MCCA

CREATING PATHWAYS TO DIVERSITY CONFERENCE

Practical Steps for Interrupting Bias in the Legal Profession

Distinguished Professor Joan C. Williams
Director, Center for WorkLife Law
University of California, Hastings College of the Law

Huge Body Of Research

- Hundreds of lab studies
- Documenting bias over and over again for 40 years
- Do these lab studies describe what actually goes on at work?

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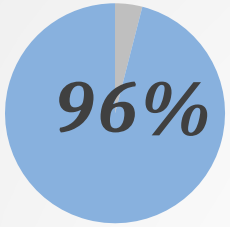
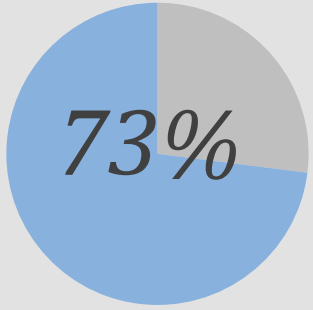
What Works for Women at Work



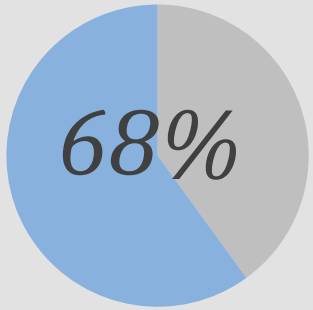
of women reported gender bias

Four distinct kinds of bias

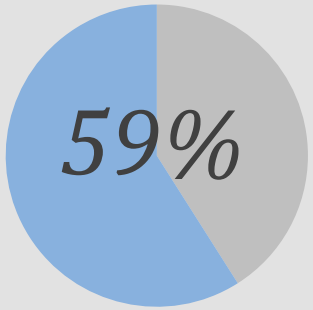
Tightrope



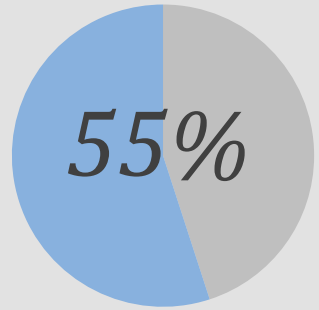
Prove-It-Again!



Maternal Wall



Tug of War



Williams & Dempsey, 2014

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Workplace Experiences Survey

- 10-minute organizational climate survey
  - Whether: race, gender, class origin, disability
  - Where: e.g. assignments, performance evaluations
  - Impact: on belonging, intent to stay etc.

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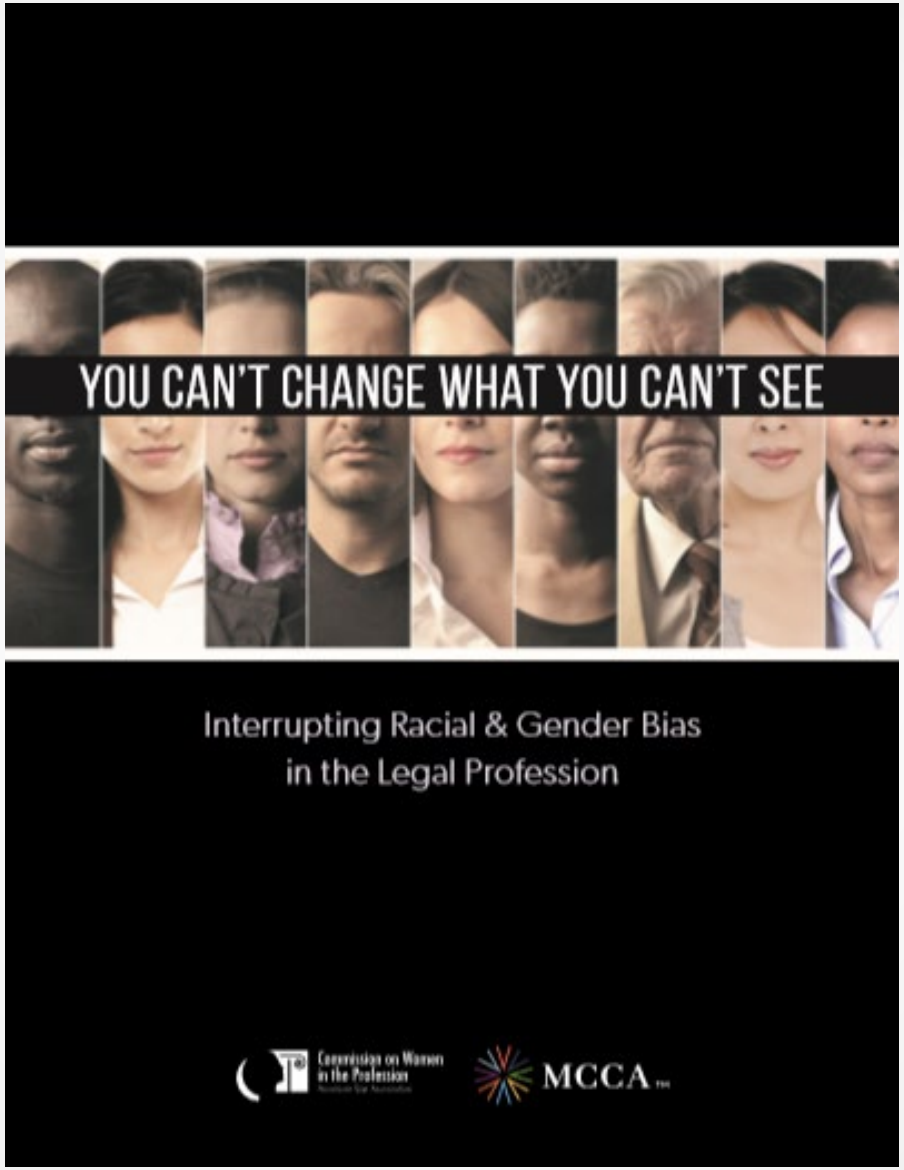

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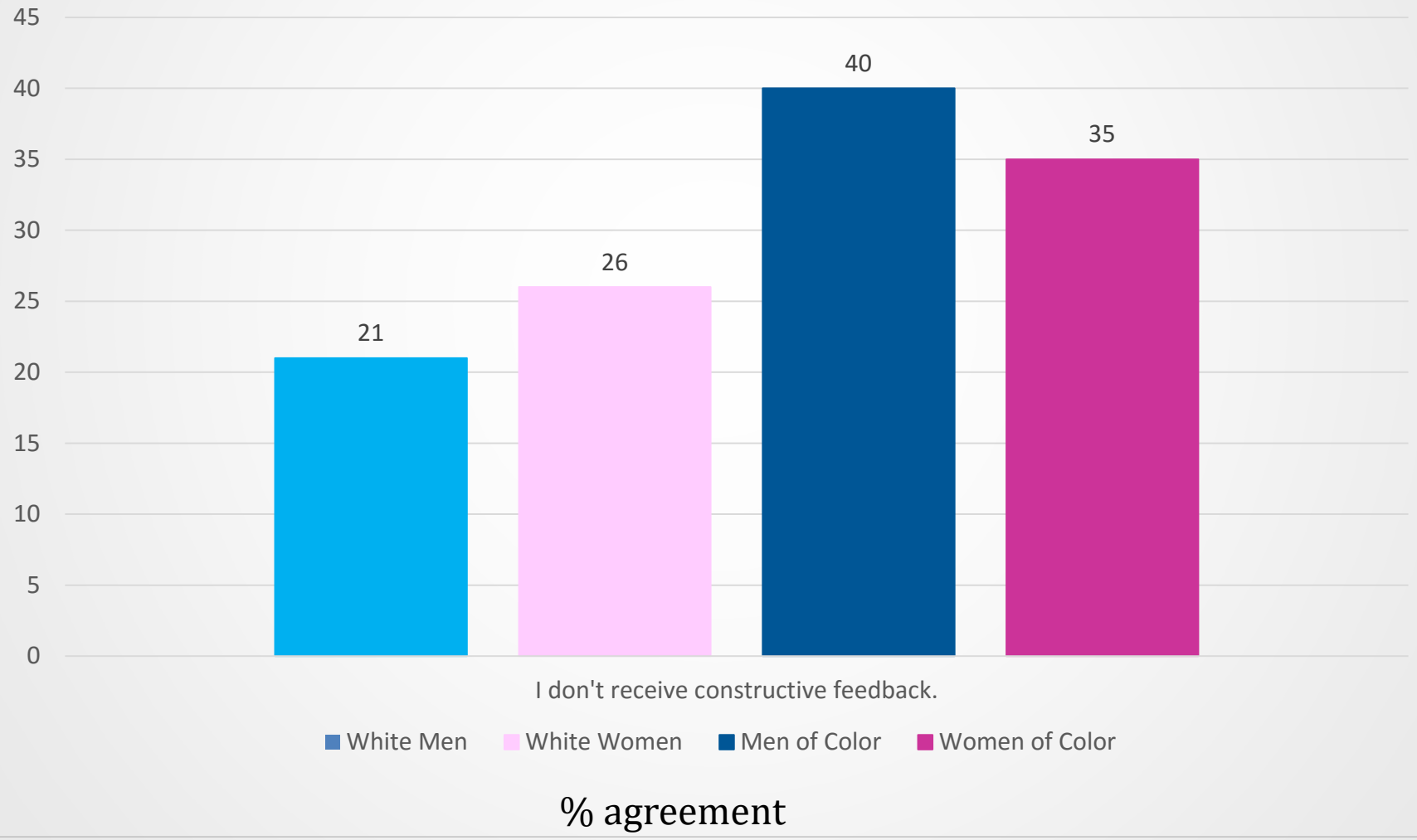
Feedback



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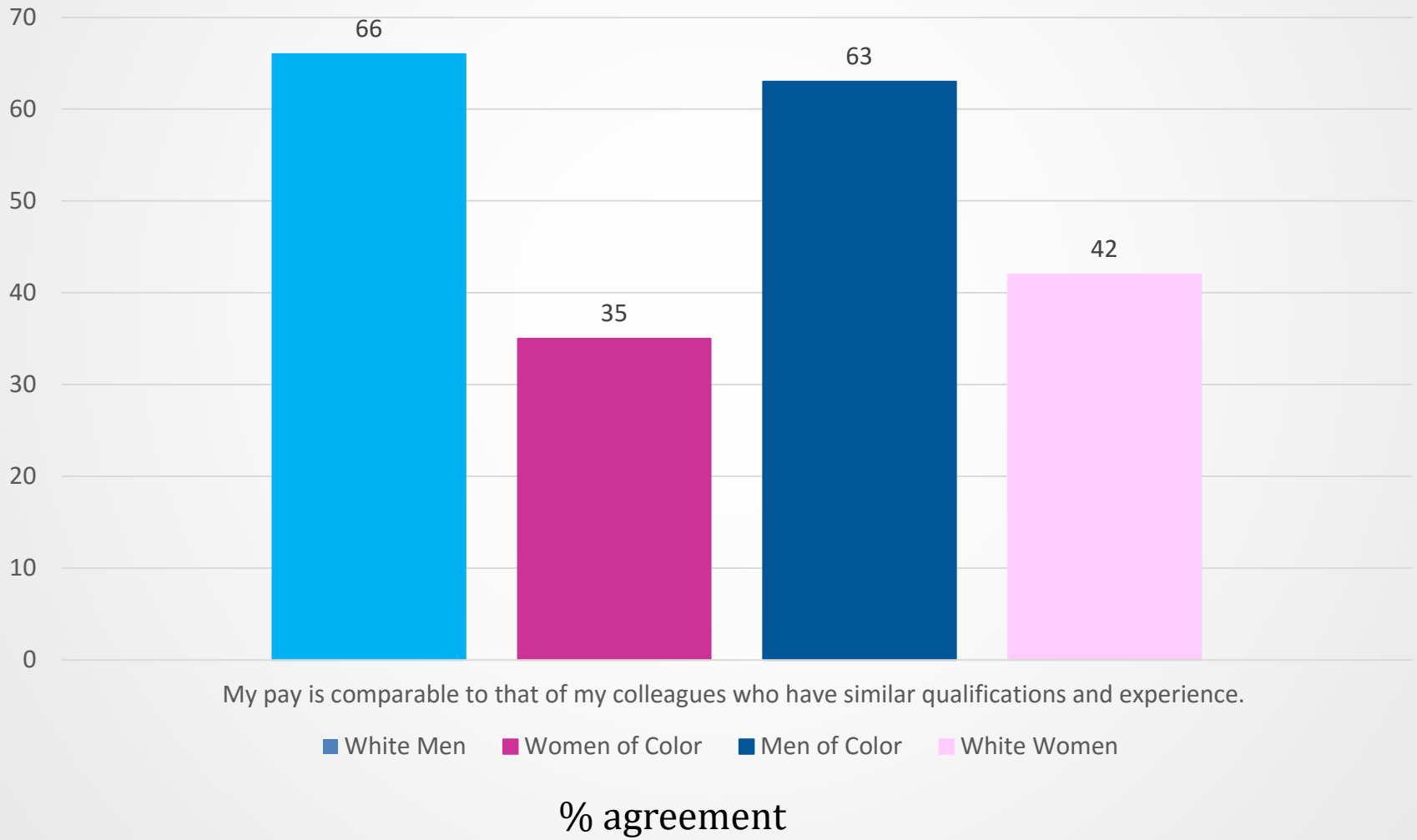
Compensation



