# c2

*Student:* _____

1. The 1964 Civil Rights Act was passed the year after the historic March on Washington led by the late Rev. Dr. Martin Luther King, Jr.
True False

2. An employee may file a lawsuit against his/her former employer even if the EEOC did not find justification for the claim of discrimination.
True False

3. When an employee alleges that the employer treated him/her differently because of the employee's race, religion, gender, color or national origin, the employee is using the disparate treatment theory of discrimination.
True False

4. An employer can successfully defend a charge of disparate treatment discrimination under Title VII of the Civil Rights Act by offering a legitimate, nondiscriminatory reason for the action taken regarding the charging party.
True False

5. Harassment claims are afforded a more flexible statute of limitations period than other forms of discrimination.
True False

6. Federal employee claims of discrimination are filed through the EEOC.
True False

7. U.S. citizens employed outside the U.S. by foreign employers are protected against workplace discrimination by Title VII.
True False

8. If Sally's employer subjects her to more severe discipline for an act of misconduct than a similarly situated fellow employee not in her protected group for the same act of misconduct, Sally is being subjected to disparate treatment discrimination.
True  False

9. The Pregnancy Discrimination Act of 2007 expanded Title VII's coverage by adding discrimination on the basis of pregnancy as a type of gender discrimination.
True  False

10. Questions asked during idle conversational chat during preemployment interviews or included on job applications may unwittingly be the basis for Title VII claims of disparate impact.
True  False

11. Claims for discrimination filed with a 706 agency must be filed within ____ days of the incident giving rise to the claim.
A. 45
B. 180
C. 300
D. None of the choices are correct.

12. Nemo Gill was hired by the Spectacular Tropical Aquarium and agreed to submit any disputes arising out of his employment to binding arbitration. Nemo was fired when he became a "Rastafarian" and urged his co-workers to become vegetarians and smoke ganja. Without waiting for the results of the arbitration, Nemo filed a complaint alleging religious discrimination with the EEOC. The EEOC quickly filed a lawsuit on his behalf. Spectacular moved to have the EEOC's lawsuit dismissed on the grounds that Nemo signed a valid arbitration agreement.
A. The EEOC cannot bring a lawsuit enforcement action against Spectacular because Nemo signed the mandatory arbitration agreement.
B. The EEOC can bring a lawsuit enforcement action against Spectacular despite Nemo's agreeing to arbitration.
C. The EEOC cannot bring a lawsuit enforcement action against Spectacular because Nemo did not wait for the results of the arbitration.
D. The EEOC cannot bring a lawsuit enforcement action against Spectacular because Nemo's urging his co-workers to smoke ganja and become vegetarians had nothing to do with his job.

13. Elijah Murphy studied voice, opera and Jewish liturgical music at the Southern Baptist Theological Seminary. After he graduated, he applied for a job as a cantor (i.e., professional singer who leads prayer services) at the Nashville Downtown Synagogue. The synagogue responded that he was not qualified for the position and refused to consider him for the job because he is not Jewish.
A. Elijah has a prima facie case of disparate treatment discrimination against the synagogue and the synagogue has no defense.
B. Elijah has a prima facie case of discrimination against the synagogue and the synagogue can successfully assert the ministerial exception to Title VII.
C. Elijah does not have a prima facie case of discrimination, so it doesn't matter whether the synagogue can assert a defense.
D. Elijah has a prima facie case of discrimination against the synagogue and the synagogue can successfully assert the business necessity defense.

14. The Civil Rights Act of 1964 prohibits discrimination
A. relating to employment, women in sports and housing.
B. relating to employment only.
C. relating to employment, women in sports, housing, education, and public accommodations.
D. relating to employment, education, and public accommodations.

15. Title VII applies to
A. all private employers, who are engaged in interstate commerce, with 15 or more employees for each of 20 or more calendar weeks.
B. unions who deal with employers concerning labor issues in an industry affecting commerce,
C. employment agencies.
D. A, B and C.
E. A and B but not C.

16. Every successful claimant in a Title VII case is eligible to receive
A. back pay, front pay and liquidated damages.
B. back pay, front pay, attorney fees and punitive damages
C. back pay, front pay, attorney fees, punitive damages, and compensatory damages
D. back pay, front pay, and compensatory damages

17. The bona fide occupational qualification defense (BFOQ) can be used by the employer to defend Title VII discrimination claims when the basis is
A. Sex/gender, religion, national origin, race or color
B. Sex/gender, national origin, race or color
C. Religion, national origin, race or color
D. Sex/gender, religion, national origin

18. Major Industries has a published workplace policy that reads: "Promotions to the level of supervisor and higher are limited to individuals with at least a bachelor's degree from an accredited college or university."
A. Although this is a facially neutral policy, it could be found to be discriminatory if it can be shown by statistics that it has a disparate impact on a protected group, unless Major Industries can prove a business necessity for the policy.
B. There is nothing facially neutral about this policy because there are lots of people who are in supervisory or higher positions who never earned a degree from a college or university.
C. Although this is a facially neutral policy, it could de found to be discriminatory if it can be shown by statistics that it has a disparate impact on a protected group, unless Major Industries can prove a bottom line defense.
D. Although this is a facially neutral policy, it could de found to be discriminatory if it can be shown by statistics that it has a disparate impact on a protected group, unless Major Industries can prove a subjective qualifications defense

19. Carol Jones, a U.S. citizen, was employed with MET, Inc. in its London office. Met Inc. is a Delaware corporation with its principle place of business in New York. Ms. Jones was recently laid off, and she believes she was a victim of racial discrimination. Ms. Jones
A. has no recourse because she was not working in the U.S. at the time she was laid off.
B. has no recourse because employment discrimination laws do not apply to lay offs.
C. has the right to file a claim for discrimination against her former employer pursuant to Title VII of the Civil Rights Act of 1964.
D. has the right to file a claim for discrimination against her former employer pursuant to the Civil Rights Act of 1991.

