

## Chapter 02

### Legal Compliance

#### True / False Questions

1. The employer-employee relationship is the most prevalent type of employment relationship.

True False

2. Employment contracts may be written but not in oral form.

True False

3. The specificity of the language used in an employment contract must be very extensive.

True False

4. The formal agreement which specifies the employment terms and conditions for the employee and employer is called an employment contract.

True False

5. An employer does not incur any legal responsibilities or liabilities regarding its employees.

True False

6. The common law principle of employment-at-will says that, in the absence of any contract language to the contrary, either the employer or employee may terminate the employment relationship at any time, but for only for certain reasons.

True False

7. There are some restrictions on employment-at-will, such as statutory requirements for nondiscriminatory termination.

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8. An independent contractor is legally considered an employee of the employer who hired him/her.

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9. If an employer hires an independent contractor, it may reduce the employer's exposure to laws and regulations governing the employment relationship.

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11. Temporary employees are considered to be employees of the temporary help agency that obtained them through its own staffing process.

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12. Court cases suggest that permatemps (employees from a staffing agency who have been with the employer for extended period of time) are still exclusively considered employees of the staffing agency.

True False

13. Employment laws and regulations exist, in part, to reduce or limit the employer's power in the employment relationship.

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14. Laws and regulations provide protections to employees that they could not possibly acquire individually in an employment contract.
- True   False
15. The Civil Rights Act specifically mentions employment practices that are permitted for employers.
- True   False
16. The majority of common law decisions are made at the federal level.
- True   False
17. Constitutional law supersedes any other source of law or regulation.
- True   False
18. Examples of common law include the Fifth and Fourteenth Amendments to the Constitution.
- True   False
19. The Civil Rights Act is a statutory source of law/regulations.
- True   False
20. Agencies that enforce staffing laws typically do not rely on written documents to perform their functions.
- True   False
21. Whether an organization is covered by the Civil Rights Act, Age Discrimination in Employment Act (ADEA), and Americans With Disabilities Act (ADA) depends on its number of employees.
- True   False

22. When determining if an organization large enough to be covered by ADA law, only full-time employees should be included in the employee count.

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23. Company officials and individual managers can be held personally liable for discrimination under the Civil Rights Act, the ADA, or the ADEA.

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24. The Civil Rights Act prohibits discrimination on the basis of age or disability status.

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25. The Age Discrimination in Employment Act covers individuals over the age of 40.

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34. Enforcement mechanisms used by the OFCCP closely mirror those used by the EEOC.

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35. It is unlawful to discriminate in hiring, firing, compensation, or classification of employees on the basis of race, color, religion, sex, or national origin.

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36. Staffing practices that may seem unfair, outrageous, or of dubious value to the employer, but that do not cause adverse impact, are legal.

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37. If an employer has a selection system in which applicants first take a written test and those who pass it are interviewed, the plaintiff must show adverse impact for the two components combined.

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50. The law prohibits the use of genetic information in employment.

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51. Substantive assessment methods are used to reduce the applicant pool to candidates.

True False

52. It is unlawful to recruit an unauthorized alien for employment in the United States.

True False

53. The Immigration Reform and Control Act prohibits employment discrimination on the basis of national origin or citizenship status.

True   False

54. Nearly everyone who wishes to work in the United States is eligible for an H-1B visa.

True   False

55. Those who get an H-1B are typically employed in occupations such as architect, engineer, computer programmer, accountant, doctor, and professor.

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56. Most private employers cannot legally require applicants or employees to take a polygraph test, except in special circumstances.

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57. Polygraphs cannot be used to investigate theft, embezzlement, or sabotage that causes economic loss to the employer.

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59. Some state laws prohibit discrimination on the basis of sexual orientation and gender identity or expression.

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60. Both private and public employers have a legal mandate to test applicants only for KSAOs that are directly job related.

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### Multiple Choice Questions

62. Regarding employment contracts, \_\_\_\_\_.

- A. both written and oral contracts are enforceable
- B. employment-at-will is defined under set-term contracts
- C. most employees have a contractual right to be discharged only for cause
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63. The most prevalent form of the employment relationship is \_\_\_\_\_.

- A. independent contractor
- B. employer-employee
- C. temporary employee
- D. employer-employer

64. The common law principle which states that, in the absence of any contract language to the contrary, either the employer or employee may terminate the employment relationship at any time is called \_\_\_\_\_.