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1. INDIVIDUAL BIAS INTERRUPTERS

What individuals can do

2. ORGANIZATIONAL BIAS INTERRUPTERS

Changing organizational systems

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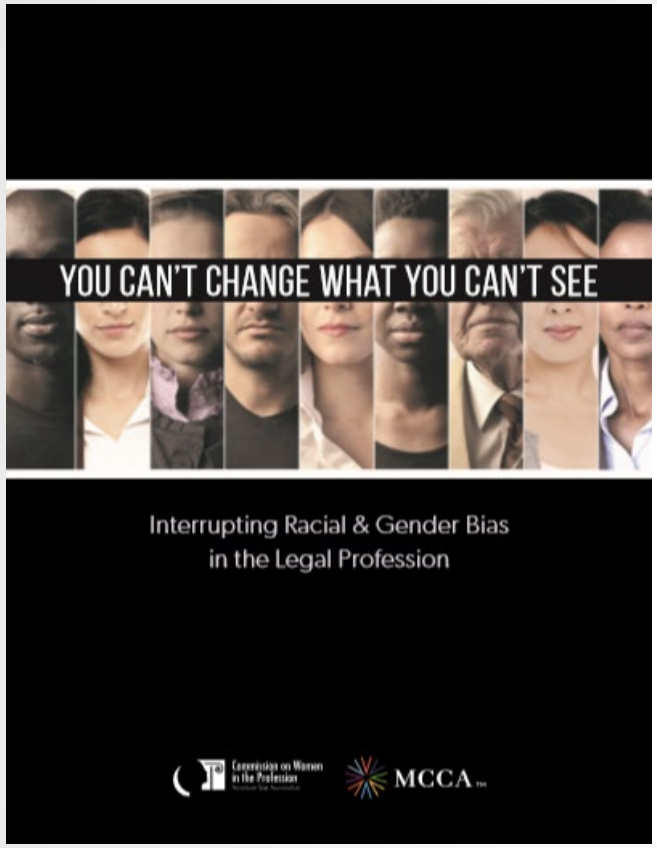

Interrupting Bias in Partner Compensation

Tools for Law Firms

The Challenge

The gender pay gap in law firms has been extensively documented for decades. A 2016 report by Major, Lindsey, and Africa found a 44% pay gap between male and female law firm partners.[39] The report also found a 50% difference in origination credit, which many use to explain the pay gap: men earn more money because they bring in more business. Studies show the picture is much more complicated.

Compensation:

- **Establish procedures to ensure the reality of fairness**.
  Institute a low-risk way partners can receive help in disputes over credit. Set up a way to settle disputes over origination and other forms of credit that lawyers can use without raising eyebrows.

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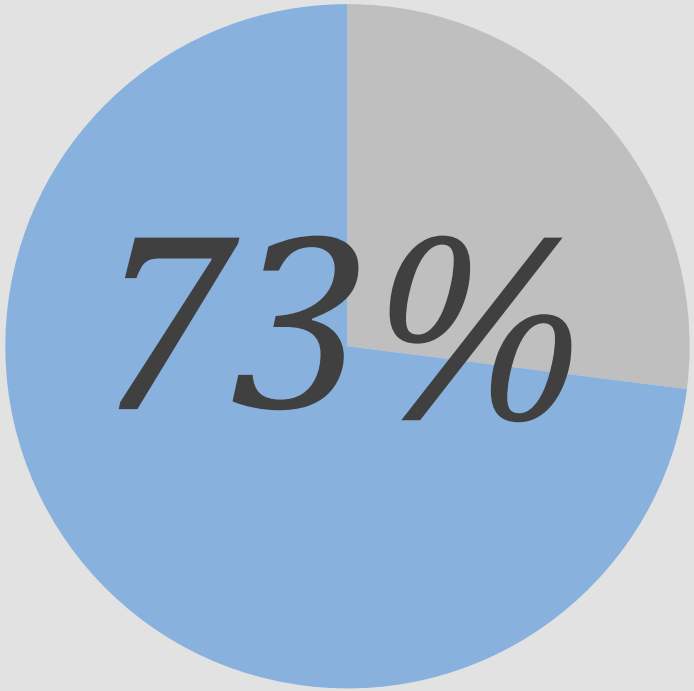
Tightrope



Prescriptive Stereotypes

♀ are expected to be…

- *Nice*
- "Communal"
  - Helpful
  - Modest
  - Interpersonally sensitive
  - *Good team players*

♂ are expected to be…

- *Competent*
- "Agentic"
  - Direct
  - Assertive
  - Competitive
  - Ambitious
  - *Leaders*

Eagly & Karau, 2002; Fiske, Cuddy, Glick, Xu, 2002; Bettis & Adams (forthcoming).

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Tightrope | *What a Witch!*

"So if you're stern… or you say no, your immediate reaction is to call that woman a b*tch, right? If you're a man, it's just a no."

Study: 66% of women; 1% of men

Source: Williams, J.C. (2007). [Focus group interviews for NSF ACE grant, San Francisco, CA]. Unpublished data.
Supporting evidence: Rudman & Phelan, 2008; Brett, Atwater, & Waldman, 2005; Rudman & Fairchild, 2004; Rudman & Glick, 2001; Costrich, Feinstein, Kidder, Marecek, & Pascale, 1975. Snyder, 2014

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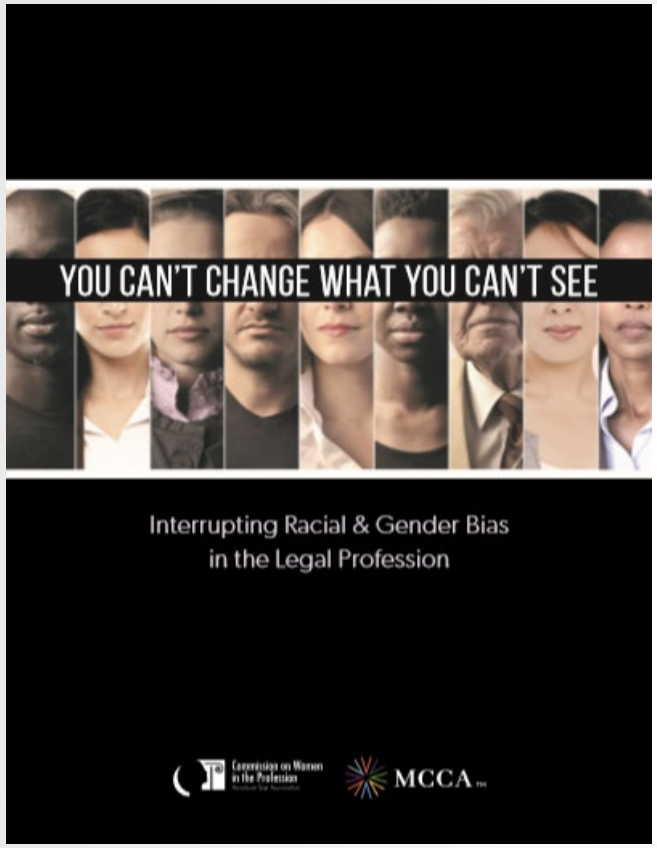

Interrupting Bias in Performance Evaluations

Tools for Law Firms

The Challenge

In one study, law firm partners were asked to evaluate a memo by a third-year associate. Half the partners were told the associate was black; the other half were told the identical memo was written by a white associate. The partners found 41% more errors in the memo they believed was written by a black associate as compared with a white associate.[38] Overall rankings also differed by race. Partners graded the white author as having "potential" and being "generally good," whereas they graded the black author as "average at best."

Performance Evaluations:

- **Separate personality issues from skill sets** for each candidate.
  Personal style should be appraised separately from skills, because a narrower range of behavior often is accepted from women and people of color. For example, women may be labeled "difficult" for doing things that are accepted in majority men.

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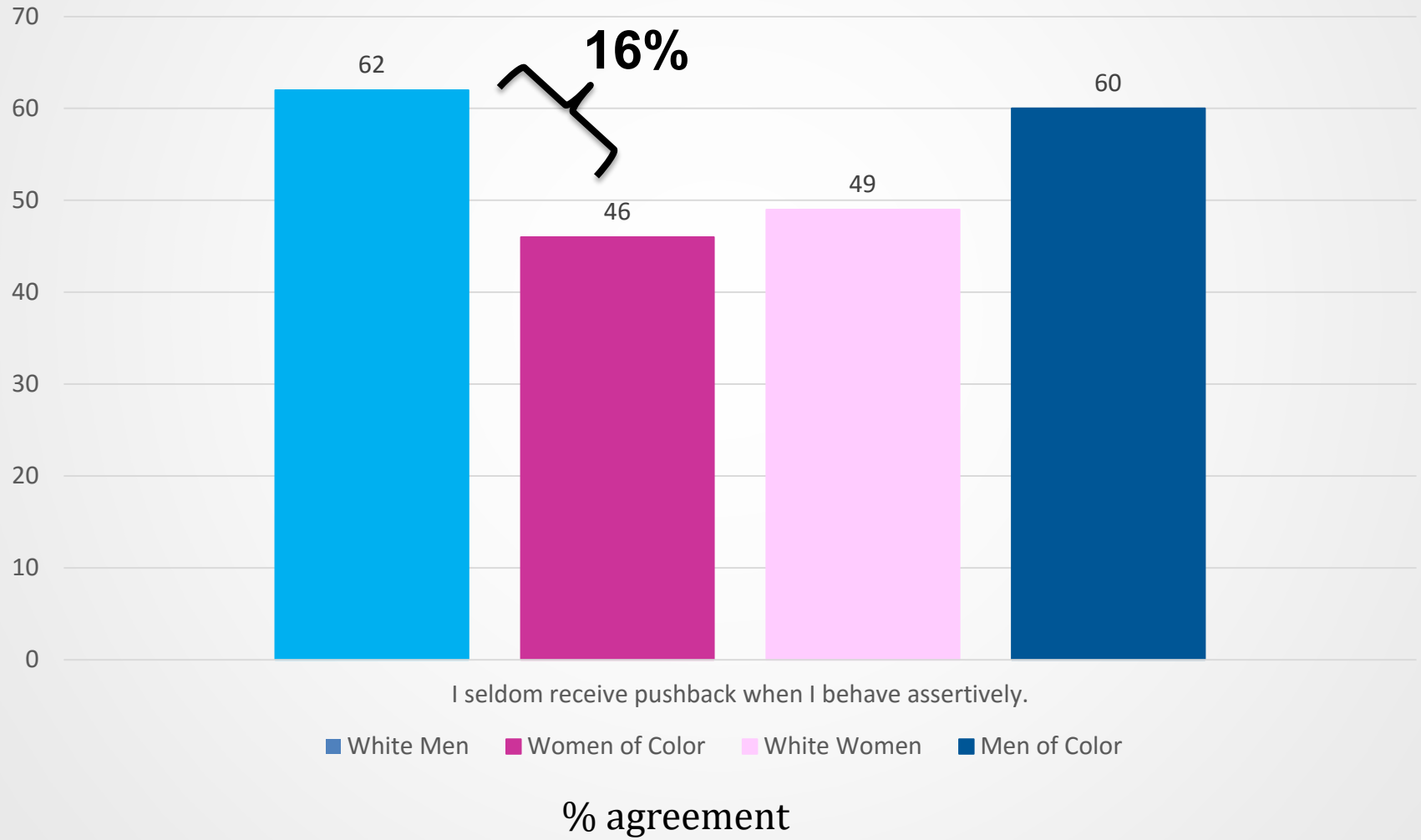
Tightrope

