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EMPLOYMENT DISCRIMINATION: AN EFFICACY STUDY OF AFRICAN AMERICAN
INEQUITIES IN THE CALIFORNIA UTILITY SECTOR

A Dissertation Presented
to
The Faculty of the School Education
Department of Leadership Studies
Organization and Leadership Program

In Partial Fulfillment
Of the Requirements for the Degree
Doctor of Education

By
Victor George Baker
San Francisco, California
March 2021

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Dissertation Abstract

Employment Discrimination: An Efficacy Study of African American Inequities in the California Utility Sector

The economic legislation of Title VII of the Civil Rights Act of 1964 was designed a vigorous tool of law to address employment discrimination of African Americans and remedy economic disparity that unfavored African Americans. The energy utility industry served as the first Supreme Court defendant and loser of a Title VII employment discrimination challenge by a Black workforce. As a result, energy utility companies have served as the face of resistance to fair employment for African Americans despite the liberal popularity of diversity management programs. Prior quantitative and qualitative research identifies statistical patterns and social positioning respectively as a barometer of inclusion. This research is a case study of efficacy of Title VII's impact on African American employees employed in the energy utility industry in the state of California. The case study relies on 201 employment discrimination complaints filed between 2014–2020 with the California Department of Fair Employment and Housing against the four investment-owned utilities in California. The case study indicated that the majority of employment race-discrimination complaints are filed by African American employees. The aggregate reasons for complaints are consistent across all utility companies, with high rates of African American employees experiencing harassment, retaliation, and a lack of internal mobility. The analysis of the complaints revealed a lack of procedural accountability in (a) promoting, (b) employee evaluations, (c) harassment, and (d) expulsion across all utility companies. Furthermore, the inconsequential procedures designed to curve harassment and

retaliation carelessly promote an acceptable culture of inequity. Each utility company's diversity management programs dilute the focus of African American inequities in lieu of other despairing groups who are largely made up of the same salient racial and gender in-group. Moreover, utility companies are misrepresenting the success of diversity programs with a statistical aggregate that purposely misleads and often hides the inequity and lack of commitment towards African American employees. The author contends that the progress of diversity, equity, and inclusion for African American employees in energy utility companies in the most liberal and diverse states remains subjected to continuous social closure and statistical discrimination, resulting in inequitable hiring, mobility, harassment, and expulsion of the African American workforce.

This dissertation, written under the direction of the candidate's dissertation committee and approved by the members of the committee, has been presented to and accepted by the Faculty of the School of Education in partial fulfillment of the requirements for the degree of Doctor of Education. The content and research methodologies presented in this work represent the work of the candidate alone.

Victor George Baker
Candidate

March 31, 2021

Dissertation Committee:

Dr. Richard Gregory Johnson III

March 31, 2021

Dr. Patricia Mitchell

March 31, 2021

Dr. Walter H. Gmelch

March 31, 2021

DEDICATION

To my sons Kazi and Shaihi:

As we continue our legacy of your great-grandfather Dr. Benjamin Francis Baker Sr., our family of educators and advocates for economic vitality and quality of life for Black Americans.

To my mother, Sandra:

For her love, sacrifices, dedication, and perseverance to ensure her sons' opportunities were limitless.

To my Black Americans:

Thank you for paving the way and allowing my generation and future generations to take one step further in sustaining our culture and relevance.

ACKNOWLEDGMENTS

The journey of a dissertation is personal and not without its trials and tribulations both personally and professionally. While seeking to complete this doctoral program, I had to endure personal challenges in the loss of my brother Fred Norris Leach III, the tragic killing of my niece Summer Bell Brown, adopting my nephew Julean, and one failed attempt at a dissertation proposal. On a professional front while seeking this doctorate degree, I have endured working for a company that was faced with criminal charges, bankruptcy, and 10 fires that resulted in the death of 84 people and 5 CEOs. In addition, my very own experiences with slow mobility, harassment, and social closure in working for three of the four California IOUs prompted the topic of this dissertation.

The dissertation process is a lonely process requiring humility, faith and dedication. Without the continued prayers answered by my Lord and Savior Jesus Christ, this dissertation would not be possible.

To the victims of racial discrimination and disparity who continue to walk in the everyday trauma of being Black in America without a voice: I salute you for your steadfastness and tenacity to continue the daunting journey of seeking the American dream with so many obstacles. This dissertation is for those of you who had the exceptional fortitude to document their experiences and seek the justice offered by the Civil Rights Anti-Discrimination Act after suffering through painful and stressful circumstances beyond your control. The process of seeking justice for the bad behaviors of individuals and corporations is stressful, daunting, costly and time consuming. To those of you who took the additional step to seek each other and organize to administer a class-action case: your bravery and courage deserves to be remembered.

This research is meant to honor you. We are stronger because of you and this scares those who do not understand our strength.

I would like to graciously thank my dissertation chair, Dr. Richard Gregory Johnson, who adopted me after my first advisor retired. He served as a motivator while challenging me to go beyond my personal limitations in writing and research. He was generous with his time and patient with me as I embarked on a subject matter that he was also highly familiar with. Thank you Dr. Johnson for your belief in me through your actions and your words.

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CHAPTER I

THE RESEARCH PROBLEM

Statement of the Problem

Employment discrimination remains prevalent as the leading element of employment stratification despite illegality, civil prosecution, and reputation masochism (Seguino & Heintz, 2012). An abundance of empirical research addresses discriminatory practices pertaining to employment discrimination in hiring, pay, mobility, harassment, and expulsion. Empirical evidence suggests that inequities still exist along racial lines in hiring, pay, mobility, harassment, and expulsion (Cohen & Huffman, 2007; McTague et al., 2008; Wilson & Lagae, 2017). These points of stratification are amplified for Black individuals working in predominantly White organizations (PWO). Discrimination as a contributing behavioral factor to discriminatory patterns of hiring, pay, mobility, harassment, and expulsion are not fully vetted along race, region, and industry. This study expanded employment stratification literature with in-depth case observation of the types of discrimination experienced by Black employees in the energy utility industry in the State of California. The study was inspired by the prominence of discriminatory practices in the energy utility sector, as the country's very first cases heard under the historic Title VII Civil Rights Act was the case of Black employees verses Duke Energy, an energy utility company.

The Civil Rights Act was signed into law in 1964. The primary purpose of Title VII was to close the economic disparities experienced by African Americans as a result of employment discrimination. This act criminalized employment discrimination, mandated affirmative action, and provided a mechanism for victims of employment discrimination to seek civil damages.

Racial discrimination in the workplace has reportedly declined since the adoption of antidiscrimination programs in the 1970s through the 1980 (Tomaskovic-Devey et al., 2006). The United States Equal Employment Opportunity Commission (EEOC) began collecting employment discrimination and resolution data in 1997. From 1997–2019, the EEOC received 692,000 race-based complaints (EEOC, n.d.-b), resulting in \$1.7 billion in monetary benefits to complainants. During the same period, the annual number of race-based cases filed remained relatively flat with the exception of a 16% spike during the Barack Obama administration.

Most comprehensive studies pertaining to employment discrimination offer a casual-comparison quantitative analysis on hiring and pay. Most notable is Kalev et al.'s (2006) 31-year meta data analysis of federal survey data. The consistent and conclusive implications of all the quantitative research is that progress driven by African Americans towards more equal race relations and improving equal opportunity employment began immediately following the Civil Rights Act in 1964 and stopped in the 1980s with the election of President Ronald Reagan (Tomaskovic-Devey et al., 2006).

One of the first Civil Rights Title VII lawsuits to reach the Supreme Court resulted in a victory for eight African American employees. These employees filed an antidiscrimination lawsuit against Duke Energy for their discriminatory practices in job qualification and qualifying exams (Smith, 2008). These types of lawsuits fall into the shadows of cases involving hiring, mobility, pay, harassment, and job release cases. The United States Supreme Court case *Griggs versus Duke Power Company* provided a compelling look into disparate impact and a culture of corporate isolation practices; this case provided scholars with a reason to further study other

forms of employment discrimination from a sociological lens (Cohn, 2000; Petersen & Saporta, 2004).

Statement of the Problem

Workplace discrimination has significant impacts on the lives of the victims and on the organizations that allow it; however, little is known about the level of discrimination that persists following antidiscrimination policies and laws. Additionally, only a few researchers have assessed the level of workplace discrimination against African Americans. The majority of prior studies aimed to explain racial quantitative stratification in employment of women and addressed occupational mobility, earnings, and labor force participation rates. These studies served their purposes; however, the studies provided limited information on the actual factors that influence discrimination.

Weber (1963) described social closure as the drawing of boundaries, constructing identities, and building communities in order to monopolize scarce resources for one's own group, thereby excluding others from using them (Albiston & Green, 2018). Early studies on social closure focused on wealth, class, and the onset of the bourgeoisie (Durkheim, 1997; Marx, 1887, 1932; Simmel, 1964; Tönnies, 1887; Weber, 1963).

Marx (1887) discussed the economic structure of capitalism. Marx argued that capitalism begets processes of polarization, thus generating two detached social classes. Marx further elaborated on the distinguishable lack of access of the proletariat to the bourgeoisie. During the same period, Tönnies (1887) referred to the election and choice to participate in two different forms of society, thus further elaborating on the degrees of openness to the communities representing these two societies.

Weber (1963) expanded on Tönnies' concept of open and closed social relations. Weber's identified degrees and criteria for openness and provided theories on the motivations of closure. Weber also combined sociocultural aspects and economics while studying the processes involved in monopolizing both market relations and class communities. Neuwirth (1969) provided the first application of Weber's research with respect to the process of community forming and community closure in ethnic communities.

Barth (1969) is seen as the father of the constructivist view of socioboundaries. Barth elaborated on Weber's (1963) work by suggesting that boundaries are not just given but are created by social actors. Social actors are a result of human action; in theory, social actors can be manipulated, corrected, and or advanced by humans (Abbott, 1995; Bourdieu, 1979; Lamont & Fournier, 1992). That being said, a significant relationship exists between social closure and "groupness" (Wimmer, 2008). Wimmer (2008) provided a conceptual modeling of the varying characteristics and drivers of ethnic boundaries.

Social closure that falls along the salient lines of race and gender becomes discrimination. Discrimination occurs when preferred hiring, promotion, harassment, pay, or job release depend on characteristics or perceived characteristics not related to professional acumen or skill (Szafarz, 2008). It was not until 1969 that social closure theory (SCT) was used to study race and ethnicity in communities (Neuwirth, 1969). Disparities in wages, ascension, and equitable work environment in regard to race and ethnicity can be ascertained and further studied using SCT (Petersen & Saporta, 2004). Social mechanisms form and transform these oppressive social boundaries (Tilly, 2004).

Economists have long struggled to explain the observed persistence of discrimination in the workforce. “Pure” racism, or a dislike for a specific population of society as a static equilibria, is an economic theory initiated by Becker (1971). Economists such as Arrow (1973) and Phelps (1972) provided rationale for Becker’s theory by suggesting that firms make business decisions based on their own imperfect statistical information on important elements such as productivity. Statistical discrimination theories (SDT) can be coupled with more recent sociopsychological academic concepts such as *affinity* (Garcia et al., 2005; Wenzel, 2015) or *people accounting* (Garcia & Ybarra, 2007). The combination of SDT with affinity and people accounting reveals the vicious cycle that results in a discriminatory and cyclical system of workforce. In people accounting, the cognitive variables in decision-making that influence headcount correlate with social categories. The salient in-group perceives a sociopsychological perception of imbalance as African Americans continue to meet and exceed qualifications for high-ranking jobs. This imbalance places limitations on the African American representation as companies allocate resources.

The observation of a leadership team comprised of a predominantly African American-led organization embodies an alternate perception to its White counterparts. Often, when African American-led organizations are successful, their successes are minimalized as producing a nonsubstantial impact on the success of the overall organization. Project mapping and overall challenges that are metrics for success are not equally rated among African American-led organization’s White counterparts; therefore, African American-led organizations are often diminished, thus minimizing the organization’s impact on the greater organization regardless of the results. The idea that the best will rise to the top continues to be a mythical journey for

African Americans as they continue to ascend in education and experience but not in executive ranks of corporate America; this can be observed daily in the suite of White males represented in leadership while the number of African Americans are limited to a few designated slots likely centered in “diversity” roles. This limitation is a real and enacted distributive unfairness imbedded in the social consciousness of aspiring African Americans seeking advancement in operational sectors. African Americans trail salient in-groups in mobility despite matching or exceeding qualifications and experience.

A system is formed once SCT and SDT are coupled. Newcomers are perceived to threaten the long-established distributed fairness of resources (Scotson & Elias, 1994). This occurs despite the salient in-group’s perception of being an entity of equality (Anderson, 1983). Systems are formed from the imbedded social category of the salient in-group and the accompanying discriminatory statistics largely grounded in a protection of self-preservation of that same social elite. Once the system is formed or institutionalized, it is perceived and enacted as a vetted, fair, and equitable practice or policy. The system works as an independent structure that further disenfranchises, alienates, humiliates, and harms out-groups along racial lines. The system divests itself from real individual actors who perpetuate discriminatory actions and points to corporate policy and initiative as supreme directive. Thus, although African Americans comprise 10% of college graduates, they comprise only 3.2% of executive or senior level officials and .8% of Fortune 500 CEOs (EEOC, n.d.-a). Those who wish to challenge the policies’ unfair and unequitable doctrine will have the seemingly impossible task of challenging the entire institution and all of its benefactors and enactors.

Pioneers of sociodivide define class and station as a relatively natural human behavior driven by the onset of capitalism and humans' comparative, competitive nature. The research into SCT is advancing and more information is being gained regarding the human perpetuation and human impacts that continuously drive a wider cultural divide; thus, the question remains as to why the divide continues to grow or, at the very least, remains stagnant and never trends to a close.

The most prominent existence and arguably the genesis of sociodivide rests in the workplace. It is social closure in the workplace that leads to large socioeconomic disparities in ethnic groups. The knowledge of social closure in the workplace led to the signing of the 1964 Civil Rights Anti-Discrimination Act (CRAA). The CRAA was designed and implemented to curve the recognized existence of social closure in the workplace; however, the same socioclosure and continuous socioeconomic disparities are still being experienced by African Americans 55 years later. The African American perception of discrimination feels more intense due to the ever-moving target in hiring, mobility, level of harassment, and pay.

One must measure in order to compare. Measurement requires the collection of information that drives business decisions. Since the inception of CRAA, data have driven the human resource industry to tackle antidiscrimination from a static equilibria. Reform can be observed by peeking into the newly developed industry of diversity and inclusion; however, the premise or equilibria of diversity and inclusion as a solution to workplace inequities is largely grounded incorrectly, thus producing statistical discrimination for which business decisions disguised to curve workplace discrimination are ineffective.

Background and Need

The gas, electric, and oil industries are historically the worse violators of workplace discrimination in the United States. Discriminations in these industries were revealed in the United States' first antidiscrimination lawsuits in 1966, when 13 Black Duke Energy employees filed suit against their employer. In 2019, the third such class-action lawsuit was filed against Southern California Edison (SCE; Ideman, 2006; Silverstein, 1996; Smith, 2008; The Associated Press, 2010). Ironically, all four lawsuits contended the similar accusation of discrimination in wages, ascension, and equitable work environments. These lawsuits occurred despite corporations highlighting their commitment to workforce diversity and inclusion through mission vision statements, recruiting, job ads, diversity awards, internal employment policies, training, and resource groups.

In 1996, a Black female executive audio recorded Texaco executives commenting on a lawsuit filed by Black middle managers and referring to the plaintiffs as "black jelly beans" (Dobbin et al., 2007). Texaco immediately settled the case for \$176,000,000 and the company was instructed to use \$35,000,000 to revamp their diversity training programs. As a result, programmatic additions such as affinity groups and mentoring initiatives were born. Texaco's 5-year report on progress demonstrated little to no evidence of an increase in diversity in leadership.

Today, 60% of Fortune 500 and 90% of federal agencies reportedly provide some type of diversity training to their employees (Pitts, 2009). With that said, racial segregation has declined since the first adoption of antidiscrimination programs in the 1970s through the 1980 and has remained relatively flat thereafter (Tomaskovic-Devey et al., 2006). Outside of the initial push of

antidiscrimination beginnings, no evidence indicates that traditional programs were influential. Additionally, the construct of data does not detail the migration of African Americans in top ranks of management.

The EEOC received 3,240 complaints in 2017, which represented the highest number of race-based complaints since the EEOC began collecting data in 1997 (EEOC, n.d.-c). In addition, over 3500 complaints from previous years were resolved in 2017, totaling \$11.8 million in monetary benefits to the complainants.

Current knowledge of inequality trends in labor force are primarily derived from studies involving individuals segmented into sociocultural categories across a broad range of industries and jobs. Tomaskovic-Devey et al. (2006) argued that workforce inequalities are best understood by studying the workspace and place. Tomaskovic-Devey et al. posited that certain people have access to certain jobs over time. Ladson-Billings and Tate (1995) contended that critical race theory (CRT) and existing research depict the racial barriers that are placed on individuals as a means of preventative advancement. In accordance with the hegemonic racism described in CRT, the corporation represents a powerful and influential petri dish of an expressed and implied institution of cultural discrimination.

Corporate structures established in the form of diversity programs to increase accountability have a marginal impact on diversity charges filed (Hirsh & Kmec, 2009). Diversity training for managers has been shown to decrease the odds of a formal complaint, whereas trainings for employees has been shown to increase the odds of a formal complaint.

African Americans employed at California investor-owned utility (IOU) companies appear to be particularly susceptible to a continued social closure and statistical discrimination.

Employees of one California IOU have filed three class-action lawsuits over the span of 30 years, with the most recent lawsuit being in 2019. The researcher referenced the current study's results and analyzed the relationship between SCT and SDT to examine the experience of African Americans in California IOU companies.

Theoretical Rationale

Reskin (2000) argued that the “standard sociological approach to explaining workplace discrimination have not been very fruitful in producing knowledge that can be used to eliminate job discrimination” (p. 320). The theoretical rationale for the current study is based on Reskin's assertions. Reskin also suggested that the primary purpose of sociology is to identify the origins and understand the consequences of workplace discrimination to exact change via public policy. Partnering social psychology with sociological research can be used to best understand the original and proximate cause of workplace discrimination (Reskin, 2000). Policy-driven solutions must be coupled with cognitive solutions to eliminate employment discrimination.

Roscigno et al. (2007) applied a social-psychological theory to social closure in workplace discrimination and suggested that the traditional sociological “analyses of structural effects are not competing but rather complimentary” (p. 16). The cause-and-effect model of social closure processes has been widely used to examine inequalities in workplace. Social-psychological theory is primarily grounded in conflict theory (Blumer, 1958; Tomaskovic-Devey et al., 2006), which asserts that the beneficiaries of processes and systems protect their privilege through controlling their resources. It is widely accepted that groups intentionally exclude members of the salient group, which prompts intergroup competition.

Qualitative analysis is typically used to document the impacts of exclusion, harassment, mobility, and expulsion. At a macrolevel, deficits in employment have been identified by documenting employment stratification along racial lines (Cohn, 2000; Cohn & Fossett, 1995; Wilson et al., 1995). Wage disparities have been revealed through documenting the economic impact of advantage wages and accumulated wealth gaps across industry sectors and along racial lines, education, and experience (Phelps, 1972; Sullivan, 1986; Dreher & Cox, 1996; Petersen & Saporta, 2004). Mobility has been addressed through documenting the evidence of African American ascension leading up to Civil Rights Act through today (DuRivage, 1985; Dobbin, 2009; Park & Westphal, 2013; Hirsh & Cha, 2017). Yet, workplace discrimination remains prominent despite the abundance of data confirming workplace discrimination.

Reskin (2000) proposed a mechanism-oriented analyses that exacerbated the exogenous causes of workplace discrimination. Reskin focused on nonconscious cognitive process that lead to employment discrimination. Reskin moved away from demonstrating the existence of workplace discrimination and towards understanding how and why workplace discrimination persists. Reskin confirmed that the cultural base of race automatically ignites the feeling, thinking, and behavior toward each people category. It is this fundamental base that absorbs stereotyping, attribution, and evaluation bias.

SCT uses an SDT framework, which helps scholars best analyze the behaviors of discrimination. Statistics are used as employer's business decision-making tool in hiring, promotion, evaluation, and dismissal practices. Statistics are widely perceived as evidence; it is this perception of evidence that leads to certain groups being less productive than others (Baumle & Fossett, 2005; Mong & Roscigno, 2010; Tomaskovic-Devey & Skaggs, 1999). This perceived

evidence is used to perpetuate the already widely held beliefs of the dominant group through SCT. It is the intersection of multiple social systems that produce and sustain inequalities.

Byron (2010) analyzed thousands of verified case files from the Ohio Civil Rights Commission and applied a multimethod strategy to compare the likelihood of promotion and firing discrimination across sectors. Byron challenged the view that existing formalized practices and competition among categories are solutions to discriminatory practices.

Purpose of the Study

The purpose of the current study was to provide an in-depth examination of cases of employment discrimination for African Americans employees in California IOU companies despite the industry sector's heavy reliance on diversity and inclusion programs designed to curve the disproportionately unfavorable trends in exclusion, harassment, mobility, and expulsion. The researcher examined employment stratification through the review of discrimination complaints made to the State of California's Department of Fair Employment and Housing (DFEH). Race-based cases are defined as those for which race is an identified as an issue of charge. An employee can file charges using the California Civil Rights Online system, by phone or fax, by sending mail, or by making an appointment at a local office. The DFEH evaluates and makes a decision to investigate once the complainant's information is completed. The investigation consists of testimonies from employees, employers, and witnesses. Finally, the DFEH investigator determines if the case is dismissed, settled, or merit finding. The researcher for the current study focused on verified cases that were deemed merit finding.

Research Questions

The present research addressed two main questions supported by documents from cases deemed merit finding by the DFEH. The relevant documentation was obtained by the DFEH as part of their formal investigation of workplace discrimination. The following research questions guided this study.

RQ1. What are the trends in employment discrimination in Californian IOUs, as measured through verified complaints at the DFEH?

RQ2. What systematic discriminatory processes drive the aggregate patterns?

The underlying question that prompted the creation of the case study stemmed from the researcher inquiring how workplace discrimination of African American persists despite advancements and institutionalization of diversity and inclusion programs. A gap existed in literature regarding industry-specific qualitative studies.

Limitations and Delimitations of the Study

This research included a case study, which are used to gain understanding of the workplace discrimination experiences that have been validated by DFEH. The limitations of this study included the relatively small volume of data. Verified cases represent a relatively small population because the California DFEH prefers cases be sent to settlement. This limited the amount of available data needed to populate the qualitative method.

Secondly, the multifactor origin on discrimination cannot be discounted. A Black woman may state a case on race and gender but not be distinctive in her complaint. The same can be said for all multifactor discrimination complainants.

Finally, the interpretations presented in this study cannot fully gauge the prevalence of discrimination in an organization. Large companies with many employees and particular departments or hierarchies within an organization may differ in practice and systems.

Significance of the Study

This study has significant implications for African Americans who wish to understand the depth and significant impact of institutional racism and discrimination. This study brought the experiences of African Americans to light and provided a third-party validation of African Americans' experience with discrimination. This study is also significant in that it promotes awareness among the salient in-group regarding the existence of discriminatory practices formalized in policies and procedures and the relative subjectivity these policies and procedures contain. The marginalization of African Americans has been studied in a variety of contexts and continues to remain problematic (Mong & Roscigno, 2010). Industry-specific literature on race-based employment discrimination remains void for most industries. California IOUs account for more than 55,000 regular employees and the California IOU African American employee population is approximately 3600. California IOU companies are exploring ways to attract and retain a diverse workforce because work environment is a central focus for African Americans considering employment or exploring options at other companies. The combination of human resources and diversity and inclusion initiatives are thought to be the answer to the employment stratification that continues to plague the workplace with discrimination. African Americans continue to feel the pains of discrimination despite half a century of constitutional amendments, employment laws, diversity initiatives, and increased acumen and knowledge of stratification. In addition to the vulnerabilities associated with hiring, wage disparities, and mobility, African

Americans exploring employment options also weigh the prevalence of the harassment, racial stereotyping, and segregation they may experience as part of their employment value proposition (Tilly, 2004). This is particularly interesting in the utility sector because this industry inaugurated the Civil Rights Act.

This study is more than an observation of current context; the aim of this study was to uncover the why behind the what. Extensive qualitative research has been conducted to document the stratification of African Americans in the workplace; hence, the adaption and growth of inclusionary programs have been aimed at remedying the inequity. In this study, the researcher used CRT to recognize the social and historic force of racism that has permeated into the workplace at the discretion of White domination. The researcher also considered critical legal theory and how cultural norms are encoded in policies, procedures, and the applicable civil rights laws. Furthermore, interpretations and implementations of policies and procedures are bound both intentionally and unintentionally by White dominance. The researcher designed the present study to aggregate, compare, and document the collections of trauma that African Americans have undergone as employees of California IOU companies. It is important to recognize that companies invest considerable resources in diversity training, yet this training has not proven effective (Gebert et al., 2017). The three dominant models of diversity training are (a) equal opportunity, (b) integrating minorities, and (c) inclusion via me with “we”(Gebert et al., 2017). Companies’ lack of success with diversity training is largely due to the socioboundaries that are inherently unconscious in nature and often introduced by the dominant group. Accompanying the trainings are a lack of coordinating policies to help curve the unconscious behaviors driven by

ethnic boundaries. These drivers are a combination of social closure and statistical discrimination.

Definition of Terms

The following are definitions of terms operationalized for this study that may be unfamiliar to the readers.

Affirmative Action: Affirmative Action is preferential race- or gender-conscious recruiting, hiring, promotion, and retention practices designed to provide benefits for persons on the basis of their membership in specified groups (The Harvard Law Review Association, 1989).

Critical legal theory: Critical legal theory is a theoretical analysis of how race and gender are constructed by the rule of law enacted and advanced by White domination (Simba, 2019).

CRT: CRT is a sociological framework and view that institutions are inherently racist and that race is socially constructed and perpetuated to further the economic and political interest of White people at the expense of people of color (Curry, n.d.).

Diversity management: Diversity management is a management system used to seek equitable representation of minorities in organizations. This management system helps business leaders manage diversity in relation to business performance. Diversity management also provides a comprehensive array of programs that promote adequate representation of minorities, help companies comply with the law, and ensure that victims of discrimination are effectively managed to increase individual satisfaction and performance (Otaye-Ebede, 2018).

EEOC: EEOC is a legal statute requiring all employers to offer the same opportunity to all.

In-group: The in-group is the psychologically primary in the sense that familiarity, attachment, and preference for one's in-groups come prior to development of attitudes toward specific outgroups (Allport, 1954; Brewer, 1999)

In-group bias: In-group bias is bias that influences institutional processes and procedures in wages, hiring, and mobility (Albiston & Green, 2018)

Intersectionality: Intersectionality is the study and critique of how multiple social systems intersect to produce and sustain complex inequalities (Grzanka et al., 2017).

