each nation is free to detail parental leave rules as they see fit as long as the minimum requirements of the EU Directive are met. Also, member states must take necessary measures to entitle workers to time off for urgent family reasons in cases of sickness or accident (Hall, 1998). Member states are coerced into compliance, as following the Directive is a condition of remaining in good standing with the EU (Morris, 2002).

Although none of these policies speaks directly to family and medical leave for non-heterosexual families, they do show that the United States has much work to do in developing policy that is more just and equitable. The FMLA is a largely symbolic policy, especially in regards to its contribution to women’s equality. The Act preserves employers’ incentive to prefer male employees because it doesn’t address the fact that men do not tend to take time away from work for parenting or caretaking. Unlike the international community, Congress built nothing into the Act to encourage men to take paternity leave. Traditional leave taking patterns are
reinforced because it is likely that a father earns more than a mother and the leave is unpaid. Paid leave would lessen the continued reinforcement of women as primary caretakers. Additionally, because a biological mother will very likely take time off for childbirth, she will consequently continue with parental leave because she is already on leave. Women become less attractive to employers because they are likely to cost more in terms of time off, productivity, and replacement workers. The gender-neutrality of the Act does not guarantee gender-equality. The Act doesn’t overtly reinforce gender stereotypes, but it also does nothing to work against them (Grossman, 2004). The gender-neutrality goal of the FMLA was not met.

Paid leave, as incorporated in much of international family and medical leave policy, allows citizens, regardless of socioeconomic status, the option to take family and medical leave. The FMLA benefits very few working women because, to take FMLA leave, women will need substantial financial resources and generous insurance coverage. Professional married women are more likely to take leave than single mothers because economic constraints hinder the FMLA’s intended beneficiaries (Duarte, 1994). 3.5 million employees in the United States reported a need to take leave, but were unable to take it. The most common reason for not taking leave was that it is unpaid, and employees couldn’t afford it (Grossman, 2004). Single women with lower incomes constituted the majority of families that were ineligible to receive FMLA benefits. Women who took leave under the FMLA and earned $35,000 or more were more satisfied with the Act than those who earned $35,000 or less. An inherent bias of the FMLA is that it is based on socioeconomic status. Those most likely to not be able to take leave for financial reason are single female parents. Additionally, non-married parents have less supports than those that are married, single mothers receive significantly less social and community
support that married mothers, and female single-parent households are at greater disadvantage in taking FMLA benefits than married females or males (Roog, Knight, Koob, & Kraus, 2004).

**Academic Institutions.** In light of failed proposals to amend federal FMLA legislation to include coverage of domestic partnerships (Hudson & Gonyea, 2000), Hunsicker (2000) predicted that the coming decade would bring domestic partners into university family benefit programs. While recognizing that the list is far from exhaustive, he acknowledges 33 institutions of higher education that by 2000 had already begun to recognize domestic partnerships for the purposes of health insurance. As of 2005, 551 colleges and universities included sexual orientation in their non-discrimination or equal employment opportunity policies (Munn & Hornsby, 2008). Hunsicker’s (2000) inclination toward a more just and equitable distribution of benefits has proven true.

But this shift to non-discriminatory policies is inconsistent and falls short of a broad and equitable implementation; therefore, activism at the institutional level is still necessary to bring about the equitable distribution of rights and privileges associated with family and medical leave. Because LGBTQ parents’ rights are inconsistent, these families become dependent on their employers’ whims, which in many cases means that employees who identify as anything other than heterosexual are denied the rights and privileges of their heterosexual colleagues. In some cases though, employers voluntarily provide health and employment benefits, including family and medical leave, to same-sex couples. Analysis of these programs indicates that the extension of these benefits to non-heterosexual partnerships has proven cost effective and has helped retain gay and lesbian employees. Denial of benefits, in many cases, is simply based in anti-gay animus. By not granting family and medical leave benefits to non-heterosexual families, the
federal government is burdening and stigmatizing the LGBTQ community because of their sexual identification (Bell & Miller, 2004).