Assertiveness: Hillary problem



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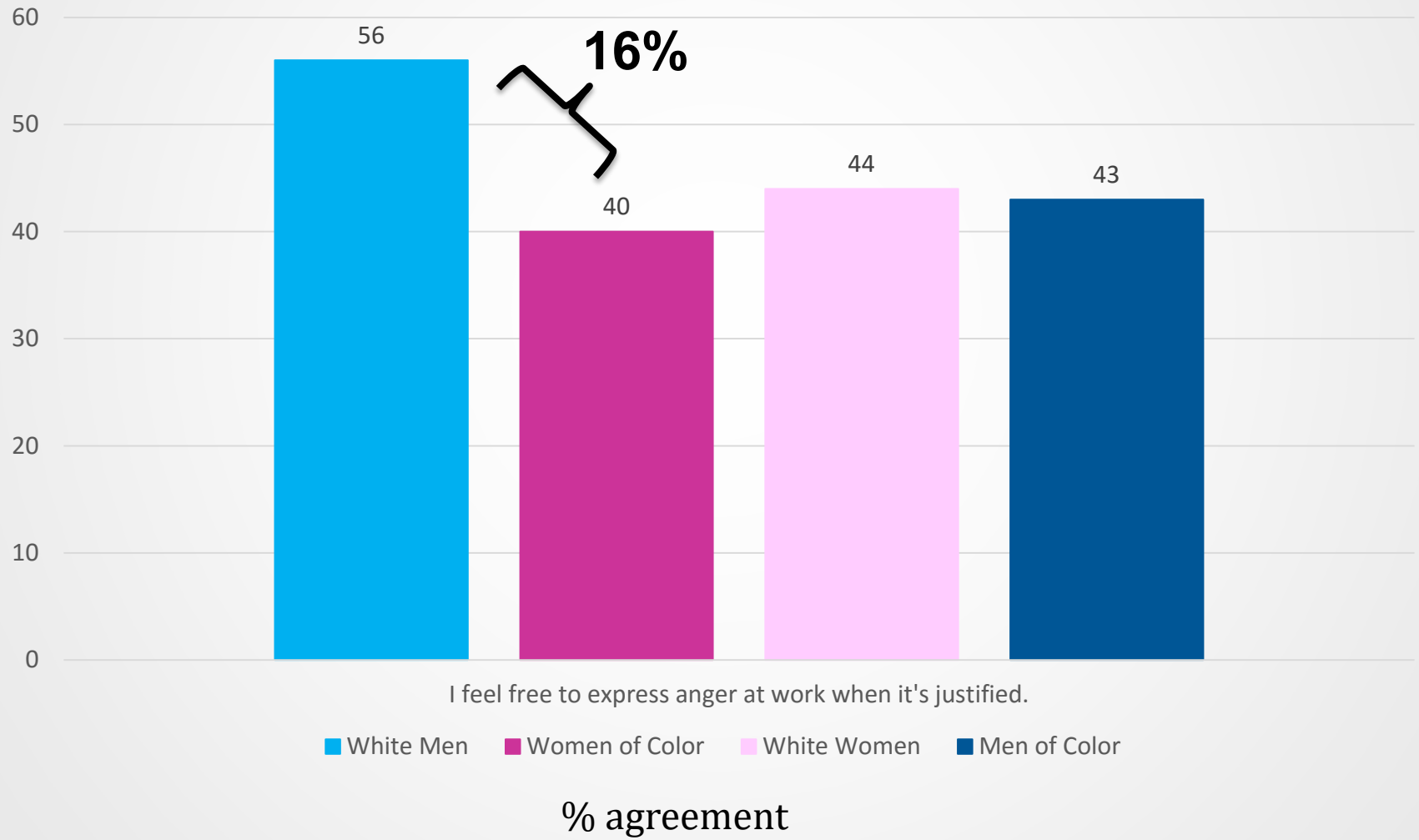
Tightrope

Express Anger: Serena problem



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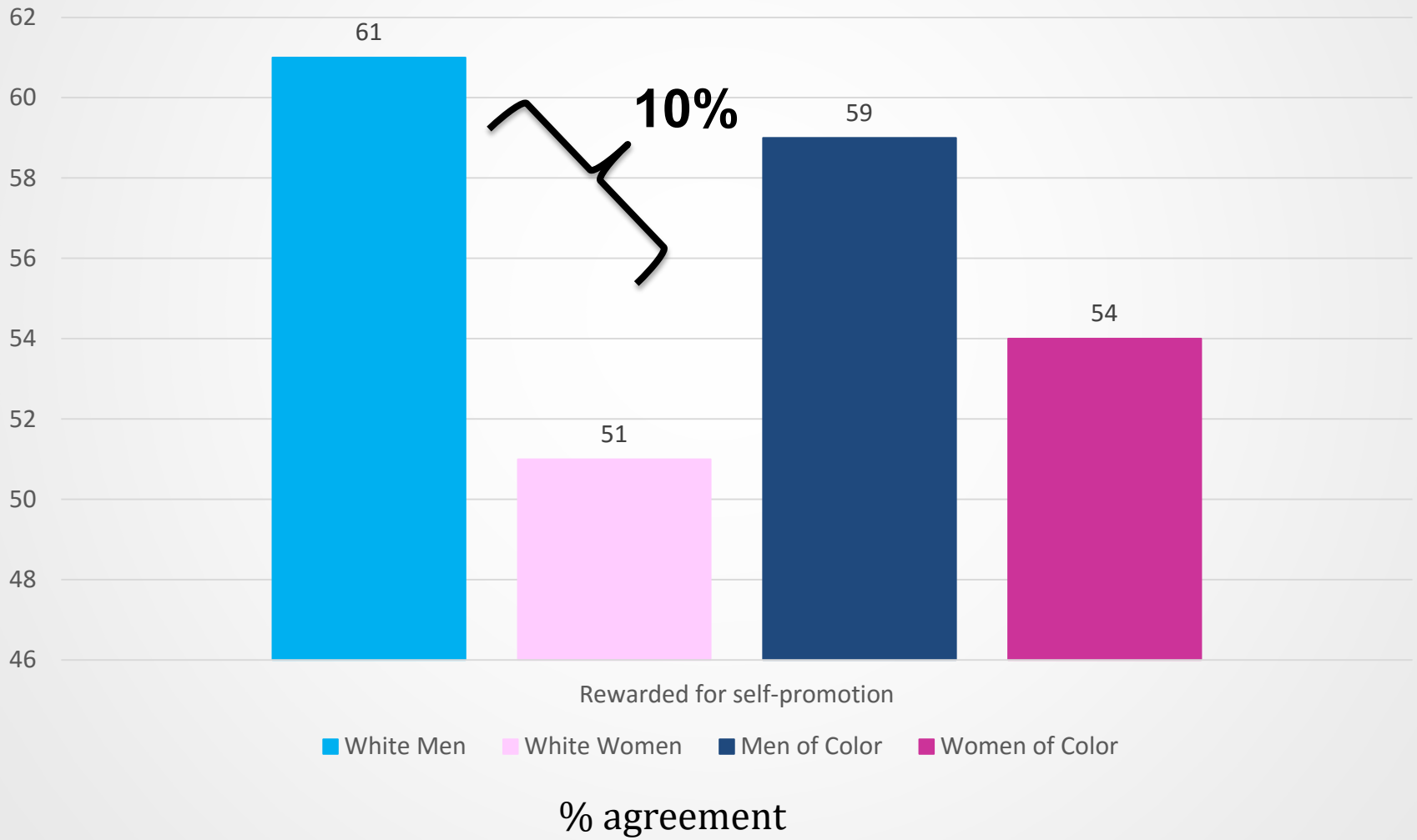
Tightrope | *Self-Promotion*



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Tightrope | *Self-Promotion: Race*

> “In most Asian cultures, being modest is the number one virtue.”

Rudman, 1998.

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Tightrope

Self-Promotion: Class

> "Boasting and self-promotion and credit hogging are wrong and unseemly"

Williams, 2010 (quoting Lubrano, 2004).

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Let Us Equip You With Tools To Interrupt Bias

Bias Interrupters is an evidence-based model that provides solutions. It interrupts the constant transmission of bias in basic business systems, which leads to more diverse and better performing workplaces. Bias Interrupters change systems, not people.

Performance Evaluations:

- **Level the playing field** by ensuring everyone knows how to promote themselves effectively and sending the message they are expected to do so. Distribute our **Writing an Effective Self-Evaluation Worksheet**, which can help.

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Tightrope

Pressures to Behave in Feminine Ways

- Organizational citizenship behavior

- Women do more of it
  - And get less credit for doing it

Allen, 2006.

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Tightrope | *Office Housework*

- Administrative work
  - Scheduling conference calls, filling in on a recruiting schedule
- Emotion work
  - Responsible for associate morale
- Glamour work vs. undervalued work
  - "We do the task list."

Williams & Dempsey, 2014.

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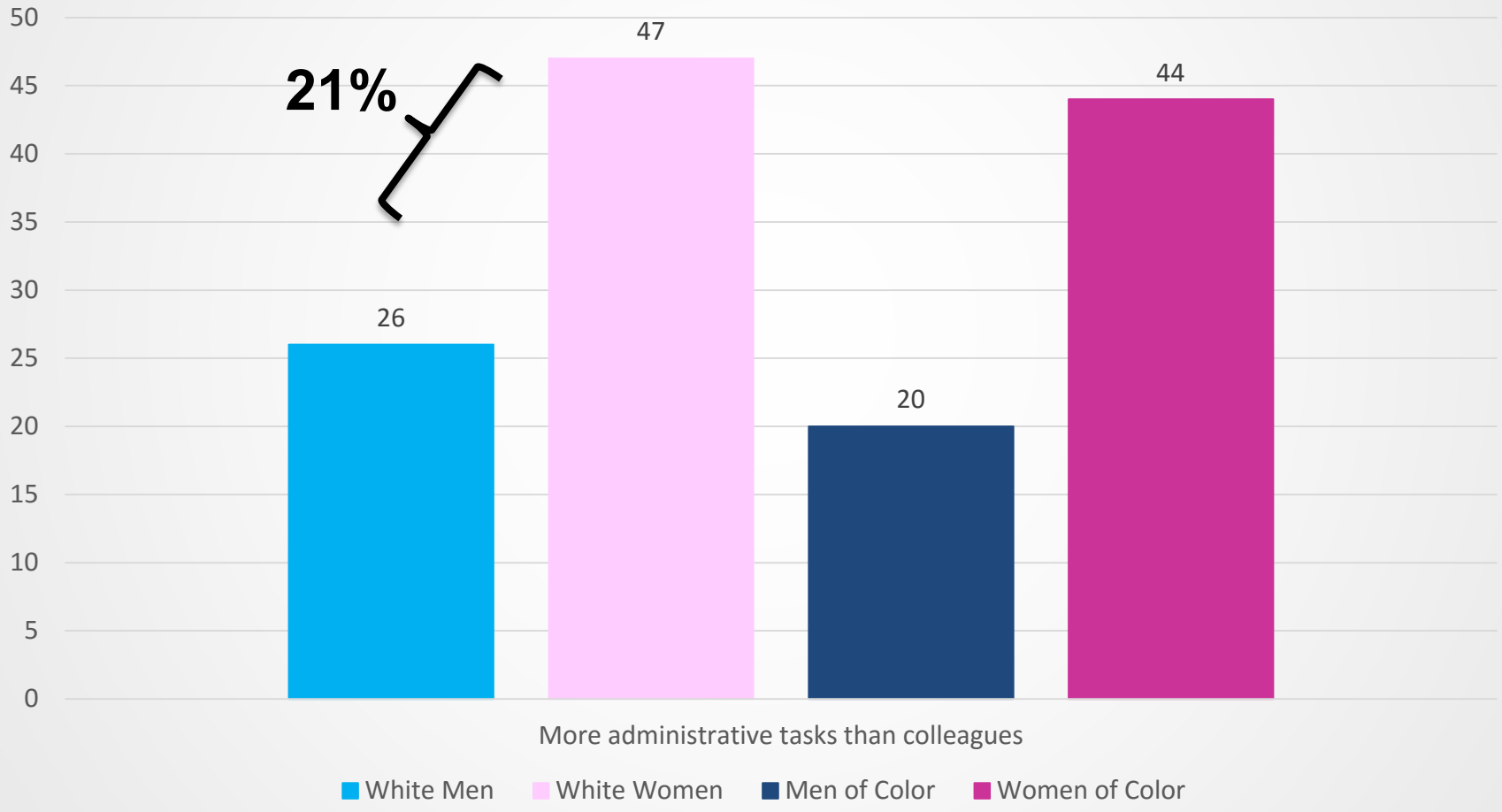
Tightrope | *Administrative work*



% agreement

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Office Housework Interrupters

You suspect that women do more of the office housework.