- A. employment-at-will
- B. affirmative action
- C. equal employment opportunity
- D. a consent decree

65. An example of an exception to the principle of employment-at-will would be \_\_\_\_\_.

- A. employers cannot discharge employees on the basis of poor performance
- B. employers cannot discharge employees on the basis of race
- C. employers cannot discharge employees for stealing from the company
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66. Which of the following statements is true regarding independent contractors?

- A. An independent contractor is a legal employee of the company which hired him/her.
- B. Using an independent contractor increases the employer's exposure to laws and regulations governing the employment relationship.
- C. Using an independent contractor frees an employer from the tax withholding and tax payment obligations it has for its employees.
- D. Using an independent contractor substantially increases the right of the employer to control the contractor.

67. Which of the following factors increase the likelihood that a worker will be considered an independent contractor?
- A. The independent contractor works without supervision or oversight from the employer
  - B. The independent contractor sets his or her own work hours
  - C. The independent contractor is paid by the project rather than by the time spent
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  - B. During job assignments, temporary workers are on the payroll of the organization using their services.
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69. What can employers do to ensure that permatemps, that is, individuals from staffing firms who have long-term relationships with an employer, are not considered employees of their firm?
- A. Never exercise direct control over these people and treat them separate from regular employees.
  - B. Ensure they provide sufficient training and supervision.
  - C. Provide permatemps with special hats indicating their status as temporary.
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70. Which of the following statements is true regarding the laws and regulations which govern the employment relationship?
- A. Their purpose is to create a reasonable balance of power between the employer and employee.
  - B. Their purpose is to create a reasonable power advantage for employees.
  - C. Their purpose is to create a reasonable power advantage for employers.
  - D. Their purpose is to provide protections for employees only.

71. The primary source of common law is \_\_\_\_\_.
- A. the Constitution
  - B. federal statutes
  - C. past court decisions
  - D. federal agency guidelines
72. Due process rights have their primary source in \_\_\_\_\_.
- A. EEOC guidelines
  - B. federal statutes
  - C. state statutes
  - D. the U.S. Constitution Amendments
73. A \_\_\_\_\_ is a civil wrong that occurs when the employer violates a duty owed to its employees or customers that results in harm or damages.
- A. tort
  - B. crime
  - C. constitutional law violation
  - D. failure of due process
74. Statutory law is derived from \_\_\_\_\_.
- A. court cases
  - B. the U.S. constitution and its amendments
  - C. written documents passed by legislative bodies
  - D. agencies at the federal, state and local levels

75. Agencies that regulate fair employment practice exist at which level?

- A. federal
- B. state
- C. local
- D. all of these

76. The role of federal agencies is to \_\_\_\_\_.

- A. develop, create, and implement the law
- B. interpret, administer, and enforce the law
- C. facilitate greater communication between courts
- D. render decisions in court cases regarding employment law

77. Which of the following is(are) true regarding federal EEO/AA laws?

- A. They are very narrow in their coverage of employers.
- B. Specific agencies exist which regulate administration and enforcement.
- C. They cover only women, minorities, and certain religious groups.
- D. None of these is true.

78. Which of the following is *not* covered by the Civil Rights Act?

- A. race
- B. sex
- C. disability status
- D. all of these are covered by the Civil Rights Act

79. The Age Discrimination in Employment Act focuses on individuals over the age of \_\_\_\_\_.

- A. 40
- B. 30
- C. 20
- D. 50

80. Disparate treatment focuses on \_\_\_\_\_.

- A. allegations and evidence about the effects of discriminatory actions
- B. allegations and evidence about intentions to discriminate
- C. adverse impact
- D. quotas

81. The initial burden of proof in discrimination claims lies \_\_\_\_\_.

- A. with the defendant
- B. with the court
- C. equally with the court and the federal agency
- D. with the plaintiff

82. When using stock statistics in job selection discrimination cases, the comparison being made is \_\_\_\_\_.

- A. differences in proportions of groups hired
- B. percentages of groups concentrated in certain job categories
- C. percentages of groups in job categories relative to their availability in the population
- D. percentages of union versus non-unionized employees

83. The key to a successful rebuttal in a disparate treatment case is \_\_\_\_\_.

- A. to prove adverse impact
- B. to provide nondiscriminatory reasons for the practice(s) in question
- C. to show the presence of a "mixed motive"
- D. to prove discrimination