IOU companies: IOU companies are private electricity and natural gas providers. California IOU companies such as Pacific Gas and Electric (PG&E), San Diego Gas and Electric (SDG&E), and SCE comprise approximately three quarters of electricity supply in California (California Energy Commission, n.d.).

Inequalities: Inequalities are comprised of the unequal and unequitable treatment of people in the workplace based on factors such as race, gender, sexuality, and age.

Out-group: By contrast, the outgroup is a social group with which an individual does not identify.

PWO: PWO's are environments in which White people are privileged in numerous ways.

Social actors: Social actors engage in action that can be manipulated, corrected, and advanced by humans (Abbott, 1995; Bourdieu, 1979; Lamont & Fournier, 1992).

SCT: SCT involves the drawing of boundaries, constructing identities, and building communities in order to monopolize scarce resources for one's own group, thereby excluding others from using them (Albiston & Green, 2018).

SDT: SDT involves using statistics as a business decision-making tool in hiring, promotion, evaluation, and dismissal practices of employees. It is this perception of evidence that (a) leads to certain groups becoming less productive than others and (b) leads to companies manipulating evidence to hide discriminatory practices (Baumle & Fossett, 2005; Mong & Roscigno, 2010; Tomaskovic-Devey & Skaggs, 1999).

Social preferences: Social preferences includes information-sharing among employees who share a bond.

Workplace discrimination: Workplace discrimination occurs when preferred hiring, promotion, or job release depends on characteristics or perceived characteristics not related to professional acumen or skill (Szafarz, 2008).

Summary

The purpose of this study was to provide an in-depth understanding of employment discrimination experienced by African American employees in California IOU companies. Since the historic Title VII of the 1964 Civil Rights Act, discrimination has allowed for victims of employment discrimination to seek monetary damages and compelled companies to change their policies to comply with anti-discrimination law. Over the last 55 years, institutions have responded with policy changes, diversity programs, and trainings; however, African Americans continue to experience the same level of discrimination.

Chapter 1 detailed SCT and SDT as the theories apply to workplace discrimination for African Americans in California IOU companies. The research problem was presented and an overview of existing literature that examined SCT and SDT was provided. Furthermore, the significance of the study and the proposed theoretical framework were described. In addition,

Chapter 1 introduced the dynamic variables of the study, the associations being examined, and the research questions the study analyses is intended to address. Chapter 1 concluded with defining operational terms that readers may not be familiar with.

Chapter 2 will provide a review of the literature on the SCT and SDT constructs and measurements, SCT and SDT as they relate to IOU companies, as well as information on equal opportunity, diversity management practices, and inclusion within the organizational environment. Chapter 3 includes a description of the current study's methodology, Chapter 4 includes the results of the data collection and data analysis, and Chapter 5 includes a discussion of the findings, implications for practitioners, implications for future research, and conclusions.

CHAPTER II

REVIEW OF THE LITERATURE

Introduction to the Literature Review

The purpose of the literature review is to provide a review of workplace discrimination as it relates to African Americans. The literature review is organized in sections that address discrimination in mobility, promotion, harassment, pay and expulsion. This chapter includes a case study description because a case study was the qualitative methodology and framework used for this study.

Restatement of the Problem

Workplace discrimination is the most cited reason for employee stratification and inequality (Byron, 2010). Since 1964, organizations have been required to eliminate workplace discrimination in the form of hiring, promotion, harassment, evaluation, and dismissal. The existing body of literature overwhelmingly provides barometric models to measure the existence, penetration, and gaps in employment discrimination. Most companies have relied heavily on these indirect statistics to make business decisions that appear to promote antidiscriminatory culture in the form of diversity and inclusion programs, processes, and procedures.

Discrimination in the workforce persists; however, discrimination is diluted by statistical data that are manipulated to show advancements or effort towards advancements in eliminating workplace discrimination. It is suggested that this lack of progress in eliminating workplace discrimination is due to industries focusing on moving the needle on the aggregate. The aggregate consists of the multiple groups protected from employment discrimination by law. The law protects both the natural-born identity of a person—including their gender, race,

ethnicity, national origin, age or those with physical or mental handicaps—and self-identifying groups, such as those who have identified as a certain gender and sexual orientation. The aggregate patterns are the “what” and are subject to statistical discrimination, yet there continues to be very little data on the “why” behind the “what.” The manager’s desire to make relative progress in creating an equitable workplace lives within the emotional touchpoint the manager has with a particular protected class. The influence of managerial motivation to discriminate and the subjectivity in decision-making should be considered when attempting to explain discriminatory aggregate patterns (Byron, 2010).

Overview

This chapter summarizes the existing literature pertaining to employment discrimination experiences of African Americans within California IOU companies. As noted, the utility industry remains a PWO and, according to Title VII court cases, utility industry leaders continue to struggle to minimize workplace discrimination of African Americans. This chapter identifies research themes relative to the types of employment discrimination experienced by African Americans. The chapter will further summarize the theoretical frameworks used to explain different phenomena and detail the significant cruxes that add to the persistent discrimination of African Americans within California IOU companies. Lastly, the chapter will identify the intersectionality of the socioeconomic and psychological impact on African Americans as a result of workplace discrimination.

African American Experience in California IOU Companies

The literature pertaining to the persistence of race-based employment discrimination was relatively limited despite the vast number of race-based employment discrimination complaints

filed against California IOU companies. Further research limitations included industry-specific, race-based employment discrimination literature. Given these limitations, the following review of literature represents a broader look at the African American experience in the workplace. The purpose and intent of this study was to advance the academic literature by addressing the specific attributes of African American employees' experiences of working in California IOU companies.

Hiring

Cruz (2016) applied racial triangulation theory as a framework for studying the race-based power that employers exercise to design, build, and maintain an infrastructure of racial inequality. Racial triangulation theory was conceptualized by Claire Jean Kim (1999). This theory combines an analytical and functional sociological display of marginalized groups as the groups compare to each other. In a geometric display titled "Field of Racial Position," Kim used graphs to display the racial stratification along the social inferior standings and civic ostracism. The dominance of African Americans can be seen as intentionally fostered and maintained within social inferiority and civic ostracism. This racial positioning, Kim contends, shapes the opportunities and constraints of African Americans, thus reinforcing White dominance and privilege.

The reinforcement of oppression among African Americans can be found in an institution's policies. Race-based policies such as Affirmative Action and equal opportunity policies have been used to ensure African Americans are given fair and equitable opportunities within the workplace; however, some perceive Affirmative Action policies as providing preferential treatment to African Americans. African Americans fear retaliation and further oppression when the oppressors, in fear of losing their in-group elitism, campaign to abolish

race-based diversity policies. Broader, more inclusive diversity policies purposefully dilute race-based policies for more edible protections to all protected classes. The interorganizational reluctance by the dominant group to maintain and implement race-based policy in lieu of more inclusive broader diversity policy continues to show statistical improvement in diversity in the aggregate; however, the emotional touchpoint towards protected groups other than African Americans limits African American recruitment, thus maintaining a status-quo of social inferiority and civic ostracism among African Americans.

African Americans first experience the presence of dominance by institutional gatekeepers during the hiring stage. When compared to Whites, African Americans are unemployed at a higher rate and experience higher levels of discrimination during hiring practices (Mong & Roscigno, 2010). Pager and Western (2012) found that the trending composition of antidiscrimination enforcement has moved from wrongful termination claims or harassment to discrimination during hiring. The powerful restrict access and privileges through institutional exclusion processes preserve the status hierarchy (Kim, 1999; Roscigno et al., 2007; Weber, 1963). Although clearly valorized as inferior and commonly ostracized, African American experiences during the application and hiring stage verify the disproportionate unemployment rate of African Americans (Cruz, 2016).

Several studies have been conducted to help determine how and why African Americans are disproportionately turned away from the application and hiring process. Bertrand and Mullainathan (2004) studied race in the labor market by sending fictitious resumes to wanted ads in Boston and Chicago with both African American and White-sounding names. White-sounding names received 50% more callbacks for interviews despite having the identical resume. Pager

and Western (2012) contended there are subtleties in which contemporary discrimination is practiced. The vetting process for hiring African Americans are found to be more intense and require relatively more interviews, longer evaluation processes, and shifting standards whereas more latitude is offered to similarly qualified White applicants.

Nielson and Nelson (2005) studied antidiscrimination enforcement statistics and posited that wrongful termination and workplace harassment has declined as a result of policy changes and claimants' inability to acquire the necessary information for a successful claim. However, the relative decrease in workplace harassment and wrongful termination claims could reflect policy-driven hiring discrimination. Wrongful termination and harassment claims are far more expensive and easier to prove than discrimination in hiring. The risk to employers for hiring discrimination claims are far less, thus making hiring policy restrictions much more attractive due to the simultaneous decrease in the number of African Americans who could fall prey to the subjective policies that promote harassment and wrongful termination. Hiring discrimination is increasing in relative importance in comparison to other workplace discrimination categories because companies can promote a decline in race-based workplace discrimination as a direct result of a decrease in African American hires.

Since the 1970s, hiring discrimination has shifted from explicit discrimination to a more subtle method of bias in decision-making. Over the last quarter century, researchers have conducted field audits in numerous settings to determine employers' response to applicants' differences in select characteristics. Researchers have used two methods in studying hiring discrimination: correspondence studies and in-person audits. In correspondence studies, researchers present employers with applications or resumes of equivalent applicants who only

differ by ethnicity or race (Bendick et al., 1994; Bertrand & Mullainathan, 2004; Massey & Lundy, 2001). In every correspondent study, equally qualified applicants with White-sounding names elicited a more positive response than those with Black-sounding names. Although easy to administer, correspondence studies are limited to white-collar jobs where sending resumes is customary. Critics also challenge the notion of African American names as a socioeconomic factor.

In-person audits are meant to observe and document the subtle facets of hiring. In-person audits are time consuming and require intense supervision; however, these audits can provide both qualitative and quantitative analysis, thus providing a deeper insight to employer bias based on physical appearance (Pager, 2007). In-person audits have identified White applicants as receiving positive responses at nearly twice the rate of African Americans.

Several researchers have studied the impact of criminal records relative to the disproportionate exclusion of African Americans from the hiring process. Wozniak (2011) found that African American men believed their criminal record was causation in their lack of hiring success. Pager et al.'s (2009) large-scale study in New York City confirmed the sentiments put forth by African Americans. Pager et al.'s study results clearly indicated an overwhelming negative effect of a criminal record and a significantly larger negative outcome for African Americans. Pager et al. also found that African Americans were less likely to be invited to an interview than their White counterpart with the same criminal background. Whitaker (2019) suggested that coupling a criminal record with being African American substantiates a social stigma of unreputable debt to society that can never be paid back. As a matter of cyclical

contingencies, the status of African Americans recidivism rate as a result of lack of employment becomes extraordinarily difficult to overcome.

Employment status is another barrier of entry that disproportionately affects African Americans. American Management Association (2011) confirmed the concept of “it is easier to get a job when you have a job” (p. 2). American Management Association reflected on the illegality of unemployment bias and the potential legal risk; the EEOC has asserted that this activity is more than pervasive and should be monitored. African Americans continue to overrepresent the unemployment rates; thus, African Americans are adversely and exponentially negatively affected by the unemployment bias (Frauenheim, 2011).

Today, explicit hiring discrimination is rare (Pager et al., 2009). Within the context of hiring discrimination research, employers appear genuinely interested in hiring the best candidate based on qualifications irrespective of race. When asked, employers are adamant that race is not a part of the decision-making process. In contrast, researchers have found racial biases in employers’ perception of applicants’ experience, education, and skill (Pager et al., 2009). Further discourse of African American hiring fall along the lines of firm size. Small establishments hire African Americans at a far lesser rate than do large companies (Holzer, 1998).

Antidiscrimination law often requires intent as a prerequisite in antidiscrimination cases, yet finding evidence of intent in hiring discrimination is extremely difficult. Biases and preferences are implicit in nature, subtle in lively exchanges, and often oblivious to both the employer and job seeker. Claimants who have litigated successfully have had to show patterns of hiring discrimination within the organization as opposed to within their individual case. Antidiscrimination enforcers use audits to detect patterns of discrimination by the employer or

the individual. These patterns have the potential of opening the Pandora's box of systematic discrimination. The process of litigating hiring discrimination is long, risky, expensive, and exhaustive, which makes the idea of pursuing a claim extremely intimidating.

Employers typically turn to policy as evidence of nonintentional hiring discrimination. Hirsh and Cha (2017) conducted a case review of 521 mandated court-ordered policy changes and noted that employers typically had hiring policies that the hiring managers typically did not follow. Antidiscrimination enforcers shed light on subjective policies and policies that do not coincide with managerial actions as part of litigation and on behalf of the plaintiffs in hiring discrimination cases.

Mobility

Research has shown that African Americans have low mobility rates and are subject to discrimination in regard to upward mobility (Wilson & Lagae, 2017). Lack of mobility in the workplace presents a debilitating experience for African Americans who have had to work through implicit bias in PWOs. Khosrovani and Ward (2011) indicated that the number of African Americans in PWOs are increasing; however, African Americans' career trajectory is not in sync with their White counterparts. Many studies document African Americans' general access and the lack of access in workplace opportunities and career trajectory. Bartlett (2009) suggested that inequality exists; however, inequality is implicit, ambiguous, and difficult to prove. Plenty of studies have shown the salient in-group as the most competent; additionally, the salient in-group receives the most favorable opportunities and experiences. Ibarra (1995) suggested that the inequities in mobility for African Americans are partially associated with the difference in informal network configurations compared to their White counterparts. Homophily

along racial lines serves as a natural barrier of entry because African Americans must assimilate to White norms to establish a network most beneficial for promotion. African Americans establish more racial heterogeneous and less intimate networks of influence than their White counterparts. The same assessment is carried through to performance evaluations, thus allowing room for disparate promotability .

DiTomaso et al. (2007) found disparate promotability while studying African Americans' workplace opportunities in relation to their White counterparts within science and engineering job categories. DiTomaso et al. found that African American men were rated average in job performance and that African American women received the worst assessments in innovation and upward mobility. White males were largely perceived as the most competent in their field; thus, White males generally experienced a more favorable work environment and were recipients of the highest performance assessments in innovation and promotability.

Implicit employer bias permeates throughout all types of employment discrimination (Wirts, 2017). Though unconscious in nature, implicit bias drastically affects the subjectivity given to hiring managers as they select candidates for interviews. Reeves (2014) studied 53 partners of 22 law firms who evaluated the same legal memorandum. Twenty-four partners believed that the author was African American and 29 partners believed the author was Caucasian. The partners who believed the author was Caucasian gave the memorandum an average score of 4.1 whereas partners who thought the memorandum was written by African Americans gave the memorandum an average score of 3.2. Additionally, the comments offered by the reviewers reflected qualitative disparities because Caucasians received more favorable comments.

Social network, mentoring, and leadership traits also play a role in upward mobility (Khattab et al., 2020; Rosette et al., 2008). Long-standing knowledge infers a willingness to migrate towards one's own ethnic group, thus further ostracizing African Americans from proven elements of successful mobility (Waldinger, 1997).

Race plays a major role in leadership career advancement. Rosette et al. (2008) conducted four experiments on race in relation to business leader prototype and found a connection between leader race and leadership categorization. In the first two experiments, leadership characteristics were largely perceived to be an internal trait for Whites. Being White was perceived as an attribute and White people were largely assumed to be leaders within organizational roles. Rosette et al. also determined that Whites were evaluated as more effective leaders when compared to non-White leaders. In addition, Whites were determined to have more leadership potential, but only when given credit of organizational success. This credit serves as a reinforcement of the perceived successful leader prototype.

Harassment

Another type of employment discrimination garnering significant attention is workplace harassment. Harassment is delivered in many forms, including but not limited to differential treatment, distribution of rewards, physical, cyberbullying, or sexual harassment. Data on race-based discriminatory harassment are relatively limited despite the number of cases filed. Harassment comprised 25.3% of the verified cases and 20.6% of the nonverified cases filed by African American men from 1998 to 2003 (Mong & Roscigno, 2010).

In 1994, nine Black employees brought a class-action lawsuit against SCE, one of the largest electric utility companies in the United States. The employees alleged that African

Americans had been discriminated against in “promotion, training, pay, performance evaluations and job and location assignments” (Ideman, 2006, p. 1). Furthermore, Black employees alleged that they experienced a racially hostile work environment and were deferred from seeking opportunities within SCE. SCE adamantly denied the claim; however, SCE opted to settle the case with no admission of liability after 2 years of discovery and negotiations. The provisions set forth in the settlement agreement allocated monetary relief for the African American employees for back pay, front pay, fringe benefits, and emotional distress. SCE was directed to establish and maintain the following for 7 years following the settlement.

- A career development program
- Monitoring and written communication throughout the hiring process
- Implementation of diversity training
- Annual review of corporate performance appraisal process and procedure
- Corrective action and annual review of compensation policies
- Implement an equal opportunity program to provide all employees an effective internal complaint process in which to assert and resolve claims of discrimination
- Annual reporting and disclosure of progress of decree

The establishment of these programs and policies became the catalyst of SCE’s diversity and inclusion program, which was designed to equalize the opportunities that were traditionally distant for African Americans. The diversity and inclusion program was a procedural solution aimed at removing highly visible and surface level discrimination debris. This settlement was a starting point; however, it should be noted that—despite the compensations that were provided to the victims—the new programmatic changes did not correct the mobility indiscretions suffered

by past African American employees. None of these past employees were placed in a position for which they were comparatively more qualified than the winning candidate; rather, these employees only asked for opportunity and a fair and equitable selection process.

Another note to consider is the reaction of the salient in-group to policy changes as they maintain their status and will serve as the implementer of such policy. Competition typically arises between the victims and the perpetrators as resources are manipulated (Blumer, 1958). Both groups will react to change as policies are implemented. Policies alone do not change the systems of power that persists; Whites continue to maintain structural power while African Americans are subject to aversive racism and discrimination. For example, overt racial discrimination can begin to take the form of racial microaggressions. Racial microaggressions are “brief and commonplace daily verbal, behavioral, or environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative racial slights and insults toward people of color” (Sue et al., 2007, p. 1). The psychological impact of racial microaggression on African Americans are largely unknown; thus, further research is needed. Sue et al. (2007) proposed a taxonomy and research program for racial microaggression research. Furthermore, Wong et al. (2014) conducted a review of 64 papers of racial microaggressions published in the first 5 years since Sue et al.’s taxonomy. More recently, researchers have examined the impact of racial microaggressions on African Americans on the job, along with corresponding job satisfaction, impact on Black female managers, socioeconomic impacts, and coping mechanisms (Pitcan et al., 2018, Decuir-Gundy & Gunby, 2016, Muhammad, 2018, Worthey, 2016). Bleich et al. (2019) surveyed 802 African Americans and found that 52% of those surveyed reported hearing microaggressions and 51% reported hearing racial slurs.

Lastly, the inherent exogenous beliefs of the dominant group that correspond to the makeup of the company culture should be considered. Company culture is the same culture that designs, implements, and defends discriminatory practices. The implementation of diversity and inclusion policies addresses the visible elements of workplace discrimination and does not address the deeply rooted bias and socioboundaries that make up the workplace culture (Gebert et al., 2017). Diversity and inclusion policies drive overt racial discrimination underground while allowing the dominant group to stay within the letter of the decree and still achieve the overall goal of group dominance.

The diversity and inclusion model implemented at SCE gives the appearance of victory, freedom, and equality for African Americans, which echoes the 1865 “Black codes.” The Civil War brought an end to slavery, thus giving African Americans the appearance of victory, freedom, and equality. However, Black codes were passed in 1865 to continue to restrict the freedoms of African Americans immediately following the Civil War. These laws made African Americans’ movements as free people illegal, thus initiating the mass incarceration of African Americans. Citizens in California voted on Proposition 209 following the class-action lawsuit against SCE. Proposition 209 amended the California Constitution and restricted public institutions from hiring based on race, sex, or ethnicity. Prior to Proposition 209, African Americans were subject to generational torture on the grounds of racial preference. These policies adversely impact African American socioeconomic upward migration and continue to reinvent the same discriminatory ideology and take on new looks as African Americans seek further justice and equality, thus continuing to place African Americans at risk. Proposition 209 is another Black code that provides the dominant group with the opportunity to continue to

discriminate legally. The effects of Proposition 209 will have daunting effects on the number of eligible African Americans in the professional workforce. The African American enrollment in the University of California public education system decreased by 8% in the year following Proposition 209 (The JBHE Foundation, 1997). The successive and immediate impact was a decrease in the number of eligible qualified African American professionals entering into the workforce. Corporate caregivers will again point to the lack of eligible African Americans as the reason behind the poor representation in leadership positions and hiring, disproportionate workplace harassment, and pay differential.

Expulsion

The Civil Rights Act appears to have little effect on the unemployment rates of African Americans in comparison with their White counterparts. Since 1954, African American unemployment has consistently been double that of Whites. Freeman et al. (1973) studied labor market trends relative to racial patterns and determined that Blacks were at greater risk of unemployment than their White counterparts with respect to business cycle. As business cycles fluctuates and the economy grows, the employment rate of Blacks rises at a lesser rate than whites. Conversely, as the economy slows, the jobless rates for Blacks exceeds that of Whites. Freeman et al. referred to this pattern as "last-in, first out" pattern of Black employment. Furthermore, jobless rates in January 2020 were 6% for Blacks and 3.1% for Whites prior to the Covid-19 economic impact (Bureau of Labor Statistics, 2020).

Case Study Framework

Born out of sociology and anthropology, the case study framework offers a unique, in-depth, and complete understanding of an event or situation (Becker et al., 2012). Of the many

different factors and categories that comprise workplace discrimination, the use of cumulative case studies as a framework provides the researcher with demographic and descriptive analysis of cultural norms and motives drawn from an aggregate of actual investigations.

Case studies have an origin in education. The case study method was first used at the University of Chicago in the 1920s and was made famous in the 1950s as the Harvard Business School's primary teaching method. Theorists have asserted that the purpose of case methodology as a teaching strategy is to move the student towards active constructive learning from passive absorption learning while placing the responsibility for learning on the student (Becker et al., 2012). Scholars believe case studies offer an adhesive learning as students identify problems and recognize key elements, patterns, and causation (Merseth, 1991). In addition, scholars have argued that case methods stimulate development of new thought as students are able to apply their own knowledge of existing theory to create new theory and pedagogy.

The case study method is not without its criticism. Quantitative methods in sociology became more popular in the rise of positivism in the 1930s, which incited criticism of proqualitative methodology as being unscientific. Quantitative methods became the dominant sociological approach in the 1950s (Becker et al., 2012). In contrast, quantitative methods are data driven and are dependent on statistical analysis of data, which has its own limitations. Quantitative analysis is only as good as the data. Social scientists' dependency on data alone as an explanation of sociological and organizational norms has spawned several related statistical theories. Researchers who understand analysis of data-driven decision-making and the data being analyzed may be subject to manipulation, thus leading to decisions that are based on inadequate data.

The researcher used a single modal to review a selection of cases submitted to the DFEH for the current study. Both the organizational and the social theoretical case study perspectives were implemented. Organizational theories focus on organizational structure, function, policies, and bureaucracies whereas social theories focus on group behavior and cultural institutions.

SCT

This review of SCT and SDT literature examines the origins of each theoretical construct and its evolution along the salient lines of race and its influence in workplace discrimination. The literature related to this study is presented in the following categories: SCT, SDT, and intersectionality construct and measurement. The current study explores the hypothesis that current aggregate-based processes, procedures, and statements intended to extinguish or minimize workplace discrimination may inadvertently incubate racial microaggressions and bias in decision-making, thus exacerbating discrimination (Byron, 2010).

As it applies to the workplace, SCT constitutes an action of excluding out-groups from institutional access, including prominent positions for which the salient in-group seeks to hoard (Parkin, 1983). African American men are the most marginalized out-groups in employment discrimination (Mong & Roscigno, 2010). African Americans are overwhelmingly subject to racial stereotyping and racial microaggressions. In addition, African Americans are also adversely impacted by subjective goals and targets and are made to believe that the appearance of diversity and inclusion goals and targets will lead to an equitable workplace. The lack of acknowledgement of discrimination due to systematic processes and discretionary power alone can reproduce inequality, thus creating a chronic and impenetrable culture. Processes leading to quantifiable discrimination result in joblessness, wages, and mobility, all of which are systematic

instruments designed to restrict integration. Such institutionalized cultures have been observed in screening mechanisms or biases in soft skills driven by stereotyping. The application of in-group bias and social preference continue to disproportionately and negatively affect African Americans while the in-group maintains a group-based advantage. In some cases, discrimination appears as a social preference for a certain group rather than the exclusion of a certain group.

SDT

SDT is a concept in which decisions are made based on qualitative analysis of potentially compromised data that adversely affect marginalized groups. Statistical discrimination is not seen as a traditional form of discrimination because it is not motivated by the usual emotional prejudices and stereotypes. Statistical discrimination relies on valid empirical patterns of data for assessments and decisions (Baumle & Fossett, 2005). Statistical discrimination is found in the impurity of the data; the data itself is often soiled with bias of group characteristics. Since 1991, scholars have been conducting research to uncover underlying motivational prejudices that often contaminate the validity of data in quantitative measurements. Neckerman and Kirschenman (1991) surveyed 185 firms in the Chicago area on hiring strategies for inner-city African Americans. Neckerman and Kirschenman discovered that the assessments of African Americans during hiring were more stringent than the assessments of their White counterparts; this difference was largely due to the racial bias and the perceived lack of skill within the African American community during the subjective screening. Similarly, Moss and Tilly (2001) conducted a multicity survey in Detroit, Los Angeles, Boston, and Atlanta. The survey included more than 40 research partners in 15 U.S. universities and colleges. Moss and Tilly surveyed over 3500 firms and reported that hiring managers believed that African Americans lagged in

“hard skill” (p. 133) related to cognitive and technical abilities and “motivation” (p. 97) related to attendance and tardiness. Moss and Tilly’s study results showed strong evidence of unfounded stereotyping. The study results also indicated that the lagging of hard skill and motivation were real to some degree; however, the data acquired to make decisions did not correlate to race and risk. It is very difficult to obtain hard skills if one is not given the opportunity. The exasperation with motivation with many African American communities falls into socioeconomics and the lack of resources available for marginalized groups: “One of the hallmarks of racial stratification is that ethnic minorities suffer systematic disadvantages across many domains and outcomes” (Baumle & Fossett, 2005, p. 1254).

Intersectionality of SCT and SDT

Byron (2010) offered SCT and SDT as a framework to understand discrimination as a decision-making process. African Americans are often restricted to jobs where the job qualifications are inferior to African Americans’ current credentials, offering little to no advancement opportunity and, in many cases, put African Americans in positions of ethnic servitude intended to placate other minorities. A professional occupation encompasses “occupations requiring either college graduation or experience of such kind and amount as to provide a comparable background” (EEOC, n.d.-d, para. 4).