20. Karen Rogers was employed at the Pentagon as manager of the Purchasing Department. Prior to the arrival of her new supervisor in June of 2004, she received the highest employee rating on her yearly evaluation. Her new supervisor, John Lincoln, had been overheard saying that he did not believe that women were smart enough to manage a department. Six months later, Karen was fired for poor work performance. If she wins her claim for gender discrimination, Karen may be entitled to
I back pay
II reinstatement to her former position
III punitive damages
A. I only
B. I and II only
C. I, II, and III
D. All of the choices are correct.

21. Jay Foster was employed as an auto mechanic with Madison & Sons Auto Shop. Mr. Madison employed 30 mechanics in each of his facilities in Denver, Colorado. Jay was the only African American mechanic and he had been employed by Mr. Madison for approximately 9 years. He had applied for a promotion to chief mechanic on 4 separate occasions and each time, the promotion had been given to a white male with less seniority and less experience. After being denied the promotion for the 5th time, Jay filed a claim with EEOC. Jay's employment was terminated after the EEOC contacted Mr. Madison concerning the claim.
A. The only claim that can be asserted against Mr. Madison is discrimination based on race.
B. Mr. Madison can only be found to be liable for violation of the anti-retaliation provisions of the Civil Rights Act of 1964.
C. Mr. Madison may be found liable for violation of the prohibitions against discrimination and the anti-retaliation provisions in the Civil Rights Act of 1964.
D. None of the choices are correct.

22. Dean Capers, an African American, was employed as a bus driver with Mountain City Transportation Department. The city council voted to reduce the number of bus routes, and Dean's job was eliminated. Dean filed a claim with EEOC alleging racial discrimination because he was the only African American bus driver and he had more seniority than 4 of the drivers retained. Mountain City successfully responded
A. by showing that Dean was selected for lay off because he had a bad attitude and there had been several complaints filed against him.
B. by using the bona fide occupational qualification defense.
C. by using the business necessity defense
D. none of the choices are correct.

23. Marc Brown is a chemical engineer with a graduate degree from MIT. Mr. Brown is African American. He applied for a chemical engineering position with Kincaid Paper Company. Although he was qualified for the job, he was not offered the position. Mr. Brown happened to see the job advertised in the newspaper 2 weeks after he had been rejected.
A. Mr. Brown does not have a cause of action for discrimination.
B. Mr. Brown can offer evidence to satisfy the elements of a prima facie case.
C. Mr. Brown cannot offer evidence to satisfy the elements of a prima facie case.
D. Mr. Brown is not eligible to file a claim under Title VII.

24. The Civil Rights Act of 1991
A. added compensatory damages and punitive damages as available remedies.
B. allowed jury trials at the request of either party when compensatory and punitive damages are being sought.
C. A and B
D. None of the choices are correct.

25. BJI Enterprises requires all employees to pass a standardized test before being considered for promotions. Marisa Chavez, a Hispanic female, was employed in the Maintenance department as a housekeeper. She wanted to be considered for a supervisory position in that department. However, she could not make a passing score on the test. There were no minority supervisors in the Maintenance Department. The Civil Rights Act requires
A. BJI to show that the test is related to the job.
B. Ms. Chavez to show that the test is not related to the job.
C. Ms. Chavez to prove that she is qualified for the job.
D. None of the choices are correct.

26. The four-fifths rule states that
A. only 20% of the employees affected by the screening device can be minorities or there is a presumption of disparate impact discrimination.
B. minorities must do at least 80% as well as the majority on the screening device or there is a presumption of disparate impact discrimination.
C. after the claim has been filed, the employer must offer evidence to prove that four-fifths of all employees are successful when the screening device is used.
D. None of the choices are correct.

27. After EEOC completes its investigation,
A. upon a finding of no reasonable cause, it can give the employee a right-to-sue letter.
B. if the claim is not disposed of by conciliation, the EEOC can take the matter further and file suit against the employer in federal district court.
C. upon a finding of reasonable cause to charge the employer with discrimination, it will attempt to bring the parties together for resolution by conciliation.
D. All of the choices are correct.

28. Hilary James owns and operates a Bed & Breakfast Inn near the Lumbee Indian reservation. Ms. James gives a preference to Lumbee Indians when hiring for positions at the Bed & Breakfast. Ms. James' hiring practices
A. violate Title VII of the Civil Rights Act.
B. do not violate Title VII because she is exempt from compliance with Title VII of the Civil Rights Act
C. do not violate Title VII because she is just exercising a preference; it is not written policy.
D. None of the choices are correct.

29. The Business Necessity Defense requires the employer to show
A. that the challenged policy is job related and is a legitimate requirement for the job.
B. that there is a legitimate, nondiscriminatory reason for the alleged discriminatory conduct.
C. that the information provided by the employee is false.
D. None of the choices are correct.

30. Undocumented workers are
A. not protected by Title VII of the Civil Rights Act
B. are protected by Title VII of the Civil Rights Act and afforded all the same remedies as any other worker
C. are protected by Title VII of the Civil Rights but are not eligible for reinstatement, back pay for periods after discharge or failure to hire.
D. None of the choices are correct.

31. Mandatory Arbitration Agreements wherein the employee agrees to arbitrate all disputes arising out of his/her employment relationship
A. do not interfere with the employee's right to file a claim for discrimination with the EEOC.
B. prevent an employee from pursuing a claim for discrimination with the EEOC.
C. are enforceable except when the employer violates Title VII of the Civil Rights Act.
D. are not enforceable unless authorized by the EEOC.

32. Sally Landon is employed by Kent Electronics, Inc. in its London facility. Kent Electronics, Inc. is a U.S. corporation. Sally is not a U.S. citizen. Sally's job was eliminated in a recent reduction in force. She noticed that only women were laid off. She contacted EEOC in Washington, D.C. to file a claim for discrimination.
A. Sally's claim will be investigated by EEOC.
B. Sally's claim cannot be filed with EEOC because the discrimination did not occur in the United States.
C. Sally's claim cannot be filed with EEOC because she is not a U.S. citizen and she does not live in the United States.
D. Sally's claim will be investigated by EEOC, but not all remedies available to U.S. citizens will be available to Sally.