Employers are beginning to recognize this shift in familial structure. In 1996, 35 percent of employers indicated that leave was available for the illness of a “significant other” (Decker, 2000). The shift in terminology from “spouse” to “significant other” indicates a change in acceptable family structures. Guerin and England’s (2007) *The Essential Guide to Family and Medical Leave* acknowledges, although indirectly, the presence of the LGBTQ community in the workplace. In reference to the FMLA, domestic partners are mentioned in a variety of places, leaving the possibility of non-heterosexual partnerships as an option. Moreover, in a section concerning company obligations, the authors explain how a company can extend its family and medical leave policies to family members not covered under the FMLA, including domestic partnerships.

An additional change academic institutions could make is to make it easier for LGBTQ faculty to access information regarding family and medical leave through their human resource offices. As previously established, accessing this information requires additional effort if the faculty member resides outside of heterosexual family structure. There is an opaqueness concerning what is available in terms of family and medical leave for LGBTQ faculty in higher education. New policies that address LGBTQ issues need to be communicated in a broad manner so those who require the benefits of these policies can take advantage of them. In one instance, a Department Chair and an Associate Dean didn’t know about a two year old policy change that allowed a professor to stop the tenure clock to provide care for her partner’s biological newborn (Messinger, 2009). LGBTQ lives and issues in academe are overwhelmingly neglected (McNaron, 1997, Rhodes, 1994), and it is necessary to break through this silence
In an effort to continue my activism around this issue, I plan to revisit the human resource professionals that I met with at the institution in this study. My hope is that my continued presence and questioning concerning this issue will prompt these human resource professionals, their office as a whole, and the institution in general, to move toward a more equitable rendering of family and medical leave policies. As noted in the body of this text, the human resource professional, in our formal interview, acknowledged through her questions and responses that this was an issue that she had not thought much about, and she began wondering if it was something she should pay more attention to. I believe that my asking these questions prompted her to consider her role and her office's role in family and medical leave for the LGBTQ community. Change in this particular office could be possible through my continued vigilance in bringing this concern to the forefront.

Implications

For Future Research. I believe that bio/cartographic activism is a useful theoretical and methodological tool for future social science research. It was created with its applicability to future research in mind. Bio/cartographic activism invites anyone from any positionality to approach any subject and contribute to the expanse of what can be known about that particular subject. The possibilities for what this allows, in terms of inciting activist research, are exponential. We can never know everything about a subject, and each addition to the cartographic representation of a subject adds to the totality of what is known. The freedom to explore subjects from an infinite amount of perspectives is both overwhelming and exciting.

In reference to the bio/cartographic representation of the family and medical leave-taking practices of faculty in higher education who identify outside of strict heterosexuality, the expanse of what more can be said is unlimited. This study looked at one faculty family, in one
department, at one institution, in one state. Although I believe that this study is worthwhile, I recognize its limitations. But I view these limitations as spaces where future research can continue to detail the cartographic representation of this subject. My hope is that this study can serve as a template for additional access points to further detail the cartographic representation of the issue, and it is my intention to continue this work. Activism is an essential component of this study, and this needs to take place at our academic institutions if changes are to be made. We often speak of the “ivory tower” version of institutions of higher education, where there is much talk and little action. As a faculty member at an institution of higher education, I view this space as my community, and in this way, community activism is a strong model for continued work. The ivory tower version of institutions of higher education can be changed by its community members taking up issues they connect with and working towards the realization of their visions at the community and institutional levels.

In this way this study has rhizomatic validity (Lather, 1993) in that there are multiple openings to view and alter this biographical subject. These multiple openings allow contradictory and paradoxical findings that contribute to the complexity of the issue. Bio/cartographic activist representations of subjects are creative constructions of thought that contribute to socio-political action. Additionally, there is the potential for transgressive validity (Lather, 1993) in this study. Dubeck’s (2002) study of academic work leading to social and political change shows that research like this has the capacity to influence political processes and social action (McGowan, 1991).