In 2018, 17% of the African American population were classified as professional whereas 83% were classified as nonprofessional or labor employees. In contrast, 40% of the White working population were classified as professional whereas 60% were classified as nonprofessional (EEOC, n.d.-a). In 2016, the percentage of African Americans with college degrees exceeded 21% of the African American population, whereas White graduates

represented 35% of the White population (Musu-Gillette et al., n.d.). African Americans trail in job mobility and leadership despite their education and White employees tend to maintain professional leadership roles despite not having obtained degrees (Kalev et al., 2006). In California, 78% of African Americans were classified as nonprofessional and 22% were classified as professional, whereas Whites were classified as 52% nonprofessional and 48% professional, respectively.

Roscigno et al.'s (2007) examination of social closure as a discriminatory mechanism is referenced as the influential work of the SCT construct as a qualitative insight within institutional organizations. Roscigno et al. hypothesized that traditional analysis of structural effects of discrimination represent a casual cause and effect rather than clarifying the processes at play. Roscigno et al. suggested that—although there is ample quantitative research on the existence of income and wage garnishments (Cotter et al., 2003; Marini & Fan, 1997; Tomaskovic-Devey & Skaggs, 2002), promotional disparities (McBrier & Wilson, 2004), and job inequities (Cohn & Fossett, 1995; Wilson et al., 1995)—discrimination as the contributing mechanism remains an unmeasured and theoretical topic of stratification, primarily due to data limitations.

Roscigno et al. (2007) advanced the macrolevel sociological organizational stratification by identifying a method analysis to address stratification origins and the microinternational processes at play (Harper & Reskin, 2005; Reskin, 2000). In their research on discrimination causation as it relates to the inequities in mobility among racial lines, McBrier and Wilson (2004) found that discretionary decision-making is a key focal point and decision-makers are responsible for persistent disparities. Bias filters into the workplace; specifically, employers hold

biases that directly translate into discriminatory practices in hiring, mobility, and tenure of marginalized groups. These biases are primarily due to employer preconceptions and misconceptions that African Americans tend to be less dependable and more inclined towards criminality (Tilly, 2005). These preconceptions downplay the organizations' relational policies and attributes of social closure on behalf of dominant gatekeeper.

Institutional Systems: Processes and Procedures

In 1971, the United States Supreme Court ruled in favor of Black employees who sued Duke Power Company under the new Title VII antidiscrimination law. This decision is likely the most well-known employment discrimination decision because the court had to determine if an employer could use a general intelligence test or high school education as a condition for employment. Prior to the CRAA, Black employees at Duke Power were relegated to labor positions. Duke Power had a policy standard requiring high school education for any mobility or advancement into any other department. At this time, the quality of education in North Carolina in the 1950s fell along racial and social constructs. White residents from North Carolina were three times as likely to complete high school than their Black counterparts (Snyder, 1993). Immediately following the Title VII enactment, Duke Power initiated a required additional aptitude test for any advancement or department transfer. White employees without a high school education currently residing in these desirable positions and departments were "grandfathered" in and did not have to meet the new standard of passing the aptitude test, thus maintaining the status quo of racial exclusion of Blacks and a group dominance of Whites and illustrating social closure along racial lines. After Black employees sued under Title VII in 1971, the court ruled that such policies effectively excluded Black applicants (Smith, 2008).

Remnants of slavery and the Jim Crow era permeated through Duke Energy's service territory in the southeastern United States and through the minds of both Whites and Blacks. The Supreme Court ruling in favor of Griggs and Black employees was a blow to the remaining infrastructure aimed at ensuring White privilege. Duke Power was not apologetic in its reputation of enacting racial barriers to exclude Blacks in an effort to maintain White dominance and Black labor. White managers were engaging in social closure and their decision to adopt an aptitude test was further evidence of their intentional use statistics as an exclusionary practice. The use of an aptitude was similar to the literacy test for voting imposed on eligible Black voters through the 1960s.

The Supreme Court fell short of declaring an intent by Duke Power to disadvantage black employees; however, the Supreme Court Justice did state that "absence of discriminatory intent does not redeem employment procedures or testing mechanisms 'built-in headwinds' [that disadvantage] minority groups and are unrelated to job capability" (Smith, 2008, p. 171)

The aptitude test did not measure job capability. To make matters worse, Black employees were not allowed in the union; thus, Black employees were not offered protection under a union agreement. The inception of the aptitude doctrine further provided a perception of evidence that Black employees were not qualified to perform duties other than labor. White employees engaged in statistical discrimination by using the results of the aptitude test to further perpetuate the widely held inferior beliefs of Black employees and their limited capabilities, thus contributing to institutional discriminatory practices. Duke Power encompassed a combination of doctrines in the form of policies and procedures and both conscious and unconscious beliefs held by the in-group. When challenged on the basis of bias, the doctrines of discrimination and

unequitable treatment can reveal how developers use statistical data to validate certain policies and procedures. On the other hand, the individual implementers of such policy can remove themselves as instigators and drivers of discrimination by pointing to their obedience to follow the doctrines.

Summary of Literature Review

Statistically speaking, the demographic makeup of African Americans in the workplace had remained relatively flat since the 1964 CRAA. African Americans continue to be subject to unwarranted stigmatism that has disproportionately and adversely affected their ability to be hired and promoted. Furthermore, African Americans continue to be subject to racial harassment and humiliation by the salient-in group as managers and drivers of policy.

The literature review outlined the many ways in which scholars have studied racial discrimination in the workplace. The status of literature concerning the perpetuation of workplace discrimination is scattered into categories of stigmatism, industry, socioeconomic impact, psychological impact, implicit and explicit bias, diversity and inclusion programs, geography, and industry. One goal of this dissertation is to provide an in-depth and custom view of a specific industry in one particular geographic region, along with the industries' racial discriminatory practices and the intersectionality of categories that continue to perpetuate and impact African Americans. A second goal is to offer a custom response to mitigate the perpetuation of workplace discrimination of African Americans in the California Utility industry. When grounded in theory and practice, a custom response will aid employers in actualizing a decrease in workplace discrimination of African Americans. Therefore, it is necessary to conduct

a case study to effectively determine the organization and social perspectives affecting African Americans in the California utility industry.

CHAPTER III

METHODOLOGY

Restatement of the Purpose

Employee stratification and inequality is the most cited result of workplace discrimination; this was evident in the quantitative research that yielded significant statistical data (Bleich et al., 2019; Otaye-Ebede, 2018; Park & Westphal, 2013; Roscigno et al., 2012; Khosrovani & Ward, 2011; Byron, 2010). The influences of managerial motivation and flexibility in discriminatory decision-making was considered when attempting to explain discriminatory aggregate patterns (Byron, 2010). The researcher used the results of this single-modal case study to examine why employment stratification persists for African American employees working for California IOU companies. The purpose of this case study was to document the organizational (SDT) and social (SCT) theoretical perspectives of workplace discrimination practices and trends affecting African Americans employed at California IOUs. The theoretical perspectives are displayed in four categories: exclusion (hiring), harassment, mobility, and expulsion. The subsequent section will document the methods and design of this study. The researcher will describe the research method and design, including the sampling process and the materials and instruments used to facilitate the study. Lastly, the collection procedures, process, and analysis will be detailed.

Research Method and Design

Creswell and Creswell (2018) described quantitative analysis as the proving or disproving of a hypothesis using quantifiable objectivity. As a research option, quantitative analysis requires large samples that often lack the intimacy needed to capture details that support

a researcher's conclusions. The purpose of qualitative research is to answer the "what" of the subject question.

Qualitative research can be used to provide credibility and conformability as opposed to the validity and reliability found in quantitative research (Merriam, 1985). Researchers conducting qualitative research seek to gain an understanding of the motivation, behaviors, and attitudes of a subject (Barnham, 2015). The purpose of qualitative research is to answer the "why" and the "how" of the research subject. The present study was carried out by adopting the organization and social theoretical case study approach.

Of the many different factors and categories that comprise workplace discrimination, the use of cumulative case studies as a framework was fundamentally well suited to provide the researcher with demographic and descriptive analysis of cultural norms and motives drawn from an aggregate of actual investigations. Case studies provide much more in-depth and detailed information than statistical analysis (Becker et al., 2012). The use of multiple documented cases provides a multidimensional profile of activities in differing sectors.

This case study consisted of a sampling frame of all cases of racial and sex discrimination filed with the State of California's DFEH, with particular interest in cases filed against four IOU companies: SDG&E, SCE, Southern California Gas Company (SoCalGas), and PG&E. The study also included lawsuits filed against these IOU companies on the grounds of racial discrimination. In the state of California, an employee cannot file an employee discrimination lawsuit without a "right-to-sue" notice from the DFEH. The main components of the study are (a) the information provided in the intake form, (b) the DFEH investigation notes, (c) the right-to-sue notice, (c) civil lawsuits, and (d) dispute resolutions and settlements.

The researcher used coding as a mechanism for qualitative analysis. The study was designed to capture labor market representation, occupational status, diversity and inclusion programmatic status, and education status. Unlike prior studies that captured data via experimental techniques, the cases in this study reflected actual acts of discrimination confirmed by a third-party government organization following the state and federal civil rights guidelines. The researcher aimed to establish a correlation between discriminatory behavior and culture by identifying patterns and emergent themes; thus, the results of the current study can be used to further reveal workplace stratification. The researcher attempted to consider multiple viewpoints and present results that incorporated differing perspectives that synthesized each of the research methods. The researcher collected qualitative data derived from case files already verified by legal scholars and correlated the case studies with existing quantitative research. The researcher used a coding scheme to investigate exclusion (hiring), harassment, and mobility and documented the emerging themes. Additionally, the researcher collected data on diversity and inclusion programs among the various IOU companies.

This study did not include a quantitative analysis; however, the researcher collected and used statistical data to correlate patterns resembling a mixed-method approach to research. The purpose of a mixed-method approach in research is to collect both quantitative and qualitative data and integrate it in the designed analysis (Creswell & Creswell, 2018). The researcher used Campbell and Fiske's (1959) triangulation concept to merge the qualitative coding and themes with the known quantitative data points. The researcher also documented the philosophical assumptions and theoretical frameworks that yield more insight than the singular quantitative and qualitative data.

The term mixed-method is relatively new and has evolved since Campbell and Fiske (1959) described the idea of *multiple operationalism*, which was designed to be more of a validation technique than a research methodology (Johnson et al., 2007). Following Campbell and Fiske were series of advancements, such as coining the term triangulation (Webb et al., 1966) and outlining how to triangulate methods by (a) categorizing research methods into four distinct types of triangulation (Denzin, 1970, 1978), (b) identifying the benefits of combining qualitative and quantitative research (Rossman & Wilson, 1985), (c) identifying the purpose or rationale of mixed-methodology (Greene et al., 1989), and (d) establishing a link between qualitative and quantitative research through six motivational pursuits (Sechrest & Sidani, 1995).

The mixed-method approach to research can be traced back to the late 1980s. The idea of combining the strengths of quantitative (deductive) and qualitative (inductive) and minimizing the weaknesses of each was a noble concept to researchers (Klassen et al., 2012). The first adoption of a mixed-method approach in research can be traced back to 1997. Since then, the use of the mixed-methods approach in research has exploded from 1 in 1997 to 60 annually in 2007 (Plano Clark, 2010). The expanded interest in mixed-methods research drew the attention of the Office of Behavioral and Social Sciences Research and the National Institutes of Health. In 2010, these organizations combined to provide best practices to guide the development and evaluation of mixed-method research applications (Creswell et al., 2010).

The information collected in this study provided the researcher with data that were used to infer traits of a broader ethnography in the workplace of California IOU companies. The data collected were incorporated into an explanatory sequential mixed-method design. The explanatory sequential mixed-method design consisted of a two-phased data collection process;

quantitative data were collected and analyzed in the first phase and the results of this analysis were used in the second qualitative phase. The overall intent was to have the qualitative coding and themes explain in more detail the quantitative data.

Research Setting

The setting for this study included California IOU companies, State of California DFEH, and the local, state, and federal judicial system. The researcher selected IOU companies for the study because IOU companies are private firms. Additionally, IOU companies' customer base is the diverse population of California and these companies' community aim is to create a workforce representative of the people they serve. California IOU companies are unique in that they employ nearly 50,000 Californian's who represent an immensely diverse job class, thus covering the spectrum of job opportunities. California is considered the most ethnically and racially diverse state in the country where no racial or ethnic group represents a majority.

Population and Sample

The subject population of this study were African American employees or former employees who had filed a discrimination complaint with the California DFEH against one of the four largest California IOU companies.

Data Collection Procedures

The data used in this study came directly from the archived records at the California DFEH, which serves as the enforcement agency for civil rights legislation in California. The researcher used data from a narrative archive for qualitative analysis and quantitative data as part of the correlation. The researcher looked for emerging key variables of particular observable characteristics while collecting data.

An employee contacts the DFEH online using the California Civil Rights System or through using an intake form and submitting by mail. Once submitted, DFEH staff will evaluate the information and decide whether to accept the case for investigation and provide the complainant an immediate right-to-sue notice. DFEH can only investigate violations of the law and can be considered for substantiated cases of discrimination. If accepted, DFEH staff will work with the complainant and the employer to resolve the dispute. If mediation fails, DFEH may file a lawsuit in court. Prior to conducting quantitative analysis, the researcher collected the number of employment discrimination complaints submitted to DFEH against the California IOUs since 2015–2020, the number of cases accepted by the DFEH, and the number of right-to-sue notices. The researcher also collected documents in the form of evidence obtained, such as testimonies, statements, witness statements, and on-sight investigation notes.

Data Analysis Procedures

The researcher used coding to analyze and interpret the data. The researcher used collected quantitative data to compare the narrative qualitative data collected. The qualitative data represented key variables in the study. Merriam's (1985) seven analytical frameworks were used for coding and in an effort to organize the data. The frameworks are as follows:

1. Role of the participants
2. The network analysis of formal and informal exchanges among groups
3. Historical
4. Thematical
5. Resources
6. Ritual and symbolism

7. Critical incidents that challenge or reinforce fundamental beliefs

Becker et al. (2012) stated the following in regard to Merriam's (1985) frameworks:

“There are two purposes of these frameworks: to look for patterns among the data and to look for patterns that give meaning to the case study” (p. 14). Coding is inherently subjective; thus, additional coders should be employed to establish a collective agreement prior to concluding a study.

Protection of Human Subjects

The study was strictly historical in nature and the data collected only consisted of analysis of existing documents. No additional personal interaction took place; therefore, permission from the Institutional Review Board at the University of San Francisco was not applicable.

Background of the Researcher

The researcher's worldview and passion was shaped by his grandfather, Dr. Benjamin F. Baker. Dr. Baker, a school principal in the Deep South in the early 20th century, is recognized as one of America's pioneering engineers of early education and transformative leadership. In the time spent hearing stories about his grandfather, the researcher learned that what the world needs most are people willing to lead. These stories also taught the researcher the value in contributing time and talent to support the greater good and in creating forward-thinking cultures where the future, diversity, and new ideas are embraced and where positive change, accountability, and challenge are expected.

The researcher is a native Californian who completed an undergraduate degree in civil and environmental engineering at San Diego State University and a graduate degree in business

administration at San Diego State University. Trained as a professional engineer, the researcher began his career as a civil engineering designer for master planned communities in San Diego and Orange County. Throughout the researcher's career, the researcher has been a catalyst in driving record performance within startup, turnaround, and rapid-growth environments. In each position, the researcher skillfully blended transformative leadership expertise with innovation, Six Sigma background, in-depth business acumen, and an enterprising worldview to drive positive change. Notable accomplishments include:

- Directed transformation of a \$853,000,000 division following a significant vacancy in executive leadership talent. Integrated siloed business units, created culture of collaboration, and lifted organization from number 19 to number five of 19 divisions in overall performance.
- Led successful turnaround of division's energy efficiency sales, achieving goals for the first time in program's 3-year history.
- Inherited, rejuvenated, and salvaged a \$70,000,000 high-profile project that had failed to launch over past 30 years. Successfully converted venture into new business that would become firm's most profitable practice.
- Reenergized supplier diversity program, moving team from the low end of the compliance spectrum (24%) to 38% with a greater than five-fold increase in program revenue to \$546,000,000 in 4 years. Earned recognition as a number one performer nationwide in supplier diversity, enabling C-level executives to strengthen brand differentiation and position organization for increased revenue.

- Transformed company from 100-year-old strategy and one patent to a reimagined focus on research and development, protecting SDG&E's intellectual property and developing new revenue streams. Established innovation consortium, obtained funding, and secured eight new patents, including nation's first private company Federal Aviation Administration approval for drone technology.
- Delivered a \$125,000,000, 3-year reduction in expense leakage by restructuring vendor contracts and strengthening performance terms.
- Recognized as a consistent developer and driver of innovative ideas that create a one-of-a-kind market presence. Led team that earned "King of Pilots" moniker for work in ushering legacy business model into new era.
- Scope of leadership accountability spans management of more than 1,600 internal and matrixed employees, service to more than 300,000 customers, 32 operating units, and relationships with suppliers and strategic partners contributing \$1.3 billion in economic activity and 5,000 jobs.

As the current senior manager of the \$853,000,000 division for a northern California utility company, the researcher leads a 32-member division leadership team in overseeing more than 1,600 internal employees and more than 1,700 matrix resources in serving 300,000 plus customers across 573 square miles. Additionally, the researcher manages relationships with suppliers and strategic partners, thus contributing \$1.3 billion in economic activity and 5,000 jobs to the region. The researcher is accountable for the division's strategy.

CHAPTER IV

FINDINGS

Overview of Findings

The purpose of this qualitative case study was to develop a realistic and deeper understanding of cultural norms that allow and perpetuate inequities among African American employees who work at California IOUs. Granularly, the researcher intended to study the complaints of workplace discrimination that described, in detail, unlawful and civilly susceptible discriminatory experiences of African Americans. The researcher used SCT and SDT to investigate the workplace discrimination experience of African Americans in the California IOU sector despite the advancements and institutionalization of diversity and inclusion programs. The following research questions guided this study:

RQ1. What are the trends in employment discrimination in Californian IOUs, as measured through verified complaints at the DFEH?

RQ2. What systematic discriminatory processes drive the aggregate patterns?

The study was inspired by the theoretical lens of advocacy and participatory view of social and economic institutional barriers that are constructed and perpetuated to limit the equity of African Americans. The researcher aimed to raise awareness of existing cultural inequities that explicitly and disproportionately target African Americans.

Discrimination claims made to the DFEH does not imply discrimination occurred. Given this understanding, the focus of this case study relies on cases verified by the DFEH in the form of a right-to-sue notice that is necessary for complainants in civil court who are alleging violations of their civil rights through the FEHA's employment provisions.

Data and Analytic Strategy

Data

The data were retrieved from the public archives at the California DFEH, a government agency whose objective is to enforce civil rights legislation in California. The full set of quantitative data contained 64 race-based discrimination complaints filed against the four California IOUs. These complaints were filed by African Americans between the years of 2014 and 2020. All complainants were given a right-to-sue notice either through a request for an immediate right-to-sue notice or as a result of DFEH investigation. Race-based cases are defined as those in which the primary complaint was identified to be race and/or ethnicity. In California, for an employee to exercise their rights under Title V11 of the CRAA, a charging party must first file a complaint with the DFEH either online using the Cal Civil Rights System (California DFEH, n.d.), by mail using a printable form, or by calling their communication center. The purpose of the DFEH is to evaluate complaints and determine if the allegations violate the laws that DFEH enforces. DFEH's scope of authority is limited to enforcing specific civil rights laws:

- Fair Employment and Housing Act
- Fair Employment and Housing Act (FEHA) Regulations
- Department's Procedural Regulations
- California Family Rights Act (CFRA)
- New Parent Leave Act (NPLA)
- Unruh Civil Rights Act (Requires business establishments to provide equal accommodations)
- Ralph Civil Rights Act (Prohibits hate violence or the threat of hate violence)

- Civil Code Section 51.9 (Prohibits sexual harassment in business, service, or professional contexts outside of traditional employment relationships)
- Disabled Persons Act
- California Trafficking Victims Protection Act
- Government Code Section 11135 Et Seq. (Prohibits discrimination in state-funded programs)

For a complainant to file an employment lawsuit in civil court, they must obtain a right-to-sue notice from the DFEH. Within the employment complaint process, the complainant is given the option to bypass the DFEH investigation and request an immediate right-to sue, a requirement to file a civil court case of violation of the FEHA's employment provisions. The remaining complaints are investigated by the DFEH to determine if the allegation violates any laws enforced by DFEH. The DFEH assigns a DFEH investigator if a complainant chooses to use the DFEH investigation process. Through preliminary interviews with a complainant, the investigator uses a series of decision-making procedures to determine (a) if the DFEH has jurisdiction to accept the complaint and (b) if the proven allegations violate the civil rights laws that DFEH enforces (see Appendix A). The DFEH will issue a right-to-sue notice to the complainant if the DFEH does not determine the allegations meet the burden of violation. The DFEH does not determine if a complainant was treated unfairly; instead, the DFEH only determines if the allegations violate the law. In the event that the DFEH believes that the allegations violate the laws it enforces, the DFEH will partner with investigators with the United States EEOC to determine if the allegations meets criteria for federal dual-file status. From there, DFEH will initiate an independent investigation that includes a review of evidence, site

inspections, and interviews with both the complainant and the respondent. The DFEH determines if a violation has occurred based on their review of the information. If it is determined a violation of the laws DFEH enforces has not occurred, the case is closed and a right-to-sue may be issued. If the investigation determines reasonable cause, the DFEH notifies both parties of its intent to file a lawsuit in court.

The number of employment complaints filed with the DFEH continues to grow. The number of employment complaints filed with DFEH that did not request an immediate right-to-sue grew from 3,590 in 2016 to 5,183 in 2019, representing a 44% increase. In 2019, the number of complaints submitted to DFEH requesting an immediate right-to-sue was 15,076, representing a 17% increase from 12,872 in 2017.

Segmentation

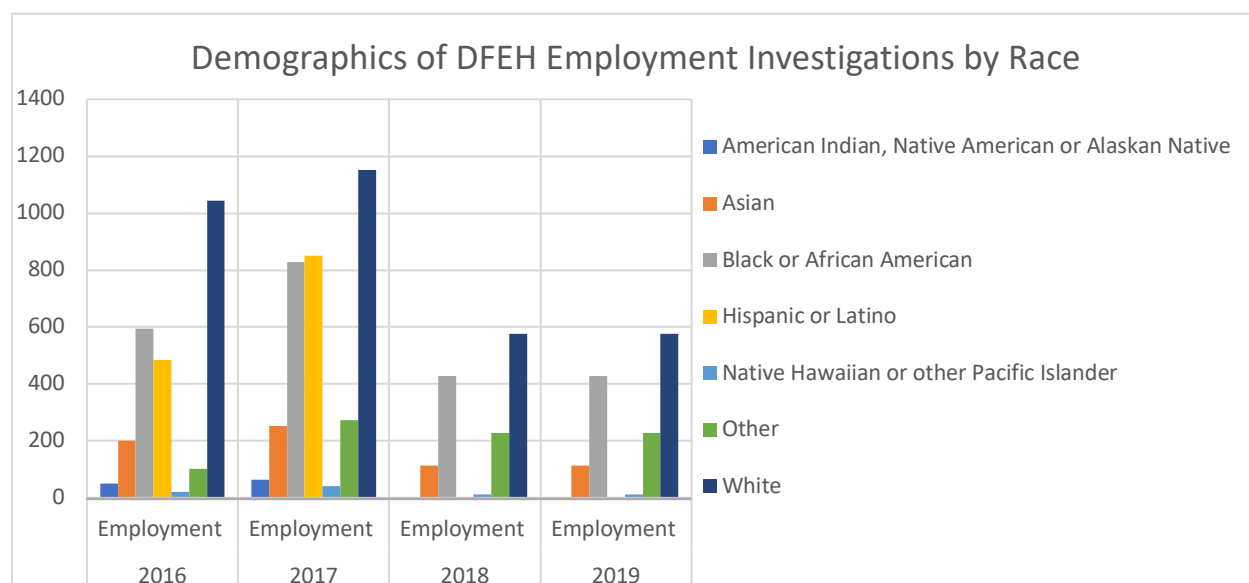
The DFEH defined basis of claims is segmented into 22 categories (see Appendix B). Complaints can be filed on more than one basis given the intersectionality of the claim. For example, an employee may claim harassment based on their sex or retaliation based on their disability. Given the intersectionality of complaints, the number of complaints by basis will exceed the number of complaints received by the DFEH. Race-based claims are those in which one the complainant's primary basis of allegation is race. In 2019, the number of race-based complaints that did not request an immediate right-to-sue were 1,639 and represented more than 31%. Additionally, the number of race-based complaints represented a 44% increase from the numbers of race-based complaints filed in 2016. Taking intersectionality into consideration, race-based complaints ranked fourth in number of complaints. The most common complaints for employees requesting DFEH investigation were disability, discrimination or harassment, and sex

or gender. Furthermore, the number of race-based complaints requesting an immediate right-to-sue notice increased from 3010 in 2017 to 6029 in 2019, ranking race-based complaints as the seventh most common complaint (2017 DFEH Annual Report, 2018; Kish, 2020). In 2019, race-based complaints requesting an immediate right-to-sue notice comprised nearly 40% of the total right-to-sue complaints compared to 23% in 2017.

Employees may volunteer demographic data when submitting their complaint to DFEH. Between 2016 and 2019, the number of employees voluntarily identifying themselves by race averaged 37% of the total complaints. Of those employees who voluntarily identified their race, those identifying themselves as White consistently filed the most employment complaints followed by Black or African American employees (see Figure 1).

Figure 1

Demographics of DFEH Employment Investigations by Race

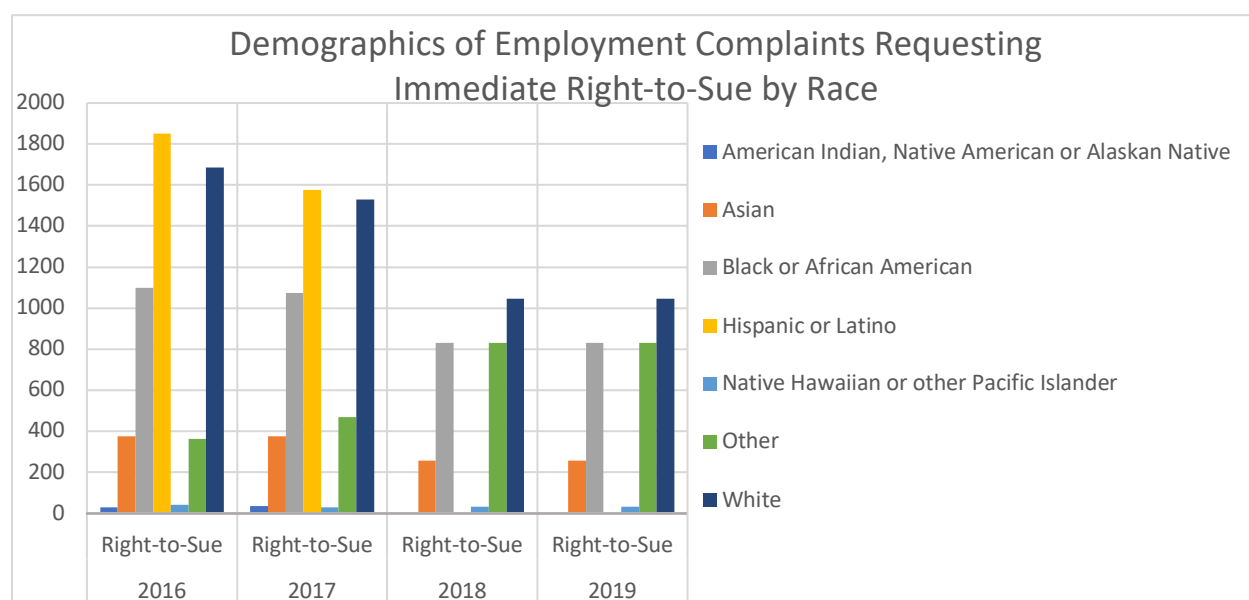


Note. *Hispanic or Latino category were moved from race to national origin for 2018 reporting.