33. James Helton, an African-American, was hired as a dock worker with Coastal Distributing Company. As a full time employee, he was eligible for health insurance benefits if he met certain criteria. His pre-employment physical indicated that he suffered from hypertension or high blood pressure. The company's health insurance plan excluded employees that had that condition. Hypertension is a condition that is common among African-Americans and affects that race at a much higher percentage than any other race.
A. Coastal Distributing Company's policy is not discriminatory because it applies to all employees, regardless of race.
B. Coastal Distributing Company's policy is discriminatory because more African-Americans will be denied health insurance than employees who are not African-American.
C. Coastal Distributing Company's policy is not subject to Title VII because it involves employee benefits, not hiring, promotion or termination.
D. Coastal Distributing Company's policy is discriminatory because it treats some employees differently (African Americans) than other similarly situated employees.

34. A "706 agency" is a state agency that contracts with EEOC to assist in the investigation of discrimination claims.
A. EEOC can defer a claimant to a 706 agency for 60 days before investigating.
B. EEOC will not review claims deferred to 706 agencies.
C. 706 agencies do not investigate discrimination claims unless filed with EEOC first.
D. None of the choices are correct.

35. The following defenses are available to employers in discrimination claims:
A. bona fide occupational qualification (BFOQ) defense
B. legitimate, nondiscriminatory reason defense
C. business necessity defense
D. All of the choices are correct.

36. In Brown v. Topeka Board of Education, the U.S. Supreme Court:
A. for the first time, allowed jury trials in Title VII cases.
B. struck down the separate but equal doctrine.
C. declared affirmative action to be a form of illegal reverse discrimination.
D. for the first time, recognized the business necessity defense.

37. Which of the following is not a business necessity providing a defense to a disparate impact claim?
A. Hiring only cashiers that are bondable.
B. Hiring only brunettes to work as servers in a restaurant because they are preferred by customers and bring larger profits for the company.
C. Hiring only pizza deliverers who possess driver's licenses.
D. Hiring only English speaking workers to be telephone operators.

38. Emmanuel and Petersen is an extremely busy law firm specializing in litigation. In order to keep up with their workload, they refuse to hire anyone as a secretary who is unable to type at least 65 words per minute. If a group of male applicants challenges this policy as being discriminatory against generally slower typing males, the company could defend the typing-speed requirement as a:
A. bottom line defense.
B. disparate treatment defense.
C. business necessity.
D. bona fide disparate impact defense.

39. McFerrin was refused employment by Billiot, Inc., because he failed to achieve a high enough score on a valid, reliable skills test. Believing that he has been the victim of national origin discrimination, since no one of Scottish descent has ever achieved a satisfactory score, McFerrin sues under Title VII after exhausting his administrative remedies. He asks the court to require Billiot to adjust the scores of all Scottish-descent test-takers, upward, by ten points. Assuming McFerrin proves national origin discrimination, can the court grant the relief he seeks?
A. No, because the Civil Rights Act of 1964 makes it an unfair employment practice for an employer to adjust the scores of an employment-related test on the basis of a protected trait.
B. Yes, because the Civil Rights Act of 1964 requires an employer to adjust the scores of an employment-related test on the basis of a protected trait, if the effect of the test is to exclude certain groups from a certain minimum level of employment.
C. No, because the Civil Rights Act of 1991 makes it an unfair employment practice for an employer to adjust the scores of an employment-related test on the basis of a protected trait.
D. Yes, because the Civil Rights Act of 1991 requires an employer to adjust the scores of an employment-related test on the basis of a protected trait, if the effect of the test is to exclude certain groups from a certain minimum level of employment.

40. NorthernSky Airlines is a regional carrier that flies a variety of aircraft with maximum interior cabin heights ranging from 6'2¼" to 5'9." Northern Sky advertisements for flight attendants state that an applicant "must be between 5'0" and 5'8" without shoes due to the internal size of our aircraft." James, a 6' 0" man complains that the height restrictions have a disparate impact on men. The airline defends the case by asserting that height is a business necessityfor the job.
A. James will prevail on his complaint because he can fit inside some of the aircraft.
B. NorthernSky will prevail because it can demonstrate that the flexibility to schedule flight attendants on all its aircraft is a reasonable necessity for normal operation.
C. James will prevail on his complaint because height restrictions have nothing to do with the primary responsibility of a flight attendant, which is the safety of the passengers.
D. NorthernSky will prevail because it can demonstrate that a shorter flight attendant is innately better suited to perform the "non-mechanical" functions of the job, such as soothing nervous customers.

41. The Bright Creek Luggage Company has hired you as a consultant to improve the company's hiring processes so it will be less vulnerable to claims of discrimination when hiring. You should make the following recommendations.
A. Bright Creek should scrutinize prepared interview questions and employment applications to determine whether there is a disparate impact in the way that information is elicited.
B. Bright Creek should require all outside recruiters and employment agencies to certify that they are familiar with the requirements of anti-discrimination laws.
C. Bright Creek should provide training on basic legal concepts for equal employment opportunity to all interviewers and persons who make hiring decisions.
D. All of the answers are correct.

42. Statistics compiled by the EEOC show that
A. The leading bases for claims filed, in order of prevalence, are: 1) race, 2) gender, and 3) retaliation.
B. The leading bases for claims filed, in order of prevalence, are: 1) race, 2) religion, and 3) retaliation.
C. The leading bases for claims filed, in order of prevalence, are: 1) retaliation, 2) race, and 3) gender.
D. The leading bases for claims filed, in order of prevalence, are: 1) race, 2) color, and 3) national origin.

43. The number of days that a non-federal government employee has file a timely claim with the EEOC, under Title VII of the Civil Rights Act, is
A. 45 days
B. 120 days.
C. 300 days
D. 180 days.

44. The EEOC has investigated Chen's complaint of discrimination under Title VII against his employer and sent him a notice that it determined that there was no reasonable cause for his complaint.
A. Chen has 180 days after he receives his "right-to-sue" letter from the EEOCto bring the same complaint to his state 706 agency and try to get a better result.
B. Chen has 180 days after he receives his "right-to-sue" letter from the EEOCto sue his employer in federal court.
C. Chen has 90 days after he receives his "right-to-sue" letter from the EEOCto sue his employer in federal court.
D. Chen has 90 days after he receives his "right-to-sue" letter from the EEOCto bring the same complaint to his state 706 agency and try to get a better result.