- How can you find out if this is true?
- How can you as an individual intervene?

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Individual Bias Interrupters

- DON'T ask for volunteers
- DO establish a rotation of admin and literal housework
  - –OR assign to support personnel

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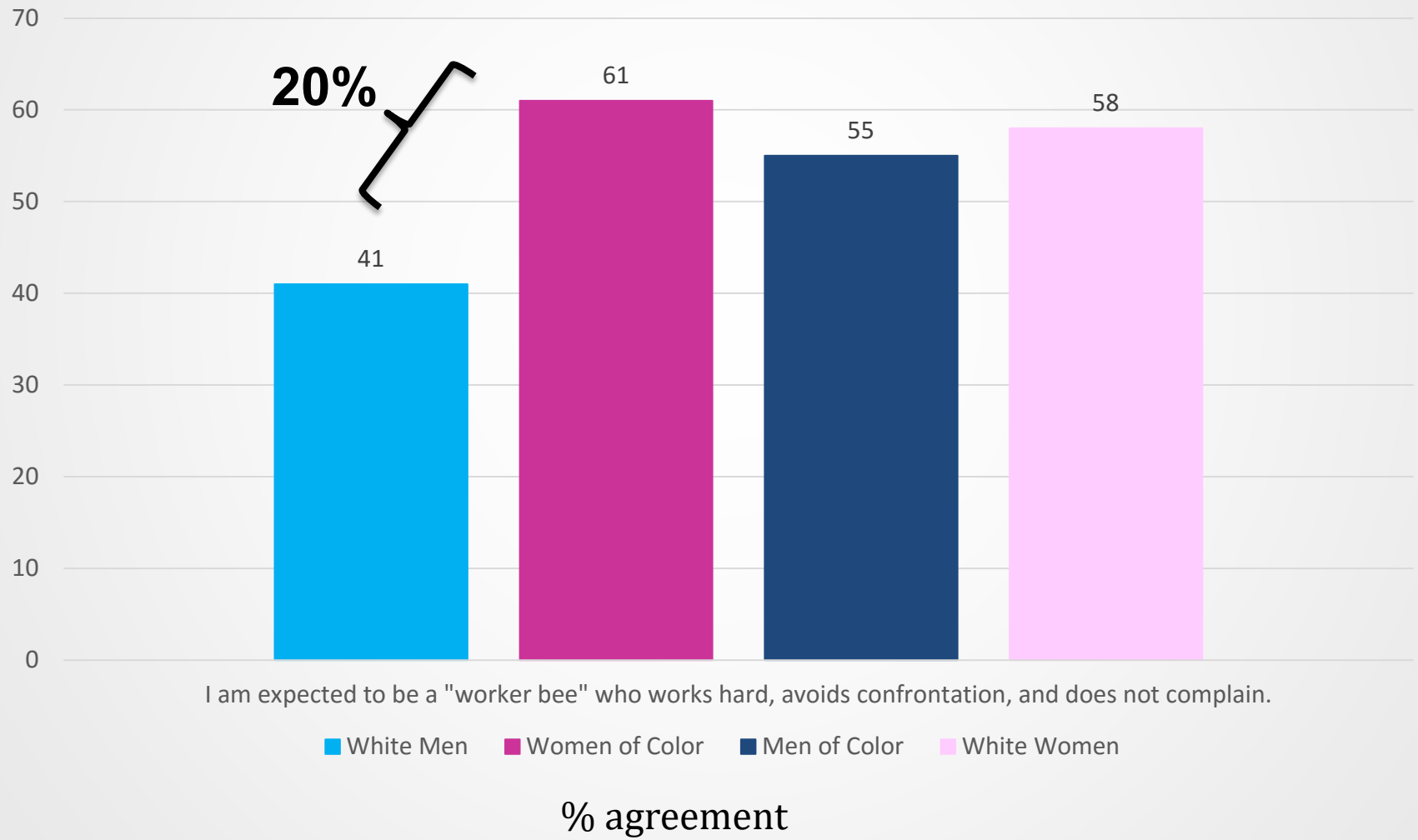
Tightrope | *Who's a worker bee?*



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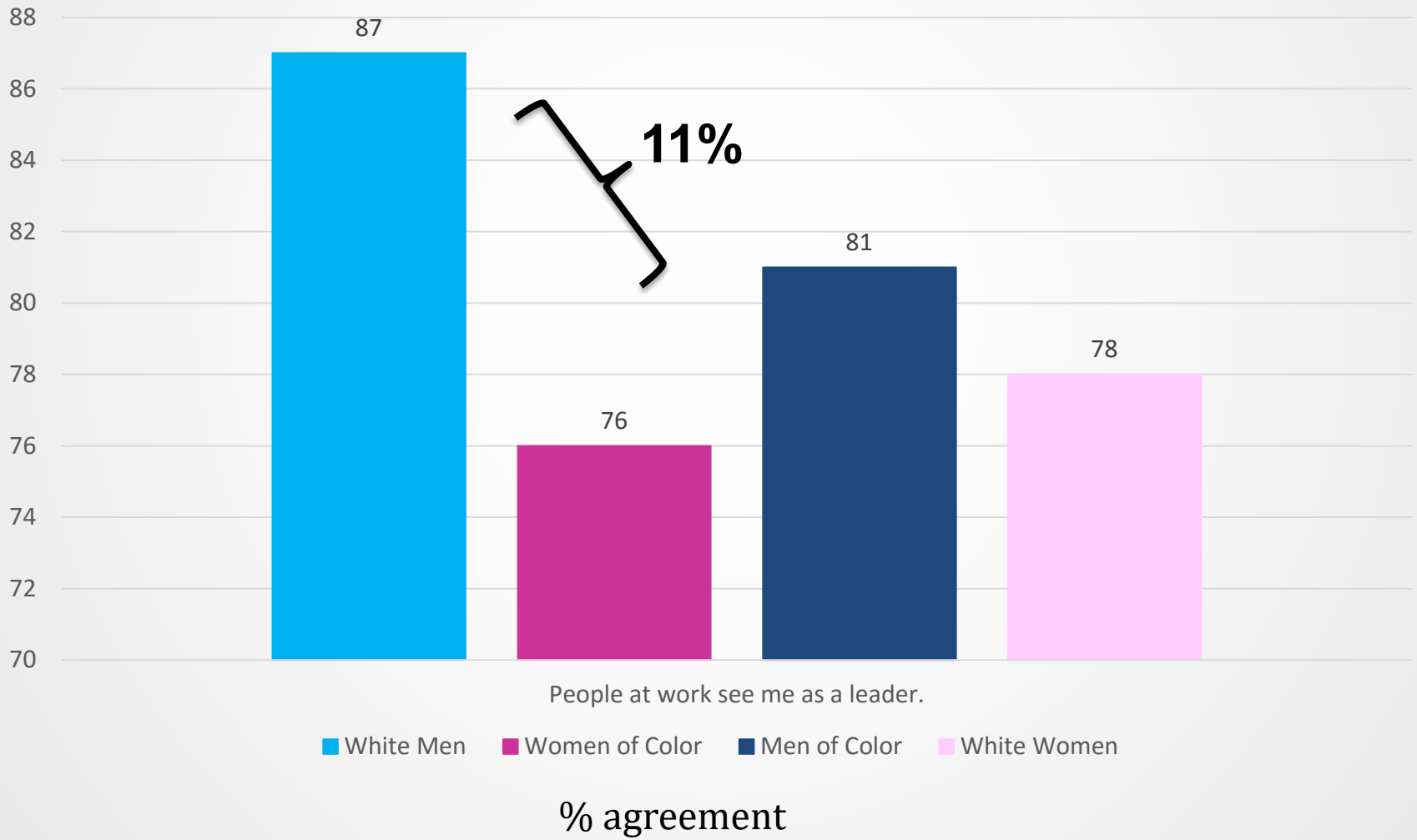
Tightrope | *Who's a leader?*