Of those employees who voluntarily identified their race, the most employment complaints requesting an immediate right-to-sue notice were filed by those identifying themselves as White followed distantly by those identifying themselves as Black or African American (see Figure 2).

Figure 2

Demographics of Employment Complaints Requesting Immediate Right-to-Sue by Race



Cases

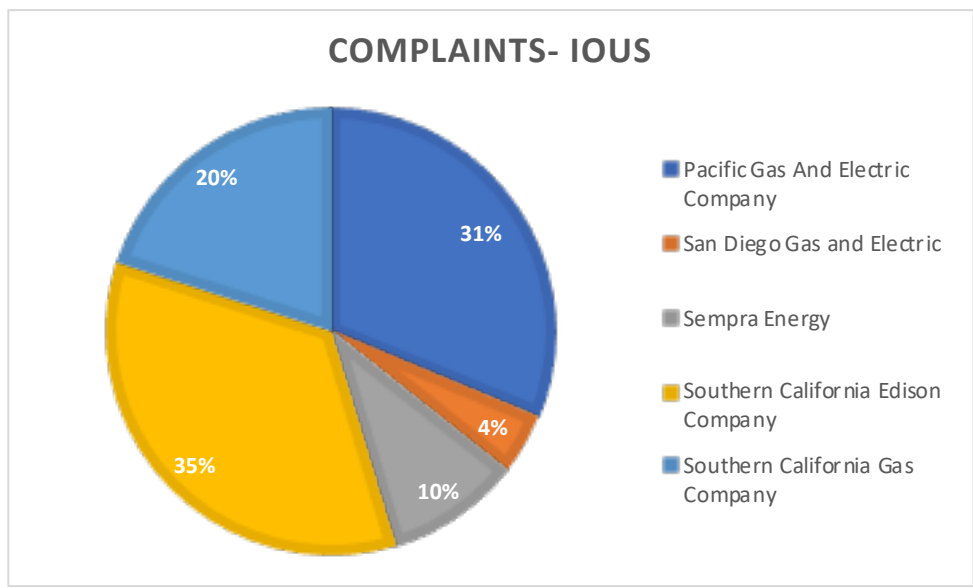
To ascertain relevant themes about the prevalence of workplace discrimination, the researcher compared civil court documents from class action lawsuits filed by African Americans employed at California IOUs in 1994–2010 with cases filed with the DFEH between 2015–2020 by African Americans employees who obtained a right-to-sue notice. Each case contains narratives of detailed firsthand accounts of the investigation. When compared with past lawsuits, each case can be viewed as good representation of systematic discriminatory practices.

The researcher obtained the case information through a public records request submitted on March 12, 2020 under the California Public Records Act (PRA; Gov. Code, § 6250 et seq.) to DFEH (Public Records Request No. 202003-02160712; see Appendix C and Appendix D). The initial request consisted of employment discrimination cases filed with the DFEH by employees of California IOUs from 2013–2020, resulting in 205 cases. Of the 205 cases, 152 complainants (> 74%) were provided a right-to-sue notice. As a result of the intake process, the DFEH administratively dismissed, found no basis to proceed, or found insufficient evidence in 21 (> 10%) of race-based complaints. In addition, another 11% or 23 cases were investigated and dismissed by the DFEH. The DFEH were able to work with both parties and settled four cases and elected court action in four cases. In sum, over 78% of complaints filed against California IOUs from 2013–2014 were found to be unlawful or provided enough evidence to warrant civic litigation.

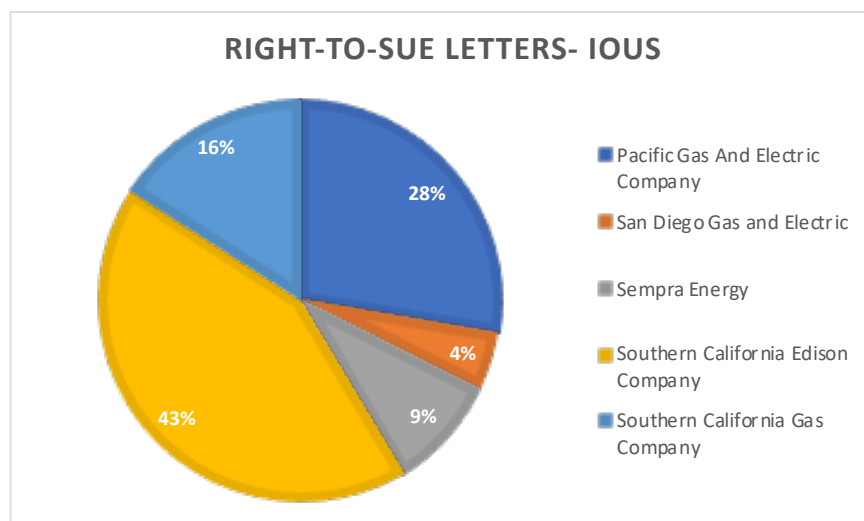
The number of complaints filed against each IOU since 2014 varied considerably. Of the 205 cases, employees of SCE filed the most complaints (71 employees or 35% of all complaints filed). PG&E ranked second in terms of most complaints filed (64 employees or 31% of all complaints filed). Figure 3 illustrates the percentage of complaints filed against each IOU.

Figure 3

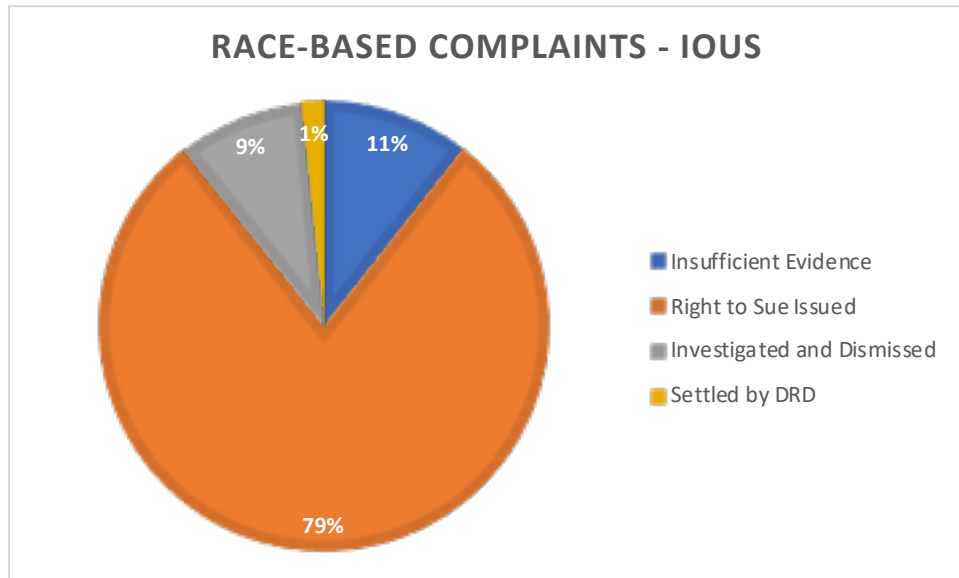
Complaints- IOUs



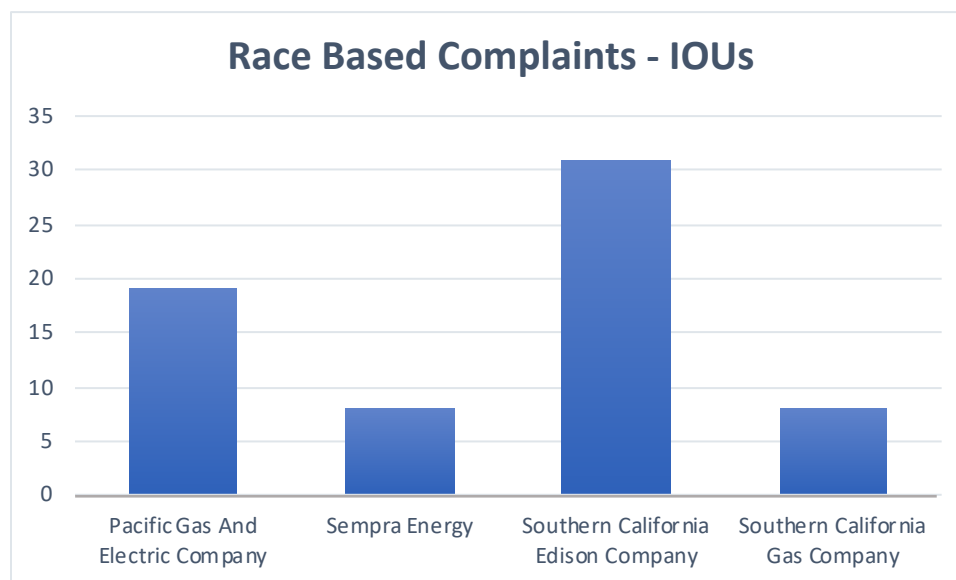
The number of right-to-sue notices issued by the DFEH since 2014 varied considerably among the IOUs. Figure 4 illustrates the percentage of right-to-sue notices issued to complainants against each IOU.

Figure 4*Right-to-Sue Letters- IOUs*

Each case contained a basis of which the complaint was alleged. The majority of the complaints contained an intersectional basis of multiple allegations. Of the 205 IOU complaints, 66 or 32% of the cases contained “race” or “color” as one of the primary bases of the complaint. Of those, 66 cases had “race” or “color” as one of the primary basis, and 13 cases were investigated and dismissed or found not to have any basis to proceed. Fifty-two or 78% of the complainants were issued a right-to-sue notice by the DFEH (see Figure 5). The DFEH was able to settle one race-based case in this period.

Figure 5*Race-Based Complaints- IOUS*

In comparison, SCE represented 47% of the race-based complaints in which the DFEH provided a right-to-sue notice (see Figure 6).

Figure 6*Race-Based Complaints- IOUs*

The researcher selected 63 cases to review in an effort to ascertain themes on the process of racial discrimination within IOUs.

The researcher reviewed and compared California IOU's Diversity and Inclusion annual reports to accompany the qualitative analysis and to better understand the mission, vision and overall purpose of the IOU's Diversity Management program. The researcher also reviewed voluntary reports designed to highlight companies' commitment and track record to diversity and used primarily as a marketing piece to attract talent (Hastings, 2012). The voluntary annual diversity reports usually contain elements of the following:

- Organization statement and commitment to diversity
- Diversity mission, vision and strategy
- Historic overview of organization's diversity voyage

- Diversity goals and statistics
- Programs/groups/councils designed to raise awareness and conjure an inclusive environment
- List of diversity related awards/honors/accomplishments

Comparative Strategy

The main comparative strategy of this case study uses descriptive terms and qualitative narratives of the 63 cases to give insight into the inequities experienced by African Americans and the process of discrimination within the California IOUs. These descriptive terms and narratives are coupled with each IOU's stated focus on diversity and inclusion. Inclusion of each company's stated focus on diversity will enrich this study by comparing the company's stated intent to their employees' experiences. This comparison will serve as descriptors of the social closure African American's continue to experience. The comparison will also serve as a testament to the statistical discrimination that continues to permeate institutions.

The researcher performed statistical analysis on the qualitative analysis for the sole purpose of identifying relevant and the most frequent themes. This study is in no part a quantitative regression model intent on determining predictive tendencies. Rather, the statistical strategy is meant to enhance the discovery of the narrative and comparative qualitative analysis. The researcher paid special attention to key terms within the initial complaint and the DFEH investigative summary to establish relevant themes.

Company Profiles

Each of the 55 complaint profiles highlighted experiences with race-based workplace discrimination. Each of these experiences can be attributed to the cultural norms and work

environment of the individual IOUs. To broaden the context of each complainant, the researcher documented the business profile of the IOUs to conceptualize existing inequities directly related to the individual IOU.

Sempra Energy is the parent company of two California based utilities: SDG&E and SoCalGas. SDG&E and SoCalGas serve nearly 26,000,000 customers throughout California, employ more than 11,000 individuals, and geographically cover 28,000 square miles of service territory. The cases below were largely dual filed with Sempra. For the purposes of this research, only one instance of the filing reflects the company in which the complaint originated. Figure 7 details Sempra Energy's diversity statement.

Figure 7

Sempra Energy

We recognize the importance of achieving diversity at the operating company level – our workforce should reflect the diversity of the communities where we operate

Note. Retrieved from 2019-Sempra-Corporate-Sustainability-Report.Pdf, n.d.)

SoCalGas Profile

Established in 1867 as the Los Angeles Gas Co., SoCalGas is the nation's largest gas distribution utility company. The Sempra Energy subsidiary serves more than 21,000,000 customers in more than 500 communities (SoCalGas, n.d.-a). SoCalGas has a workforce of more than 7500 employees. At the time of this research, the SoCalGas diversity workforce webpage exclaimed their commitment to embracing a diverse workforce (SoCalGas, n.d.-b). To reinforce the company's vision of a more diverse and inclusive workspace, SoCalGas offers their employees a voluntary option of participating in a series of diversity resource groups, mentoring

programs, sponsorship programs, and an annual diversity celebration. For instance, the SoCalGas (n.d.-b) website boasts its active fulfillment in the CEO Action for Diversity and Inclusion program.

CEO Action for Diversity and Inclusion is an organization of CEOs who have committed to advancing racial equity through public policy and corporate social engagement strategies (CEO Action for Diversity and Inclusion, n.d.). Although the efforts of the CEO Action for Diversity and Inclusion has demonstrated good intent, it must be noted that the organization is the brainchild of PriceWaterhouseCooper (PwC; 2017) LLP. PwC is considered the second largest professional services consulting firm in the world with well over \$43,000,000,000 in revenue and more than 276,000 employees; however, PwC has reflected diversity challenges in leadership. Largely an Anglo-American leadership structure, PwC's Chief Purpose and Inclusion Officer is a White female. This fact begs the question of whether PwC aims to truly advance racial equity or to advance profits through consulting. If the answer is the latter, it would behoove PwC to minimize advancement of racial equity in an effort to maximize profits over a longer period of time (i.e. job security).

In an effort to bring legitimacy to their diversity and inclusion progressive action, SoCalGas boasts a number of awards granted to their parent company Sempra Energy by third parties. These awards allegedly acknowledge the company's diversity and inclusion success. SoCalGas (n.d.-b). lists the following awards on their website.

Human Rights Campaign: Best Places to Work for LGBT Equality

The Human Rights Campaign (HRC) was established in 1980 as the HRC fund to support fairness amongst congressional candidates who identified as lesbian, gay, bisexual, transgender,

and queer (LGBTQ). Today, the \$50,000,000 organization is one of the United States' most prominent advocacy organizations that drives policy and supports LGBTQ candidates. Beginning in 2002, the HRC has produced an equality report card for Fortune Magazine 500, American Lawyer Magazine Top 200, and hundreds of mid- to large-sized privately held businesses (HRC Campaign Foundation, 2020). The index rating criteria consist of nine questions divided among three key criteria: (a) nondiscriminatory policies, (b) equitable benefits for LGBTQ workers and their families, and (c) supporting an inclusive culture and social responsibility. HRC collects these data via an online survey administered to corporations that complete the questionnaire and attached backup to include various corporate policies that ratify the HRC survey responses. Upon the corporation's voluntary submittal, HRC staff review the information and check with other resources, including but not limited to IRS 990 foundation gifts, case law, and news and individuals that report information to HRC foundation. HRC assigns points to each question using a scoring rubric to evaluate the constructed survey responses (see Appendix E). The nine-question online survey is intended to capture a firm's best practices in increasing equality among the LGBTQ community. Furthermore, this scoring rubric allows companies to choose to incorporate a minimum number of listed best practices and does not obligate the firm to meet all the best practice criteria to receive a perfect score. Not all criteria need to be met in order to achieve a perfect score of 100. In essence, a company can score 100 points and earn a moniker on the coveted third-party validated CEI report by simply self-reporting their policies and procedures without identifying accountability or cultural competency metrics or performance. The narrative gives the appearance the company is competent and progressive in monitoring and correcting LGBTQ equality in hiring, promoting,

harassment, and expulsion without actually having to do so. This deceiving technique in manipulating quantitative data is a common theme in statistical discrimination.

The HRC gave Sempra a perfect score of 100 in both 2019 and 2020, indicating that the corporation has (a) established policies and procedures and incorporated industry best practices to build an equal environment for their LGBTQ employees and (b) avoided any public anti-LGBTQ stain. It does not, however, indicate an audit or certification on the accuracy of the voluntary information provided by Sempra.

National Organization on Disability: Leading Disability Employer Seal

Established in 1982, the National Organization on Disability's (NOD) mission is to ensure people with disabilities are integrated in the workforce with equal benefits of employment. Today, the \$4,000,000 organization, boasting a Washington D.C. headquarters, is one of the country's most political advocacy organizations driving policy and support for the integration of individuals with disabilities into the workforce. The NOD offers organizations a seal of recognition for their efforts in disability inclusion and engagement in the workforce. Known as the Leading Disability Employer Seal, NOD collects confidential, self-reported data from organizations on disability employment best practices and performances. Based on nonpublic scoring criteria, NOD offers companies the opportunity to display a seal indicating a third-party validation of disability inclusion efforts. NOD's trademarked tracker is used by more than 200 organizations to employ approximately 8.7 million workers (NOD, n.d.-a).

Organizations using the tracker will self-report their efforts in strategy and metrics, people policies and practices, workplace and technology, talent resourcing, and climate and culture; however, none of these efforts are validated. NOD states that less than 50% of the companies

adopt leading practices that are considered drivers in moving the needle in disability inclusion. Such leading practices include (a) vendor requirements to provide materials in accessible formats, (b) centralized budget for accommodations, (c) process for resolving accommodation request within 2 weeks, (d) mentoring programs for employees with disabilities, (e) mandatory manager disability inclusion training, (f) annual diversity training on disability topics, and (g) performance evaluation criteria for managers and supervisors.

The NOD also established its own organization curve of maturity in disability employment (see Appendix F; NOD, n.d.-b). The NOD has taken an in depth approach to creating a barometer that depicts an organization's growth in becoming a disability-friendly employer. The maturity curve is divided into four maturity levels: exploration, compliance, competence, and competitive advantage. Each of the categories includes a checklist of policies, practices, and performance measures that a company must complete to achieve a category of maturity.

SoCalGas and Sempra Energy has proudly displayed the NOD Leading Disability Employer seal from 2016–2017 and 2019–2020 and is depicted by the NOD as being a leader in the field (NOD, 2020). However—according to NOD's published benchmarks—out of more than 200 companies representing 8.7 million workers, most companies are barely meeting the compliance maturity level. It is evident from NOD published metrics and benchmarks that a company such as Sempra only has to achieve a minimum level of exploration on the maturity curve in order to display the Leading Disability Employer seal on published documentation. The information gathered by the tracker lacks proper vetting and displays imperfect information in the form of a third-party validator of competency in actual movement.

Black EOE Journal: Best of the Best List

According to the Black EOE Journal (BEOEJ; 2021), participating companies undergo an annual evaluation of active outreach and diversity policies. The evaluation is a compilation of market research, participation in diversity conferences, and online survey responses made available from six category-based diversity magazines owned and operated by DiversityComm (DCI): (a) BEOEJ, (b) Hispanic Network, (c) Professional Woman's Magazine, (d) U.S. Veterans Magazine, (e) Diversity in Steam Magazine, and (f) Diverse Ability Magazine (BEOEJ, n.d.). The DCI research division incorporates many scoring criteria including reader responses, annual reports, sponsorships, and conference participation when choosing companies to be included on the Best of the Best List; however, these scoring criteria are not identified as substantial best practices for driving equality.

A certified woman-owned and disability-owned for-profit magazine advertisement business headquartered in Irvine, California, DCI seeks to provide companies the opportunity to build a global diversity brand by reaching minority audiences and recruiting diverse suppliers and employees. With over 2,000,000 readers, DCI's mission is to ensure equal opportunity in all aspects of business.

DCI was founded in 1990 and incorporated in 1993 as Olive Tree Publishing (Open Corporates, n.d.). Company founder and current CEO Mona Lisa Faris-Placer is a first-generation Arab American. After years of mediocre success as a publisher, Faris-Placer rebranded to become DCI in 2012 and begin a quest to corner the market on ethnic and diverse publications including BEOEJ, Hispanic Network Magazine, the Professional Woman's Magazine, and U.S. Veterans magazine. DCI, a for-profit organization whose revenue stream is

advertising, offers their corporate clients an opportunity to display a Best of the Best moniker. This moniker gives the impression that the company has achieved a significant impact in specific diversity programs and that these achievements are measured by the same constituents for which the company aims to achieve equality. At the very least, corporations such as Sempra Energy are consistently giving customers, suppliers, and employees the impression that a third-party, diverse-specific organization provided an independent analysis to determine the corporation to be amongst the best in class in driving equality amongst diverse groups. Specifically, a White-owned business disguising as a Black-owned business is being paid in advertising dollars in exchange for a distinguished branding as a corporation who is best in class in advancing equality amongst Black employees and suppliers. As a result of DCI's registration with the California Supplier Clearinghouse, IOUs are able to count their advertisement spending with DCI's publications as "diverse spend," thus assisting IOUs in meeting California Public Utilities Commission General Order 156 voluntary procurement standards. In Microsoft Excel terms, the circular composition of adding the same value twice in a single formula is known as a loop syntax error and represents a moral dilemma and a potentially unethical quid pro quo business partnership. A non-minority, woman-owned business who disguises as being a minority owned business is a prime example of a statistical discrimination because it drives decision making amongst potential suppliers and employees. This portrayal of diversity initiatives is a slap in the face to African American employees working in a company that portrays itself as seeking equity without actually doing so. The portrayal of diversity initiatives as successful is a statistical betrayal that leaves the mid-management drivers of policy and procedure to assume that progress

is being made in diversity and equity without actually holding themselves accountable for performance in diversity or equity.

Hispanic Network Magazine: Best of the Best List

Owned by the same non-Hispanic publisher of the BEOEJ, the Hispanic Network Magazine portrays itself as being the cultural pulse of the Hispanic business and employee community whose interest is motivated by the advancement of equality among the Hispanic population. The Best of the Best list branding by the Hispanic Network gives a false impression that a company's acknowledgement is vetted by the Hispanic minority groups. The rouse is unethical behavior.

NAACP: Equity, Inclusion and Empowerment Index

Investors are beginning to consider companies' level of commitment to workplace racial equity in board composition, discrimination policies, supplier diversity programs, and employee diversity programs as a result of the increasing emphasis on diversity, equity, and inclusion (Motley, 2018). In July of 2018, the National Association of the Advancement of Colored People (NAACP) partnered with Morningstar and Sustainalytics and Exchange Traded Fund (ETF). The partnership produces the NAACP's Corporate Report Card that is used to measure a corporation's commitment to equity and inclusion. Two hundred companies were selected by the NAACP based on their Racial Equity Industry Report Card. The screening criteria for the report card includes board diversity, discrimination policies, scope of social supplier racial and ethnic diversity programs, digital divide programs, freedom of association policies, diversity programs, and supply chain monitor (NAACP, 2020).

The NAACP is the only ETF that focuses on minority issues. Designed to bring market exposure to companies that exhibit progressive equal rights corporate solutions, Impact Shares is a 501(c)(3) nonprofit organization that donates net advisory profits to the NAACP at a management-expense ratio of .75%, the average .09% ratio in other indexes (Nash, 2020). This ratio is not attractive to investors who would not receive a charitable receipt. Nash (2020) posited that investors could be better off investing in funds with lower ratios and making a separate donation.

Despite Sempra Energy's display of participation into the NAACP, the only known evidence of diversity inclusion was in 2018 as part of the inauguration of the fund. Today, the NAACP does not include Sempra Energy or any of its affiliates in their portfolio (Impact Shares, n.d.-a). Furthermore, the NAACP does not have a current Racial Equity Industry Report Card on the utility industry, thus identifying the vetted parameter for which Sempra Energy made the index. According to Impact Shares (n.d.-b), the Minority Empowerment Index is "not sponsored, endorsed, or promoted by the NAACP" (para. 5), as is evident in the inclusion of companies like Amazon that made the list despite highly publicized labor disputes and lackluster African American representation in leadership positions including the Board of Directors. The ETF is a financial engine and must balance good corporate citizenship with market-rate returns that can only be delivered through financially attractive corporations. Sempra Energy's false display of inclusion into this ETF misleads consumers and employees into believing the impetus of statistical benchmarking of racial equity.

Thomson Reuters Diversity & Inclusion Index: #24 of top 100 Publicly Traded Companies

Thomson Reuters (2020) claims to be the leading provider of business information service. Thomson Reuter provides specialized information mining software and tools that incorporates global news for legal, tax, accounting and compliance professionals including the environmental, social and governance (ESG) footprint of corporations. Financial professionals use Thomson Reuter's software and tools in their consideration of corporation's social responsibility in their financial investment strategies. As part of their compilation of social data and solutions, Thomson Reuters produces an annual diversity and inclusion rating and rankings of 9000 publicly traded companies. Thomson Reuters is powered by a Refinitiv ESG platform designed to measure performance against 24 separate factors in four distinct categories that define diverse and inclusive workplaces using publicly available information (Refinitiv, 2020a). Thomson Reuter's Diversity and Inclusion Index then "highlights the top 100 most diverse and inclusive (publicly traded) companies globally" (Refinitiv, n.d., p. 5). Furthermore, Thomson Reuter's ESG database is the most comprehensive database for screening ESG performance. Thomson Reuter's Diversity and Inclusion Index Methodology indicates that their data is quality controlled and verified by more than 150 analysts whose purpose is to ensure data accuracy and comparability.

The Refinitiv ESG platform is a programmatic, technical, and robust platform for measuring diversity and inclusion sustainability. The survey used as part of the platform is comprised of 25 questions in four weighted categories of controversies, diversity, inclusion, and people development. This research determined that among the 24 measures used by the Refinitiv ESG platform, Boolean yes-or-no questions do not provide an actual rating at all, but instead

provides a simple average of the four category scores, then assigned a rating. Five of the Boolean questions are gender-equity based questions, four questions related to diversity control, policies and goals, while none of the 24 factors incorporate equity and diversity measures directly related to race (see Appendix G).