84. In EEOC cases, a consent decree is \_\_\_\_\_.

- A. mandated by law
- B. court approved
- C. limited to non-monetary relief
- D. limited to affirmative action remedies

85. Enforcement mechanisms used by the OFCCP \_\_\_\_\_.

- A. rarely involve employer site visits
- B. are identical to those used by the EEOC
- C. are unrelated to specific AA plans
- D. may involve conciliation agreements

86. Which of the following is prohibited discrimination under civil rights law?

- A. discrimination in hiring
- B. discrimination in compensation
- C. discrimination in classification
- D. all of these

87. The essence of a BFOQ is that \_\_\_\_\_.
- A. it is always illegal
  - B. it reduces discrimination
  - C. it justifies discrimination based on reasonable necessity of the job
  - D. it prohibits selection through use of a protected characteristic (e.g., gender)
88. Regarding the use of tests in staffing, it can be said that \_\_\_\_\_.
- A. they are permitted by law
  - B. they are illegal
  - C. they should be adjusted by protected characteristics to be fair
  - D. they should be "race normed" for fairness
89. The legal status of seniority and merit systems is that \_\_\_\_\_.
- A. seniority is legal
  - B. merit systems are legal
  - C. both are legal
  - D. both are illegal
90. The Age Discrimination In Employment Act (1967) prohibits discrimination against individuals who are \_\_\_\_ years or older.
- A. 40
  - B. 50
  - C. 60
  - D. 65



91. Employers can use which of the following techniques without violating the Age Discrimination in Employment Act.
- A. using reasonable factors other than age in making employment decisions
  - B. using seniority systems
  - C. using terms or phrases that express a preference for older workers
  - D. all of these
92. Where the Americans with Disabilities Act is concerned, \_\_\_\_\_.
- A. the law only applies to disabled individuals who are otherwise qualified
  - B. the law requires the hiring of all disabled people
  - C. the law prohibits refusal to hire a disabled person
  - D. the law provides advantages to disabled people
93. Where reasonable accommodations for disabled individuals are concerned, it can be said that \_\_\_\_\_.
- A. accommodation is always required for an otherwise qualified individual
  - B. specific examples of accommodations are rarely indicated in laws and regulations
  - C. the issue of "undue hardship" to the employer is not addressed by the law
  - D. the need to accommodate often hinges on whether or not a given job function is necessary or essential
94. Which of the following is not prohibited by the ADA?
- A. medical exams of job applicants
  - B. asking a job applicant if he/she is disabled
  - C. asking a job applicant to undergo a medical exam after a job offer has been made
  - D. refusing to interview a person who is disabled

95. Executive Order 11246 covers \_\_\_\_\_.
- A. local government employers
  - B. private employers with under 15 employees
  - C. federal contractors with contracts in excess of \$10,000
  - D. private employers with 20 or more employees
96. Noncompliance with the Immigration Reform and Control Act (1986) could result in \_\_\_\_\_.
- A. imprisonment for up to six months
  - B. fines equal to \$50,000 for each unauthorized alien employed
  - C. summary closing of a business
  - D. imprisonment of the alien for up to five years
97. Which of the following is true regarding EEO laws?
- A. State (but not local) government employees are immune from lawsuits by employees who allege violation of ADA or ADEA.
  - B. States must pursue age and disability discrimination claims under applicable state laws.
  - C. A foreign company which is owned or controlled by an American employer and is doing business overseas generally also must comply with Title VII, the ADA, and the ADEA.
  - D. All of these
98. Which of the following is true regarding discrimination on the basis of sexual orientation?
- A. there are no laws covering sexual orientation discrimination
  - B. federal law prohibits all discrimination on the basis of sexual orientation
  - C. although such discrimination is not covered by federal law, it is covered by some state and local laws
  - D. some state and local laws encourage discrimination on the basis of sexual orientation

