

# Law Matters

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**Noel Edlin**  
Managing Partner

Noel Edlin is Managing Partner at Bassi Edlin Huie & Blum. He has been practicing law since 1982 and focuses in the areas of environmental law, product liability, toxic tort, and business litigation. [Read more.](#)



**Andrea K. Kornblau**  
Associate

Andrea K. Kornblau specializes in toxic tort and asbestos litigation, and environmental law in her role as an associate attorney with Bassi Edlin Huie & Blum. [Read more.](#)

## The Future is Now: Predicting Workplace Performance with People Analytics

By Noel Edlin and Andrea K. Kornblau

Corporate managers are constantly looking for new ways to improve their approach to hiring and retaining people who are strong performers. Until recently, corporations have relied solely upon subjective means to predict whether a particular individual would be a good fit for a specific position, as well as the corporate culture. Predictive statistical analysis, a new objective model derived from Big Data, promises to bring about significant changes to human resources and corporate management psychology with the goal of reducing turnover and increasing productivity.<sup>1</sup>

Evaluating a candidate for employment previously involved multiple or lengthy interviews. These often consisted of a separate portion where a battery of tests were administered and selection procedures applied, including cognitive tests, arithmetic, and reading comprehension tests. Often, these were followed by tests of physical ability, personality, and integrity, as well as medical inquiries and examinations.<sup>2</sup> The Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and the Age Discrimination in Employment Act of 1967, prohibited discriminatory employment tests and selection procedures. Concern thereafter arose about legal liability for unlawful employment practices based on potentially biased tests.<sup>3</sup> Thus, many companies opted for a more informal, qualitative approach, which is still largely followed today.<sup>4</sup>

However, with the advent of Big Data – data sets of 1 terabyte or more – things may be changing. Some corporations now eschew the traditional approach of hiring based on an interviewer's gut feeling and a candidate's references. Instead, they have begun to use "People Analytics" to eliminate candidates who do not possess qualities the employer views as necessary.<sup>5</sup> People analytics involves the collection and analysis of narrow data using various algorithms, which are purportedly tailored to the needs of a particular employer to identify specific workplace behavior.<sup>6</sup> This new technique of gathering and analyzing data could provide companies with a powerful competitive advantage by removing the human margin of error in hiring, retention, training, and promotion of personnel.<sup>7</sup>

According to its proponents, people analytics can be used to identify personal strengths and weaknesses of current employees, which managers can use to organize well-rounded teams. People who are grouped according to algorithms that identify connective talents are more likely to work well together, creating a positive environment for everyone.<sup>8</sup> As a result, each person would be able to work to his or her potential, and overall productivity would increase. Turnover would also likely be decreased, because

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selection, retention, and promotion would be based on merit, rather than personality, good looks, or any other factors unrelated to performance.

Technology companies are taking workforce analytics even further by developing innovative ways to assess whether employees are ready for a promotion based on their statistical profiles.<sup>9</sup> This approach begins with the gathering of data from an online screening test, and then progresses through each aspect of employment, from hiring to performance evaluation to management. Online games, engineered to uncover human potential, track a player's decisions as s/he maneuvers through the game. The data generated by the game is analyzed to determine the player's creativity, persistence, capacity to learn quickly from mistakes, and ability to prioritize. Overall, these games purport to provide insight into a person's social and intellectual psyche, which might be used to predict that individual's future management potential.<sup>10</sup>

However, this radically new approach to hiring poses its own legal and moral hazards. What happens when there is an inadvertent disclosure of information that an employer is not permitted to consider during the employment process? Is it sufficient for the company to say that it has ignored that information? Or will an unhappy applicant or employee still cry foul?<sup>11</sup> Will risk be sufficiently averted if a corporation requests only a very narrow scope of information about a person, and insists that his/her identity remain anonymous? Or will a rejected applicant find a way to argue that the hiring process was nonetheless based on improper information?

Despite these and many other risks, companies seem to be embracing people analytics because the potential benefits and cost savings are so significant. For example, although a job applicant without a college degree may be considered less impressive than a college graduate, the results from analytics can reveal that the applicant without a college degree is a much better candidate overall who will be willing to accept a lower salary.

Although people analytics will likely never replace the need for human judgment in the workplace, this technology – if used within the boundaries of the law – could help to more effectively, accurately, and fairly identify a person's skills and strengths. In the near future, this new technology may lend itself to a more effective way of finding and keeping valuable players in the workforce.

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