45. Joe's Bakery advertised in the local newspaper for an assistant baker. Muhammad, a recent honors graduate of the Culinary School of America, applied for the position and was told that the position had been filled. Muhammad is of Middle-Eastern descent and practices the Muslim faith. The following day and for nine consecutive days, Muhammad saw the ad in the paper again. Joe's Bakery employs 7 people, including Joe. Do the facts satisfy the requirements for a prima facie case? If so, can Muhammad pursue a claim for discrimination against Joe's Bakery?

46. List the steps in the process used to file a claim for discrimination within the EEOC.

47. Linda was employed with Southern Telephone Company as a telephone operator for ten (10) years. Bored with this job, she applied for an open position as a telephone repairman which paid $10.00 per hour more than she was currently earning. This position required the employee to be able to climb to the top of a telephone pole wearing a tool belt weighing approximately 15 to 20 lbs to make repairs. Southern Telephone Company refused to admit Linda into the training program for the position claiming that she was incapable of performing the duties of the position because she was female.
Discuss this scenario from both Linda and Southern Telephone Company's point of view, including the basis for the relevant claims and defenses.

48. Describe the two theoretical bases for lawsuits alleging discrimination under Title VII of the Civil Rights Act of 1964.

49. Distinguish the business necessity defense from the bona fide occupational qualification defense, including describing each defense and stating when each can be used.

50. Describe the basic legal theory that is used to determine whether the plaintiff or the defendant will prevail in a lawsuit in which it is alleged that the defendant has committed illegal, disparate treatment employment discrimination, in violation of Title VII of the Civil Rights Act of 1964, as amended, when there is no direct evidence of discrimination.

# c2 Key

1. *(p. 74)* The 1964 Civil Rights Act was passed the year after the historic March on Washington led by the late Rev. Dr. Martin Luther King, Jr.
**TRUE**

*Bennett - Chapter 02 #1*
*Difficulty: Easy*

2. *(p. 91)* An employee may file a lawsuit against his/her former employer even if the EEOC did not find justification for the claim of discrimination.
**TRUE**

*Bennett - Chapter 02 #2*
*Difficulty: Easy*

3. *(p. 96)* When an employee alleges that the employer treated him/her differently because of the employee's race, religion, gender, color or national origin, the employee is using the disparate treatment theory of discrimination.
**TRUE**

*Bennett - Chapter 02 #3*
*Difficulty: Medium*

4. *(p. 98)* An employer can successfully defend a charge of disparate treatment discrimination under Title VII of the Civil Rights Act by offering a legitimate, nondiscriminatory reason for the action taken regarding the charging party.
**TRUE**

*Bennett - Chapter 02 #4*
*Difficulty: Medium*

5. *(p. 88)* Harassment claims are afforded a more flexible statute of limitations period than other forms of discrimination.
**TRUE**

*Bennett - Chapter 02 #5*
*Difficulty: Medium*

6. *(p. 88)* Federal employee claims of discrimination are filed through the EEOC.
**FALSE**

*Bennett - Chapter 02 #6*
*Difficulty: Medium*

7. *(p. 84)* U.S. citizens employed outside the U.S. by foreign employers are protected against workplace discrimination by Title VII.
**FALSE**

*Bennett - Chapter 02 #7*
*Difficulty: Medium*

8. *(p. 96)* If Sally's employer subjects her to more severe discipline for an act of misconduct than a similarly situated fellow employee not in her protected group for the same act of misconduct, Sally is being subjected to disparate treatment discrimination.
**TRUE**

*Bennett - Chapter 02 #8*
*Difficulty: Medium*

9. *(p. 79)* The Pregnancy Discrimination Act of 2007 expanded Title VII's coverage by adding discrimination on the basis of pregnancy as a type of gender discrimination.
**FALSE**

*Bennett - Chapter 02 #9*
*Difficulty: Easy*

10. *(p. 108)* Questions asked during idle conversational chat during preemployment interviews or included on job applications may unwittingly be the basis for Title VII claims of disparate impact.
**TRUE**

*Bennett - Chapter 02 #10*
*Difficulty: Easy*

11. *(p. 87)* Claims for discrimination filed with a 706 agency must be filed within ____ days of the incident giving rise to the claim.
A. 45
B. 180
**C.** 300
D. None of the choices are correct.

*Bennett - Chapter 02 #11*
*Difficulty: Easy*

12. *(p. 90)* Nemo Gill was hired by the Spectacular Tropical Aquarium and agreed to submit any disputes arising out of his employment to binding arbitration. Nemo was fired when he became a "Rastafarian" and urged his co-workers to become vegetarians and smoke ganja. Without waiting for the results of the arbitration, Nemo filed a complaint alleging religious discrimination with the EEOC. The EEOC quickly filed a lawsuit on his behalf. Spectacular moved to have the EEOC's lawsuit dismissed on the grounds that Nemo signed a valid arbitration agreement.
A. The EEOC cannot bring a lawsuit enforcement action against Spectacular because Nemo signed the mandatory arbitration agreement.
**B.** The EEOC can bring a lawsuit enforcement action against Spectacular despite Nemo's agreeing to arbitration.
C. The EEOC cannot bring a lawsuit enforcement action against Spectacular because Nemo did not wait for the results of the arbitration.
D. The EEOC cannot bring a lawsuit enforcement action against Spectacular because Nemo's urging his co-workers to smoke ganja and become vegetarians had nothing to do with his job.

*Bennett - Chapter 02 #12*
*Difficulty: Medium*

13. *(p. 85)* Elijah Murphy studied voice, opera and Jewish liturgical music at the Southern Baptist Theological Seminary. After he graduated, he applied for a job as a cantor (i.e., professional singer who leads prayer services) at the Nashville Downtown Synagogue. The synagogue responded that he was not qualified for the position and refused to consider him for the job because he is not Jewish.
A. Elijah has a prima facie case of disparate treatment discrimination against the synagogue and the synagogue has no defense.
**B.** Elijah has a prima facie case of discrimination against the synagogue and the synagogue can successfully assert the ministerial exception to Title VII.
C. Elijah does not have a prima facie case of discrimination, so it doesn't matter whether the synagogue can assert a defense.
D. Elijah has a prima facie case of discrimination against the synagogue and the synagogue can successfully assert the business necessity defense.

