

Chapter 01: Overview of Employment Law

True / False

1. Employment laws are passed only by state and federal governments, not by cities or counties.

a. True

b. False

ANSWER: False

2. There are more firms with 0-4 employees than any other size firms.

a. True

b. False

ANSWER: True

3. Punitive damages are not available in employment discrimination cases.

a. True

b. False

ANSWER: False

4. There are minimum standards for the terms and conditions of employment.

a. True

b. False

ANSWER: True

Multiple Choice

5. Sources of employment law include all of the following EXCEPT:

a. federal law

b. state law

c. ads for job openings

d. constitutions

ANSWER: c

6. Under U.S. employment laws, employees have the right to:

a. not be fired, as long as they do a good job

b. be treated fairly in all aspects of the workplace, including receiving fair compensation

c. have paid vacation after 1 year of employment

d. expect their employers to comply with employment laws

ANSWER: d

7. When determining which employment laws apply to a certain employer, which of the following factors does NOT apply?

a. the number of employees that work for the company

- b. whether the employer sells goods or services to the state government where it is located
- c. the state(s) in which the employer operates
- d. whether the employer sells goods or services to the federal government

ANSWER: b

8. Regarding employment law in the U.S., which of the following statements is true?

- a. Most federal employment laws were passed in the first half of the 19th century in response to growing industrialization
- b. The earliest employment laws focused on wages and hours
- c. Employees may be fired at any time for any reason not prohibited by law
- d. Employees enjoy the right to stay on the job as long as they are doing a good job

ANSWER: c

9. Which of the following is generally true regarding the process of enforcing employment laws?

- a. courts and government agencies hear cases only after employees come forward with complaints about violations of the law
- b. employees are very likely to seize the opportunity to sue their employers, because all of the cost of employment litigation is borne by the employer
- c. once a claim is brought, a company's attorneys deal with it, and managers have little involvement in the case
- d. employment laws apply only to full time employees

ANSWER: a

10. In considering whether an employment termination was legal, the court considers:

- a. whether the termination was fair
- b. whether the termination was necessary
- c. whether the termination was wise.
- d. whether the termination was legally permissible

ANSWER: d

11. Under the "payroll method" approved by the U.S. Supreme Court:

- a. employers whose payrolls exceed \$500,000 annually are covered by Title VII
- b. employers are covered by Title VII if they had at least 20 employees on the payroll at the time of the alleged discrimination
- c. employers are covered by Title VII if they had at least 15 employees working and being paid for each working day during at least 20 weeks in the same or the preceding year
- d. employees are counted for each full week between when they are hired and when they leave employment, regardless of the number of days or hours worked.

ANSWER: d

12. Regarding arbitration, which of the following statements is true?

- a. historically, arbitration has been used to enforce employee rights under collective bargaining agreements of unionized employees

- b. arbitrators' decisions are usually advisory and not considered final
- c. arbitrators have less control over the outcomes of disputes than do mediators.
- d. arbitration is always more costly and time-consuming than litigation

ANSWER: a

13. Regarding the interrelationship of federal and state employment laws:

- a. state laws must be identical to federal law or the state law is void
- b. states may pass laws which reduce employee rights, but may not enact laws that expand employee protections granted in federal laws
- c. states may pass laws which expand employee rights, but may not enact laws that reduce employee protections granted in federal laws
- d. employment law is exclusively a federal domain, so states may not enact laws when federal law already exists

ANSWER: c

14. If Pedro works for the City of Trenton, he is in:

- a. the public sector
- b. the private sector
- c. a union workplace
- d. a non-union workplace

ANSWER: a

15. In EEOC v AutoZone, the EEOC sued AutoZone on behalf of an employee who suffered injury and disability because his employer would not provide a reasonable accommodation for his disability. Fed Ex argued that the damages awarded by the jury were too high, and also offered evidence of its ADA compliance policy set forth in the employee manual. The court ruled:

- a. for the defendant AutoZone, since the establishment of an ADA compliance policy was sufficient to establish a good faith effort to comply with the ADA
- b. for the defendant AutoZone, because plaintiff had not established that he suffered from a disability
- c. for the plaintiff because the damages awarded were consistent with the damages awarded in other cases
- d. for the plaintiff because he established that he suffered from a disability

ANSWER: c

16. Which of the following is true regarding enforcement of employee rights and enforcement of employment laws?

- a. finding a lawyer willing to take an employment law case is difficult because lawyers accept only about 50% of employment discrimination cases brought to them
- b. if an employer has a complaint or grievance procedure, the employee is required to exhaust the remedies afforded under the internal procedure before taking the case to an enforcement agency or court
- c. the EEOC encourages the parties to discrimination cases to use mediation
- d. the EEOC encourages the parties to discrimination cases to use arbitration

ANSWER: c

17. Arbitration agreements which are offered on a take-it-or-leave-it basis are:

- a. procedurally unconscionable
- b. rhetorically unconscionable
- c. substantively unconscionable
- d. structurally unsound