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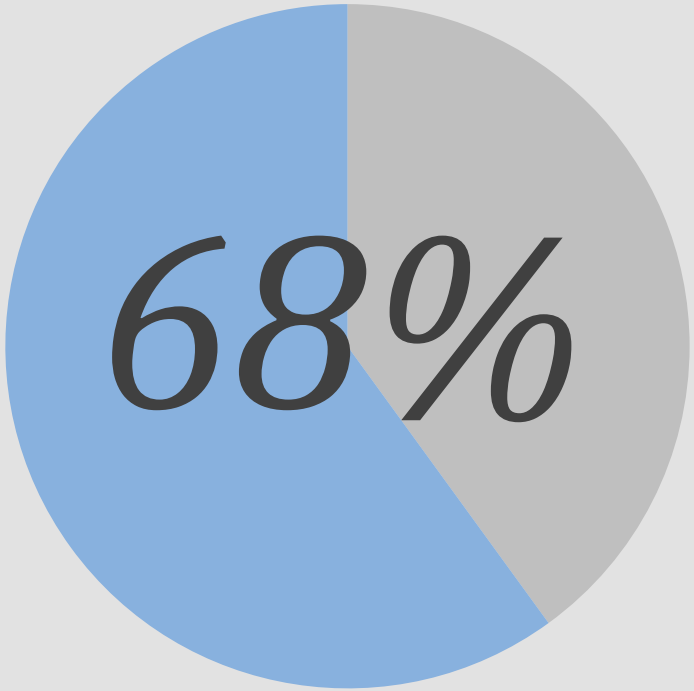
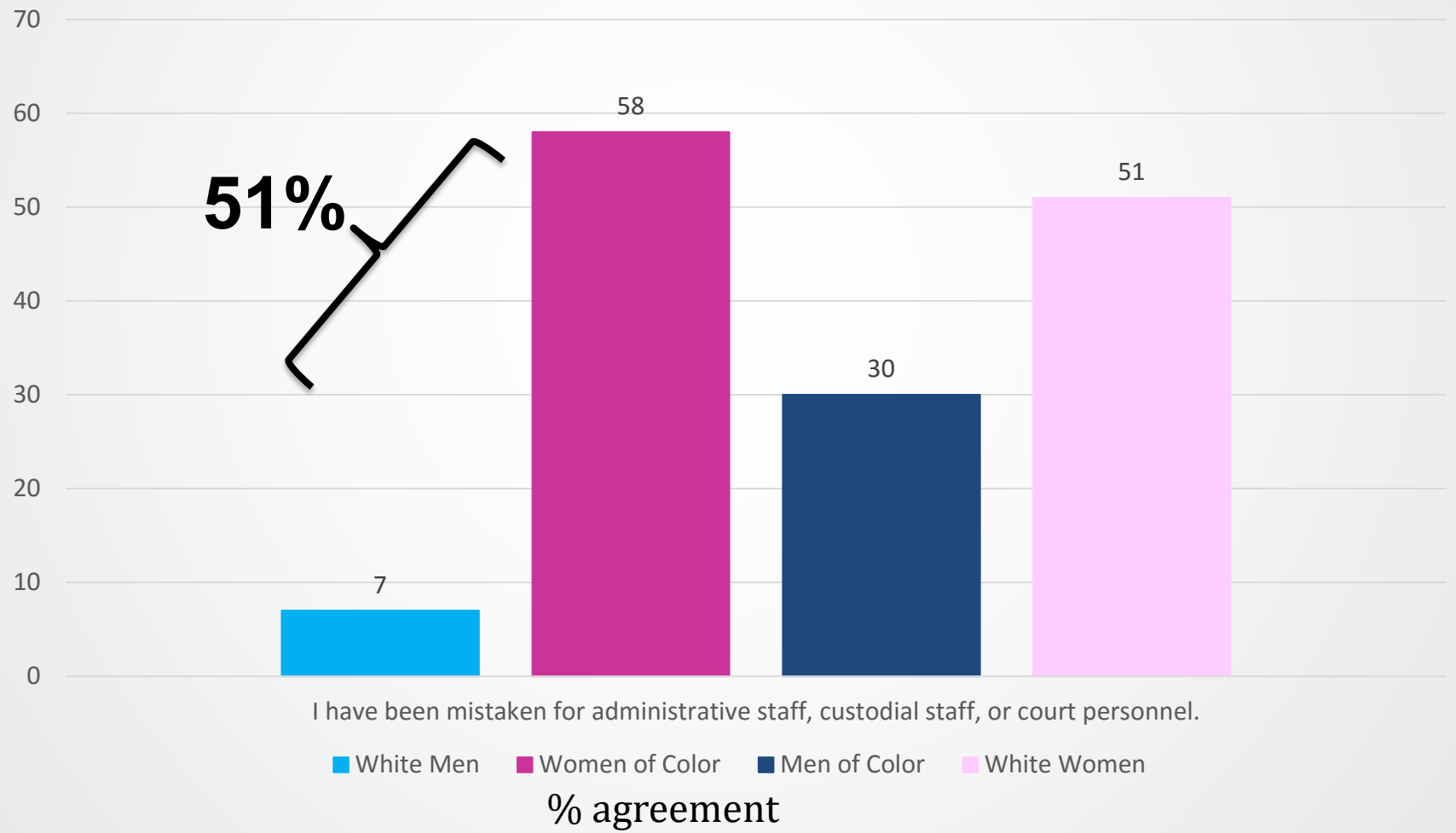
Prove-It-Again!



Prove-It-Again! | *Lack of Fit*



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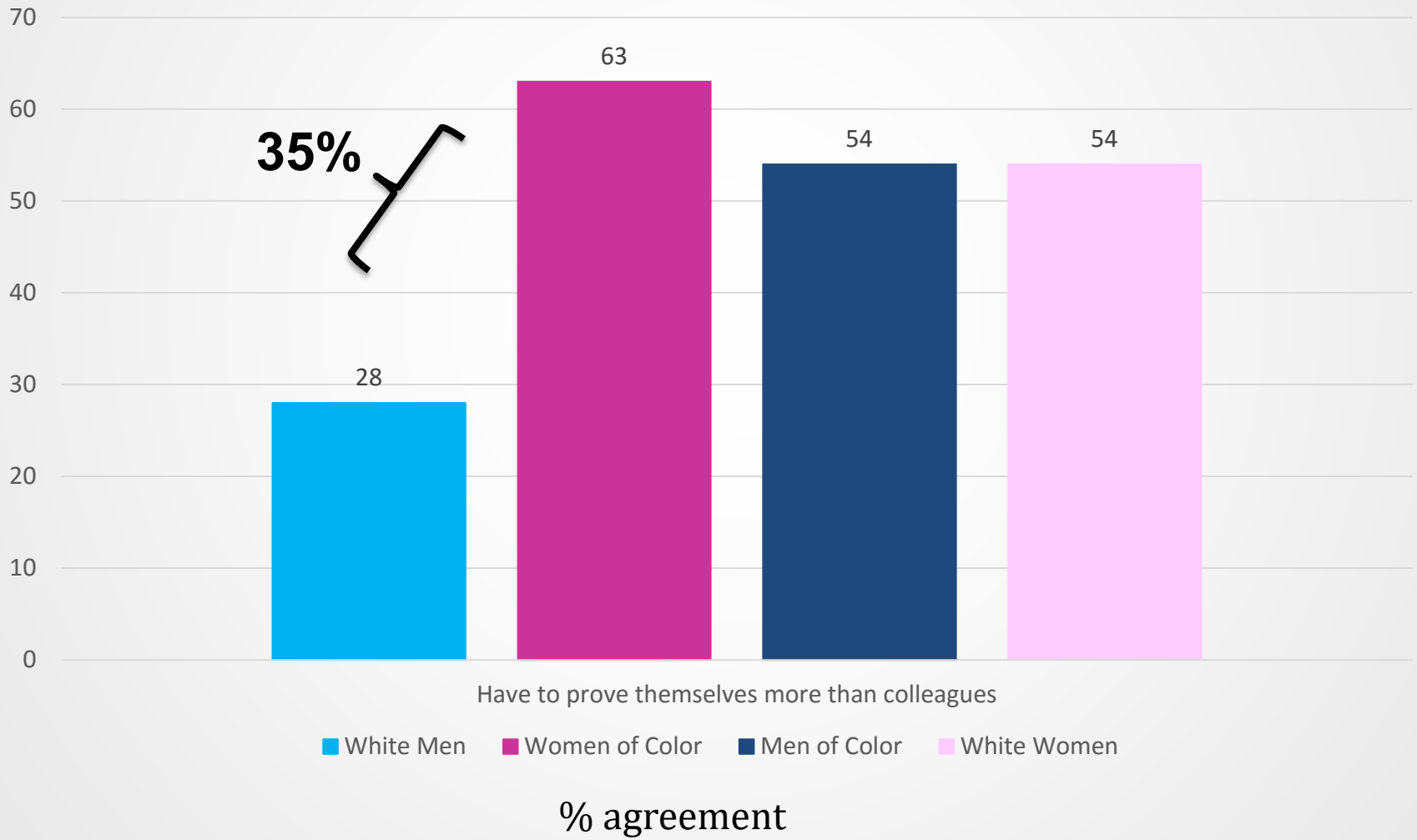
Prove-It-Again! | *Lack of Fit*



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Tightrope | *Prove-It-Again!*

> “I love her—but she’s not ready”

> “No one assumes you got promoted because you were the smartest person in the room.”

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Prove-It-Again! | *Potential vs. Performance*

> “Male laterals are taken at their say-so. Female laterals have to show they have the book of business.”

Biernat, Fuegen, & Kobrynowicz, 2010; Bowles & Gelfand, 2010; Bauer & Baltes, 2002.

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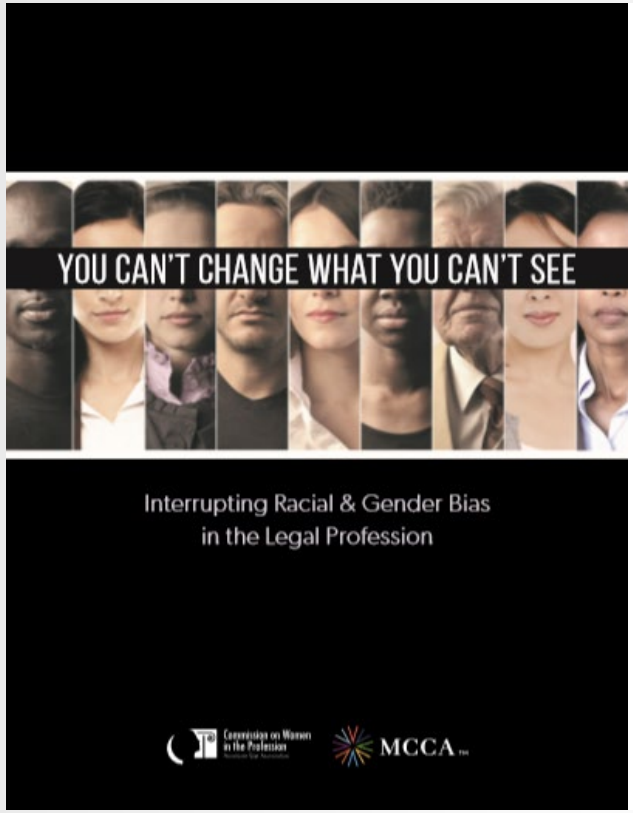

Interrupting Bias in Hiring

Tools for Law Firms

The Challenge

When comparing identical resumes, "Jamal" needed eight additional years of experience to be considered as qualified as "Greg," mothers were 79% less likely to be hired than an otherwise-identical candidate without children, and "Jennifer" was offered $4,000 less in starting salary than "John."[6] Unstructured job interviews do not predict job success,[7] and judging candidates on "culture fit" can screen out qualified diverse candidates.[8]

Hiring:

- **Pre-commit to what's important—and require accountability.** Pre-commit in writing to what qualifications are important, both in entry-level and in lateral hiring. When qualifications are waived for a specific candidate, require an explanation of why they are no longer important—and keep track to see for whom requirements are waived.

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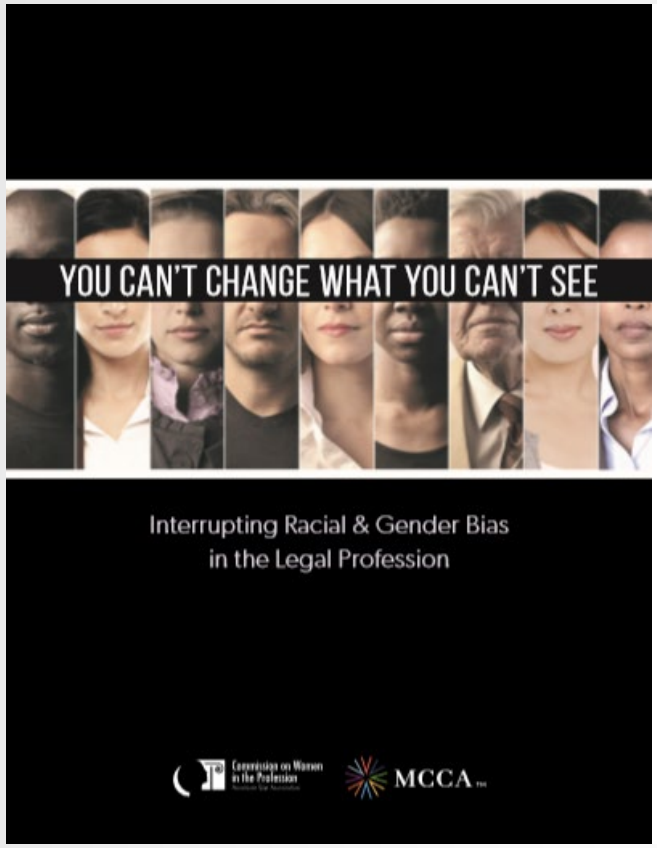

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Performance Evaluations:

- **Require evidence from the evaluation period that justifies the rating.**
  Try: "In March, she gave X presentation in front of Y client on Z project, answered his questions effectively, and was successful in making the sale," instead of: "She's quick on her feet."

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Prove-It-Again! | *Stolen Idea*

Duncan, Riana. Cartoon. *PUNCH Magazine* 8 January 1988: 11.