At the time of this research, Sempra Energy prominently displayed their inclusion on Thomson Reuters Diversity and Inclusion Index as Number 24 of 100 companies; however, Thomson Reuters' published top 100 list, Sempra Energy nor any of its affiliates were listed (Refinitiv, 2020b). Sempra Energy's false display of current inclusion of Thomson Reuter's Diversity and Inclusion Index misleads consumers and employees into believing the impetus of statistical benchmarking of racial equity. Although Sempra Energy and SoCalGas promote diversity in hiring employees and in the appointment of their officers, diversity is not further considered when selecting the individuals who serve as directors of SoCalGas (U.S. Securities and Exchange Commission, 2020).

SoCalGas Cases

Case 1

On December 14, 2016, DFEH issued a right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SoCalGas. According to the letter, the DFEH was unable to establish a violation of the statute given the information provided by the complainant.

The complainant contended that they were subject to discrimination, harassment, and retaliation by SoCalGas employees based on the complainant's association with a member of a protected class, color, disability (physical or mental), marital status, medical condition (including

cancer or cancer related medical condition or genetic characteristics), race, or religion (including dress and grooming practices). The notes provided by DFEH indicated that the complainant alleged being subjected to non-job-related questions considered impermissible, denied the experience of a work environment free of discrimination, subjected to retaliation, and ultimately terminated. Subsequently, SoCalGas denied the complainant's attempt for reinstatement.

Upon obtaining the right-to-sue notice, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 2

On April 1, 2017, DFEH issued an immediate right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against Sempra Energy and SoCalGas. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant contended that they were subject to discrimination, harassment, and retaliation by SoCalGas employees based on their ancestry and color, among other things, and was later terminated.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 3

On September 17, 2018, DFEH issued a right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against

SoCalGas. According to the letter, the DFEH found insufficient evidence and was unable to establish a violation of the statute given the information provided by the complainant and based upon its investigation.

The complainant was an African American male who contended that they were denied training and subject to differential treatment, discrimination, harassment, and retaliation by his immediate supervisor due to his age (61) and his race. The complainant further alleged that he repeated his request for Construction Planning and Design (CPD) training on a biweekly basis over a 6-month period and continued to be ignored. CPD training enables employees to work overtime hours, resulting in a substantial increase in income. The complainant alleged that he observed younger, non-African American colleagues selected for the CPD training during the 6-month period.

Upon obtaining the right-to-sue notice, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred. Furthermore, the complaint was dually filed with the EEOC. The complainant had an option to ask the EEOC to perform a substantial weight review of DFEH findings.

Due to the findings of insufficient evidence, the DFEH included the appeals process as part of the right-to-sue notice. As part of the appeals process, the DFEH requested that the complainant submit (a) a summary of why the complainant disagrees with the findings or (b) a summary of new, detailed information. The DFEH letter stated that the submitted information would be carefully considered.

Case 4. On February 2, 2018, DFEH issued a right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against Southern SoCalGas. According to the letter, the DFEH found insufficient evidence and was unable to establish a violation of the statute given the information provided by the complainant and based upon its investigation.

The White complainant alleged that he was subject to differential treatment by his immediate supervisor due to his race. The complainant alleges that he was terminated on or around June 5, 2017 for two accidents of falsifying documents whereas another non-White technician committed 3–4 accidents and destroyed company property and was not terminated.

Upon obtaining the right-to-sue notice, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred. Furthermore, the complaint was dually filed with the EEOC. The complainant had an option to ask the EEOC to perform a substantial weight review of the DFEH findings.

Due to the findings of insufficient evidence, the DFEH included the appeals process as part of the right-to-sue notice. As part of the appeals process, the DFEH requested that the complainant submit (a) a summary of why the complainant disagrees with the findings or (b) a summary of new, detailed information. The DFEH letter stated that the submitted information would be carefully considered.

Case 5

On November 13, 2017, DFEH issued a right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against

SoCalGas. According to the letter, the DFEH was unable to establish a violation of the statute and dismissed the case after a full investigation.

The complainant is an African American male who alleged he was subject to discrimination, harassment, and retaliation by his immediate supervisor due to his age (59) and his race. The complainant alleged that his supervisor had falsely accused him of committing work infractions from January 2014 through August 2016. The complainant further provided evidence of an internal human resource investigation that determined he did not commit any infractions. The supervisor was not reprimanded, and as a result, the hostility at work increased and the complainant was subjected to retaliation. The stress of the retaliation and hostile work environment produced stress, causing the complainant to take medical leave.

Upon obtaining the right-to-sue notice, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 6

On December 18, 2019, DFEH issued an immediate right-to-sue letter under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against Sempra Energy and SoCalGas. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant contended that they were subject to discrimination, harassment, and retaliation by SoCalGas employees based on their race and was subsequently terminated as a result of resisting any form of discrimination or harassment.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

SDG&E Profile

Established in 1881, the Sempra Energy subsidiary SDG&E serves 3.7 million customers, employs more than 4200 individuals, and serves the 4100 square miles of San Diego and Orange county with natural gas and electric generation, transmission, and distribution services. At the time of this research, the SDG&E management team consisted of 21 executive officers and a four-member board of directors, including a minority female as the Chief Executive Officer.

Unlike their sister company SoCalGas, SDG&E does not have a dedicated website outlining their corporate diversity initiative. SDG&E's only reference to diversity on their website is the diversity commitment statement found on their career page. SDG&E's diversity initiative points to their parent company, Sempra Energy. The Sempra Energy (n.d.-a) diversity website states that "Sempra Named Top Utility for Diversity and Inclusion" and "Statement from the CEO: Racial Inequality." In addition, Sempra further exclaims its "winning commitment to diversity" acknowledged by the many awards and recognitions (see Appendix H).

Statement from the CEO: Racial Inequality

In June 2020, Sempra Energy Chairman and CEO Jeff Martin issued a public statement regarding the civil unrest through peaceful demonstration as a result of the recent killings of three unarmed African Americans—George Floyd, Breonna Taylor, and Rayshard Brooks—by law enforcement officers in the spring of 2020. Martin (2020) stated: "I'm deeply saddened. We

are all impacted by the evidence of injustice as well as the incidents of violence that have drawn attention from peaceful demonstrations” (para. 1).

In Martin’s (2020) statement, the use of the word “all” and the purposeful omittance of any reference to the impact on African Americans is critical in recognizing the lack of empathy and the level of disassociation to African American employees and customers. The use of “all” is a widely purported term used by non-African Americans in response to Black Lives Matter and is largely reflective of a population who does not or have not been subjected to the violence in which Martin spoke to in his statement. Martin’s statement was in response to the injustice that is disproportionately happening to African Americans, yet his message did not draw the specificity to the African Americans being impacted. Rather, Martin’s message was inclusive of populations that are not directly impacted. Martin’s lack of specificity admonishes systematic racism and the equity African Americans seek, further alienating African Americans’ plight to seek equity and value. Martin missed a grand opportunity to speak empathetically to his African American employees and stakeholders. The absence of specific mention of African Americans in Martin’s message sends a strong message to all employees and stakeholders that, in the existence of a specific injustice to the African American population, African Americans should not be prioritized. Such a message eliminates any formal effort to meet the needs of African American employees and stakeholders.

Sempra Energy Awards and Recognitions

At the time of this research, Sempra Energy (n.d.-b) listed 19 diversity and equity awards from 14 organizations on its website; the awards dated back to 2014. Only two organization—DiversityInc and BEOEJ—acknowledged Sempra Energy’s impact on African American

employees and suppliers. BEOEJ was identified earlier in this research as a White-female-owned organization posing as a Black organization in title alone and receiving advertising revenue from Sempra Energy companies, representing a potential “pay-to-play” relationship. In addition, the BEOEJ CEO qualifies as a diverse supplier on the California Utilities Clearinghouse; thus, payments made to BEOEJ are counted as diverse spend.

DiversityInc: #1 on Top Utilities Specialty List

DiversityInc, an African-American-led organization, conducts a voluntary assessment of U.S.-based companies and produces an annual top 50 ranking. DiversityInc methodology tracks six diversity best-practice criteria using a combination of 200 numerical, categorical, dichotomous, or Likert-type questions. The following are DiversityInc’s six tracking categories:

- Human capital management representation metrics
- Leadership accountability
- Talent programs
- Workplace practices
- Supplier diversity
- Philanthropy

Regarded as the most extensive race and ethnicity vetting, DiversityInc benchmarks organizations’ best practices designed to recruit, develop, and retain marginalized demographics. At first glance, DiversityInc, selected Sempra Energy for its top award; however, it should be noted that Sempra Energy did not compete for DiversityInc’s top award and was only given the top award amongst the six companies who identified themselves as “utilities” by the North

American Industry Classification System. This occurred despite other U.S.-based utilities making the actual DiversityInc top 50 list.

SDG&E Cases

The discrimination cases against SDG&E span decades. In 1994, Louis Simon was awarded \$3.1 million after Judge Robert C. Baxley concluded that Simon's supervisor committed despicable acts by neglecting Simon's concerns of racial discrimination. In 2011, SDG&E settled the case of former employee Bilal Abdulla, who was fired after repeatedly being subjected to repeated racial abuse including racist photos in the work room, tying nooses on his truck, and using the N-word (McDonald, 2011).

Case 1

On February 6, 2020, DFEH issued an immediate right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against Sempra Energy and SoCalGas. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant contended that they were subject to discrimination, harassment, and retaliation by Southern California Company employees based on their ancestry and color, among other things, and was terminated.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

SCE Profile

Incorporated in 1909, SCE has been providing light to California residents since 1886. SCE serves more than 15,000,000 people in 180 cities in central and southern California and employs nearly 13,000 people (SCE, n.d.). At the time of this research, SCE had acknowledged the inequities in employment along racial lines. Specifically, SCE publicly displayed the company's workforce diversity numbers, highlighting the inequities of African Americans in all work categories and hierarchies, including among the board of directors, officers, and executives (see Appendix I). SCE's Annual Diversity, Equity and Inclusion (DEI) Report demonstrated their commitment to Black employees in their very first sentence: "Recognizing our progress and remain steadfast in our commitment to advance equity and inclusion for all, with increased focus on opportunities for our Black colleagues and communities" (Edison International, 2020, para. 1).

SCE has furthered their commitment to racial equity by assessing their Black employees and publicly acknowledging and documenting the lack of inclusion experienced by Black employees. Although more than 80% of SCE employees of Asian, Hispanic, and White SCE racial backgrounds have reported feelings of inclusion, only 63% of Black employees reported feelings of inclusion in 2020. In the most current SCE report, the word Black is mentioned 26 times throughout the document, indicating SCE's unapologetic willingness to address specific racial inequities unparalleled by other IOUs whose mentioning of Black or African American in public documents, including diversity and equity are sparse. Moreover, SCE is the only Californian utility company to publicly display their percentage of employees by race on all levels of the workforce, including leaders and executives. In addition, SCE displays these

percentage in relation to the community they serve, thus further demonstrating racial deficits. SCE also documents the pay differential by race and ethnicity, indicating that African Americans earn 14% less than their White counterparts and Black woman earn nearly 28% less than their White male counterpart.

Employee resource groups (ERGs) have existed in the utility space for more than 30 years. SCE remains only one of two IOUs who maintain an active Black ERG. In 2019, prior to the social pandemic that hit the country in Spring 2020, the SCE Black ERG known as The Networkers partnered with the company's leaders to address the growing concerns expressed through the company-wide survey. SCE documented and displayed their results in their annual report, complete with an action plan including goals, metrics, and timelines (see Appendix J).

SCE has not always been this inclusive and continues to suffer from feelings of disdain among African American employees. Black employees of SCE have filed and won three class-action lawsuits in 1974 and 1994. Black employees filed a third class-action lawsuit in 2010 alleging the same discriminatory practices in hiring, promotion, harassment, and expulsion as the previous two lawsuits. Since 2015, 24 right-to-sue notices have been issued to SCE employees who alleged racial discrimination.

SCE Cases

Case 1

On November 25, 2015, DFEH issued an immediate right-to-sue letter under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SCE. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant alleged that he was subject to discrimination, harassment, and retaliation by his immediate supervisor due to his veteran status. The complainant alleged that his supervisor made disparaging racist remarks about Black employees among other disparaging remarks and comments about the U.S. Navy and the complainant's ability to be successful as a result of his Navy training from February 2014 through October 2015. The complainant further provided evidence of an internal human resource investigation that determined the complainant did not commit any infractions. The supervisor was not reprimanded and, as a result, the hostility at work increased and the complainant was subjected to retaliation.

Upon obtaining the right-to-sue notice, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 2

On October 25, 2016, DFEH issued an immediate right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SCE. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant worked as a Principal Manager of Diversity and Inclusion from August 2014 through October 2015 and alleged that she was subject to racial discrimination and retaliation as she advocated for policies and practices to eliminate workplace discrimination. In retaliation, the complainant's supervisors made allegations and initiated investigations resulting in her termination.

Upon obtaining the right-to-sue notice, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 3

On February 22, 2018, DFEH issued an immediate right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SCE. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant worked as a Senior Supervisor in the Customer Service Center from 2002 to 2017 and alleged that he was subject to repeatedly subjected racial discrimination as a result of his Hispanic heritage. The complainant alleged that ethnic comments were made relating to the number of children as it related to taking time off due to family and medical leave. The complainant also alleged that he was subject to repeated, baseless allegations that he was a member of the Mexican Mafia, which resulted in an investigation by the Ethics Department.

Upon obtaining the right-to-sue notice, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 4

On May 2, 2018, DFEH issued a right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SCE. According to the letter, the DFEH was unable to establish a violation of the statute and dismissed the case after a full investigation.

The complainant is an African American male who alleged that he was subject to discriminatory hiring and promotion practices and harassment due to his age (59) and his race. The complainant alleged that he was passed over for a position five times despite being overqualified for the position. The complainant claimed to experience a deep-seeded inequity in job assignments, recognition, performance evaluations, and discipline. The complainant further provided insight to an alleged non-inclusionary “good ol’ boy” promotion system that provided mentoring, support, and promotion of non-Black employees, often resulting in placement of individuals into positions rather than following the practice of allowing individuals to apply for positions. The complainant alleged that the discriminatory work environment was the norm and was practiced both explicitly and implicitly by non-Black employees.

Upon obtaining the right-to-sue letter, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 5

On September 13, 2018, DFEH issued a right-to-sue letter under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SCE. According to the letter, the DFEH was unable to establish a violation of the statute and dismissed the case after a full investigation. The complaint was subsequently amended on November 29. DFEH accepted the amendment but referred to the original right-to-sue in their response.

The complainant is a minority female who alleged that she was subjected to an unbearable hostile work environment based on her gender, age, race and national origin since July 2010. The complainant alleged that the hostile work environment was instigated by her

immediate White male supervisor. The complainant described sexual innuendoes, racial epithets, and racial bias in graphic detail. The complainant alleged that she filed complaints with her direct supervisor, human relations, ethics department, and upper management to no avail. The complainant alleged that she endured increase retaliation each time. These retaliations included being moved to another department, excluded from meetings and events, written up for alleged misconduct, and being humiliated and demeaned in front of coworkers.

The complainant shared a story in her complaint of attending a town hall meeting in October 2017 led by her vice-president on the topic “Work Environment Improvement.” According to the complaint, attendees were asked to speak out under the assurance of no retaliation if they experienced a hostile work environment. The complainant took this opportunity to speak out on a number of different concerns of improper conduct. As a result, the complainant was met with a series of internal investigations resulting in 3-day unpaid suspension. The stress of work became debilitating, resulting in a medical leave of absence. Upon return, SCE refused reasonable medical accommodations per the request of the complainant’s physician. As a result, the complainant suffered a relapse and was told by her doctor that returning to work would be detrimental to her health.

Upon obtaining the right-to-sue notice, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 6

On September 24, 2018 DFEH issued an immediate right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant

against SCE. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant, an African American female, contended that she was promoted several times during her initial 2 years of employment, beginning April of 2015. The complainant was promoted again in April of 2017 and was warned by peers that (a) her new supervisor had received allegations of racial bias against African Americans and (b) the complainant being hired was a symbolic move to disprove those allegations. Soon after being hired, the complainant began experiencing a racially motivated hostile work environment. The complainant's supervisor would tolerate public scrutiny by her coworkers, who informed the complainant that her promotion was solely based on her ethnicity and gender. The complainant's supervisor would also criticize and target the complainant, which was different than the supervisor's approach with other White, Asian, and Latino staff members. When the complainant raised these issues to upper management, she endured retaliation through a scream-filled public humiliation in front of the entire staff referencing her complaint. The stress of the work environment ultimately drove the complainant to clinical depression, and SCE discharged her as a result of her taking antidepressants.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 7

On October 3, 2018, DFEH issued an immediate right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SCE.

The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant, an African American male, contended that he received multiple raises and was promoted several times during his initial 2 years of employment, beginning in 2009. The complainant was promoted again in April of 2011 to the level of Engineer 2. Since 2011, the complainant alleged that he had been denied advancement despite his non-Black coworkers being promoted and receiving raises. The complainant contended that he had applied to more than 100 internal jobs since 2012. Furthermore, the complainant's raises were capped at 2% annum in 2012 whereas his non-Black coworkers received 5%–7% annual increases.

The complainant alleged that he was told he did not have the proper SCE training in response to his inquiries regarding promotional opportunities; however, upon requesting the training, the complainant was denied. The complainant also documented his onboarding of new, non-Black employees and noted that how, upon completion of the onboarding and training, he was made a subordinate of the individuals he trained. The complainant contended that other African American coworkers were enduring a similar fate. The complainant documented an African American coworker who had been in the same Engineer 2 position for 15 years whereas a White coworker has been promoted to manager in just 2 years.

The complainant also alleged that was repeatedly discouraged by his supervisors, who instructed him to stop seeking advancement. Upon raising these actions and conduct to human resources in October 2017, the complainant was told that the complaint would not be reviewed. After this rejection, the complainant submitted a complaint to the Ethics Hotline in November and December of 2017 and again in May of 2018. These complaints led the complainant's

supervisors to publicly humiliate him in front of his coworkers and openly deny him any opportunity to compete for advancement opportunities. The severity of the retaliation caused the complainant extreme stress, for which he was medically diagnosed with an adjustment disorder and took a stress leave of absence.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 8

On October 8, 2018, DFEH issued a right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SCE. The complaint was amended October 10, 2018. DFEH accepted the amendment but referred to the original right-to-sue in their response.

The complainant, an African American female, holds two master's degrees in business organizational management and Teaching & Learning with Technology. The complainant contended that she received multiple raises and was promoted several times during her initial 9 years of employment, resulting in her current position as Project Analyst. Since 2006, the complainant has been denied advancement. Upon receiving a promotion denial in 2018, the complainant was told she did not qualify for a promotion despite her tenure of experience and education. The complainant referenced a systematic targeting of African Americans as they experience the same promotion denial for the same pretextual reasons. The complainant also contended that her non-Black coworkers have limited barriers and are "groomed" for selected positions. In addition, the complainant's pay increases over the last 20 years have averaged \$.10

per year and she is only making \$1.44 per hour more than she did when she was hired 20 years ago.

The complainant contended that she was promised a departmental promotion in November of 2017. In July of 2019, the complainant was told the promotion would not happen as a result of her recent performance. The complainant subsequently complained about the promotion discrepancies of non-Black employees, indicating that non-Black employees' promotion and compensation rates were double that of African American employees. As a result, the complainant alleged that she was retaliated against by being labeled as a "problem child" and told that her blunt outspoken demeanor was a hinderance. The repeated public admonishments in front of her coworkers caused the complainant severe stress, resulting in a leave of absence.

Upon obtaining the right-to-sue letter and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 9

On November 13, 2018, DFEH issued a right-to-sue letter under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SCE. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant, an African American female, holds a Bachelor of Science in Business and project management certification. At the time of the complaint filing, the complainant was pursuing a master's degree in clinical psychology at Pepperdine University. The complainant contended that she received multiple raises and was promoted several times during her initial 7

years of employment, beginning in 2002 and resulting in her current position as Designer II. The complainant submitted more than 100 applications for over 50 different positions since 2009 and was been denied advancement. The complainant reported her circumstances and quickly became the subject of retaliation. Supervisors wrote unfounded statements about the complainant's work performance; as a result, the complainant was denied opportunities to interview. The complainant contended that her non-Black coworkers were given blatant preferential treatment in hiring and advanced positions even when they did not meet the qualifications.

The complainant alleged that her work environment was wrought with racism. Crews would use terms such as "Jim Crow Construction" in referencing the type of overhead electric construction that required the hanging of equipment and materials. The complainant was also witness to extensive sexual misconduct, including sexual games at company events between female supervisors and male subordinates. The complainant observed the toxic masculinity of sexual and inappropriate behavior that some may refer to as locker room banter. The complainant outlined how her voice was silenced because many of the perpetrators were supervisors and were protected by a vast network of leaders.

The complainant submitted a 9-page complaint to human resources, whose investigation and corrective action resulted in a temporary lapse in behavior and the complainant received a few compliant, superficial, and dismissive interviews for promotional opportunities. In 2015, the complainant's new supervisor began to promote a culture of racially induced harassment, such as openly boasting of a time he beat up a Black kid on his baseball team. The supervisor further perpetuated the racist culture with public admonishments, attacks, and baseless reprimands of the

complainant's character and the character of other African American employees. This behavior was not endured by non-Black employees.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 10

On November 2, 2019, DFEH issued a right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SCE. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant, an African American female, holds a Bachelor of Arts in Accounting from DeVry University, an MBA from University of LaVerne, and a Project Management Certification from the University of California, Irvine. At the time of the complaint filing, the complainant was pursuing a master's degree in clinical psychology at Pepperdine University. The complainant was first hired in 2009 and was terminated in 2011 as a result of a reorganization; however, the complainant contended that she was the only person whose position was eliminated while the other non-Black employees were transferred to SCE's Corporate Finance department.

The complainant was rehired in February 2014 as a Project and Program Analyst in the Resource Planning and Performance division, and later worked in the Transmission and Distribution (T&D) department where she maintained her status as the only African American female.

The complainant contended that she was subject to repeated harassment and discrimination due to her race, gender, and age at the expense of preferential treatment of her less-experienced, non-Black coworkers. In December 2017—more than 3 years into her current position—the complainant met with her manager to seek a promotion opportunity to a Senior Analyst position. The complainant’s manager was initially resistant, and the complainant responded by submitted a chart of job requirements of her current job as a Project and Program Analyst 2 and the Senior Analyst position. The manager conceded that the complainant was already performing the work and deserved the title and pay of a Senior Analyst. After waiting more than 8 months for the change, the complainant contacted human resources to inquire about the promotion. Human resources responded and expressed that in-line promotions take no more than 1 month to complete. Soon after receiving the human resources response, the complainant received a promotion to Senior Business Analyst and not the agreed upon Senior Analyst position, despite both positions being level and receiving similar pay. However, unlike the Senior Analyst position, the Senior Business Analyst position did not allow the complainant to work overtime; thus the promotion was actually an annual pay reduction from her current position but with more responsibility. According to the complainant, her manager purposely did this and admitted as much in a statement to her: “We need to get this done so I don’t have to pay you when you work overtime.” In addition, the complainant did not receive back pay for the senior-level work she had been performing throughout her time in the Project and Program Analyst 2 position.

The complainant further contended that younger, non-Black employees did not receive the same treatment. The complainant recalled a White woman in her early 30s receiving a fairly

quick promotion to Senior Analyst and being allowed to work overtime. As a result, the complainant discussed the pay disparity and racial inequity to human resources; however, the complainant's efforts did not result in any change. In an attempt to recoup lost wages, the complainant began applying for other high-paying positions and was subsequently denied, often in favor of younger, less qualified, less experienced, less educated, non-Black employees.

In May 2017, the complainant applied for the Resource Planning Analyst position within the T&D group. After a successful interview, the position was ultimately given to a White woman in her early 30s with only 10 years of experience as an analyst and zero experience in T&D group. At this time, the complainant's experience, education, and performance overmatched the successful candidate.

In February 2018, complainant interviewed for another Senior Analyst position and performed successfully in the interview. Ultimately, the position was given to a White female in her early 20s who had zero experience or background as an analyst.

In March 2018, despite having obtained her MBA and having decades of experience, the complainant was unsuccessful in her bid for a higher paying Senior Business Analyst position. Rather, the position went to a non-Black female in her late 20s who was an intern in the department with zero relative experience. In addition, the successful candidate was related to one of the hiring managers. In April 2019, the complainant interviewed for the Integrated Business Planning Analyst position. She was asked to conduct a case study and performed exceptionally well, receiving accolades from the panel; however, the position was ultimately given to a non-Black employee.

The complaint contended that her experience is not unique is representative of the experience of other African Americans at SCE. The complainant documented her experience watching other well-qualified African Americans being turned down repeatedly in lieu of non-Black candidates. The complainant posited that these instances of harassment and retaliation are unbearable and has left the African American community tattered and depressed, with little hope of future advancement.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 11

On May 30, 2019, DFEH issued an immediate right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SCE. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant, an African American male, contended that he was subjected to discriminatory hiring and promotion practices and harassment due to his age (over 60) and his race. The complainant holds degrees in Engineering, Federal Acquisition Regulation, and Project and Contract Management and is currently employed in the T&D division.

The complainant alleged that he was passed over for multiple positions on multiple occasions despite being equally or more qualified for the position than other candidates. The complainant also alleged that has been repeatedly passed over for promotion in favor of non-Black employees. In July 2017, the complainant was denied a promotion opportunity as Senior

Grid Manager in the Grid Contract Manager position for the fifth time; younger, non-Black colleagues with less qualifications and experience were chosen all five times. After the last promotion denial, the complainant reported his situation to the human resources department. In early 2018, the complainant began to receive warnings from his manager about behavior issues from the previous year 2017. After the initial warning, the complainant then received two additional behavior warnings in December 2018 and January 2019. During this timeframe, the complainant contended that his behavior was professional and the accusations were baseless and part of a discriminatory and retaliatory agenda.

The complainant's work environment became explicitly and implicitly hostile, and the complainant was subject to disparity in treatment in comparison to his non-Black colleagues. The complainant alleged experiencing inequity in the quality of job assignments, recognition, and rewards for achievement along with harsher scrutiny on performance evaluations and harsher discipline.

Upon obtaining the right-to-sue notice, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 12

On May 31, 2019, DFEH issued an immediate right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SCE. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant, an African American female, served as the Director of Environmental Affairs and Sustainability at the time of complaint. The complainant contended that she was promoted several times during her 27-year career at SCE and served in various management positions and departments since her career began in the legal department in 1987.