*Bennett - Chapter 02 #13*
*Difficulty: Medium*

14. *(p. 74)* The Civil Rights Act of 1964 prohibits discrimination
A. relating to employment, women in sports and housing.
B. relating to employment only.
C. relating to employment, women in sports, housing, education, and public accommodations.
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*Bennett - Chapter 02 #14*
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15. *(p. 84)* Title VII applies to
A. all private employers, who are engaged in interstate commerce, with 15 or more employees for each of 20 or more calendar weeks.
B. unions who deal with employers concerning labor issues in an industry affecting commerce,
**C.** employment agencies.
D. A, B and C.
E. A and B but not C.

*Bennett - Chapter 02 #15*
*Difficulty: Easy*

16. *(p. 92)* Every successful claimant in a Title VII case is eligible to receive
A. back pay, front pay and liquidated damages.
B. back pay, front pay, attorney fees and punitive damages
C. back pay, front pay, attorney fees, punitive damages, and compensatory damages
**D.** back pay, front pay, and compensatory damages

*Bennett - Chapter 02 #16*
*Difficulty: Hard*

17. *(p. 96)* The bona fide occupational qualification defense (BFOQ) can be used by the employer to defend Title VII discrimination claims when the basis is
A. Sex/gender, religion, national origin, race or color
B. Sex/gender, national origin, race or color
C. Religion, national origin, race or color
**D.** Sex/gender, religion, national origin

*Bennett - Chapter 02 #17*
*Difficulty: Easy*

18. *(p. 97, 102)* Major Industries has a published workplace policy that reads: "Promotions to the level of supervisor and higher are limited to individuals with at least a bachelor's degree from an accredited college or university."
**A.** Although this is a facially neutral policy, it could be found to be discriminatory if it can be shown by statistics that it has a disparate impact on a protected group, unless Major Industries can prove a business necessity for the policy.
B. There is nothing facially neutral about this policy because there are lots of people who are in supervisory or higher positions who never earned a degree from a college or university.
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*Bennett - Chapter 02 #18*
*Difficulty: Medium*

19. *(p. 83-84)* Carol Jones, a U.S. citizen, was employed with MET, Inc. in its London office. Met Inc. is a Delaware corporation with its principle place of business in New York. Ms. Jones was recently laid off, and she believes she was a victim of racial discrimination. Ms. Jones
A. has no recourse because she was not working in the U.S. at the time she was laid off.
B. has no recourse because employment discrimination laws do not apply to lay offs.
C. has the right to file a claim for discrimination against her former employer pursuant to Title VII of the Civil Rights Act of 1964.
**D.** has the right to file a claim for discrimination against her former employer pursuant to the Civil Rights Act of 1991.

*Bennett - Chapter 02 #19*
*Difficulty: Hard*

20. *(p. 92)* Karen Rogers was employed at the Pentagon as manager of the Purchasing Department. Prior to the arrival of her new supervisor in June of 2004, she received the highest employee rating on her yearly evaluation. Her new supervisor, John Lincoln, had been overheard saying that he did not believe that women were smart enough to manage a department. Six months later, Karen was fired for poor work performance. If she wins her claim for gender discrimination, Karen may be entitled to
I back pay
II reinstatement to her former position
III punitive damages
A. I only
**B.** I and II only
C. I, II, and III
D. All of the choices are correct.

*Bennett - Chapter 02 #20*
*Difficulty: Hard*

21. *(p. 87, 94)* Jay Foster was employed as an auto mechanic with Madison & Sons Auto Shop. Mr. Madison employed 30 mechanics in each of his facilities in Denver, Colorado. Jay was the only African American mechanic and he had been employed by Mr. Madison for approximately 9 years. He had applied for a promotion to chief mechanic on 4 separate occasions and each time, the promotion had been given to a white male with less seniority and less experience. After being denied the promotion for the 5th time, Jay filed a claim with EEOC. Jay's employment was terminated after the EEOC contacted Mr. Madison concerning the claim.
A. The only claim that can be asserted against Mr. Madison is discrimination based on race.
B. Mr. Madison can only be found to be liable for violation of the anti-retaliation provisions of the Civil Rights Act of 1964.
**C.** Mr. Madison may be found liable for violation of the prohibitions against discrimination and the anti-retaliation provisions in the Civil Rights Act of 1964.
D. None of the choices are correct.

*Bennett - Chapter 02 #21*
*Difficulty: Medium*

22. *(p. 96)* Dean Capers, an African American, was employed as a bus driver with Mountain City Transportation Department. The city council voted to reduce the number of bus routes, and Dean's job was eliminated. Dean filed a claim with EEOC alleging racial discrimination because he was the only African American bus driver and he had more seniority than 4 of the drivers retained. Mountain City successfully responded
**A.** by showing that Dean was selected for lay off because he had a bad attitude and there had been several complaints filed against him.
B. by using the bona fide occupational qualification defense.
C. by using the business necessity defense
D. none of the choices are correct.

*Bennett - Chapter 02 #22*
*Difficulty: Hard*

23. *(p. 93)* Marc Brown is a chemical engineer with a graduate degree from MIT. Mr. Brown is African American. He applied for a chemical engineering position with Kincaid Paper Company. Although he was qualified for the job, he was not offered the position. Mr. Brown happened to see the job advertised in the newspaper 2 weeks after he had been rejected.
A. Mr. Brown does not have a cause of action for discrimination.
**B.** Mr. Brown can offer evidence to satisfy the elements of a prima facie case.
C. Mr. Brown cannot offer evidence to satisfy the elements of a prima facie case.
D. Mr. Brown is not eligible to file a claim under Title VII.

*Bennett - Chapter 02 #23*
*Difficulty: Hard*

24. *(p. 80)* The Civil Rights Act of 1991
A. added compensatory damages and punitive damages as available remedies.
B. allowed jury trials at the request of either party when compensatory and punitive damages are being sought.
**C.** A and B
D. None of the choices are correct.