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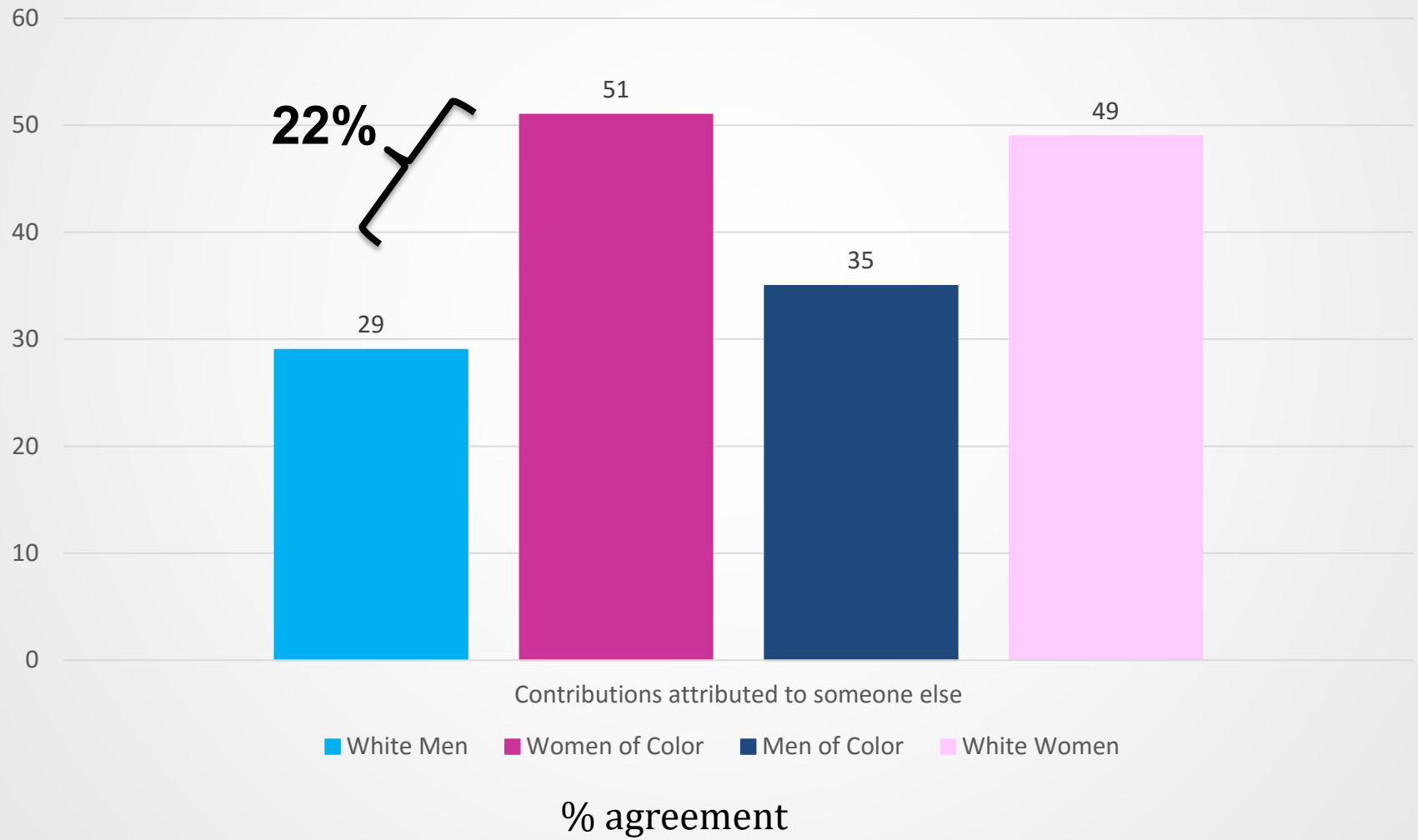
Prove-It-Again! | ABA/MCCA Study



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Stolen Idea

You are sitting in a meeting and you see the stolen idea occur.

- Why does this happen?
- If so, how do you intervene?

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Individual Bias Interrupters

- "Is there an echo in here?"

- "I've been thinking about that idea ever since Pam first said it. You've added something important, Tim – maybe here's the next step."

Uhlmann & Cohen, 2005; Tetlock, Tetlock & Mellers, 2011

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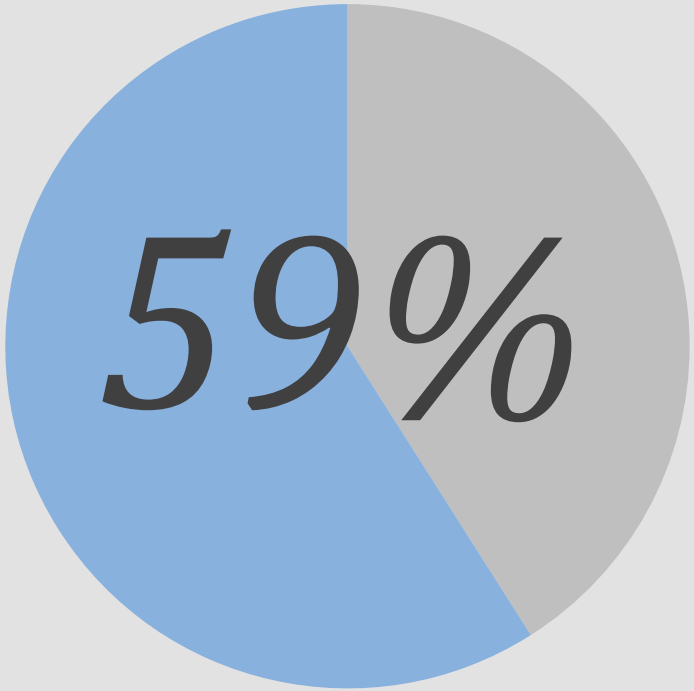
Maternal Wall



Maternal Wall

Negative Competence and Commitment Assumptions

- 79% less likely to be hired
- Half as likely to be promoted
- Offered $11,000 less

Correll, Benard, & Paik, 2007; Heilman & Okimoto, 2008; Cuddy, Fiske, & Glick, 2004; Fuegen, Biernat, Haines, & Deaux, 2004.

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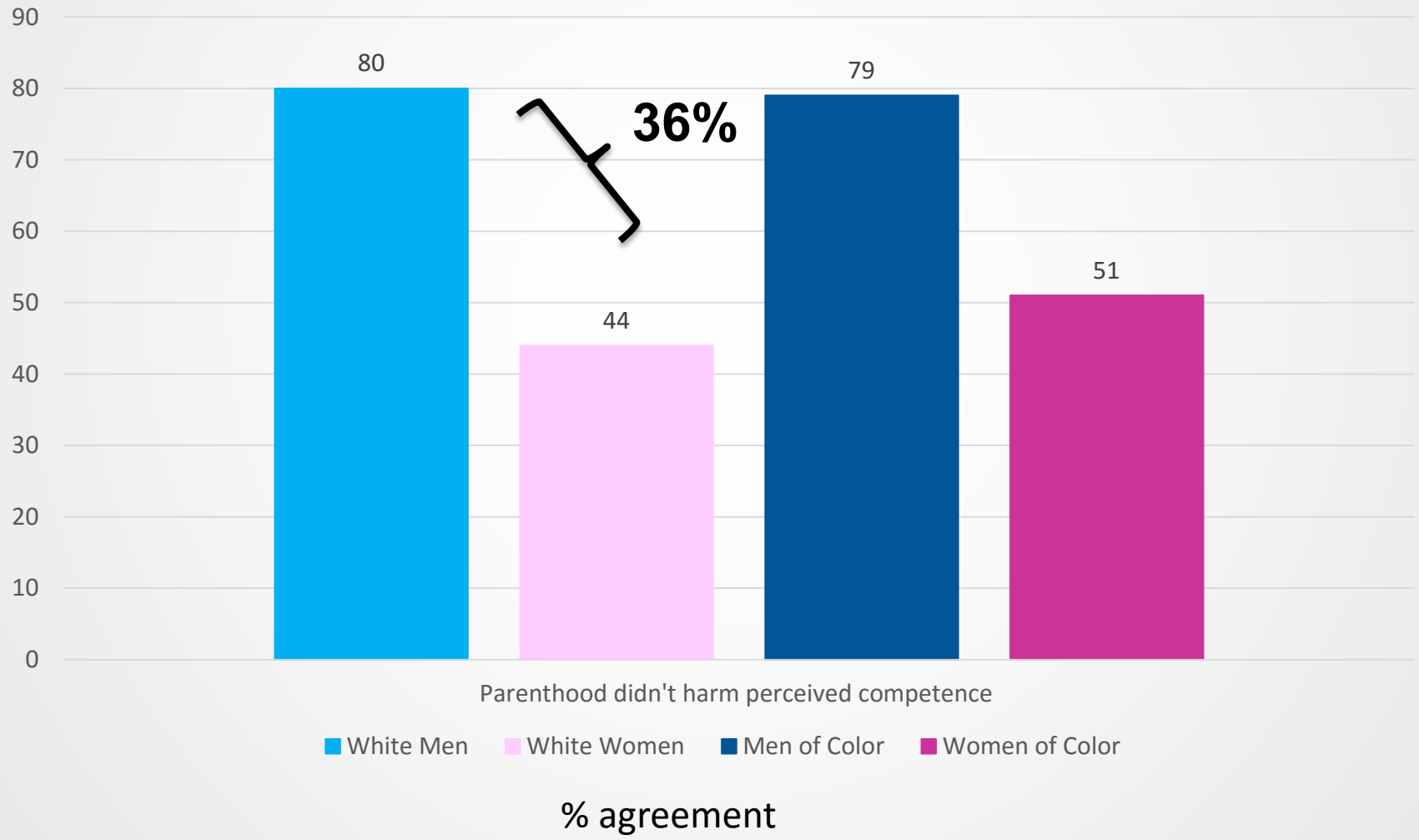
Maternal Wall

Commitment and Competence



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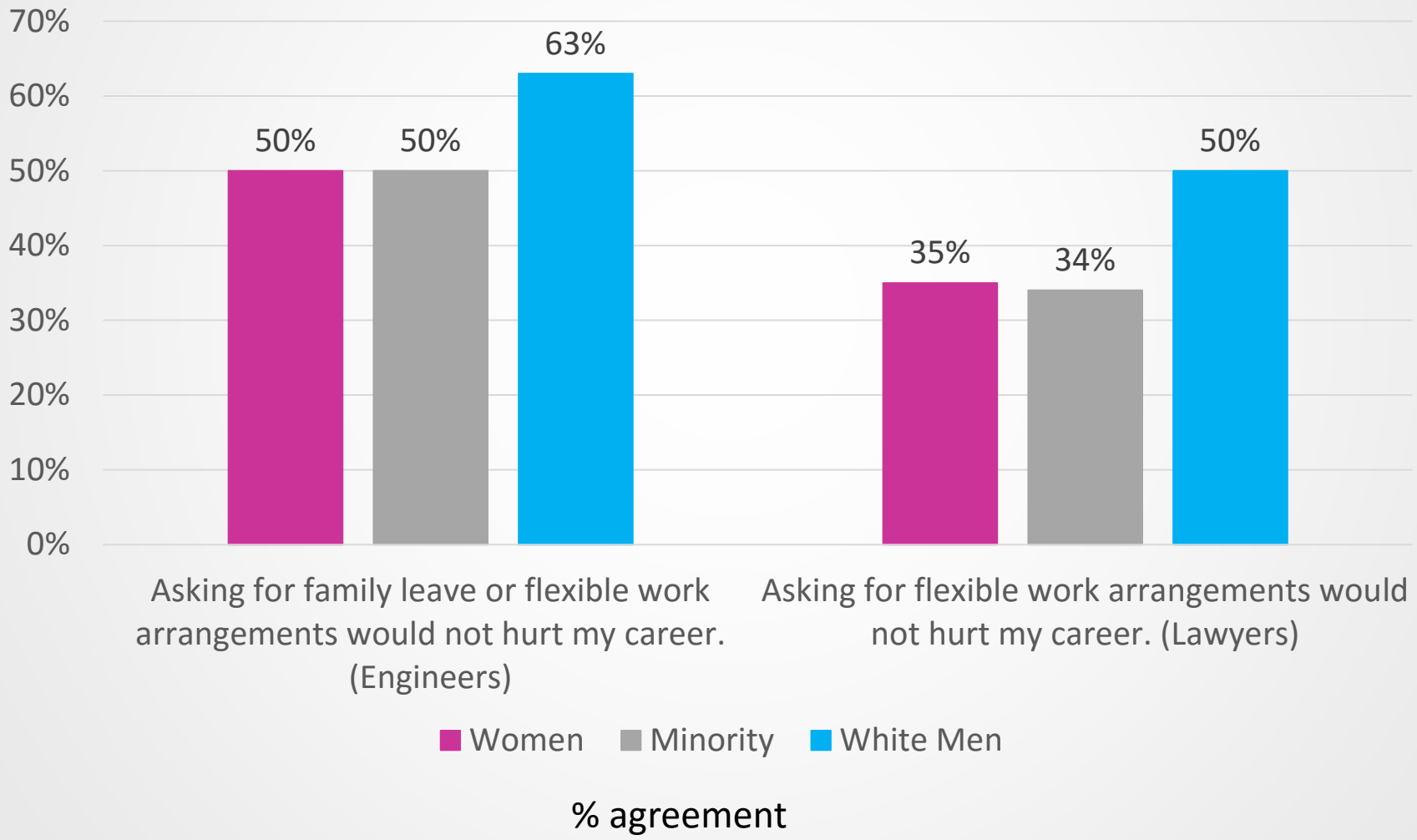
Maternal Wall | *Flexibility Stigma*