In her complaint, the complainant outlined her extensive performance in various leadership capacities and described her performance as commendable. Furthermore, the complainant's performance earned her the opportunity to participate in SCE's first Executive Edge program for high-potential executives. As the only African American participant, the complainant was under the assumption that the Executive Edge program was a qualifier for ascension into executive ranks. The complainant posited that one must be listed as high potential in order to be in the selection pool for vice-president positions. The complainant completed the program in 2011 along with eleven other colleagues. As of this filing, all of the complainant's classmates—except those who left the company—have been promoted into executive ranks. Immediately following the completion of the class, the complainant was forced to move into a lateral position in the Regulatory Affairs department.

Despite completing the Executive Edge and earning a high-potential status, the complainant only received one pay raise and contended that her pay was not equal with her non-Black counterparts or with lower-tiered non-Black employees. The complainant further claimed that she had subordinates with higher compensation. The complainant contended that she had been repeatedly denied the opportunity to advance despite (a) her overwhelming qualifications, education, and experience and (b) successfully completing the duties of executive leadership

such as sponsoring the Native American Alliance ERG, a duty traditionally held for vice presidents.

In 2018, the complainant sought a position of Vice President of Operations Support. The complainant contended that she was highly and uniquely qualified for the position given her education and experience as a transactional attorney and her many years in leadership. Yet, upon her inquiry of the position, the complainant was told she was not qualified and the position was to be held for someone outside the company. Furthermore, the recruiting agent for the position refused to supply the qualifications to the complainant, effectively eliminating the complainant an opportunity to apply.

The complainant documented that only four African American females had been promoted to level of Vice President in the last 27 years, despite the 30–50 Vice President positions within SCE in any given year. As of the filing date of this complaint, no African American females have held the position of Vice President since 2007.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 13

On September 6, 2019, DFEH issued a right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SCE. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant, an African American female who began her career as a meter reader in 1987, contended that she received multiple ascending transfers and promotions resulting in her current position as Lead Senior Customer Services Representative. In 2002, the complainant sought to transfer to the T&D division; however she was repeatedly denied the promotion.

The complainant applied for a Service Planner position in T&D on three different occasions and was denied the position after the interview. Each interview process consisted of a 6- to 9-month trial period of mandatory training; passage of the training was required to start the position. In each instance, complainant passed the trial period and was told she did not have enough technical experience. The complainant noted the discrepancies in the number of less experienced non-Black employees being hired after training. The complainant described herself as discouraged and felt relegated to apply to the lowest-level position in T&D: Administrative Assistant.

Having obtained the job of Administrative Assistant, the complainant applied for promotional opportunities on 4 occasions; however, she was denied in each instance despite years of experience performing the same work required by the position. Instead, the complainant watched less experienced, non-Black employees being awarded the position. The complainant quickly recognized and documented the pattern of supervisors who created special opportunities to build experience for non-Black employees.

The complainant was promoted to a Designer position after 5 years and subsequently received another promotion in 2012. The complainant has not received another promotion since 2012, despite several applications. The complainant continues to bear witness to the less experienced, non-Black employees being awarded the positions. On one occasion, a White male

with only 2 years of experience as an administrator was awarded a position that the complainant applied for, despite the complainant's 17 years of SCE experience and 7 years of T&D experience.

The complainant also alleged experiencing a rampant environment of sexual harassment. On one occasion, she cited that her supervisor attempted to date her and made disparaging and uncomfortable statements such as "if I raped you and you had an orgasm, is it really considered rape?" The complainant witnessed similar behavior with other women in the department by a cadre of supervisors. Furthermore, the complainant witnessed the communication of compromising photos of her female colleagues and invitations and advances to engage in sexual acts and intimidation when her female colleagues objected to the behavior. When the complainant brought her allegations to the district supervisor, she was quickly ostracized and stripped of certain job duties.

The complainant alleged that she underwent severe harassment and discrimination at the hands of hiring managers and supervisors. As a result of the harassment and discriminatory behaviors, the complainant began experiencing panic attacks, sleeplessness, nightmares, and extreme musculoskeletal pain from fibromyalgia flare-ups. The complainant took a 3-month medical leave in 2017 from September to December. During this period, the complainant requested a transfer to another department and was subsequently granted that opportunity in February 2018. The complainant continues to apply for positions and is consistently denied in lieu of less experienced non-Black employees.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 14. On November 12, 2019, DFEH issued a right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against SCE. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant's race and national origin was undisclosed. At the time of the filing, the complainant was serving as a Senior Engineer. Between 2014 and 2015, the complainant applied and interviewed for numerous engineering management positions and received conflicting feedback as to why he was not the successful candidate. In response, the complainant asked for an investigation. The complainant alleged that he was promised an investigation and a follow-up on the findings; however, the complainant contended that the investigation and the follow-up were never completed. In 2015, the complainant applied for another engineering management position. In this instance, a candidate from outside the company who possessed minimal knowledge experience in the optic fiber communications was hired instead of the complainant.

From 2016 through 2019, the complainant was subjected to repeated harassment, degradation, and discrimination as a result of his race and national origin. The complainant contended that his manager attempted to physically harm him on two separate occasions in 2016 and 2017. The complainant also alleged that his manager would threaten and intimidate him in both privately and in front of his colleagues. This behavior escalated in 2017, and the acts of

violence the complainant was subjected to became egregious, including his manager attempting to spit on him.

As a result of the violent act in April 2017, the complainant contacted human resources to report the violent act and the atmosphere of harassment and discrimination. The complainant documented that his manager retaliated by falsely accusing the complainant of refusing to work. The complainant followed up with the human resources and reported the retaliation, who took no steps to conduct an investigation.

For his 2017 and 2018 performance review, the complainant received less than favorable ratings and believes his performance review was not in alignment with his colleagues. The complainant reported these alleged disparities to the Vice President and Chief Ethics and Compliance Officer to no avail. In 2018, two promotional positions were posted on the company's intranet site. The complainant applied for each of the positions and both were cancelled and pulled from the intranet; however, the complainant found the second position advertised on the company's external website. The candidates who were eventually hired for the positions were less qualified than the complainant.

The complainant underwent a shift in his work schedule as a result of his manager's retaliation. The complainant began working from 10 p.m. to 6 a.m. in addition to his regular shift, thus working a 16-hour day. The complainant began experiencing significant health issues due to the excessive workload, and the complainant's doctor restricted his working hours by removing night work or on-call shifts through the end of 2018.

On November 12, 2018, the complainant received a notification from the SCE's disability provider Sedgwick informing the complainant that the managers were no longer allowing him to

work. The complainant was informed that he was required to go on disability and that he would be immediately terminated if he did not comply and sign the Sedgwick paperwork. Although the complainant did not ask to open a disability case, the company did open a case and subsequently forced the complainant to take disability.

On May 1, 2019, while on forced disability, the complainant received a letter from SCE indicating that his position was being filled and that on-call work is an essential job function. The complainant alleged that on-call work is not essential and that management was taking a systematic approach to removing him due to his reporting of the toxic work environment. After further requests for management to accommodate his disability restriction, management informed the complainant of their refusal, thus blocking the complainant from returning to work.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

PG&E Profile

Incorporated in 1905, PG&E is the largest combined natural gas and electric energy service provider in California and one of the largest in the United States. PG&E serves more than 16,000,000 people in central and northern California and employs approximately 23,000 people (PG&E, n.d.-a). At the time of this research, the PG&E's diversity and inclusion webpage exclaimed their commitment to diversity and inclusion as one that reflects the diversity of their customer as a critical part of the company's values (PG&E, n.d.-b). PG&E also stated their commitment to building strong diverse supply chain. PG&E (2020) offered their definition of diversity and inclusion:

Diversity is characterized by all the ways in which we are different. It is present in our job functions, work styles, experiences and ideas. Diversity cultivates new perspectives and innovation, which enable us to exceed the expectations of our customers, employees and shareholders . . . Inclusion at PG&E is the process of leveraging the power of our employees' individual uniqueness to achieve our business strategies and goals, be better corporate citizens, and be the best in the industry. (p. 104)

Moreover, to reinforce the company's commitment to maintaining diverse and inclusive workspace, PG&E offers their employees the following:

- Diversity and Inclusion workshops and learning
- Recognition of outstanding achievement through an annual Diversity and Inclusion Award
- A choice of participating in 15 ERGs or professional organizations.

In their most recent Corporate Responsibility and Sustainability Report, President and CEO Bill Smith acknowledged and recommitted to diversity and inclusion in response to the 2020 racial unrest.

Amid a global pandemic, we are intensifying our focus on the health and safety of our customers, workforce, and communities. And we are responding to calls for racial equity by deepening PG&E's long-standing dedication to diversity, inclusion, and equal opportunity in the workplace. (PG&E, 2020, p. 2)

PG&E also documents their approach to fostering a diverse and inclusive culture. Led by the Chief Diversity Officer, the company's diversity and inclusion practices and performance is regularly reviewed by the Compliance and Public Policy committee on PG&E's Board of

Directors. According to PG&E (2020), key performance measures include “targeted employee development to level the playing field for diverse talent,” (p. 103) ensuring a diverse leadership team and furthering cultural understanding.

Despite documenting their approach, PG&E does not document their qualitative or quantitative goals or indicate progress towards their listed metrics. PG&E’s approach in reaching their goals includes the use of ERGs, with the 50-year-old Black ERG being the company’s first ERG. PG&E does document diversity milestones including but not limited to attending diverse STEM conference to recruit talent and ERG scholarship awards and cultural education series. Furthermore, PG&E’s directive to advance diversity in leadership is heavily emphasized along gender lines. For instance, PG&E offers a roadmap to increase the number of women in leadership positions and operational roles, including interview analysis and external benchmarking. However, PG&E has only one leadership program that is inclusive of African Americans. PG&E highlights the national Management Leadership for Tomorrow Career Advancement program as a preparation mechanism for mid-level African American, Hispanic, and Native American employees. Since 2016, five PG&E leaders have attended the program and four have been promoted or are working in interim leadership positions. No data were provided on the race or ethnicity of the attendees.

As of September 2020, PG&E has been recognized by 12 organizations for their work in diversity. Of those 12, six are awards received on or before 2013. One award lists the HRC that was previously documented. Another recognition is from Black Enterprise magazine, which named PG&E as one of the 2019 50 Best Companies for Diversity.

Black Enterprise Magazine 50 Best Companies for Diversity

Black Enterprise Magazine self identifies as the organization that distinguishes companies they deem “back up their diversity talk”(Black Enterprise, 2018, para. 1). According to Black Enterprise (2018), the 50 Best Companies for Diversity is a selection of companies who have created measurable indicators in growing the number of African American within their workforce, senior management, board of directors, and supplier base. It should be noted that Black Enterprise does not directly survey companies; rather, Black Enterprise partners with the Executive Leadership Council, who sends surveys to the United States’ top 1,000 publicly-traded companies. Executive Leadership Council is a nonprofit firm dedicated to developing Black executives. Black Enterprise has access to the surveys and uses the annual survey results to perform quantitative and qualitative review of the 1000 corporation’ responses. Black Enterprise selects builds their list in accordance with the following criteria:

- Black employee base rate, senior management representation, board of directors’ representation, and supplier procurement.
- Status of company across all diversity and corporate leadership lists.
- CEO active role in diversity practices.

To reiterate, the survey information is based on voluntary information provided by the PG&E. PG&E’s demographic report from 2017–2019 indicates that PG&E employs nearly twice the rate of ethnic minorities than the average U.S. energy company. PG&E’s demographic report also revealed that the percentage of employed ethnic minorities have increased annually in almost every work category, from laborers to officials and managers. However, the rate of employment among Black and African Americans has been relatively flat, with a modest

increase of .1% from 2017–2019. Although PG&E maintains its diversity through other ethnic minorities and gender and sexual orientation metrics, its diversity among Black employees is inequitable. The information provided in PG&E’s sustainability report does not match the award criteria for Black Enterprise magazines’ Top 50 due to the rate of Black employee saturation in leadership and on the board of directors and the CEO’s lack of taking an active role in diversity. Since 2014, PG&E has had five CEO changes.

PG&E Cases

Case 1

On June 9, 2015, DFEH issued an immediate right-to-sue letter under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against PG&E. The complainant requested an immediate right-to-sue; therefore, the DFEH took no further action to investigate the complaint.

The complainant is an African American female over the age of 40. The complainant contended that she was subject to repeated sexual and racial harassment by senior management, in part due to her disabilities. Upon reporting the harassment, the complainant alleged that she was subjected to retaliation and referred to a contracted psychologist who also sexually harassed her. The complainant did not provide details of the sexual harassment in her complaint.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 2

On June 25, 2015, DFEH issued an immediate right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against PG&E. The complainant requested an immediate right-to-sue; therefore, the DFEH took no further action to investigate the complaint.

The complainant is an African American male employed as a Senior Certified Welding Inspector. The complainant was employed as a contractor and worked on numerous PG&E projects. The complainant contended that he was subject to repeated harassment and upon reporting the harassment, PG&E abruptly ended his contract. The complainant did not provide further details on their allegations.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 3

On November 2, 2016, DFEH issued an immediate right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against PG&E. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant's race, gender, and ethnicity is unknown. The complainant contended that they were denied a promotion and terminated due to their race. The complainant also claimed retaliation after participating in an investigation regarding racial discrimination. The complainant did not provide further details on their allegations.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 4

On September 18, 2017, DFEH issued a right-to-sue letter under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against PG&E. The DFEH found insufficient evidence and was unable to establish a violation of the statute given the information provided by the complainant.

The complainant is an African American male who contended that his working conditions were not fair and equitable. The complainant was denied the opportunity to work remotely and contended that the non-Black employees were allowed the accommodation to work remotely. Specifically, between December 2015 through May 2016, the complainant requested to work 3 days in San Francisco and 2 days in Sacramento, an identical schedule as his non-Black coworker. The complainant did not provide any further information or detail regarding these allegations.

Upon obtaining the right-to-sue notice, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 5

On December 12, 2016, DFEH issued an immediate right-to-sue letter under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant

against PG&E. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant is an African American female who works in the call center and suffers from anxiety, insomnia, and severe headaches. The complainant contended that answering calls gives her anxiety and the company accommodated her disability by allowing her to respond to emails. After a year of serving customer issues through email, the complainant alleged she was terminated for avoiding calls and, in part, due to her race. The complainant also alleged that she was subjected to unequitable treatment because her non-Black colleagues were able to avoid calls and were not terminated. The complainant did not provide any further details on their allegations.

Upon obtaining the right-to-sue notice, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 6

On March 31, 2017, DFEH issued an immediate right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against PG&E. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant is an African American male who worked for Blackstone, a contractor for PG&E. The complainant contended that he worked directly under PG&E employee supervision during his time as a contractor. The complainant alleged that this supervision imposed a military-style culture of toxic masculinity and subjected employees to public

inspections, dress codes, and were referred to as troops. The claimant described in detail the toxic masculinity and racism as it applied to him and another African American. For instance, supervisors would refer to both African American coworkers in a derogatory manner, using terms from the days of slavery as an identifier. The complainant described detailed physical abuse where his manager struck his African American colleague in the head on several occasions. When his colleague attempted to publicly resign, the manager threatened him with a poor recommendation and implied that the complainant's colleague would never be a supervisor again.

The complainant recalled how the supervisor's actions became the mode of operandi, meaning that communication with the supervisor often resulted in derogatory, demeaning statements followed up by physical strikes to the back of the head. The complainant reported the behavior to the human resources department at Blackstone. According to the complainant Blackstone did not corroborate his complaint but discouraged the complainant for mistreating the PG&E supervisor. Blackstone then reprimanded the complainant and provided instruction to improve his communication. Finally, Blackstone human resources directed the complainant to take up any future action directly with the abusive manager.

Upon obtaining the right-to-sue notice, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 7

On September 5, 2018, DFEH issued an immediate right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant

against PG&E. The complainant requested an immediate right-to-sue notice; therefore, the DFEH took no further action to investigate the complaint.

The complainant is an African American male who began his employment at PG&E in 1994. The complainant alleged that prior to his wrongful termination on March 5th, 2018, he worked as a project manager and had lived in a corporate culture of derogations toward African Americans. The complainant documented statements from leadership such as “they don’t do this well” or “they are too confrontational” in reference to work aptitude of the six African American project managers. The complainant experienced the racially insensitive cultural norm in the field and worked with construction managers who would say “that ‘N-word’ can’t stop my project.”

The complainant also documented that all six African American project managers were on performance improvement plans (PIP), providing an underlying message that African Americans were subject to more scrutiny, stricter standards, and critical performance evaluations. The complainant noted that being put on a PIP adversely affects employees’ annual bonuses. The complainant reported the behavior to human resources in January 2018 and believes this angered his upper management.

The complainant’s supervisors began threatening him with termination after the complainant reported the supervisor’s behavior to human resources and after receiving doctor’s orders to work half days due to for a chronic back issue. The complainant alleged that his supervisor had outburst, became visibly agitated and threatening, and turned red and slammed his hands on his desk on multiple occasions. On one occasion, the human resources representative participated in the meeting during an outburst and asked the complainant to attend all future meetings by phone.

On January 2018, when inquiring about seeking another job in the company, the complainant's supervisor informed the complainant that he could not seek another job in the company due to the PIP. The complainant followed up with human resources, who informed the complainant of the policy that did not preclude seeking employment within the company. As a result of the PIP, the complainant was terminated on March 5th, 2018.

Upon obtaining the right-to-sue notice and in accordance with Government Code section 12965, the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Case 8

On November 29, 2019, DFEH issued a right-to-sue notice under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) to the complainant against PG&E. The DFEH was unable to establish a violation of the statute due to insufficient evidence and dismissed the case after a full investigation.

The complainant is an African America working in the Fresno call center. According to the complainant's written statement, over 75% of the more than 300 employees working in the call center are Hispanic. The large occupation of Hispanics within the workgroup permeates through to the union, management, and administrative leads. The complainant alleged that she was subjected to frequent flagrant charges of misconduct. After reporting to human resources and the Ethics and Compliance Division, the complainant's manager attempted to enforce disciplinary actions on her. The complainant refused those actions and the complainant's manager began to look for opportunities to admonish her as a result. The complainant's report led the union to issue a panel probe into the managers activities. Although, the complainant

alleged that the harassing activities have drastically reduced, there is no indication that the manager was subject to any discipline because the manager maintained her job and status.

Upon obtaining the right-to-sue notice the complainant had the option of filing a lawsuit in the Superior Court of the county in which the complainant lived or where the alleged violations occurred.

Summary

In an effort to achieve a realistic and deeper understanding of systems perpetuating the inequitable experiences, the researcher took into account IOU profiles, the public displays of corporate commitment to diversity, the legitimacy of third-party validators of diversity success, and the historic cases of discrimination coupled with the most recently filed employment discrimination complaints to collectively demonstrate a consistent and ongoing pattern of discriminatory behaviors toward African Americans within the cultural norms of Californian IOUs.

The segmentation of the case studies revealed that employees who identify as White are by far the largest subgroup to seek protective relief under the CRAA laws designed specifically to eliminate workplace discrimination and close the unfavorable economic gap between African Americans and the salient ingroup. Given their social and economic privilege, White Americans are the most successful recipients of protective relief under the CRAA laws.

From a quantitative vantage point, some argue that the number of cases filed with the DFEH is relatively small compared to the number of employees of the IOUs. The risk or reward for initiating extensive and expensive processes and procedures to combat a fairly small number of disgruntled employees does not favor a racially motivated diversity initiative. However, based

on the vast makeup of race-based complaints filed by African Americans, the onerous task of documenting one's experience, waiting for internal investigation, filing a complaint with the DFEH, and finally receiving a right-to-sue letter is extremely daunting, expensive, and time consuming for the employee. This process requires extreme courage, as individuals who file complaints must relive their experience and continue to suffer while awaiting justice from a system not designed to include them. Then, complainants must participate in the lawsuit. African Americans are likely to not have the time and financial resources to defend against a corporation, and many face several road blocks and setbacks in their pursuit for fairness. The one formidable person represents many who stumbled, those who did not trust the process to result in a justifiable outcome, and those who did not have the stamina and money to pursue.

The case studies show a consistency of discriminatory behaviors across all IOUs. Themes such as lack of mobility, equal pay, harassment, expulsion and a duplicitous internal racial compliance system emerged in cases across all IOUs. Furthermore, the researcher notes that through the documented class-action lawsuits, the IOUs are not ignorant to these inequities. The idea that these corporations are repeat offenders of the same offenses is startling. More startling are the corporations' ability to market themselves as diversity champions while continuing to ignore the inequities of African Americans.

CHAPTER V

DISCUSSION

Rationale

The study was designed and administered to answer two research questions regarding (a) the continuing inequities relative to other protected classes that fall into diversity and inclusion and (b) the White-dominated culture that African Americans experience within California IOU companies. Although previous researchers examined the topic of racial discrimination in the workplace more broadly, this research adds new information to the study of racial inequities, social disparities, and systematic racism within a specific business sector.

The researcher submitted a records request for all complaints of employment discrimination against SoCalGas, SCE, PG&E, SDG&E, and Sempra Energy to the California DFEH under the California PRA (Gov. Code, § 6250 et seq.). The researcher only requested records of complaints filed between 2015–2019.

Purpose

The problem addressed by this case study was the disconnect of the premise or equilibria of diversity and inclusion as a solution to workplace discrimination, specifically towards African Americans. African Americans initiated, planned, and organized a movement culminating in the Civil Rights March on Washington for Jobs and Freedom in 1963. The Civil Rights March gave way to CRAA, which provided an opportunity to change the paradigm of the workplace to be more equitable, combat systematic racial discrimination, and improve job prospects among African Americans.

The aim of the Civil Rights Bill according to the 1964 Congress was to correct injustices by enacting the prohibition against unfair economic racial discrimination “against negroes when it comes to employment.” (110 Cong. Rec. (Bound) - Senate, 1964, 13092.) Congress members feared that the integration of Black Americans into mainstream American society could not be achieved unless this trend of economic racial discrimination was reversed. Congress also recognized economic equity would not be possible unless Black Americans were able to secure sustainable jobs (*United Steelworkers of America v. Brian F. Weber et al. Kaiser Aluminum & Chemical Corporation*, 1979).

The initial motivation of Title VII was Black unemployment (Blumrosen, 1967). Initially, Title VII banned discrimination and segregation in the workplace from a racially motivated lens and required employers to use “colorblind standards in their hiring and promoting decisions” (Harvard Law Review, 1971, 1116). In addressing the impact of the CRAA, John F. Kennedy (n.d.) stated that the new employment law “would help set a standard for all the Nation and close existing gaps” (para. 63) for Black people in the workplace. The very first court case to challenge Title VII that included African American employees was *Griggs versus Duke Power Company*. The African American employees were able to establish and show the consequences of discriminatory employment practices systematically instituted at Duke Power Company and won the 1975 Supreme Court decision that gave way to diversity and inclusion as an industry standard to help relieve corporate liability of inequitable practices.

Forty-five years later, the energy industry boasts their diversity and inclusion recognitions and awards to indicate their success in moving the needle in diversity. In the same 45 years, the term diversity has grown to accommodate all minorities, including women, people

with disabilities, veterans, and members of LGBTQ groups (Edelman et al., 2001). Thus, the presence of African Americans within diversity and inclusion has become diluted and neglected as companies continue to hide African American progress in diversity. Moreover, the emphasis on African Americans in the establishment of Title VII has been replaced by the same dominant and oppressive regime of White males who are considered diverse due to being disabled, a veteran, or part of the LGBTQ community.

The purpose of this case study was to examine complaints of employment discrimination filed with the California DFEH by African American employees of California IOUs in an effort to document social closure themes in hiring practices, mobility, harassment and expulsion. The PRA request resulted in more than 23,000 employment discrimination filings by California IOU employees from 2015–2019. In over 15,000 of those cases, the complainant voluntarily identified their race. Forty-nine percent or more than 7700 complaints were filed by employees who self-identified as White and 24% or more than 3800 of complaints were filed by employees who self-identified as Black. In addition, the researcher examined IOU's diversity commitments, policies, procedures, and the legitimacy of diversity awards and recognitions touted by each IOU. The researcher took a qualitative approach to (a) compare company commitment to diversity as it relates to the African American subclass and (b) further address the critical achievement gap of African Americans despite the company's intended purpose of diversity and inclusion. Lastly, the researcher examined the best practices of organizations who are intent on advancing African Americans.

The findings and the conclusion of this research relied predominantly on the researcher's extensive experience and knowledge as an African American male who has been employed at

three of the four California IOUs with relative success in professional advancement.

Furthermore, the researcher observed the systematic treatment of African Americans at California IOUs firsthand.

The study results illustrate the effects of race-related trauma associated with the continued mistreatment of African Americans despite organizations' purported accomplishments and advancements in diversity. The implications and recommendations detailed in this chapter will inform employers of the continuing systematic employment discrimination of African American employees in the form of hiring, mobility, harassment, and expulsion.

Summary of Findings and Implications

The research findings will help employers, company leaders, diversity and inclusion professionals, and employees recognize the existence and continued impact of systematic social closure and statistical discrimination as a framework in the neglect of African Americans employees. Diversity statistics are widely perceived as evidence of closing the gap of marginalized social classism. Dominant groups' business leaders perceive these diversity metrics as evidence that discriminating elements of social closure, as it applies to all protected classes, are improving. This perception minimizes business leaders' proactive approach in monitoring diversity metrics and observing their organization's culture for existing elements of social closure. Complaints along racial lines are often perceived by the dominant group as being sensitive, self-interested, and merely complaining (Kaiser & Miller, 2001). As seen in the actual complaints, management of racial identity and being dismissed within the work environment impacts employees' overall health in stress, anxiety, work performance (Wegner & Lane, 1995),

thus reinforcing cultural norms and creating a negative workspace (Griffith & Hebl, 2002; Law et al., 2011).

Several themes emerged from the researcher's examination of employee complaints submitted to the California DFEH. The themes suggest the need for immediate action, reexamination, transparency, and focused attention on the inequitable corporate diversity and inclusion initiatives initially designed for African American employees. Today, these initiatives who have been nearly eradicated in favor of White dominant groups who have written their names in the competing diversity rheum.

Research Question 1

Research Question 1 was as follows: What are the trends in employment discrimination in Californian IOUs, as measured through verified complaints at the DFEH?

Summary of Findings

Of the 205 cases filed with the DFEH by employees of the four IOUs, 65 of those cases listed race or color as a basis of the discriminatory circumstances of their complaint (see Table 1).

Table 1*Race or Color as Primary Complaint*

Company	No. of cases that listed race of color as primary complaint
SCE	30
PG&E	19
SoCalGas	8
Sempra Energy	7
SDG&E	1
Grand Total	65

The following findings emerged in relation to Research Question 1:

- The complaints allege mistreatment of African Americans along the same salient discriminatory misconduct that brought about the 1945 fair employment practices laws in New York and the 1965 Title VII federal employment laws. According to the DFEH complaints, African American employees of California IOUs continue to be subject to discrimination in mobility, training, performance evaluation, harassment, retaliation, and expulsion.
- African Americans have filed more race-based complaints against California IOUs than any other race or ethnicity.
- African Americans have filed 3 class-action lawsuits against California IOU alleging similar discriminatory behaviors.
- Many African Americans experience undue health issues related to stress and anxiety as a result of the discrimination incurred.

