

RIF Analytics: Minimizing EEO Risk and Ensuring Merit-Based Decisions

Amanda Bowman and Jana Garman

September 17, 2025



COPYRIGHT 2025 © DCI CONSULTING - ALL RIGHTS
RESERVED - CONFIDENTIAL



DCI: Data Driven – Client Focused

Our Mission

Advancing non-discrimination and fairness in the workplace by implementing merit-based and skill-focused employment practices.

Our Vision

We believe every person deserves equal opportunity and fair treatment in the workplace and beyond.

How DCI Can Help



Compliance

- VEVRAA and Section 503 AAPs
- State affirmative action and non-discrimination
- EEO-1 and VETS-4212 reports
- DOL compliance review support
- State pay reporting
- Pay transparency
- Proactive guidance on regulatory change
- DEI risk mitigation



Selection and Assessment

- Job analysis
- Selection procedure development and validation
- Expert evaluation/bias audit of HR systems, including artificial intelligence



Workforce Analytics

- EEO disparity analyses
- Damage calculations
- Non-discrimination in employment plans
- Reduction-in-force analyses
- Barrier analyses



Pay Equity and Compensation

- Pay equity studies
- EU Pay Transparency
- Pay compression studies
- Wage gap studies
- Job architecture development
- Market benchmarking
- Pay band creation
- Executive compensation reviews
- Bonus program reviews



Litigation Support

- Consulting expert in applied research in class action litigation
- Testifying expert in case strategy, expert reports, & sworn testimony
- Expert reviews of AI-based hiring procedures

Webinar Format

- Participant phone lines are **muted**
- **Submit questions** by sending an email to questions@dciconsult.com
- If you have any **technical difficulties during the call**, please email questions@dciconsult.com

Note: DCI Clients will have access to this presentation through the Client Resources Portal. Please log in to the portal from the DCI website to view archived Webinar Wednesday presentations.

Disclaimer

The information in this PowerPoint is provided for general information purposes only and these materials are not intended to provide legal advice. These copyrighted materials may not be reproduced, copied, or used without prior permission from the authors.

Our Presenters



Amanda Bowman, M.S.

*Director, Principal
Consultant*



Jana Garman, M.S.

*Director, Principal
Consultant*

Agenda

01

**Legal Perspectives and
Other Considerations**

02

When and Why

03

**Representing the Decision-
Making Process**

04

Takeaways and Resources

Reduction in Force Analyses

Legal Perspectives and Other Considerations

What is it?

- An **Equal Employment Opportunity (EEO)** or **disparity analysis** looks at workforce data to determine whether employees or job applicants are treated differently based on protected characteristics.
- In the case of a **reduction-in-force (RIF)**, this is an aspect of the overall process through which an organization evaluates the planned termination decisions to identify potential disparities.
- This analysis is typically conducted on race/ethnicity, sex, and age in alignment with federal laws (Title VII, ADEA)

Laws to Abide By

- Age Discrimination in Employment Act (ADEA)
 - Protects employees and applicants who are 40 years of age or over from discrimination in the workplace because of their age
- Older Workers Benefits Protections Act (OWBPA)
 - Act passed into law in 1990 and designed to protect the benefits of older workers (e.g., retirement, pension, life insurance)
 - Mandates specific requirements for employees to knowingly and voluntarily waive ADEA claims
- Worker Adjustment and Retraining Notification Act (WARN Act)
 - Employers with 100+ workers must give 60 days' notice before a plant closing (50+ affected) or mass layoff (50+ and 33% of workforce, or 500+) within a 30-day period

Laws to Abide By

- Title VII of the Civil Rights Act of 1964
 - Federal law that prohibits employment discrimination based on race, color, religion, sex, or national origin, covering such employment decisions as hiring, termination, promotion, compensation, and training programs.
- State/Local Laws
 - Laws at the state and local level may dictate additional employee protections
 - Example: Ohio WARN (Ohio Revised Code § 4113.31)
 - Includes state-specific provisions, going above and beyond the federal WARN Act, such as: including a detailed explanation of the reason for closure/layoffs and providing the chief elected officer for the relevant county a notice of the closure/layoff

Reduction in Force Analyses

When and Why

When is a RIF Analysis Conducted?