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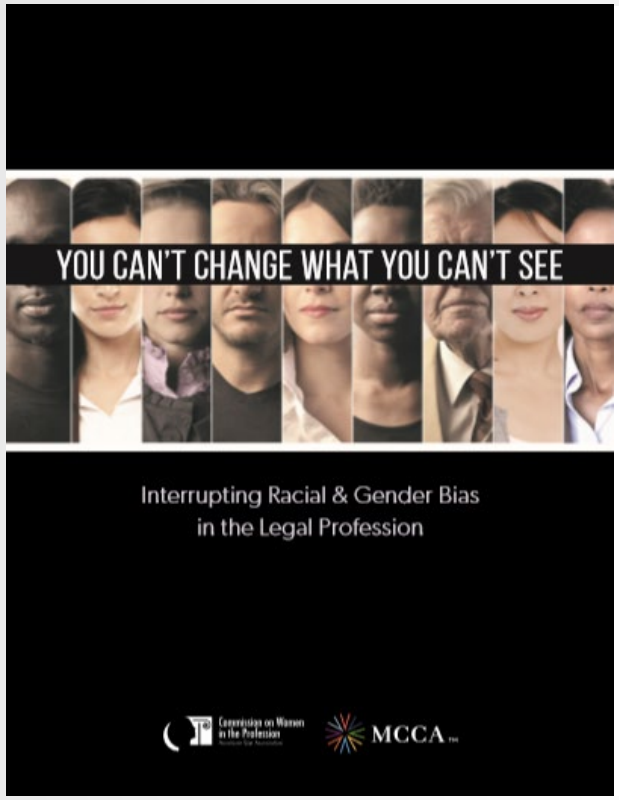

Maternal Wall

"I have had male firm owners ask me if I was single or planning on getting married, etc. Completely illegal questions, because they still don't want to hire and/or promote women in case they go out on maternity leave. Unbelievable!"

—*White woman, firm lawyer*

Bias against mothers is well documented. One influential study asked participants to review two identical women's resumes—the only difference between the two was that one resume listed membership in the PTA (signaling motherhood) and the other didn't. The study found that mothers were 79% less likely to be hired, only half as likely to be promoted, and offered an average of $11,000 less in salary than women without children.[55]

Use Metrics:

- Do women's ratings fall after they have children? Do employees' ratings fall after they take parental leave or adopt flexible work arrangements? Do parents returning from leave do more office housework?

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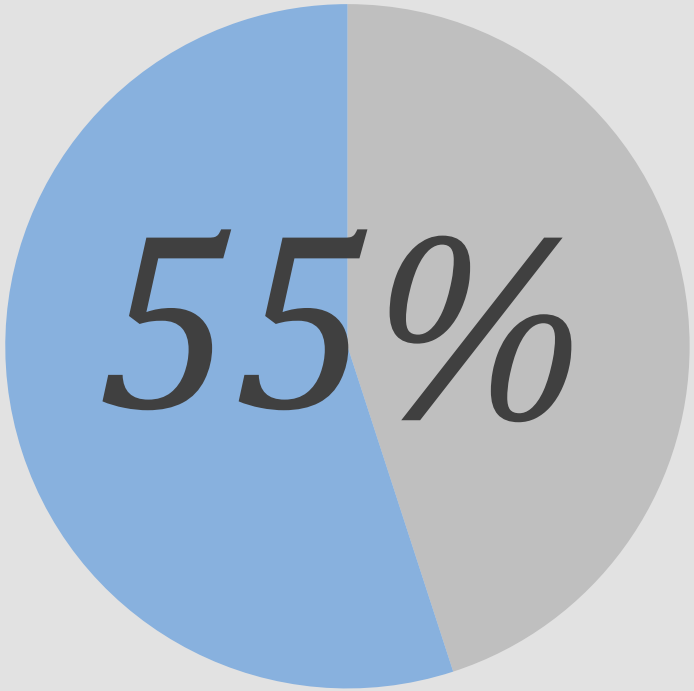
Tug of War



Tug Of War | *Tokenism*

> *"Opportunities for women are very zero-sum. If one woman gets a prized position…another woman won't. And so it breeds a sense of competition."*

Williams & Dempsey, 2014; Zatz, 2002; Ely, 1994a & 1994b; Keller & Moglen, 1987; Kanter, 1997a & 1997b.

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Tug Of War | *Strategic Distancing*

> *"I'm not a girl at Google, I'm a geek at Google."*
>
> - Marissa Mayer

Derks, Ellemers, Van Laar, & de Groot, 2011; Derks, Van Laar, Ellemers, & de Groot, 2011; Ellemers, Heuvel, Glider, Maass, & Bonvini, 2004.

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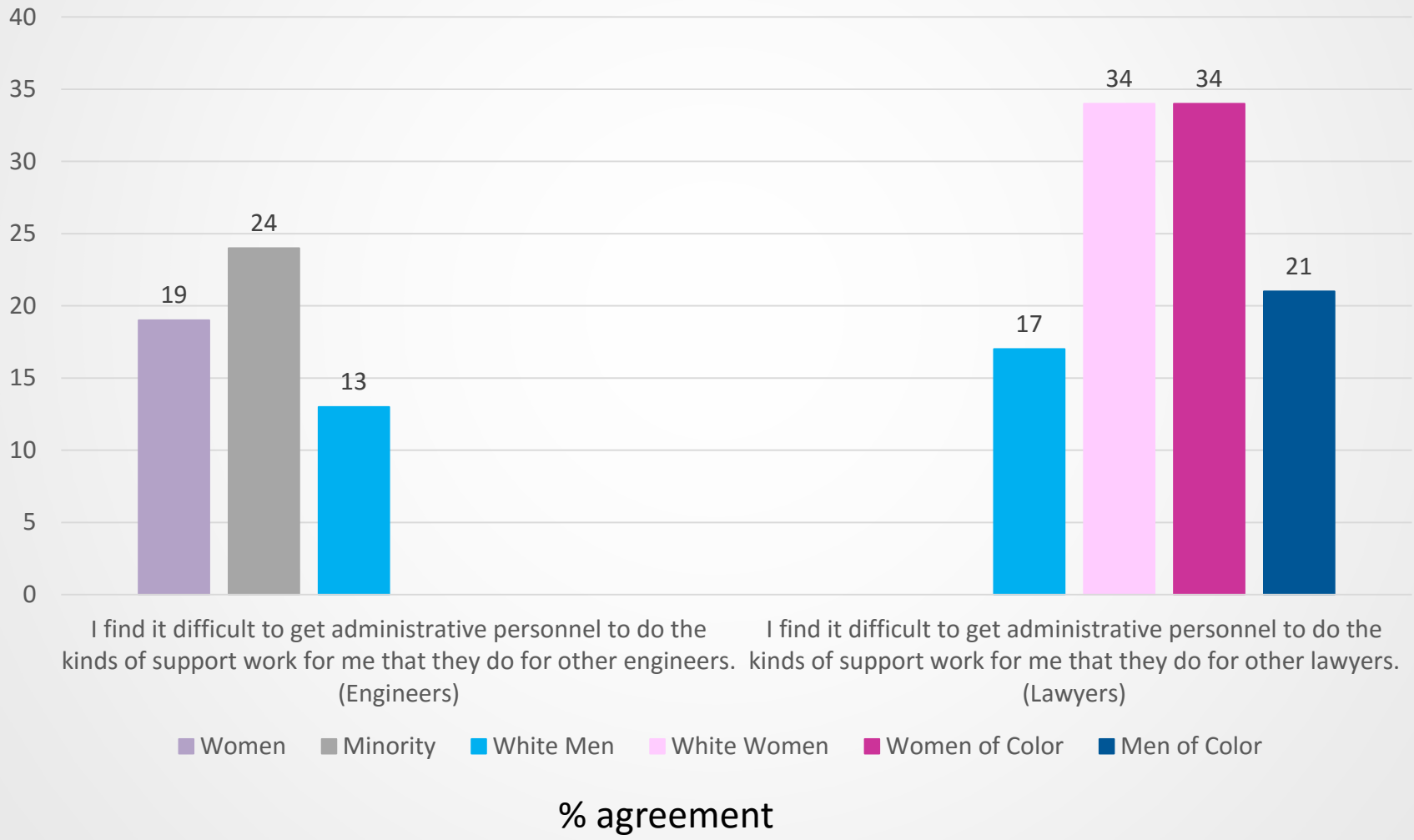
Tug Of War | *Admin Support*



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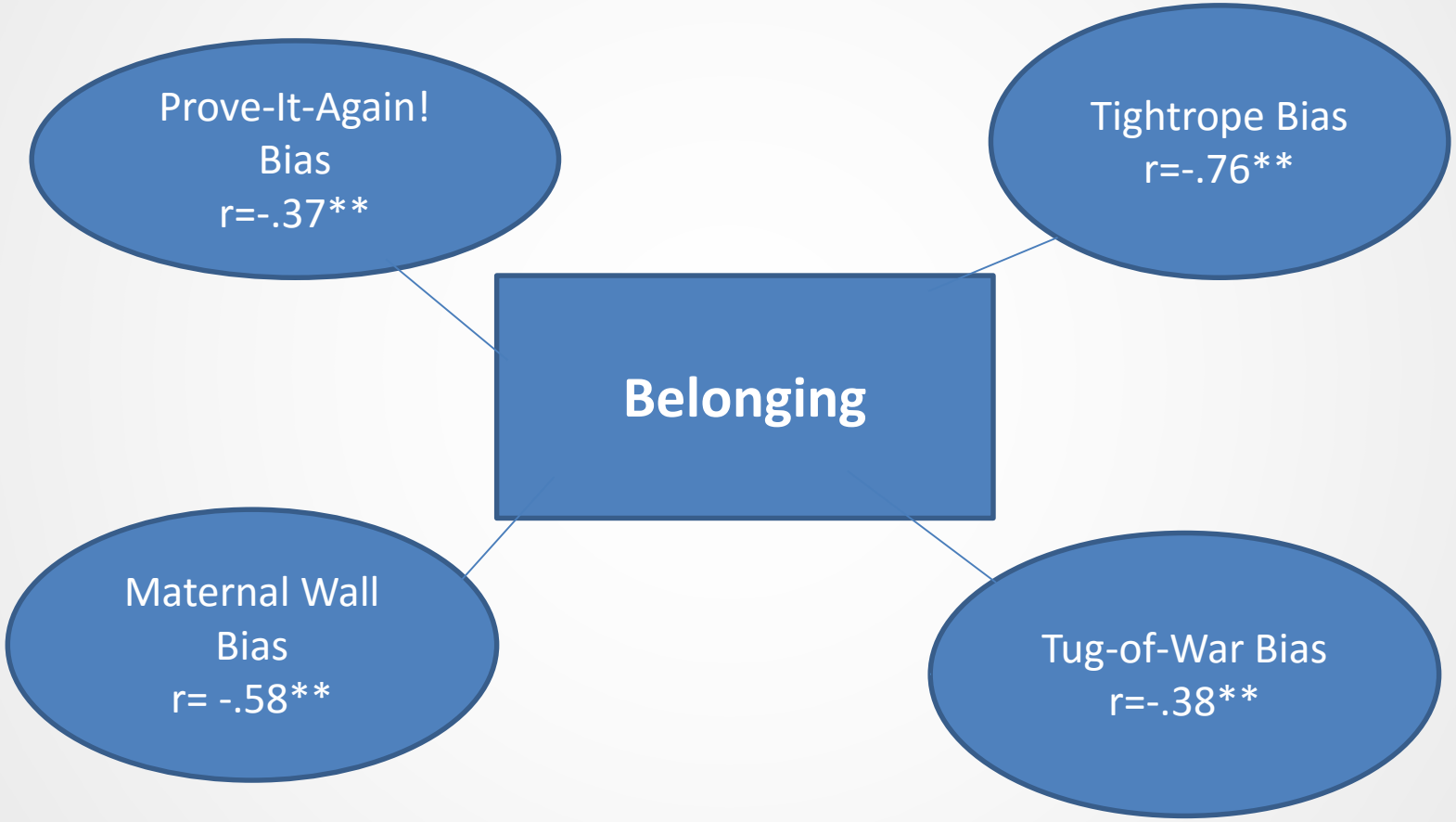
Patterns of Bias: Negatively Correlated with Belonging