99. Which of the following is true regarding H-1B visas?

- A. Employers may apply for permanent H-1B visas for foreign workers.
- B. There is a cap of 50,000 workers per year who can obtain such visas.
- C. H-1B visa holders may not change jobs as soon as their employer files an approval petition and they are restricted to their current geographic area.
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- A. differences in proportions of groups hired
  - B. percentages of groups concentrated in certain job categories
  - C. percentages of groups in job categories relative to their availability in the population
  - D. percentages of union versus non-unionized employees
83. The key to a successful rebuttal in a disparate treatment case is \_\_\_\_\_.
- A. to prove adverse impact
  - B. to provide nondiscriminatory reasons for the practice(s) in question
  - C. to show the presence of a "mixed motive"
  - D. to prove discrimination
84. In EEOC cases, a consent decree is \_\_\_\_\_.
- A. mandated by law
  - B. court approved
  - C. limited to non-monetary relief
  - D. limited to affirmative action remedies
85. Enforcement mechanisms used by the OFCCP \_\_\_\_\_.
- A. rarely involve employer site visits
  - B. are identical to those used by the EEOC
  - C. are unrelated to specific AA plans
  - D. may involve conciliation agreements

86. Which of the following is prohibited discrimination under civil rights law?
- A. discrimination in hiring
  - B. discrimination in compensation
  - C. discrimination in classification
  - D. all of these
87. The essence of a BFOQ is that \_\_\_\_\_.
- A. it is always illegal
  - B. it reduces discrimination
  - C. it justifies discrimination based on reasonable necessity of the job
  - D. it prohibits selection through use of a protected characteristic (e.g., gender)
88. Regarding the use of tests in staffing, it can be said that \_\_\_\_\_.
- A. they are permitted by law
  - B. they are illegal
  - C. they should be adjusted by protected characteristics to be fair
  - D. they should be "race normed" for fairness
89. The legal status of seniority and merit systems is that \_\_\_\_\_.
- A. seniority is legal
  - B. merit systems are legal
  - C. both are legal
  - D. both are illegal

90. The Age Discrimination In Employment Act (1967) prohibits discrimination against individuals who are \_\_\_\_ years or older.
- A. 40  
B. 50  
C. 60  
D. 65
91. Employers can use which of the following techniques without violating the Age Discrimination in Employment Act.
- A. using reasonable factors other than age in making employment decisions  
B. using seniority systems  
C. using terms or phrases that express a preference for older workers  
D. all of these
92. Where the Americans with Disabilities Act is concerned, \_\_\_\_\_.
- A. the law only applies to disabled individuals who are otherwise qualified  
B. the law requires the hiring of all disabled people  
C. the law prohibits refusal to hire a disabled person  
D. the law provides advantages to disabled people
93. Where reasonable accommodations for disabled individuals are concerned, it can be said that \_\_\_\_\_.
- A. accommodation is always required for an otherwise qualified individual  
B. specific examples of accommodations are rarely indicated in laws and regulations  
C. the issue of "undue hardship" to the employer is not addressed by the law  
D. the need to accommodate often hinges on whether or not a given job function is necessary or essential

94. Which of the following is not prohibited by the ADA?
- A. medical exams of job applicants
  - B. asking a job applicant if he/she is disabled
  - C. asking a job applicant to undergo a medical exam after a job offer has been made
  - D. refusing to interview a person who is disabled
95. Executive Order 11246 covers \_\_\_\_\_.
- A. local government employers
  - B. private employers with under 15 employees
  - C. federal contractors with contracts in excess of \$10,000
  - D. private employers with 20 or more employees
96. Noncompliance with the Immigration Reform and Control Act (1986) could result in \_\_\_\_\_.
- A. imprisonment for up to six months
  - B. fines equal to \$50,000 for each unauthorized alien employed
  - C. summary closing of a business
  - D. imprisonment of the alien for up to five years
97. Which of the following is true regarding EEO laws?
- A. State (but not local) government employees are immune from lawsuits by employees who allege violation of ADA or ADEA.
  - B. States must pursue age and disability discrimination claims under applicable state laws.
  - C. A foreign company which is owned or controlled by an American employer and is doing business overseas generally also must comply with Title VII, the ADA, and the ADEA.
  - D. All of these

98. Which of the following is true regarding discrimination on the basis of sexual orientation?
- A. there are no laws covering sexual orientation discrimination
  - B. federal law prohibits all discrimination on the basis of sexual orientation
  - C. although such discrimination is not covered by federal law, it is covered by some state and local laws
  - D. some state and local laws encourage discrimination on the basis of sexual orientation
99. Which of the following is true regarding H-1B visas?
- A. Employers may apply for permanent H-1B visas for foreign workers.
  - B. There is a cap of 50,000 workers per year who can obtain such visas.
  - C. H-1B visa holders may not change jobs as soon as their employer files an approval petition and they are restricted to their current geographic area.
  - D. None of these