- IOU companies have no specific strategies or plans to address the inequities African Americans are experiencing.

Summary of Implications

Systematic analysis of the efficacy of civil rights legislation impact on African American employees of utilities has resulted in the discovery of continued neglect. Although the DFEH did not release the voluntary racial identity of the complainants, there was more than enough evidence in the actual complaint to confirm the greater number of complainants were indeed African American. African Americans utility employees continue to experience similar discriminatory barriers in employment presented in many of class-action lawsuits filed by African American utility workers in 1971, 1974, 1994 and 2010. The most current 2010 lawsuit maintains that the defendant Southern California Edison has failed to honor the previous two consent decrees (1974 and 1994). Mathews (2011) summarized this well:

The promises that are in the consent decree calling on Edison to make good faith efforts to increase the employee population and improve the opportunities for African-Americans to be promoted, to achieve higher status and goals... not only have they not been met, but they have in fact have been reduced substantially. They have a culture of discrimination against African-Americans at Edison that's reprehensible. (p. 4)

Implication 1: Hiring/Mobility. Of the 65 total race/color based complaints filed with the DFEH, 30 of those cases indicated the complainant were denied hire or promotion. The relative nature of career trajectory and the lack of African Americans found in leadership position within IOUs is consistent with the more favorable opportunities going to the salient in-group (Khosrovani and Ward (2011). As per the written complaints, the inequality is felt by

African Americans but ambiguous and difficult to prove. Most of the race based complaints filed with the DFEH requested and were granted an immediate right to sue indicating the urgent nature of their circumstances and DFEH willingness to quickly review the complaints for clarity and confirmation. However, in granting the immediate right to sue indicates the DFEH's reluctance to pursue criminal proceedings of violations of laws enforced by DFEH (see Appendix A) largely because the qualification of criminal behavior requires intent. Intent is difficult to prove largely due to lack of evidence of discriminatory patterns. The reluctance of the DFEH to pursue criminal proceedings provides another layer of a systematic discriminatory process of built-in, unreliable measures presented to protect victims, but have undoubtedly failed victims.

The majority of the cases across all IOUs indicate the internal application process for advancement is skewed in favor of the salient in-group. African Americans have indicated in their complaints relatively more interviews, longer evaluation processes and shifting standards both implicit and explicit. The salient in-group is working within the subjective parameters of policy to drive exclusion of African Americans. Hiring managers have the ability to shift standards and tailor job specification that allow for their perspective recipient to be best qualified for the job. Formal documentation will reveal to the vetting process was fair and equitable and the person receiving the job was best qualified. The vision of such implicit hiring system ironically is explicit to the African American victims, who when raising these issues through the proper channels are reviewed by non-African Americans and subsequently rejected. This despite researchers' findings that employers' perception of applicants' experience, education, and skill are influenced by racial bias (Pager et al., 2009).

The use of performance evaluations continues to trend high among the complainants as a systematic way of eliminating African Americans from promotion or advancement hiring. Several complainants indicated in their complaints, they received harsher scrutiny on performance evaluations and as a result, received harsher discipline. In several complaints, the performance evaluation was an instrument used to deter and/or reject African American applicants from attaining upwardly mobile positions. The mental and emotional impact on the recipients as a result of poor evaluations is devastating and in some cases has led to administrative medical leave due to the stress of a discriminatory working environment and the reinforcement of oppression.

African Americans continue to experience barriers of advancement mobility. Many of the complainants documented witnessing less qualified non-African Americans advance despite not being the best qualified. In some cases, African Americans were denied opportunity and required to train their new supervisors on subjects their supervisors were expected to know when hired into the position. A complainant documented repeated denial for a promotion into the immediate Sr. Manager position which laid vacant 5 times. The complainant applied for the position each time and all five times a younger, non-Black colleague with less qualifications and experience were chosen.

Implication 2: Harassment/Retaliation. Well documented are the institutional gatekeepers identified in many of the cases as immediate supervisors and the wielders of the corporate ethics, compliance and complaint policies. African Americans continue to trust the policies and procedures designed to mitigate disruption due to perceived implicit or explicit discriminatory behaviors. Many of the cases document the complaint processes for which

complainants sought out an objective review and corrected action to resolve claims of harassment. Many of complainants' experiences were similar to the experiences of African American utility workers in all three class action lawsuits of 1974, 1994 and 2010. The settlement decrees that ensued both the 1974 and 1994 lawsuits brought about a specific remedy to harassment complaint process. Unfortunately, in both cases, once the utility completed its decree requirements, cases were closed and were no longer monitored, the organization reverted to an engrained culture of discrimination of African Americans.

Research Question 2

Research Question 2 was as follows: What systematic discriminatory processes drive the aggregate patterns?

Summary of Findings

Many of the African American complainants documented similar discriminatory experiences of inequality along with the ancillary effects on their work status and health. In addition, the IOU corporate structure, policy, procedures, and public display of diversity and inclusion intent and achievement are consistent across all IOUs. The following findings emerged from the complainants' responses and the researcher's diversity policy analysis in reference to Research Question 2 :

- The IOU concept of diversity as presented to the public is an aggregate of all lawfully protected classes and thus misrepresents information regarding the longstanding achievement gap of African American employees.
- The diversity and inclusion department serves as a compliance checkbox and does not have power or authority to drive improvement.

- Efforts designed to motivate organizational responsibility for diversity, managerial bias and social closure and isolation of African Americans are not effective.
- Escalation processes and procedures for escalating complaints of discrimination are flawed or purposely designed to be maintained by the salient ingroup to preserve the status quo of a discriminating cultural hierarchy.
- IOUs are not transparent with diversity metrics yet continue to boast their achievements in diversity.

Summary of Implications

All four IOUs maintain a published corporate responsibility vision statement and recruitment strategies as their commitment to diversity. Most of the IOUs depict their company as being a diverse corporation or leaders in diversity by maintaining their emphasis to include racial minorities, women, and other disenfranchised groups. The diversity processes implemented by IOUs as corporate policies are supposedly intended to curb discrimination conversely directly attribute to the furthering of systematic racism; however, these practices serve as window dressing in an effort to claim diversity as a company attribute (Herring & Henderson, 2012).

Implication 1. The first implication emerged from the researcher's qualitative review of leader commitment, policies, and procedures aimed at fostering equity. The researcher's review revealed that the concept of diversity is ambiguous at best (Ollivier & Pietrantonio, 2006). Furthermore, IOUs' use of the term diversity encompasses the aggregate in protected classes (Kelly & Dobbin, 1998). As can be seen in IOUs' public rhetoric of diversity, the term has

expanded to incorporate a myriad of broader considerations such as geography, economics, life experiences, and personalities. The evaluation of diversity publicly displayed by IOUs misleads interested parties to believe all protected classes are equally and equitably being represented. Public statements of commitment by IOU leaders regarding diversity are salient, misleading, and aggregate depictions and do not specify opportunities for improvement or focus of granular subgroups. The lack of attention and public acknowledgment of inequities of granular subgroups within diversity implies that leader commitments towards diversity are meretricious.

Implication 2. IOUs maintain a diversity and inclusion department as part of the human resources division; however, the goal or strategic objective of the department is not publicly displayed. Furthermore, the diversity and inclusion department leader is not included on the executive leadership team. Currently, the four IOUs' diversity and equity leaders are directors or two to three levels from executive leadership and do not appear to have influence to increase equity within the system. Instead, diversity and inclusion leaders seemingly only oversee compliance with the law, manage affinity groups, manage the storeroom for diversity trainings, oversee project management for diversity recognitions and awards, steward scholarships to despaired communities, and provide information to leaders. SCE is the only IOU that publicly acknowledged its horrific history with African American employees and publicly committed to addressing disparities and inequities of African Americans.

Implication 3. Third, the study findings implied that employees were provided notable escalation avenues to address discriminatory behaviors through corporate human resources or compliance and ethics departments; however, these avenues did not provide remedies but instead protected the offending leaders and status quo, thus furthering a racially hostile work

environment. Racism does not stop at the door of a corporation, and most African Americans would suggest that they experience racism at work (Herring et al., 1998). The study revealed that many of the complainants attempted to trust and follow the procedures to escalate their concerns through established channels and seek resolution. The study revealed that all IOUs had a similar response to the presentation of racial equity issues. First, complainants felt as though their concerns were not given due diligence. As a result, the insinuating results of a perceived actionless investigation are documented as a stay-in-place for both the employee and their offending individual, resulting in retaliatory measures in the form of “black-balling” in mobility, inequitable job assignments, termination, and hostile work environments. These retaliatory measures are often driven by a combination of ostracizing, unconscious bias, and micro and macroaggressions. Furthermore, the corporate policing system mirrors the U.S. justice system in that those who investigate and make decisions are of a different racial demographic and have different experiences than the complainants. Moreover, the lack of due process creates a level of distrust, abandonment, and hopelessness among African Americans. Second, the study results indicate that the salient ingroup uses performance evaluations, succession plans, and high-performance lists without a bias assessment as a weapon for avoiding accountability.

Implication 4. The final implication of the study findings in relation to Research Question 2 is that IOUs have questionable practices that aim to represent the IOUs as being diverse and equitable with respect to African Americans. With the exception of SDG&E, each of the IOUs has a webpage dedicated to diversity and inclusion. Each of webpage displays a corporate commitment to diversity and displays a number of diversity awards and recognitions from various organizations, thus giving the impression that third parties have validated IOUs

attempt to close the social gap and decrease inequities. This research revealed that many of the awarding organizations maintain a fiduciary relationship with the IOU receiving the award. In addition, many of the awarding organizations depicting racial equity accomplishments are misleading because these organizations are owned and operated by people who do not represent the specific demographic. This finding brings the legitimacy of the awarding organizations into question. Furthermore, the data collection methodology for many of these third-party validators is a voluntary submittal of information by the IOU. Only one IOU (SCE) publicly displayed their employee statistics along racial lines and along job categories; therefore, it is unlikely that other organizations would share this information with a third-party validator and receive and display an award without publicly acknowledging the attributable successes that garners the award. For instance, each of the awarding organizations shares their distinct data-validation method, but ironically does not share the scoring mechanisms and results. The awarding organizations do provide their sponsorship list, which helped the researcher determine that the majority of the awarding organizations have a fiduciary relationship with the IOUs. This information indicates that IOUs' diversity and inclusion awards (a) depict the aggregate diversity metric for which White-women and LGTBQ saturation are drivers of success, (b) did not include an employee survey or research or validation into the abundance of DFEH complaints, (c) are entangled in a "pay-to-play" relationship for which the IOUs receives a badge of honor as a quid pro quo of sponsorship to the awarding organization, and (d) do not represent a level of accountability related to a company's diversity goals or metrics. With the exception of General Order 156—which expressly requires IOUs to meet certain diversity goals in procuring goods and service with companies owned and operated by women, LGBT individuals, veterans, or people with

disabilities—employee diversity metrics are only visible to a select group of leaders within the IOU who are not obligated to identify and improve diversity.

Recommendations for Practice

Leaders of IOUs can use the study findings to acknowledge and make adjustments to the inequities and disparities affecting African American employees. IOUs must take ownership of the cultural norms that contribute to the injustices affecting African American employees before reconciliation can begin. Today, diversity programs are not equal. Today's programs usually fall into three categories of organizational responsibility, bias moderation through training, and the reduction of social closure (Kalev et al., 2006). Corporate statements, networking, mentoring, bias training, and affinity groups have done little to move the needle for African American employees in IOUs. The following are recommendations intended for practical application regarding the immediate repair, long-term care, and cultural paradigm shift in closing the racially driven social inequities affecting African American employees of California IOUs. The application of these recommendations in the utility industry may serve as a catalyst for change in all industries. African Americans in all industries experience racial inequity as a result of U.S. racial history.

The following actions are recommended to support IOUs in developing an effective response to the inequities African American employees endure:

1. When referencing diversity, be specific to subgroups such as gender diversity, sexual-orientation diversity, and racial diversity.
2. Diversity reports should be made available to all employees and to the public.
Furthermore, diversity reports should consist of granular categories of each

diversity type and the saturation across business segments, job categories, and hierarchy.

3. Diversity strategic plans for each diverse subgroup should include metrics, goals, and accountability measures.
4. Bind compensation for all people managers to the granular diversity goals.
5. Bind department budgets to granular diversity goals.
6. Conduct annual diverse audits that include quantitative audits of metrics and qualitative audits on employee performance evaluations and hiring practices. The audit findings should be made available to employees and general public, prioritized and incorporated into strategic plans for immediate, short-term, and long-term action.
7. Include granular diversity goals part in supervisor performance evaluations.
8. Annual employee surveys should include diversity questions and should be reported and reviewed along diversity subcategories such as race.
9. Implement employee discrimination complaint process (see Appendix K). An Employee discrimination complaints based on race discrimination should be investigated by an outside consultant. The diversity and inclusion Executive Officer should oversee consultant, procedures, monitoring and reporting.
10. The diversity and inclusion department should have its own decision-making authority within each line of business.
11. All metrics, goals, summary of complaints, and actions taken made available to the public.

12. Contracts with unions should have diversity goals built-in and a 1-year, 3-year, and 5-year action plan to correct the immediate disparities.
13. All employees must have a minimum of 5 hours of diversity initiative training.

Concluding Thoughts

The study of discrimination in the workplace is not new to researchers using quantitative and qualitative analysis to document concluding evidence of malfeasance along cultural lines. The organization's normative answer to social disparities within the workplace is "diversity programming." Given the current state of political and racial unrest in 2020–2021, there is a heightened awareness on African American's plight within organizational systems not designed to include them. The study of diversity as a response to the barriers affecting African Americans in organizations is an important frontier in organizational research. As a result of White fragility, the civil rights movement has transitioned from affirmative actions and quotas designed to close the existing economic gaps for African Americans to a more subdued, laissez-fair, and self-serving agent in the form of organizational diversity, inclusion, and equity.

Adding to the existing body of literature on workplace discrimination, this study has advanced the research on duplicity in organizational diversity as a reform for workplace discrimination and its effect on African Americans. Although organization diversity policies are enacted to provide diversity, equity, and inclusion, the resulting stratification does not favor African Americans. The poor performance and lack of focus on racial inequities in diversity policy and enactment are largely overshadowed by the promotion of successful advancement of the greater diversity initiative. Today's diversity initiatives limit the focus on racial inequities in lieu of diversity and inclusion in gender, sexual orientation, veteran, and disabled status, all of

which are predominantly White categories. It is the lack of statistical transparency along racial lines and the ambiance of a successful diversity programming that allows the institutional gatekeepers to continue normative bias, social closure behaviors resulting in a revolving and continued discriminatory work environment for African Americans. African Americans continue to experience active levels of discriminatory behaviors while witnessing institutions' acknowledgements of success in regard to diversity. Furthermore, there is a race-related trauma and posttraumatic growth associated with the continued disregard of a people who sacrificed their lives to bring about governmental protections but remain segregated and neglected in that very right.

Finally, this case study and the institutional response to African American inequities rings close. As an existing African American employee who has worked for three of the four IOUs throughout his career in various leadership capacities, the researcher's story parallels many of the case studies depicted in this research. The researcher chose this topic purposefully to uncover the "why" behind the "what" regarding the continued disregard of African Americans and the deceptive practices under the sphere of diversity programming as a means to racial equity, or better yet, appearance of commitment to racial equity, within institutions. Feel good measures such as employee-resource groups, bias trainings, diversity workshops and presentations, diversity celebrations, prayer circles, CEO commitments, and DEI departments have all failed at lessening social closure and moving the needle of racial equity and economic vitality for African Americans in the California utility sector, as purposed by Title VII of the CRAA. To move the needle, institutions must hold the gatekeepers monetarily responsible

through department budgets or compensation for their efforts to improve racial equity of African Americans.

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APPENDIX A

LAWS ENFORCED BY DFEH

The Department of Fair Employment and Housing's statutory mandate is to protect the people of California from employment, housing and public accommodations discrimination, and hate violence and human trafficking, pursuant to the California Fair Employment and Housing Act (FEHA), Unruh Civil Rights Act, Disabled Persons Act, and Ralph Civil Rights Act.

The FEHA (Gov. Code, § 12900 et seq.) prohibits workplace discrimination and harassment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex (including pregnancy, childbirth, or related medical conditions), gender, gender identity, gender expression, age, sexual orientation, and military and veteran status, or because another person perceives the employee to have one or more of these characteristics.

Included in the FEHA is the California Family Rights Act (CFRA), which requires employers of 50 or more employees to provide protected leave of up to 12 work weeks in a 12-month period to eligible employees to care for their own serious health condition or that of an eligible family member. Included as well is California's Pregnancy Disability Leave Act (PDLA), which requires an employer to provide employees disabled by pregnancy, childbirth, or a related medical condition leave of up to four months and the right to return to work.

As of January 1, 2018, the FEHA also includes the New Parent Leave Act, which requires employers of at least 20 employees to allow their employees to take up to 12 weeks of parental leave to bond with a new child within one year of the child's birth, adoption, or foster care placement.

With regard to housing, the FEHA prohibits discrimination and harassment on the basis of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, and genetic information, or because another person perceives the tenant or applicant to have one or more of these characteristics.

The FEHA also mandates reasonable accommodation of religious beliefs or observances in the workplace, including religious dress and grooming practices; requires employers and housing providers to reasonably accommodate persons with disabilities; and prohibits covered entities from retaliating against any person because the person opposed practices forbidden by the FEHA or filed a complaint, testified, or assisted in any DFEH or court proceeding related to a FEHA claim.

The Unruh Civil Rights Act (Civ. Code, § 51) prohibits business establishments in California from discriminating in the provision of services, accommodations, advantages, facilities and privileges to clients, patrons and customers because of their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, primary language, citizenship or immigration status.

Similarly, the Disabled Persons Act (Civ. Code, § 54 et seq.) provides that individuals with disabilities or medical conditions have the same right as the general public to the full and free use of streets, highways, sidewalks, walkways, public buildings, medical facilities (including hospitals, clinics, and physicians' offices), and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise

provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

The Ralph Civil Rights Act (Civ. Code, § 51.7) guarantees the right of all persons within California to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of political affiliation, or on account of sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation, or position in a labor dispute, or because another person perceives them to have one or more of these characteristics.

As of January 1, 2017, DFEH has jurisdiction to investigate and prosecute violations of the California Trafficking Victims Protection Act (Civ. Code, § 52.5). The law provides a civil cause of action for victims of human trafficking, defined by California law as the deprivation or violation of the personal liberty of another person with the intent to obtain forced labor or services, including sex.

As of January 1, 2017, DFEH has jurisdiction to investigate and prosecute violations of statutes (Gov. Code, § 11135 et seq.) prohibiting recipients of state funding from discriminating in their activities or programs because of sex, gender (including pregnancy, childbirth, breastfeeding or related medical conditions), race, color, gender identity, gender expression, religion, creed, ancestry, national origin, ethnic group identification, age, physical disability, mental disability, medical condition, genetic information, marital status, or sexual orientation.

APPENDIX B

DFEH BASIS OF CLAIMS

Age
Ancestry
Association with a member of a protected class
Baby Bonding Leave (employers of 20 - 49 people)
Color
Criminal History
Disability (physical or mental)
Family Care or Medical Leave (CFRA) (employers of 50 or more people)
Gender identity or expression
Genetic information or characteristic
Marital status
Medical condition (cancer or genetic characteristic)
Military and veteran status
National Origin
Other
Pregnancy, childbirth, breast feeding, and/or related medical conditions
Race
Religious Creed - Includes dress and grooming practices
Sex/Gender
Sexual harassment- hostile environment
Sexual harassment- Quid Pro Quo
Sexual orientation

APPENDIX C

DFEH PUBLIC RECORDS ACT REQUEST

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

Public Records Act Request

This document is not your proof of submission. Complete and submit the online form within 30 days to initiate the PRA process. Unsubmitted forms are removed after 30 days from the CCRS website.

Request Number: **202003-02160712**

REQUESTOR INFORMATION

Name: **Vic Baker**

Address: [REDACTED]

City/State/Zip: [REDACTED]

Telephone: [REDACTED]

Email: **vgbaker@dons.usfca.edu**

REQUESTED INFORMATION

Is this related to a DFEH Complaint: **No**

DFEH Case Number: **N/A**

Complainant/Plaintiff Name: **N/A**

Respondent/Defendant Name: **N/A**

Specity Documents: **All documents associated with DFEH complaints of employment discrimination against Southern California Gas Company, Southern California Edison, Pacific Gas and Electric, San Diego Gas and Electric and Sempra**

Delivery Preference: **Standard Mail - \$0.10 per page plus actual mailing cost**

Type of Requestor: **3rd Party request – Not directly affiliated to the case**

NOT A LEGALLY BINDING DOCUMENT. This document does not constitute proof of filing of a Public Records Act request form with the DFEH. For additional information, please visit www.dfeh.ca.gov or contact the DFEH at 800-884-1684.

APPENDIX D

DFEH REQUEST FINAL RESULTS

Respondent	File Date	Close Date	Basis	Harms
Southern California Gas Company	11/15/2016	12/14/2016	Association with a member of a protected class; Color; Disability; Marital Status; Medical Condition; Race; Religion; Sexual Orientation	Asked impermissible non-job-related questions; Denied a work environment free of discrimination and/or retaliation; Denied reinstatement; Terminated
Southern California Gas Company	3/31/2017	3/31/2017	Ancestry; Color; Engagement in Protected Activity; Family Care; Marital Status; National Origin; Race; Sex - Gender; Sex - Pregnancy; Other	Denied a good faith interactive process; Denied a work environment free of discrimination and/or retaliation; Denied employment; Denied family care or medical leave; Denied reasonable accommodation; Terminated; Other
Southern California Gas Company	8/21/2017	8/21/2017	Ancestry; Association with a member of a protected class; Color; Engagement in Protected Activity; National Origin; Race	Denied a work environment free of discrimination and/or retaliation; Terminated
Southern California Gas Company	10/2/2017	10/2/2017	Age; Association with a member of a protected class; Disability; Engagement in Protected Activity; Family Care; Medical Condition; Race	Denied a good faith interactive process; Denied a work environment free of discrimination and/or retaliation; Denied reasonable accommodation
Southern California Gas Company	2/20/2018	2/20/2018	Age; Ancestry; Association with someone of a protected class; Color; Disability; Family Care or Medical Leave (CFRA); Gender identity or expression; Genetic information or characteristic; Marital status; Medical condition; Military and veteran status; National origin; Pregnancy, childbirth, breast feeding, and/or related medical conditions; Race; Religious Creed;	Denied accommodation for pregnancy; Denied accommodation for religious beliefs; Denied any employment benefit or privilege; Denied employer paid health care while on pregnancy disability leave; Denied equal pay; Denied Family Care or Medical Leave (CFRA); Denied hire or promotion; Denied reasonable accommodation for a disability; Denied the right to wear pants; Terminated; Denied a work environment free of discrimination and/or

			Sex/Gender; Sexual orientation; Other	retaliation; Failed to give equal considerations in making employment decisions; Denied or forced transfer
Southern California Gas Company	12/18/2019	12/18/2019	Race	Denied or forced to transfer; Laid off; Terminated; Other
Southern California Edison Company	9/25/2013	10/18/2013	Age; Association with a member of a protected class; Disability; Engagement in Protected Activity; Family Care; National Origin; Race; Sex - Gender	Asked impermissible non-job-related questions; Demoted; Denied a good faith interactive process; Denied a work environment free of discrimination and/or retaliation; Denied employment; Denied family care or medical leave; Denied or forced to transfer; Denied promotion; Denied reasonable accommodation; Denied reinstatement; Terminated
Southern California Edison Company	4/15/2014	4/15/2014	Medical Condition; Race	Demoted; Denied a good faith interactive process; Denied a work environment free of discrimination and/or retaliation; Denied continuation of employer-paid health care coverage...; Denied promotion; Denied reasonable accommodation; Laid-off
Southern California Edison Company	4/22/2014	4/22/2014	Age; Color; Race	Laid-off
Southern California Edison Company	6/23/2014	6/23/2014	Color; Disability; Engagement in Protected Activity; Family Care; Medical Condition; National Origin; Race	Demoted; Denied a good faith interactive process; Denied a work environment free of discrimination and/or retaliation; Denied employment; Denied reasonable accommodation; Denied reinstatement
Southern California Edison Company	1/22/2015	1/22/2015	Association with a member of a protected class; Color; Disability; Engagement in Protected Activity; Family Care; Race; Sex - Gender	Denied a good faith interactive process; Denied a work environment free of discrimination and/or retaliation; Denied employment; Denied family care or medical leave; Denied or forced to transfer; Denied reasonable accommodation; Denied reinstatement; Terminated