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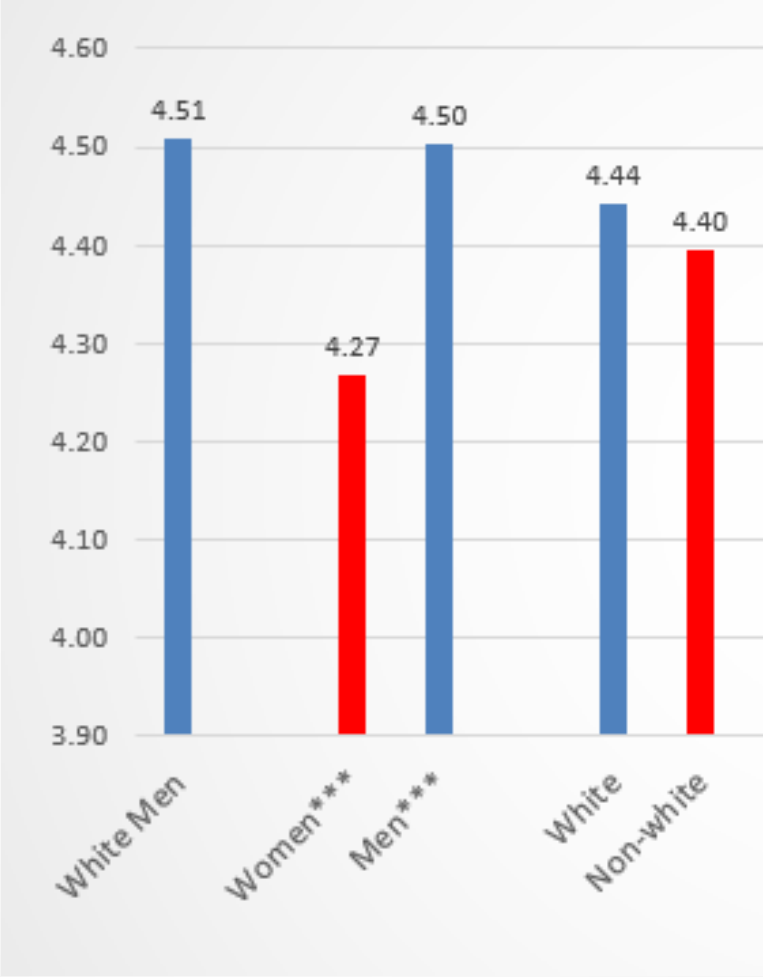
Belonging Index



Comparisons of Means (alpha=.93)

*** p<.01
** p<.05
* p<.1

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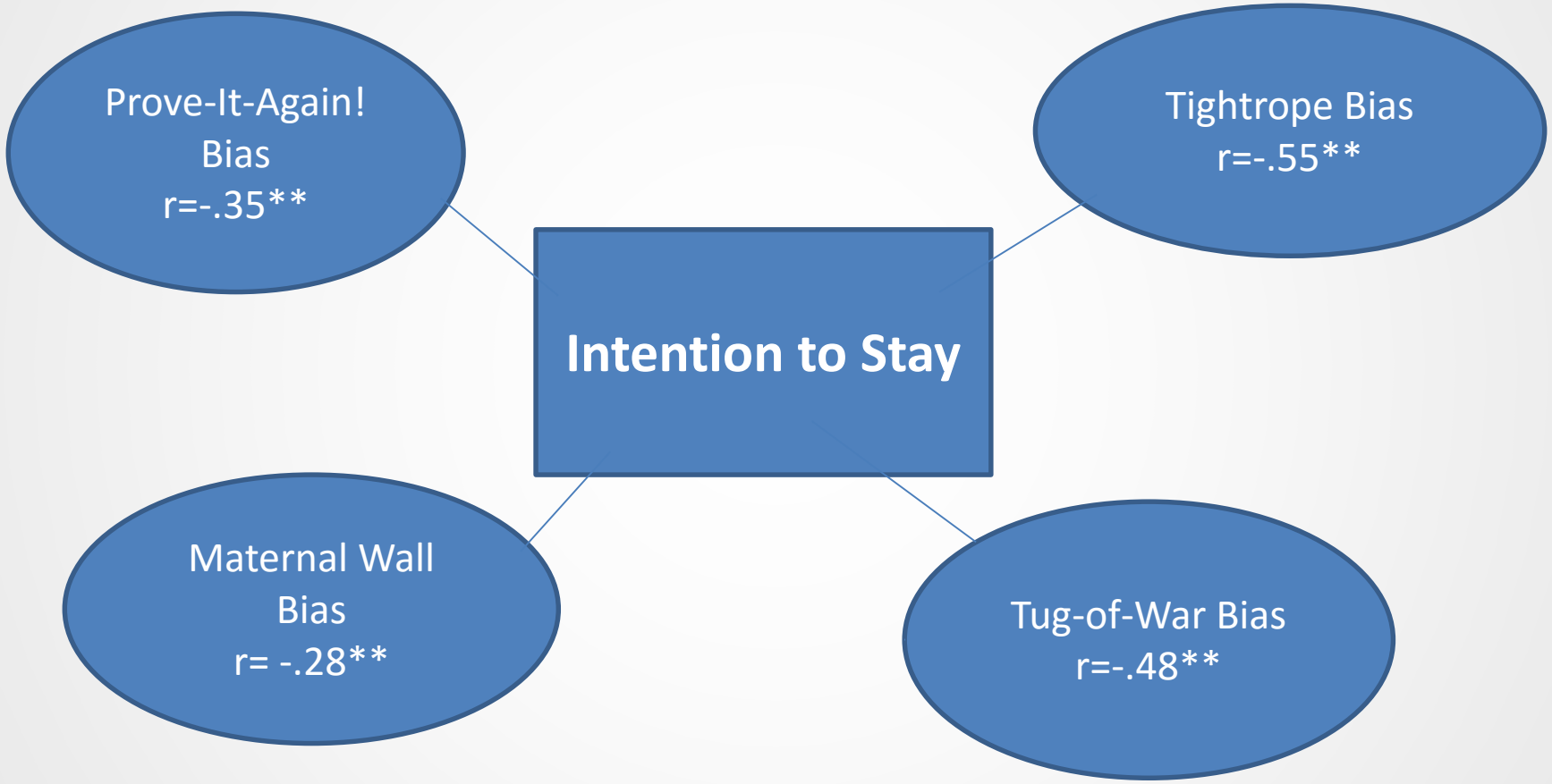
Patterns of Bias: Negatively Correlated with Intent to Stay



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Natural experiment

- Major STEM research org
  - I gave *Individual Bias Interrupters* workshop to all managers
  - Bias interrupter in place
    - If scores more than 1 standard deviation off the mean for ♀ or POC…
  - Workplace Experiences Survey before/after

→ *No bias* in performance evaluations

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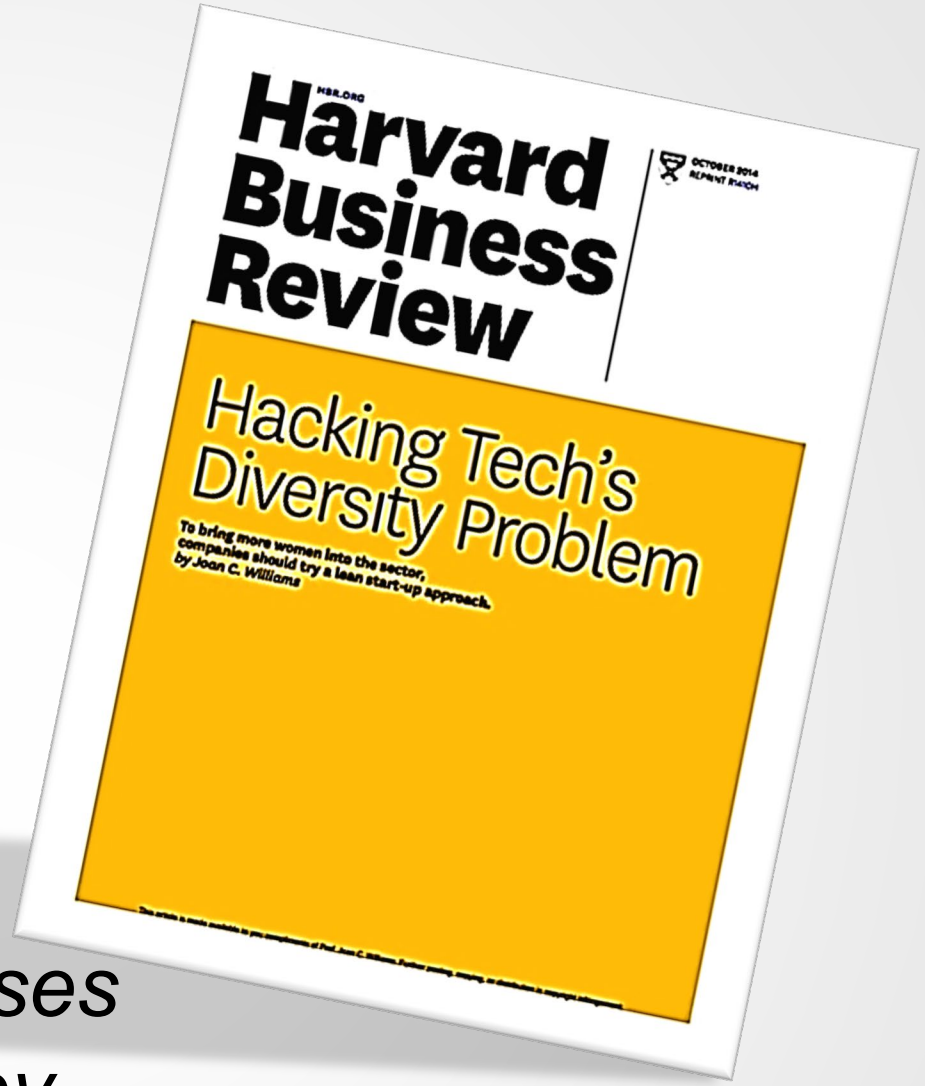
Time for a shift

- Evidence based
- Metrics driven



That's the way businesses handle any problem they really care about

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Get in touch

Contact WorkLife Law

Center for WorkLife Law
University of California,
Hastings College of the Law
200 McAllister St.
San Francisco, CA 94102

Office Phone: (415) 565-4640
Twitter: @worklifelawctr
Email: info@worklifelaw.org

Joan C. Williams
Distinguished Professor &
Founding Director
(415) 565-4706
williams@uchastings.edu

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