

PRACTICE AREAS

Statistical Analysis of Hire, Promotion, and Termination Decisions

A centerpiece of Roffman Horvitz's practice is advising and assisting employers with statistical analysis of employment decisions to ensure nondiscrimination. We perform hundreds of these analyses for employers in every industry and across every sector of the economy.

We spend considerable time validating the internal reliability and accuracy of any employer data export before using it in our analyses. These analyses are potentially worthless if they are run on data that is not accurate.

Once we have ensured the integrity of the data, we work with our clients to identify the relevant decisions and then strategically decide which employees should be evaluated together and what those groupings should look like.

Statistical results identify where the employer may have some risk or vulnerability, and the expectation is that the employer will investigate its data and the decisions behind that data to ensure that explanations are job-related and consistent with business necessity.

We guide employers on how to conduct that follow-up, including whether corrective action needs to be taken. We also provide guidance on whether the employer is collecting and tracking

sufficient information to enable it to support its decisions.

Any analysis of hires is dependent on the efficacy of the applicant data maintained by the employer. We think that using the Internet Applicant framework that was introduced by OFCCP in 2006 has served employers well in identifying the relevant applicant pool that should be assessed. Training recruiters, HR business partners, hiring managers, and employee supervisors on applicant tracking concepts, proper dispositioning of applicants, and record keeping best practices bolster the employer's ability to properly analyze their hiring process and defend against discrimination allegations.