*Bennett - Chapter 02 #24*
*Difficulty: Easy*

25. *(p. 98-99)* BJI Enterprises requires all employees to pass a standardized test before being considered for promotions. Marisa Chavez, a Hispanic female, was employed in the Maintenance department as a housekeeper. She wanted to be considered for a supervisory position in that department. However, she could not make a passing score on the test. There were no minority supervisors in the Maintenance Department. The Civil Rights Act requires
**A.** BJI to show that the test is related to the job.
B. Ms. Chavez to show that the test is not related to the job.
C. Ms. Chavez to prove that she is qualified for the job.
D. None of the choices are correct.

*Bennett - Chapter 02 #25*
*Difficulty: Hard*

26. *(p. 99)* The four-fifths rule states that
A. only 20% of the employees affected by the screening device can be minorities or there is a presumption of disparate impact discrimination.
**B.** minorities must do at least 80% as well as the majority on the screening device or there is a presumption of disparate impact discrimination.
C. after the claim has been filed, the employer must offer evidence to prove that four-fifths of all employees are successful when the screening device is used.
D. None of the choices are correct.

*Bennett - Chapter 02 #26*
*Difficulty: Hard*

27. *(p. 89)* After EEOC completes its investigation,
A. upon a finding of no reasonable cause, it can give the employee a right-to-sue letter.
B. if the claim is not disposed of by conciliation, the EEOC can take the matter further and file suit against the employer in federal district court.
C. upon a finding of reasonable cause to charge the employer with discrimination, it will attempt to bring the parties together for resolution by conciliation.
**D.** All of the choices are correct.

*Bennett - Chapter 02 #27*
*Difficulty: Medium*

28. *(p. 85)* Hilary James owns and operates a Bed & Breakfast Inn near the Lumbee Indian reservation. Ms. James gives a preference to Lumbee Indians when hiring for positions at the Bed & Breakfast. Ms. James' hiring practices
A. violate Title VII of the Civil Rights Act.
**B.** do not violate Title VII because she is exempt from compliance with Title VII of the Civil Rights Act
C. do not violate Title VII because she is just exercising a preference; it is not written policy.
D. None of the choices are correct.

*Bennett - Chapter 02 #28*
*Difficulty: Medium*

29. *(p. 102)* The Business Necessity Defense requires the employer to show
**A.** that the challenged policy is job related and is a legitimate requirement for the job.
B. that there is a legitimate, nondiscriminatory reason for the alleged discriminatory conduct.
C. that the information provided by the employee is false.
D. None of the choices are correct.

*Bennett - Chapter 02 #29*
*Difficulty: Medium*

30. *(p. 84)* Undocumented workers are
A. not protected by Title VII of the Civil Rights Act
B. are protected by Title VII of the Civil Rights Act and afforded all the same remedies as any other worker
**C.** are protected by Title VII of the Civil Rights but are not eligible for reinstatement, back pay for periods after discharge or failure to hire.
D. None of the choices are correct.

*Bennett - Chapter 02 #30*
*Difficulty: Hard*

31. *(p. 90)* Mandatory Arbitration Agreements wherein the employee agrees to arbitrate all disputes arising out of his/her employment relationship
A. do not interfere with the employee's right to file a claim for discrimination with the EEOC.
**B.** prevent an employee from pursuing a claim for discrimination with the EEOC.
C. are enforceable except when the employer violates Title VII of the Civil Rights Act.
D. are not enforceable unless authorized by the EEOC.

*Bennett - Chapter 02 #31*
*Difficulty: Hard*

32. *(p. 92)* Sally Landon is employed by Kent Electronics, Inc. in its London facility. Kent Electronics, Inc. is a U.S. corporation. Sally is not a U.S. citizen. Sally's job was eliminated in a recent reduction in force. She noticed that only women were laid off. She contacted EEOC in Washington, D.C. to file a claim for discrimination.
A. Sally's claim will be investigated by EEOC.
B. Sally's claim cannot be filed with EEOC because the discrimination did not occur in the United States.
**C.** Sally's claim cannot be filed with EEOC because she is not a U.S. citizen and she does not live in the United States.
D. Sally's claim will be investigated by EEOC, but not all remedies available to U.S. citizens will be available to Sally.

*Bennett - Chapter 02 #32*
*Difficulty: Hard*

33. *(p. 97-98)* James Helton, an African-American, was hired as a dock worker with Coastal Distributing Company. As a full time employee, he was eligible for health insurance benefits if he met certain criteria. His pre-employment physical indicated that he suffered from hypertension or high blood pressure. The company's health insurance plan excluded employees that had that condition. Hypertension is a condition that is common among African-Americans and affects that race at a much higher percentage than any other race.
A. Coastal Distributing Company's policy is not discriminatory because it applies to all employees, regardless of race.
**B.** Coastal Distributing Company's policy is discriminatory because more African-Americans will be denied health insurance than employees who are not African-American.
C. Coastal Distributing Company's policy is not subject to Title VII because it involves employee benefits, not hiring, promotion or termination.
D. Coastal Distributing Company's policy is discriminatory because it treats some employees differently (African Americans) than other similarly situated employees.

*Bennett - Chapter 02 #33*
*Difficulty: Hard*

34. *(p. 87)* A "706 agency" is a state agency that contracts with EEOC to assist in the investigation of discrimination claims.
**A.** EEOC can defer a claimant to a 706 agency for 60 days before investigating.
B. EEOC will not review claims deferred to 706 agencies.
C. 706 agencies do not investigate discrimination claims unless filed with EEOC first.
D. None of the choices are correct.

*Bennett - Chapter 02 #34*
*Difficulty: Medium*

35. *(p. 96, 102)* The following defenses are available to employers in discrimination claims:
A. bona fide occupational qualification (BFOQ) defense
B. legitimate, nondiscriminatory reason defense
C. business necessity defense
**D.** All of the choices are correct.

*Bennett - Chapter 02 #35*
*Difficulty: Medium*

36. *(p. 74)* In Brown v. Topeka Board of Education, the U.S. Supreme Court:
A. for the first time, allowed jury trials in Title VII cases.
**B.** struck down the separate but equal doctrine.
C. declared affirmative action to be a form of illegal reverse discrimination.
D. for the first time, recognized the business necessity defense.