**For the Institution in this Study.** It became clear to me during my interview with a human resource professional at the institution in this study that the interview questions pushed this particular employee to consider how well her department was serving the institution’s
LGBTQ faculty families. On multiple occasions, the human resource professional recognized that she, and her department as a whole, had not specifically thought about how federal, state, and institutional policies regarding family and medical leave applied to faculty families identifying outside of strict heterosexual structure. Her alternating between a surprised and defensive tone indicated a recognition that the human resources office could do more to support their LGBTQ faculty, specifically regarding equitable access to family and medical leave provisions. It is possible that this research process has influenced how this human resource office attempts to support LGBTQ faculty families, and as previously detailed, I intend to continue to work with this human resource office to bring about this change.

There is potential catalytic validity (Brown & Tandum, 1978; Lather, 1986; Reason & Rowan, 1981) embedded in the findings specific to the institution, the human resource office, and the human resource professional. Catalytic validity is especially useful for research as activism that re-orients, focuses, and energizes the transformation of oppressive conditions (Lather, 1986). The human resource professional interviewed showed recognition that oppressive conditions exist regarding LGBTQ faculty family access to family and medical leave-taking provisions. This shift in thinking, emanating from the research process, can possibly alter the reality of how this institution meets the needs of its LGBTQ faculty, which ultimately has an effect on society at large.

**For LGBTQ Faculty in Higher Education.** This study attempts to provide increased recognition of the inequities surrounding family and medical leave for LGBTQ faculty in higher education. There is a dearth of literature pertaining to LGBTQ family issues in higher education, and my hope is that this study can contribute to what is known and what changes need to be made to support faculty who identify outside of strict heterosexuality. I refer again to Dubcek’s
(2002) study of academic work leading to political and social change. This study contributes to
the effort to alter the directionality of how institutions of higher education provide support for
their LGBTQ faculty members and their families. Again, catalytic validity (Brown & Tandom,
1978; Lather, 1986; Reason & Rowan, 1981) is applicable in this context in the attempt to
transform oppressive conditions into a more just and equitable reality.

For the faculty member participant in this study and her family, I don’t anticipate any
immediate change as a result of this work. Robin, Beth, and their family have managed to work
around the inequities in the distribution of family rights and benefits. Although this family
would benefit from federal, state, and institutional changes, they are currently able to be
successful in their work efforts and in their family efforts. I think Robin put it best: “My normal
is my normal, and it’s just not that weird.” She later continues, “Take it or leave it. Fuck you if
you don’t like that.” With that said, it is important to note that through this research process I
have developed a strong relationship with Robin, Beth, and their family. It is important to me to
stay connected to this family because they have become my friends, but also because it puts me
in a position to act as an ally and advocate if the need ever arises. This is essential to my claimed
positionality as an activist regarding LGBTQ issues of equity and justice.

For Me. The most persistent piece of this study, in terms of my personal development,
has been Dasein and Ubuntu as driving forces in my life. I was introduced to these philosophical
concepts in working on transformative education projects with colleagues and friends, and I have
attempted to keep these ideas at the forefront of my everyday thinking and action. I am drawn to
Dasein and Ubuntu in my conceptualization of activism because they both speak to the consistent
everyday practice of a particular way of life that values individuals’ relationship to the world and
to people. In this way, I value the personal meaning generated through the research process
(Stake, 1995), my reality is continually catalyzed (Lather, 1986) in my everyday participation in the world, and my thinking and action potentially has a rhizomatic (Lather, 1993) effect on the world I encounter. Activism, in many cases, is framed as an activity segregated from daily existence. My hope is to be an activist at all times, in my life on and off campus, constantly working towards fairness, justice, and equity in all that I do, both professionally and personally. Existence is about action (Ortega, 2005) in “the service of human flourishing” (Reason & Bradbury, 2008, p. 1). I am continually seeking to bring together inquiry and action in an effort to move toward practical solutions to spaces of discrimination and oppression. I conclude with words I find inspiring and provocative:

We have to learn to see ourselves as part of an interdependent functioning whole, ultimately as responsible world-citizens, engaged together in the creative undertaking of shaping our lives and situations in such a way that the fullest potential (genius) of every individual can be released and find its integration in the dynamic qualitative totality of the community of all people in their differences. (von Eckartsberg, 2008, p. 17)
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Appendix A

Participant Consent Form

Washington State University Consent Form

Researcher:  Sean W. Agriss

Researcher’s Statement:

I am asking you to be a participant in a research study. The purpose of this consent form is to give you the information you will need to help you decide if you wish to participate in this study. Please read the form carefully. You may ask questions about the purpose of the research, what we would ask you to do, the possible risks and benefits, your rights as a volunteer, and anything else about the research or this form that is not clear. When I have answered all your questions, you can decide if you want to be in the study or not. This process is called “informed consent.” I will give you a copy of this form for your records.

PURPOSE AND BENEFITS
The purposes of this study are to pursue and expose the problem of discriminatory practice related to family and medical leave for faculty in higher education who identify outside the paradigm of heterosexual family structure, to collect and better understand the voices required to access the history of the issues as well as to assess the future for this segment of higher education faculty, and to affect policy change that promotes equity, in regard to family structure, at institutions of higher education. Data will be analyzed and used to promote social justice and equality in higher education policy implementation. Social justice and equality are beneficial for all citizens in and out of the higher education community.

PROCEDURES
Participants will be faculty, adult family members of participating faculty, and staff members at a higher education institutions who have had experiences dealing with Family and Medical Leave Act policy. A combination, or mixed purposeful sampling approach, will be undertaken for this study. This study will be a combination of intensity sampling, homogeneous sampling, critical case sampling, and snowball sampling. Intensity sampling involves choosing cases that manifest the phenomenon in highly interesting ways while not being highly unusual. Homogeneous sampling looks to central themes across a small variety of cases. Critical case sampling is employed when the researcher is attempting to make a dramatic point regarding the research problem as a whole. Snowball sampling begins by asking well-situated people to facilitate connections with potential participants who are specifically suited to the study. Data will be collected through document collection and interviews, and data will be safeguarded through anonymity and kept in a locked space. Participants will be provided an opportunity to review the researchers representations of data prior to publication.

RISKS, STRESS, OR DISCOMFORT
Risks for this study are minimal. Participants will have the option of ending interviews at any time, of not answering specific questions, and of completely removing themselves from the study
at any time without penalty. If interview questions provoke reactions in participants that are in any way damaging or disconcerting, the researcher will identify with the participant what services are necessary to assist the participant.

Participant’s Statement:

This study has been explained to me. I volunteer to take part in this research. I have had a chance to ask questions. If I have general questions about the research, I can ask the researcher listed above. If I have questions regarding my rights as a participant, I can call the WSU Institutional Review Board at (509)335-3368. This project has been reviewed and approved for human participation by the WSU IRB. I will receive a copy of this consent form.

Signature of participant

Date
MEMORANDUM

TO: Paula Price and Sean Agriss,

FROM: Rani Muthukrishnan (for) Kris Miller, Chair, WSU Institutional Review Board (3005)

DATE: 9/25/2008

SUBJECT: Certification of Exemption, IRB Number 10560-001

Based on the Exemption Determination Application submitted for the study titled Interrupting the Norm: An Analysis of Family and Medical Leave Policy in Higher Education, and assigned IRB # 10560, the WSU Institutional Review Board has determined that the study satisfies the criteria for Exempt Research contained in 45CFR 46.

Exempt certification does not relieve the investigator from the responsibility of providing continuing attention to protection of human subjects participating in the study and adherence to ethical standards for research involving human participants.