- Reduction-in-Force (RIF) analyses can be conducted:
 - **Before** decisions are made to analyze EEO implications.
 - **After** decisions are made to understand and possibly defend the process used to determine terminated employees.
- This can also include furloughs, transfers, and reorgs
 - Any company decision in which employees may be negatively impacted can be analyzed for EEO implications.

Why Conduct a RIF Analysis?



CONSISTENCY AND
OBJECTIVITY



DEFENSIBLE
DECISIONS



LEGAL
COMPLIANCE AND
RISK MITIGATION



INTERNAL
COMMUNICATION
AND MORALE

What Can an Analysis Look Like?

Job Group Advertising										
Group	Lowest Sel Rate	Selected	Pool	Sel Rate	Ovr Sel Rate	Expected	Difference	Std Dev	Fisher	Disparity?
Female	Yes	29	569	5.1	6.09	34.63	5.63			
Male		15	154	9.74	6.09	9.37	(5.63)	2.1384		Yes
White		38	597	6.37	6.07	36.24	(1.76)	1.4019		
Black		2	16	12.5	4.44	0.71	(1.29)	1.9477		
Hispanic		3	44	6.82	4.11	1.81	(1.19)	1.436		
Asian	Yes	0	29	0	0	0.00	0.00			
Amer Indian		0	2	0						
Pac Islander										
Two or More										

Job Group Advertising										
Group	Lowest Sel Rate	Selected	Pool	Sel Rate	Ovr Sel Rate	Expected	Difference	Std Dev	Fisher	Disparity?
Over 40		29	324	8.95	6.09	19.72	(9.28)	2.9036		Yes
Under 40	Yes	15	399	3.76	6.09	24.28	9.28			

Job Group Consumer Revenue										
Group	Lowest Sel Rate	Selected	Pool	Sel Rate	Ovr Sel Rate	Expected	Difference	Std Dev	Fisher	Disparity?
Over 40	Yes	1	183	0.55	1.13	2.07	1.07			
Under 40		4	259	1.54	1.13	2.93	(1.07)	0.9772		

Statistical and Practical Significance



Statistical significance tests help determine whether observed differences in employment outcomes are likely the result of chance or indicative of potential EEO disparities.

RIF results indicate whether one group (e.g., 40 and Over) is terminated at a higher rate than another (e.g., Under 40)



Practical significance measures (e.g., shortfall estimates, impact ratios) complement statistical tests by quantifying the magnitude of disparities and informing the prioritization of subsequent analysis or remedial action.

Practical significance, expressed as a shortfall, estimates how many more individuals from the impacted group were terminated than expected based on overall termination rates.

Where to Go From Here?

RIF results should **not** be used to make protected class-based decisions



This analysis helps an organization:

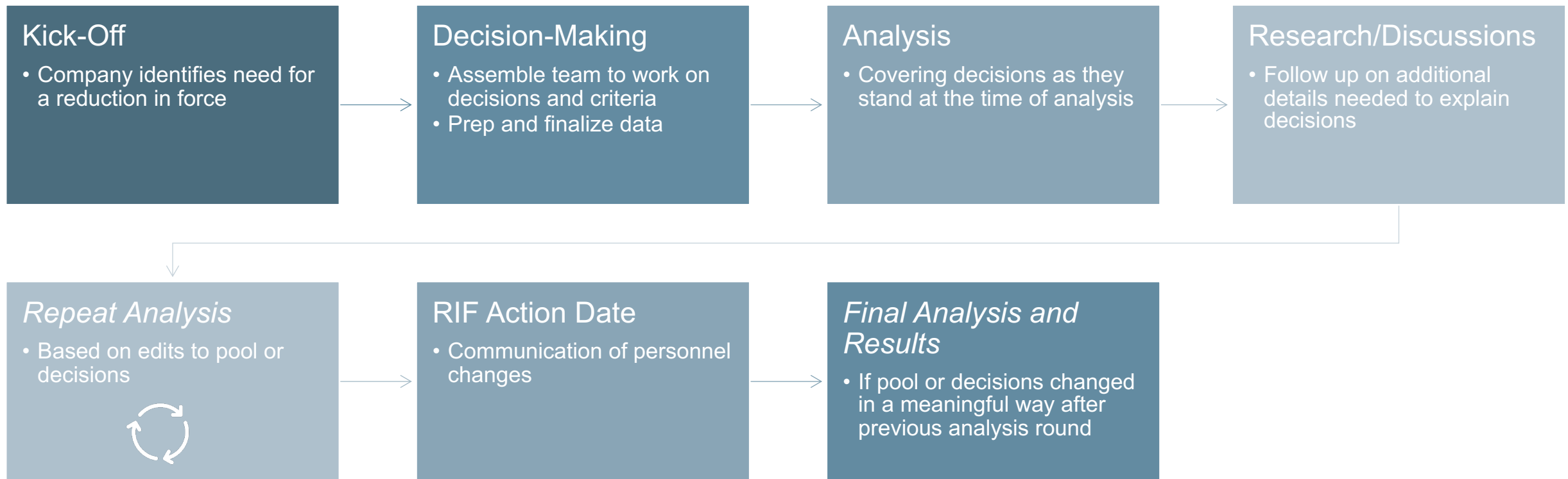
Identify possible risk based on negative impact for legally protected classes

Funnel or narrow areas of research for determining the root cause of potential negative impact

Identify areas to secure documentation related to the rationale of personnel decisions made

Project Timeline

Typically, Quick Turnaround from Kickoff to Results



Attorney Client Privilege

- **RIF analyses and results should be conducted under attorney-client privilege**
- **Determine stakeholders, project team, and protocol**
 - Prior to carrying out analytics, determine who internally should be involved and who should receive results
 - Be cautious of who has access to data, results, etc

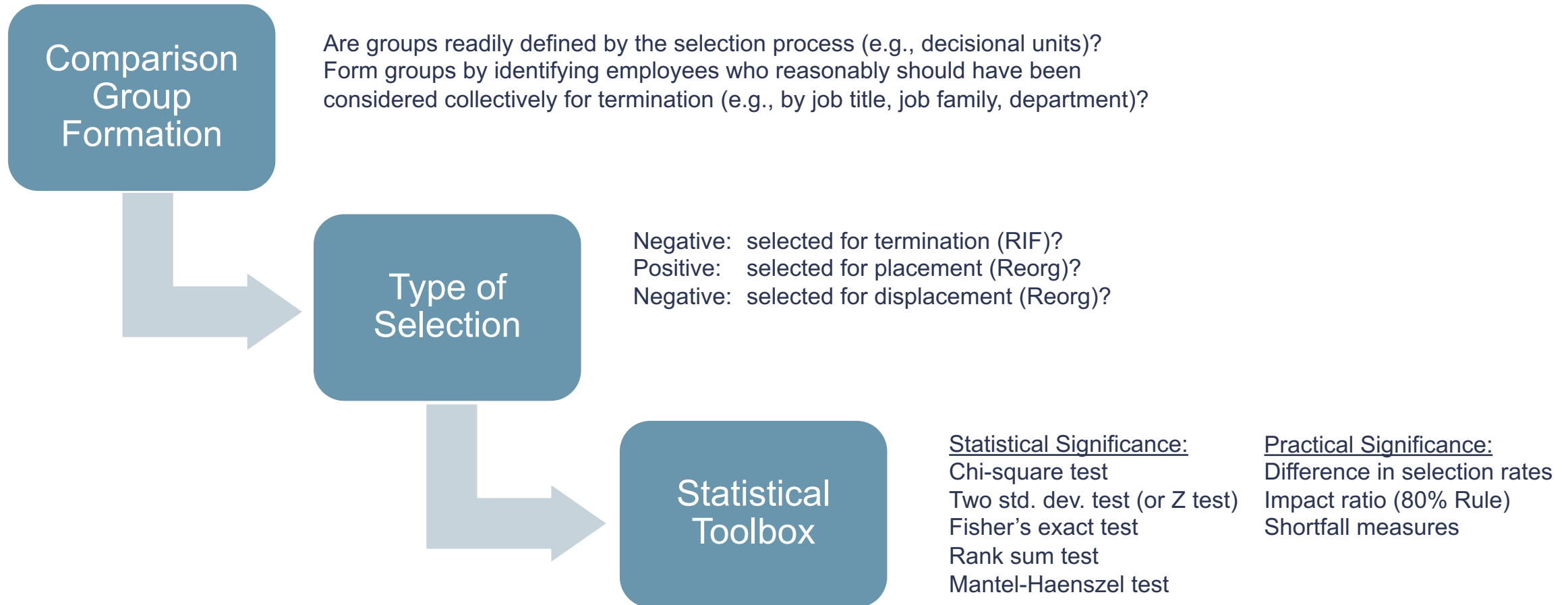
Representing the Decision-Making Process