*Bennett - Chapter 02 #36*
*Difficulty: Easy*

37. *(p. 102, 110)* Which of the following is not a business necessity providing a defense to a disparate impact claim?
A. Hiring only cashiers that are bondable.
**B.** Hiring only brunettes to work as servers in a restaurant because they are preferred by customers and bring larger profits for the company.
C. Hiring only pizza deliverers who possess driver's licenses.
D. Hiring only English speaking workers to be telephone operators.

*Bennett - Chapter 02 #37*
*Difficulty: Medium*

38. *(p. 102)* Emmanuel and Petersen is an extremely busy law firm specializing in litigation. In order to keep up with their workload, they refuse to hire anyone as a secretary who is unable to type at least 65 words per minute. If a group of male applicants challenges this policy as being discriminatory against generally slower typing males, the company could defend the typing-speed requirement as a:
A. bottom line defense.
B. disparate treatment defense.
**C.** business necessity.
D. bona fide disparate impact defense.

*Bennett - Chapter 02 #38*
*Difficulty: Hard*

39. *(p. 103)* McFerrin was refused employment by Billiot, Inc., because he failed to achieve a high enough score on a valid, reliable skills test. Believing that he has been the victim of national origin discrimination, since no one of Scottish descent has ever achieved a satisfactory score, McFerrin sues under Title VII after exhausting his administrative remedies. He asks the court to require Billiot to adjust the scores of all Scottish-descent test-takers, upward, by ten points. Assuming McFerrin proves national origin discrimination, can the court grant the relief he seeks?
A. No, because the Civil Rights Act of 1964 makes it an unfair employment practice for an employer to adjust the scores of an employment-related test on the basis of a protected trait.
B. Yes, because the Civil Rights Act of 1964 requires an employer to adjust the scores of an employment-related test on the basis of a protected trait, if the effect of the test is to exclude certain groups from a certain minimum level of employment.
**C.** No, because the Civil Rights Act of 1991 makes it an unfair employment practice for an employer to adjust the scores of an employment-related test on the basis of a protected trait.
D. Yes, because the Civil Rights Act of 1991 requires an employer to adjust the scores of an employment-related test on the basis of a protected trait, if the effect of the test is to exclude certain groups from a certain minimum level of employment.

*Bennett - Chapter 02 #39*
*Difficulty: Hard*

40. *(p. 103)* NorthernSky Airlines is a regional carrier that flies a variety of aircraft with maximum interior cabin heights ranging from 6'2¼" to 5'9." Northern Sky advertisements for flight attendants state that an applicant "must be between 5'0" and 5'8" without shoes due to the internal size of our aircraft." James, a 6' 0" man complains that the height restrictions have a disparate impact on men. The airline defends the case by asserting that height is a business necessityfor the job.
A. James will prevail on his complaint because he can fit inside some of the aircraft.
**B.** NorthernSky will prevail because it can demonstrate that the flexibility to schedule flight attendants on all its aircraft is a reasonable necessity for normal operation.
C. James will prevail on his complaint because height restrictions have nothing to do with the primary responsibility of a flight attendant, which is the safety of the passengers.
D. NorthernSky will prevail because it can demonstrate that a shorter flight attendant is innately better suited to perform the "non-mechanical" functions of the job, such as soothing nervous customers.

*Bennett - Chapter 02 #40*
*Difficulty: Medium*

41. *(p. 101)* The Bright Creek Luggage Company has hired you as a consultant to improve the company's hiring processes so it will be less vulnerable to claims of discrimination when hiring. You should make the following recommendations.
A. Bright Creek should scrutinize prepared interview questions and employment applications to determine whether there is a disparate impact in the way that information is elicited.
B. Bright Creek should require all outside recruiters and employment agencies to certify that they are familiar with the requirements of anti-discrimination laws.
C. Bright Creek should provide training on basic legal concepts for equal employment opportunity to all interviewers and persons who make hiring decisions.
**D.** All of the answers are correct.

*Bennett - Chapter 02 #41*
*Difficulty: Easy*

42. *(p. 87)* Statistics compiled by the EEOC show that
**A.** The leading bases for claims filed, in order of prevalence, are: 1) race, 2) gender, and 3) retaliation.
B. The leading bases for claims filed, in order of prevalence, are: 1) race, 2) religion, and 3) retaliation.
C. The leading bases for claims filed, in order of prevalence, are: 1) retaliation, 2) race, and 3) gender.
D. The leading bases for claims filed, in order of prevalence, are: 1) race, 2) color, and 3) national origin.

*Bennett - Chapter 02 #42*
*Difficulty: Easy*

43. *(p. 86)* The number of days that a non-federal government employee has file a timely claim with the EEOC, under Title VII of the Civil Rights Act, is
A. 45 days
B. 120 days.
C. 300 days
**D.** 180 days.

*Bennett - Chapter 02 #43*
*Difficulty: Easy*

44. *(p. 89)* The EEOC has investigated Chen's complaint of discrimination under Title VII against his employer and sent him a notice that it determined that there was no reasonable cause for his complaint.
A. Chen has 180 days after he receives his "right-to-sue" letter from the EEOCto bring the same complaint to his state 706 agency and try to get a better result.
B. Chen has 180 days after he receives his "right-to-sue" letter from the EEOCto sue his employer in federal court.
**C.** Chen has 90 days after he receives his "right-to-sue" letter from the EEOCto sue his employer in federal court.
D. Chen has 90 days after he receives his "right-to-sue" letter from the EEOCto bring the same complaint to his state 706 agency and try to get a better result.

*Bennett - Chapter 02 #44*
*Difficulty: Easy*

45. *(p. 84, 93)* Joe's Bakery advertised in the local newspaper for an assistant baker. Muhammad, a recent honors graduate of the Culinary School of America, applied for the position and was told that the position had been filled. Muhammad is of Middle-Eastern descent and practices the Muslim faith. The following day and for nine consecutive days, Muhammad saw the ad in the paper again. Joe's Bakery employs 7 people, including Joe. Do the facts satisfy the requirements for a prima facie case? If so, can Muhammad pursue a claim for discrimination against Joe's Bakery?