This certification is valid only for the study protocol as it was submitted to the IRB. Studies certified as Exempt are not subject to annual review. If any changes are made to the study protocol, you must submit the changes to the IRB for determination that the study remains Exempt before implementing the changes. Request for Amendment forms are available online at http://www.irb.wsu.edu/forms.asp.

In accordance with federal regulations, this Certification of Exemption and a copy of the study protocol identified by this certification must be kept by the principal investigator for THREE years following completion of the project.

It is important to note that certification of exemption is NOT approval by the IRB. The study materials should not include the statement that the WSU IRB has reviewed and approved the study for human subject participation. Please remove all statements of IRB Approval and contact information from study materials that will be disseminated to participants.

Washington State University is covered under Human Subjects Assurance Number FWA00002946 which is on file with the Office for Human Research Protections.

If you have questions, please contact the Institutional Review Board at (509) 335-3668. Any revised materials can be mailed to the Office of Research Assurances (Campus Zip 3005), faxed to (509) 335-6410, or in some cases by electronic mail, to irb@mail.wsu.edu.

Review Type: New Protocol
Review Category: Exempt
Date Received: 9/24/2008
Exemption Category: 45 CFR 46.101 (b)(2)
OGRD No.: N/A
Funding Agency: N/A
Appendix C

Faculty Participant Semi-Structured Interview Protocol

1. Can you tell me about your position here at your institution?
2. Can you tell me a little bit about your family?
3. How do you interpret the concept of family?
4. How do you balance your professional work with your family responsibilities/needs?
5. What is your understanding of family and medical leave policies available to you at your institution? Federal policies? State policies? Institutional policies? College policies? Department policies?
6. How do you feel like the family and medical leave policies apply to you and your family?
7. Have you ever taken time away from your work at your institution under leave policies?
   If yes, can you describe the situation? If no, have you ever considered taking leave for family and/or medical reasons?
8. What considerations were there in contemplating taking family and/or medical leave?
9. Where are you in the tenure and promotion process? Can you describe how you feel about tenure and promotion pressures for yourself?
10. How do tenure and promotion pressures affect your family life?
11. How have tenure pressures influenced decisions you’ve made regarding your family?
12. Is there anything you want to add that wasn’t included in these questions?
Appendix D

Faculty Participant Partner Semi-Structured Interview Protocol

1. Can you tell me a little bit about your family?

2. How do you interpret the concept of family?

3. How do you see your family member balance professional work with family responsibilities/needs?

4. What is your understanding of family and medical leave policies available to your family? Federal policies? State policies? Institutional policies? College policies? Department policies?

5. How do you feel like the family and medical leave policies apply to you and your family?

6. Has your family member ever taken time away from work at his/her institution under leave policies? If yes, can you describe the situation? If no, have he/she ever considered taking leave for family and/or medical reasons?

7. What considerations were there in contemplating taking family and/or medical leave?

8. Can you describe how you feel about your family member’s work pressures?

9. How do your family member’s work pressures affect your family life?

10. How have your family member’s pressures influenced decisions you’ve made regarding your family?

11. Is there anything you want to add that wasn’t included in these questions?
Appendix E

Human Resource Professional Semi-Structured Interview Protocol

1. Can you describe your family and medical leave policies? Federal policies? State policies? Institutional policies?

2. Can you describe the processes by which your institutional policies were formed and implemented?

3. In what ways do you train department heads to understand and implement family and medical leave policies?

4. How are faculty informed about family and medical leave policies?

5. Does the way that faculty are informed about family and medical leave policies seem sufficient? If yes, how is this gauged? If no, in what ways could it be improved?

6. Do your institutional policies include lesbian, gay, bisexual, transgender, and queer families? If yes, in what ways? If no, why not?

7. Have there been requests for family and/or medical leave from lesbian, gay, bisexual, transgender, and queer families? If yes, how were these requests handled, and what were the results? If no, how would you handle these requests if they were made?

8. Is there anything you want to add about family and medical leave policy, or your experiences with family and medical leave policy, that wasn’t included in these questions?