Merit-Based Decision-Making

Prior to embarking on the analysis, it is critical to ensure that all personnel decisions are made on merit-based or neutral criteria.

- Ensures defensible decisions
- Is in alignment with Executive Order 14173 "Ending Illegal Discrimination and Restoring Merit-Based Opportunity"
- Examples of objective, defensible criteria
 - Tenure
 - On-the-job performance scores
 - RIF-specific performance or skill measurement (e.g., skills required for transfer opportunity)
 - Organizational placement (e.g., department)

Important Considerations



Important Considerations

Pool Eligibility

How to handle movements during analysis period (e.g., voluntary term prior to RIF decision).

Snapshot date for analysis

Cannot use action date if analyzing prior to final decisions

Race-Based Analysis

Most favored race v. each other race?
A given race versus “All Others,” e.g., Blacks v. All Others?
Minorities v. Non-Minorities (which is the same as Whites v. All Others)?

Important Considerations

Age-Based Analyses

Under 40 v. Over 40? Under 50 v. Over 50? Under 60 v. Over 60?
Rank sum analysis better aligned with Age Discrimination in Employment Act?

Date for Calculating Employee Age

Selection decision date? Notification date? Other?

State Laws

New Jersey Law Against Discrimination (LAD) prohibits discriminating against individuals because they are older or younger than others.

Takeaways and Resources

Takeaways

Best practice to complete a RIF analysis prior to final decisions

Secure attorney-client privilege

Understand entire decision-making process (e.g., eligibility for voluntary separation plans vs. reduction in force populations)

Decisional units and eligibility criteria for pools are critical both legally and analytically

Not intended to force protected class-based decisions.

Resources

- DOL WARN Compliance Assistance
 - <https://www.dol.gov/agencies/eta/layoffs/warn>
- Older Workers Benefit Protection Act (OWBPA):
 - <https://www.eeoc.gov/history/older-workers-benefit-protection-act-1990>
 - <https://www.upcounsel.com/owbpa>
- DCI resource: [Simpson, Murray S. \(2015\), "Challenging the Uniform Guidelines: A New Approach for Conducting Race-Based Adverse Impact Analyses," *EEO Insight*, 7 \(2\), 13-22.](#)
- EEOC resources:
 - <https://www.eeoc.gov/employers/small-business/avoiding-discrimination-layoffs-or-reductions-force-rif>
 - <https://www.eeoc.gov/employers/small-business/6-i-need-lay-employees>
- SHRM resources:
 - <https://vendordirectory.shrm.org/company/741833/whitepapers/5809/reduction-in-force-rif-checklist>
 - <https://vendordirectory.shrm.org/company/741833/whitepapers/6960/best-practices-guide-how-to-lay-off-an-employee>



Guide to RIF Analysis

Thank you for your attention!

Questions?

Clients: Log into the DCI Client Resources Portal on our website to view archived presentations



Scan to follow us on LinkedIn!