Southern California Edison Company	3/3/2015	3/3/2015	Age; Ancestry; Engagement in Protected Activity; National Origin; Race; Sex - Gender	Denied a work environment free of discrimination and/or retaliation; Terminated
Southern California Edison Company	11/25/2015	11/25/2015	Association with a member of a protected class; Engagement in Protected Activity; Race; Other	Denied a work environment free of discrimination and/or retaliation; Denied or forced to transfer
Southern California Edison Company	6/30/2016	6/30/2016	Race	Terminated
Southern California Edison Company	10/25/2016	10/25/2016	Engagement in Protected Activity; Race	Denied a work environment free of discrimination and/or retaliation; Terminated
Southern California Edison Company	2/22/2018	2/22/2018	Color; National origin (includes language restrictions); Race; Sex/Gender	Reprimanded; Terminated; Denied a work environment free of discrimination and/or retaliation; Failed to give equal considerations in making employment decisions
Southern California Edison Company	4/5/2018	4/5/2018	Age (40 and over); Ancestry; Disability (physical or mental); Family Care or Medical Leave (CFRA) (employers of 50 or more people); Medical condition (cancer or genetic characteristic); National origin (includes language restrictions); Race	Denied Family Care or Medical Leave (CFRA) (employers of 50 or more people); Denied hire or promotion; Denied reasonable accommodation for a disability; Denied work opportunities or assignments; Reprimanded; Denied a work environment free of discrimination and/or retaliation; Denied or forced transfer
Southern California Edison Company	4/6/2018	4/6/2018	Age (40 and over); Race	Denied hire or promotion; Denied work opportunities or assignments; Other
Southern California Edison Company	6/28/2018	8/1/2018	Association with someone of a protected class; Family Care or Medical Leave (CFRA) (employers of 50 or more people); Race; Sex/Gender; Other	Denied any employment benefit or privilege; Denied equal pay; Denied hire or promotion; Denied work opportunities or assignments; Reprimanded; Denied a work environment free of discrimination and/or retaliation; Denied or forced transfer
Southern California Edison Company	9/13/2018	9/13/2018	Age (40 and over); Disability (physical or mental); National origin (includes language	Denied reasonable accommodation for a disability; Reprimanded; Suspended; Other; Denied a work environment free of

			restrictions); Race; Sex/Gender	discrimination and/or retaliation
Southern California Edison Company	9/24/2018	9/24/2018	Color; Race; Sex/Gender	Denied work opportunities or assignments; Forced to quit; Reprimanded
Southern California Edison Company	10/3/2018	10/3/2018	Color; Race	Denied hire or promotion; Denied work opportunities or assignments; Reprimanded
Southern California Edison Company	10/8/2018	10/8/2018	Color; Race; Sex/Gender; Other	Denied any employment benefit or privilege; Denied equal pay; Denied hire or promotion; Denied work opportunities or assignments; Other; Denied or forced transfer
Southern California Edison Company	11/13/2018	11/13/2018	Color; Race; Sex/Gender	Denied equal pay; Denied hire or promotion; Denied work opportunities or assignments; Other; Denied or forced transfer
Southern California Edison Company	5/2/2019	5/2/2019	Age (40 and over); Color; Race; Sex/Gender	Demoted; Denied any employment benefit or privilege; Denied hire or promotion; Denied or forced to transfer; Denied work opportunities or assignments; Laid off; Terminated; Denied a work environment free of discrimination and/or retaliation
Southern California Edison Company	5/30/2019	5/30/2019	Age (40 and over); Color; Race	Denied any employment benefit or privilege; Denied hire or promotion; Reprimanded; Denied a work environment free of discrimination and/or retaliation
Southern California Edison Company	5/31/2019	5/31/2019	Age (40 and over); Ancestry; Color; Race; Sex/Gender	Denied any employment benefit or privilege; Denied equal pay; Denied hire or promotion; Denied work opportunities or assignments; Denied a work environment free of discrimination and/or retaliation
Southern California Edison Company	9/6/2019	9/6/2019	Color; Disability (physical or mental); Family Care or Medical Leave (CFRA) (employers of 50 or more people); Race; Sex/Gender; Sexual	Denied any employment benefit or privilege; Denied hire or promotion; Denied or forced to transfer; Denied reasonable accommodation for a disability;

			harassment- hostile environment	Denied work opportunities or assignments; Reprimanded
Southern California Edison Company	10/14/2019	10/14/2019	Disability (physical or mental); Family Care or Medical Leave (CFRA) (employers of 50 or more people); National origin (includes language restrictions); Race	Denied Family Care or Medical Leave (CFRA) (employers of 50 or more people); Denied hire or promotion; Denied reasonable accommodation for a disability; Denied work opportunities or assignments; Reprimanded; Suspended
Southern California Edison Company	11/12/2019	11/12/2019	Disability (physical or mental); Family Care or Medical Leave (CFRA) (employers of 50 or more people); Medical condition (cancer or genetic characteristic); National origin (includes language restrictions); Race	Denied Family Care or Medical Leave (CFRA) (employers of 50 or more people); Denied hire or promotion; Denied or forced to transfer; Denied reasonable accommodation for a disability; Denied work opportunities or assignments; Forced to quit; Other
Southern California Edison Company	12/19/2019	12/19/2019	Age (40 and over); Color; Race	Denied equal pay; Denied hire or promotion; Denied work opportunities or assignments
Southern California Edison Company	3/24/2020	3/24/2020	Age (40 and over); Color; Disability (physical or mental); Family Care or Medical Leave (CFRA) (employers of 50 or more people); Genetic information or characteristic; Medical condition (cancer or genetic characteristic); Race	Demoted; Denied any employment benefit or privilege; Denied equal pay; Denied hire or promotion; Denied or forced to transfer; Denied work opportunities or assignments; Other
Southern California Edison Company	4/17/2020	4/17/2020	Color; Race	Denied work opportunities or assignments; Reprimanded; Terminated
Pacific Gas and Electric Company	8/4/2014	8/4/2014	Age; Ancestry; Color; Disability; Medical Condition; National Origin; Race; Other	Denied a work environment free of discrimination and/or retaliation; Terminated; Other
Pacific Gas and Electric Company	12/20/2014	9/10/2015	Race; Sex - Gender	Terminated; Other
Pacific Gas and Electric Company	1/13/2015	1/13/2016	Age; Ancestry; Disability; Race	Denied a work environment free of discrimination and/or retaliation; Terminated; Other
Pacific Gas and Electric Company	6/9/2015	6/9/2015	Age; Color; Disability; Engagement in Protected Activity; Race; Sex - Gender	Demoted; Denied a good faith interactive process; Denied a work environment free of discrimination and/or

				retaliation; Denied employment; Denied family care or medical leave; Denied or forced to transfer; Denied promotion; Denied reasonable accommodation; Denied reinstatement
Pacific Gas and Electric Company	6/24/2015	6/24/2015	Engagement in Protected Activity; Race	Denied a work environment free of discrimination and/or retaliation; Denied employment; Denied promotion; Terminated
Pacific Gas and Electric Company	3/8/2016	3/8/2016	Disability; Engagement in Protected Activity; Family Care; Medical Condition; National Origin; Race; Sex - Gender; Sex - Gender Identity; Other	Denied a good faith interactive process; Denied a work environment free of discrimination and/or retaliation; Denied family care or medical leave; Denied reasonable accommodation; Terminated
Pacific Gas and Electric Company	11/2/2016	11/2/2016	Engagement in Protected Activity; Race	Denied a work environment free of discrimination and/or retaliation; Denied promotion; Terminated; Other
Pacific Gas and Electric Company	11/16/2016	9/18/2017	Race	Denied reasonable accommodation
Pacific Gas and Electric Company	12/12/2016	12/12/2016	Color; Disability; Medical Condition; Race	Terminated
Pacific Gas and Electric Company	3/31/2017	11/15/2017	Color; Race	Terminated
Pacific Gas and Electric Company	5/21/2017	6/23/2017	Age; Ancestry; Engagement in Protected Activity; Race; Military or Veteran Status	Demoted; Denied a good faith interactive process; Denied a work environment free of discrimination and/or retaliation; Denied or forced to transfer; Denied promotion; Terminated; Other
Pacific Gas and Electric Company	8/9/2017	8/19/2017	Race; Military or Veteran Status	Asked impermissible non-job-related questions; Demoted; Denied a good faith interactive process; Denied a work environment free of discrimination and/or retaliation; Denied promotion; Forced to quit
Pacific Gas and Electric Company	3/8/2018	3/8/2018	Age (40 and over); Ancestry; Color; Disability (physical or mental); Family Care or Medical Leave (CFRA)	Denied Family Care or Medical Leave (CFRA) (employers of 50 or more people); Denied reasonable accommodation for a disability; Forced to quit;

			(employers of 50 or more people); National origin (includes language restrictions); Race; Sex/Gender	Reprimanded; Terminated; Other; Denied a work environment free of discrimination and/or retaliation; Denied or forced transfer
Pacific Gas and Electric Company	3/19/2018	3/28/2018	Age (40 and over); Association with someone of a protected class; National origin (includes language restrictions); Race; Sex/Gender	Demoted; Denied hire or promotion; Terminated; Denied a work environment free of discrimination and/or retaliation
Pacific Gas and Electric Company	9/5/2018	9/5/2018	Age (40 and over); Disability (physical or mental); Race	Denied any employment benefit or privilege; Denied hire or promotion; Denied reasonable accommodation for a disability; Denied work opportunities or assignments; Reprimanded; Terminated; Denied a work environment free of discrimination and/or retaliation
Pacific Gas and Electric Company	1/23/2019	1/23/2019	Association with a member of a protected class; Race	Denied any employment benefit or privilege; Denied equal pay; Denied work opportunities or assignments; Reprimanded; Suspended; Terminated; Denied a work environment free of discrimination and/or retaliation
Sempra Energy	11/15/2016	12/14/2016	Association with a member of a protected class; Color; Disability; Marital Status; Medical Condition; Race; Religion; Sexual Orientation	Asked impermissible non-job-related questions; Denied a work environment free of discrimination and/or retaliation; Denied reinstatement; Terminated
Sempra Energy	3/31/2017	3/31/2017	Ancestry; Color; Engagement in Protected Activity; Family Care; Marital Status; National Origin; Race; Sex - Gender; Sex - Pregnancy; Other	Denied a good faith interactive process; Denied a work environment free of discrimination and/or retaliation; Denied employment; Denied family care or medical leave; Denied reasonable accommodation; Terminated; Other
Sempra Energy	10/25/2017	11/13/2017	Age; Color; Race; Sex - Gender	Denied a work environment free of discrimination and/or retaliation; Other
Sempra Energy	12/18/2019	12/18/2019	Race	Denied or forced to transfer; Laid off; Terminated; Other

Sempra Energy	2/6/2020	2/6/2020	Age (40 and over); National origin (includes language restrictions); Race	Denied any employment benefit or privilege; Denied hire or promotion; Denied work opportunities or assignments; Terminated
Sempra Energy	2/6/2020	2/6/2020	Age (40 and over); National origin (includes language restrictions); Race	Denied any employment benefit or privilege; Denied hire or promotion; Denied work opportunities or assignments; Terminated

APPENDIX E

HRC CORPORATE EQUALITY INDEX RUBRIC

CEI Rating Criteria

Criteria 1	Workforce Protections (30 points possible)	
	a) Policy includes sexual orientation for all operations	15 points
	b) Policy includes gender identity or expression for all operations	15 points
Criteria 2	<p>Inclusive Benefits (30 points possible)</p> <p>To secure full credit for benefits criteria, each benefit must be available to all benefits-eligible U.S. employees. In areas where more than one health insurance plan is available, at least one inclusive plan must be available</p>	
	a) Equivalency in same- and different-sex spousal medical and soft benefits	10 points
	b) Equivalency in same- and different-sex domestic partner medical and soft benefits	10 points
	c) Equal health coverage for transgender individuals without exclusion for medically necessary care	10 points
	a. Equal health coverage for transgender individuals without exclusions for medically necessary care	
	i. Insurance contract explicitly affirms coverage and contains no blanket exclusions for coverage	
	ii. Insurance contract and/or policy documentation is based on the World Professional Association for Transgender Health (WPATH) Standards of Care	
	iii. Plan documentation must be readily available to employees and must clearly communicate inclusive insurance options to employees and their eligible dependents.	
	iv. Other benefits available for other medical conditions are also available to transgender individuals. Specifically, where available for employees, the following benefits should all extend to transgender individuals, including for transition-related services:	
	1. Short term medical leave	

2. Mental health benefits
 3. Pharmaceutical coverage (e.g., for hormone replacement therapies)
 4. Coverage for medical visits or laboratory services
 5. Coverage for reconstructive surgical procedures related to sex reassignment
- Criteria 3 Supporting an Inclusive Culture & Corporate Social Responsibility (40 points possible)
- a) Three LGBTQ Internal Training and Education Best Practices 10 points
Businesses must demonstrate a firm-wide, sustained and accountable commitment to diversity and cultural competency, including at least three of the following elements:
 - a. New hire training clearly states that the nondiscrimination policy includes gender identity and sexual orientation and provides definitions or scenarios illustrating the policy for each
 - b. Supervisors undergo training that includes gender identity and sexual orientation as discrete topics (may be part of a broader training), and provides definitions or scenarios illustrating the policy for each
 - c. Integration of gender identity and sexual orientation in professional development, skills-based or other leadership training that includes elements of diversity and/or cultural competency
 - d. Gender transition guidelines with supportive restroom, dress code and documentation guidance
 - e. Anonymous employee engagement or climate surveys conducted on an annual or biennial basis allow employees the option to identify as LGBTQ.
 - f. Data collection forms that include employee race, ethnicity, gender, military and disability status — typically recorded as part of employee records — include optional questions on sexual orientation and gender identity. 10 points
15 points
 - g. Senior management/executive performance measures include LGBTQ diversity metrics
 - b) Employee group –or– Diversity council
 - c) Three Distinct Efforts of Outreach or Engagement to Broader

LGBTQ Community Businesses must demonstrate ongoing LGBTQ-specific engagement that extends across the firm, including at least three of the following:

- a. LGBTQ employee recruitment efforts with demonstrated reach of LGBTQ applicants (required documentation may include a short summary of the event or an estimation of the number of candidates reached)
- b. Supplier diversity program with demonstrated effort to include certified LGBTQ suppliers
- c. Marketing or advertising to LGBTQ consumers (e.g.: advertising with LGBTQ content, advertising in LGBTQ media or sponsoring LGBTQ organizations and events) 5 points
- d. Philanthropic support of at least one LGBTQ organization or event (e.g.: financial, in kind or pro bono support)
- e. Demonstrated public support for LGBTQ equality under the law through local, state or federal legislation or initiatives

d) LGBTQ Corporate Social Responsibility

- a. Contractor/supplier non-discrimination standards AND Philanthropic Giving Guidelines

Criteria 4 Responsible citizenship (-25) -25 points

Employers will have 25 points deducted from their score for a large-scale official or public anti-LGBTQ blemish on their recent records. Scores on this criterion are based on information that has come to HRC's attention related to topics including but not limited to: undue influence by a significant shareholder calculated to undermine a business's employment policies or practices related to its LGBTQ employees; directing corporate charitable contributions to organizations whose primary mission includes advocacy against LGBTQ equality; opposing shareholder resolutions reasonably aimed at encouraging the adoption of inclusive workplace policies; revoking inclusive LGBTQ policies or practices; or engaging in proven practices that are contrary to the business's written LGBTQ employment policies.

CEI 2019 Perfect Score

100 points

APPENDIX F

CURVE OF MATURITY


**DISABILITY EMPLOYMENT
MATURITY CURVE: WHERE
DOES YOUR ORGANIZATION
STAND?**

Wherever you are on the disability employment maturity curve, the National Organization on Disability will be there with the professional expertise and resources to help you progress.



APPENDIX G

REFINITIV DI ESG MEASURES

Pillar	Elkon Item Code	Description	Benchmark group
Controversies	TR.ControvDiversityOpportunity	Number of controversies published in the media linked to workforce diversity and opportunity (e.g. wages, promotion, discrimination and harassment).	Market Cap Classification
Controversies	TR.RecentControvDiversity	Number of controversies linked to workforce diversity and opportunity (e.g. wages, promotion, discrimination and harassment) published since the last fiscal year company update.	Market Cap Classification
Controversies	TR.ControvWorkingCondition	Number of controversies published in the media linked to the company's relations with employees or relating to wages or wage disputes.	Market Cap Classification
Controversies	TR.RecentControvWorkingCondition	Number of controversies linked to the company's relations with employees or relating to wages or wage disputes published since the last fiscal year company update.	Market Cap Classification
Diversity	TR.AnalyticBoardCulturalDiversity	Percentage of board members that have a cultural background different from the location of the corporate headquarters.	Country
Diversity	TR.PolicyDiversityOpportunity	Does the company have a policy to drive diversity and equal opportunity?	Industry
Diversity	TR.TargetsDiversityOpportunity	Has the company set targets or objectives to be achieved on diversity and equal opportunity?	Industry
Diversity	TR.WomenEmployees	Percentage of women employees.	Industry
Diversity	TR.NewWomenEmployees	Percentage of new women employees.	Industry
Diversity	TR.WomenManagers	Percentage of women managers	Industry
Diversity	TR.AnalyticBoardFemale	Percentage of females on the board.	Country
Diversity	TR.AnalyticExecutiveMembersGenderDiversity	Percentage of female executive members.	Country
Inclusion	TR.USLGBTEqualityIndex	The score of the company in the HRC corporate equality index from the Human Rights Campaign Foundation.	Country
Inclusion	TR.FlexibleWorkingHours	Does the company claim to provide flexible working hours or working hours that promote a work-life balance?	Industry
Inclusion	TR.DayCareServices	Does the company claim to provide day care services for its employees?	Country
Inclusion	TR.EmployeesWithDisabilities	Percentage of employees with disabilities or special needs.	Country
Inclusion	TR.HIV/AIDSProgram	Does the company report on policies or programs on HIV/AIDS for the workplace or beyond?	Country
People Development	TR.PolicySkillsTraining	Does the company have a policy to improve the skills training of its employees?	Industry
People Development	TR.PolicyCareerDevelopment	Does the company have a policy to improve the career development paths of its employees?	Industry
People Development	TR.AvgTrainingHours	Average hours of training per year per employee.	Industry
People Development	TR.InternalPromotion	Does the company claim to favor promotion from within?	Industry
People Development	TR.MgtTraining	Does the company claim to provide regular staff and business management training for its managers?	Industry
People Development	TR.AnalyticTrainingCosts	Training costs per employee in U.S. dollars	Industry
People Development	TR.EmployeeSatisfaction	The percentage of employee satisfaction as reported by the company.	Industry

Refinitiv is one of the world's largest providers of financial markets data and infrastructure, serving over 40,000 institutions in approximately 190 countries. It provides leading data and insights, trading platforms, and open data and technology platforms that connect a thriving global financial markets community – driving performance in trading, investment, wealth management, regulatory compliance, market data management, enterprise risk and fighting financial crime.

Date of issue: September 2020

REFINITIV
DATA IS JUST
THE BEGINNING® 

APPENDIX H

SEMPRA ENERGY DIVERSITY AND INCLUSION WEBSITE (9/15/2020)



Diversity & Inclusion is Our Business

Diversity and inclusion have been core values for Sempra Energy since our founding. At Sempra Energy, for decades, we've encouraged our employees to bring their whole selves to work as our competitive advantage. That's where our ideas come from and meaningful collaboration gets its start. By bringing together people with different perspectives, ideas, backgrounds and experiences to solve our industry's challenges, we have built a stronger business.

Our focus on diversity also extends to our suppliers. We believe in seeking good third parties from diverse backgrounds and have consistently exceeded our own goals as well as those set by the California Public Employees' Ethics Commission (CPERC). We also support regular diversity training programs designed to help those companies grow, such as business assistance, business development and technical skills. By bringing together employees and suppliers with unique perspectives and experiences, we're creating a better and stronger business for everyone.

Programs that Empower and Engage

Practices, programs, policies and initiatives give our employees opportunities to engage and suggest their ideas, leading to our continued commitment to our goals, assets, and the safety, health and well-being of our employees and the communities we serve. We're committed to our diversity and inclusion goals.

Employee Diversity & Inclusion Councils

Employee Diversity & Inclusion Councils



A Winning Commitment to Diversity in Business

It's not just the goal, but having our diversity and inclusion efforts recognized is one small way we know we're making a difference.



Companywide and Local Diversity & Inclusion Councils are composed of groups that help set formal goals and metrics, work on our priorities, and identify potential areas of focus.

Employee Diversity & Inclusion Councils

McPower Mentorship Program

Employee Diversity & Inclusion Councils

Visions Beyond Energy



5th All Our People and Processes Score

“ Our vision is to move beyond tolerance to embrace and leverage the rich dimensions of diversity. When employees tap into their diverse

APPENDIX I

SCE WORKFORCE DIVERSITY NUMBERS

11. So Cal Edison Workforce Diversity

Job Category	White	Black or African American	Hispanic or Latino	Asian	Native Hawaiian or Pacific Islander	American Indian or Alaskan Native	Two or More Races	Female
Exec/Sr Mgrs	64%	7%	12%	13%	1%	0%	2%	36%
First/Mid-level Mgrs	50%	6%	26%	13%	1%	1%	3%	25%
Professionals	36%	6%	29%	24%	1%	0%	4%	42%
Technicians	41%	6%	39%	9%	1%	1%	4%	26%
Admin Support	24%	11%	52%	6%	2%	1%	4%	63%
Craft Workers	50%	4%	40%	3%	0%	1%	2%	< 1%
Operatives	43%	4%	47%	1%	0%	1%	4%	< 1%
Laborers & Helpers	40%	16%	38%	5%	0%	1%	1%	11%
Service Workers	45%	22%	25%	2%	1%	0%	5%	10%

12. Diversity Among Board of Directors

Year	White	Black or African American	Hispanic	Asian	Native Hawaiian or Other Pacific Islander	American Indian or Alaskan Native	Two or More Races	Female
2018	67%	9%	17%	8%	0%	0%	0%	25%
2019	67%	9%	17%	8%	0%	0%	0%	33%
2020	67%	9%	17%	8%	0%	0%	0%	33%

13. Diversity Among Officers

Year	White	Black or African American	Hispanic	Asian	Native Hawaiian or Other Pacific Islander	American Indian or Alaskan Native	Two or More Races	Female
2018	75%	4%	4%	13%	0%	0%	4%	17%
2019	68%	14%	9%	9%	0%	0%	0%	14%
2020	68%	9%	9%	9%	0%	0%	5%	23%

I4. Diversity Among Non-Officers Executives

Year	White	Black or African American	Hispanic	Asian	Native Hawaiian or Other Pacific Islander	American Indian or Alaskan Native	Two or More Races	Female
2018	65%	8%	11%	15%	0%	0%	2%	38%
2019	63%	7%	11%	15%	1%	0%	3%	39%
2020	64%	7%	12%	14%	1%	0%	2%	38%

I5. Diversity Among Officers & Non-Officer Executives

Year	White	Black or African American	Hispanic	Asian	Native Hawaiian or Other Pacific Islander	American Indian or Alaskan Native	Two or More Races	Female
2018	67%	7%	9%	15%	0%	0%	3%	34%
2019	64%	8%	11%	14%	< 1%	0%	3%	34%
2020	64%	7%	12%	13%	1%	0%	2%	36%

APPENDIX J

SCE ANNUAL REPORT

ENVIRONMENT – LISTENING TOUR

Networkers Space4Dialogue²⁸ sessions further focused on improvement opportunities in the work environment for Black colleagues

In 2019, our employee Business Resource Group, Networkers²⁸, partnered with our officers and held 11 listening sessions, facilitated by an external expert, to get a deeper understanding of what was seen in the employee sentiment survey.

Themes from Space4Dialogue sessions:

- Perceptions that our commitment goes in cycles and is not always consistent
- Feelings of symbolic inclusion versus actual inclusion
- Expressed experiences of bias and insensitivity to employees' race
- Pockets of low-level effectiveness of managers
- Areas where "who you know" seemed to matter more than performance
- Perceptions of being asked to do the work but not the opportunity to move up
- Reported physical manifestations of stress and anxiety from racial battle fatigue
- Fear of speaking up
- Concerns that HR and Ethics are protecting the company versus supporting employees

CURRENT ACTIONS INTERNALLY

Several diversity, equity and inclusion actions were already underway

- Data analysis for any potential pay disparity
- Diverse candidate slates and interview panels
- Employee Business Resource Groups to attract diverse talent
- Diversity in high-potential programs
- Mentoring programs
- Unconscious bias training
- Dedicated assistance to Transmission and Distribution employees in field locations to help improve the work environment
- Physically and psychologically safe culture through activities linked to our corporate values (e.g., Safety Stand-Ups, Pledges, Leading with Heart, Leading with Courage on Inclusion and Culture Congress²⁹)
- Corporate goal on Diversity, People & Culture
- Signatory on public commitments, such as Paradigm for Parity and CEO Action for Diversity & Inclusion

ADDITIONAL ACTIONS INTERNALLY

Strengthening commitment with additional actions based on reviewing data and listening to Black employees

Internal Actions	Timing and Expected Outcomes
<p>Greater Data Transparency/Dashboard Share data regarding representation, pay, turnover and employee sentiment and create officer-level dashboard for continued visibility</p>	<ul style="list-style-type: none"> • Data shared through this August 2020 presentation • Standard people metrics dashboard created and deployed by Q2 2021
<p>Inclusion and Cultural Literacy Training Expand current training to include content on anti-racism and microaggressions for all employees</p>	<ul style="list-style-type: none"> • Train all employees in 2021 and monitor for expected increase in inclusion index of employee sentiment survey over the following year
<p>Talent Accelerator Accelerate talent movement by pairing officers with high potential talent³⁰; start with Black employees with plans to expand the initiative</p>	<ul style="list-style-type: none"> • Final assignments determined by end of Q4 2020; track and measure results by employee development over the next 7-3 years
<p>Talent Pipeline Increase Black scholarship awards and internships (see external actions for additional scholarships)</p>	<ul style="list-style-type: none"> • Measure success rate of converting more Black interns and scholars to full-time employees
<p>Career Counseling Hire career counselors to help employees navigate their careers at Edison, starting with a pilot for the Networkers²⁸ membership</p>	<ul style="list-style-type: none"> • Hire new career counselor and pilot program by end of Q4 2020 • Create metrics to determine efficacy of career counselor program and impact on employee career paths over 18-36 months
<p>Audit for Potential Bias in HR/Ethics Processes Engage external third party to audit HR and Ethics policies and processes for biases such as racial and gender and improve based on findings</p>	<ul style="list-style-type: none"> • Complete audit of three key HR/Ethics processes by end of Q4 2021

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EXTERNAL VIEW

Drive advancement in racial equity in our communities

Our broad and deep presence in Southern California enables opportunities to address the impacts of systemic racism on a regional scale, with initial increased focus on our Black communities.

Our Responsibility

Edison can impact pressing issues from climate change, to local food insecurity, to addressing systemic racism, and it is our responsibility to act

Leverage Resources

We will continue to leverage our presence as a philanthropic funder, business partner and contracting entity in the areas where we have the most impact

Our Commitment

We focus our efforts in multiple areas to reduce disparities in our communities, starting with education, workforce and marketplace development in the energy sector

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APPENDIX K

FORMAL COMPLAINT AND MONITORING PROCESS

IOU shall develop an internal Equal Opportunity (EO) complaint procedure under the direction and supervision of the Executive Official and with the assistance of a Consultant(s) to assure the prompt investigation and possible early resolution of such complaints. The Consultant(s) shall review the existing or proposed internal EO complaint procedures and may make recommendations concerning: (i) development of a standardized complaint form; (ii) appropriate and effective investigation techniques and procedures; (iii) appropriate levels of staffing and training of staff to implement an internal complaint procedure; (iv) development of a system for the early internal resolution of complaints that may be amenable to resolution through such a program; v) a system for provision of appropriate corrective and preventive remedies for discriminatory conduct found to have occurred; (vi) follow up procedures to ensure that corrective action is taken and appropriate measures are taken to avoid retaliatory actions; (vii) notification to the complainant about the remedial action taken and/or other resolution of the complaint; and (viii) an internal appeals procedure, including a review by a person or persons who does/do not have a direct reporting relationship with the complaining party and is/are not involved in the complaint. IOU shall provide notice to employees making internal complaints that the limitation periods applicable to filing charges with the EEOC and the California Fair Employment and Housing Commission are not satisfied by filing an internal complaint. Investigations conducted under this procedure shall not be conducted under the attorney-client privilege, nor should they constitute attorney work product.

Monitoring and Reporting of EO Complaints

IOU shall maintain a written record of each complaint of racial discrimination, retaliation, harassment or alleged violation and the investigation undertaken and resolution.

Such reports shall minimally include the name, race, position, work location, and organization of the complainant; the substance of the complaint; and the name, race, position, work location, organization and work relationship to the complainant, if any, of the person alleged to have discriminated, harassed or retaliated against the complainant or otherwise violated. IOU shall also maintain reports including the number of employees disciplined for racial discrimination, retaliation or harassment of African American employees or violation, the violation and the discipline imposed. Upon request, employees and general public may obtain copies of the underlying complaints of African American employees concerning racial discrimination, retaliation, harassment or violations and the complaint file for review.