This scenario satisfies all of the elements of a prima facie case. First, Muhammad is a member of a protected class in that he is Muslim. Secondly, he applied for a job as assistant baker, and he was qualified to hold that position. Third, Muhammad was not hired and the job remained open. Joe's Bakery continued to advertise the position and accept applications.
Even though Muhammad has satisfied all the elements of a prima facie case, he cannot file a claim for discrimination against Joe's Bakery because the company only employs 7 people. Title VII of the Civil Rights Act only applies to employers with 15 employers or more.

*Bennett - Chapter 02 #45*
*Difficulty: Hard*

46. *(p. 85)* List the steps in the process used to file a claim for discrimination within the EEOC.

(1) Employee files a claim with the EEOC.
(2) EEOC notifies the employer/responding party of the alleged discrimination.
(3) Parties may receive a referral to mediation.
(4) If both elect mediation, charge is mediated.
(5) If the parties resolve the dispute in mediation, the settlement is binding and the case is closed.
(6) If the parties do not accept mediation or mediation does not resolve the dispute, the EEOC investigates the claim.
(7) If the EEOC's investigation shows reasonable cause to believe discrimination has occurred, parties meet and try to conciliate.
(8) If agreement is reached in conciliation, the settlement is binding and the case is closed.
(9) If the EEOC's investigation shows no reasonable cause, the employee is notified of the EEOC's decision and given a right-to-sue letter.
(10) If reasonable cause is found, the EEOC notifies the employer of the proposed remedy.
(11) If employer disagrees, he or she can appeal the decision.

*Bennett - Chapter 02 #46*
*Difficulty: Easy*

47. *(p. 93, 96)* Linda was employed with Southern Telephone Company as a telephone operator for ten (10) years. Bored with this job, she applied for an open position as a telephone repairman which paid $10.00 per hour more than she was currently earning. This position required the employee to be able to climb to the top of a telephone pole wearing a tool belt weighing approximately 15 to 20 lbs to make repairs. Southern Telephone Company refused to admit Linda into the training program for the position claiming that she was incapable of performing the duties of the position because she was female.
Discuss this scenario from both Linda and Southern Telephone Company's point of view, including the basis for the relevant claims and defenses.

Linda can file a claim with EEOC alleging disparate treatment discrimination in violation of Title VII of the Civil Rights Act of 1964. Specifically, Linda would allege that she was denied training for the new position because she was female, thus, she was treated differently because of her gender in violation of Title VII. Southern Telephone Company can use the *Bona Fide Occupational Qualification Defense* to defend against Linda's disparate treatment claim of discrimination. The BFOQ defense allows an employer to engage in discriminatory practices if it can be shown that the discrimination is necessary to the employer's business. In this instance, the company can argue that it excludes women from training for the position as telephone repairman because woman would be unable to climb the telephone pole carrying the weight of the tool belt. Furthermore, the employer should argue that while there may occasionally be a woman that would be able to perform the duties of the job, it would be impracticable to allow women to enter the training program, only to later be excluded due to the inability to climb the pole wearing the tool belt.

*Bennett - Chapter 02 #47*
*Difficulty: Hard*

48. *(p. 93, 97)* Describe the two theoretical bases for lawsuits alleging discrimination under Title VII of the Civil Rights Act of 1964.

Disparate Treatment discrimination requires that the plaintiff/employee allege that he/she was treated differently than other similarly situated employees based on the plaintiff/employee's race, color, gender, national origin or religion. This is intentional discrimination, but the plaintiff/employee does not have to prove that the employer said that one of the prohibited factors was the reason for the discriminatory conduct. It is enough for the plaintiff/employee to produce evidence that shows that discrimination as the only plausible explanation for what happened.
Disparate Impact discrimination occurs when an employer uses some type of screening device or has an employment policy that is neutral on its face, but the device or policy can be show, by the use of statistics, to impact a protected group negatively. If such a policy impacts protected groups more harshly than majority groups, illegal discrimination may be found if the employer cannot show that the requirement is a legitimate business necessity.

*Bennett - Chapter 02 #48*
*Difficulty: Medium*

49. *(p. 96, 98)* Distinguish the business necessity defense from the bona fide occupational qualification defense, including describing each defense and stating when each can be used.

A bona fide occupational qualification (BFOQ) is some skill or trait that is legitimately required in order for an individual to adequately and properly perform a particular job. An employer may defend against a claim of disparate treatment discrimination brought by an individual not possessing the trait or skill by asserting that the trait or skill is a BFOQ. The BFOQ can be used in cases involving allegations based on gender, religion or national origin but not for race or color. The business necessity defense is available only in cases of unintentional or disparate impact discrimination. It requires the employer to demonstrate that the performance of a particular job by the use of particular methods or skills is reasonably necessary to the essence of the employer's business.

*Bennett - Chapter 02 #49*
*Difficulty: Medium*

50. *(p. 109)* Describe the basic legal theory that is used to determine whether the plaintiff or the defendant will prevail in a lawsuit in which it is alleged that the defendant has committed illegal, disparate treatment employment discrimination, in violation of Title VII of the Civil Rights Act of 1964, as amended, when there is no direct evidence of discrimination.

According to the pattern set forth in *McDonnell Douglas v. Green*, the plaintiff must prove all elements of the prima facie case of discrimination alleged in the complaint. The burden then shifts to the defendant to articulate some legitimate nondiscriminatory reason to explain the alleged discriminatory act. If the defendant articulates such a reason, the plaintiff must then prove that this nondiscriminatory reason is simply a pretext for another, illegally discriminatory explanation of the defendant's alleged discriminatory act. If the plaintiff can successfully show this, the plaintiff will prevail.

*Bennett - Chapter 02 #50*
*Difficulty: Medium*

# c2 Summary

| *Category* | *# of Questions* |
|---|---|
| Bennett - Chapter 02 | 50 |
| Difficulty: Easy | 15 |
| Difficulty: Hard | 15 |
| Difficulty: Medium | 20 |