ANSWER: a

18. Which of the following is true of the enforcement process for discrimination charges brought under Title VII?

- a. the plaintiff may choose to begin in the state civil rights agency, or may file directly with the EEOC as they wish
- b. charges must be brought within 60 days of the alleged discriminatory act
- c. a right to sue letter must be obtained from the EEOC before a plaintiff can file suit in court
- d. the plaintiff will have 60 days to file her lawsuit

ANSWER: c

19. A "limitations" period is:

- a. the time within which a plaintiff must file a claim or lawsuit
- b. the time within which a plaintiff must reply to the employer's defense
- c. an automatic reduction in the amount of damages
- d. the time while an employee is probationary, and not a regular full time employee

ANSWER: a

Dean got a job as a copy writer for a publishing firm, and after working for the firm for two years, was told he was required to sign a mandatory arbitration agreement and agree to submit any employment disputes to binding arbitration. Dean was also told that if he would not sign it as is, he would be fired. Dean:

20. Dean got a job as a copywriter for a publishing firm, and after working for the firm for two years, was told he was required to sign a mandatory arbitration agreement and agree to submit any employment disputes to binding arbitration. Dean was also told

- a. will have to sign the agreement if he wants to keep his job
- b. does not have to sign the agreement, and can still keep his job

ANSWER: a

21. The contract referred to in the preceding question is:

- a. procedurally unconscionable
- b. substantively unconscionable

ANSWER: a

22. Which of the following provisions, if included in a mandatory arbitration agreement, would be likely to render it unenforceable?

- a. a provision that the employee pay 10% of the costs of the arbitrator's services
- b. a provision that gives the employer the right to choose any arbitrator
- c. a provision that sets a one year time limit to bring a claim
- d. a provision that requires the employee to prove his case

ANSWER: b

23. As the Human Resources manager of your firm, the task of putting into effect the firm's new mandatory arbitration agreement has fallen to you. At a minimum, legally, which of the following actions are required to make the policy enforceable?

- a. send email notice to all employees that a mandatory arbitration policy has been adopted
- b. post the mandatory arbitration policy on the firm's website, and ask employees to visit the site and review the policy
- c. provide employees with a copy of the agreement, and ask them to sign it
- d. provide pay for the time required to attend arbitration proceedings

ANSWER: c

24. Your firm has just gotten a contract with the U.S. government to build security gates for the fence along the U.S.-Mexican border. In addition to the employment laws which already apply to your business, the following will now also apply:

- a. Title IX
- b. the Federal Security Fence Funding Act of 2018
- c. EO # 11246

ANSWER: c

Essay

25. Employment law arises from a variety of sources. Name and briefly discuss each of them.

ANSWER: Employment law may arise from: **CONSTITUTIONS** - In the employment law context, constitutions address the relationship between citizens and their government. Generally, a legal claim based on a constitution must assert a violation of someone's constitutional rights by the government (state action). In practical terms, this means that usually only employees of government agencies – and not employees of private companies – can look to the U.S. Constitution or state constitutions for protection in the workplace. Examples of constitutional protections available to government employees include speech rights, freedom of religion, protection from unreasonable search and seizure, equal protection under the law, and due process rights. **STATUTES** – Statutes are written laws enacted by a legislature, which has been elected by the people. These bodies enact laws or statutes, many of which affect the workplace. Among the many important statutes with implications for human resource practice are Title VII of the Civil Rights Act of 1964, the National Labor Relations Act, the Equal Pay Act, the Americans with Disabilities Act, the Family and medical Leave Act, and the Employee Retirement Income Security Act. **EXECUTIVE ORDERS** – The executive branch of government has the power to issue executive orders that affect the employment practices of government agencies and companies that have contracts to provide goods and services to the government. Executive orders function much like statutes, although they reach fewer workplaces, and

can be overridden by the legislative branch. The most important example of an executive order affecting employment is Executive Order (E.O.) 11246, which establishes affirmative action requirements for companies that do business with the federal government.

REGULATIONS, GUIDELINES & ADMINISTRATIVE DECISIONS – When congress enacts a statute, it often creates an agency, or authorizes an existing agency to administer and enforce that law. Legislators do not have the expertise (and sometimes do not have the political will) to fill in all the details necessary to put statutes into practice. For example, Congress mandated in the Occupational Safety and Health Act that employers provide safe workplaces, but largely left it to the Occupational Safety and Health Administration (OSHA) to give content to that broad principle by promulgating (creating) safety standards governing particular workplace hazards. Formal regulations are put in place only after an elaborate set of requirements for public comment and review have been followed. Regulations are entitled to considerable deference from the courts (generally, they will be upheld when challenged), provided that the regulations are viewed as reasonable interpretations of the statutes on which they are based. Agencies also contribute to the law through their decisions in individual cases that are brought before them.

COMMON LAW – Many disputes are resolved through courts interpreting and enforcing the types of law discussed earlier. However, sometimes courts are asked to resolve disputes over matters that have not been objects of legislation or regulation. Over time, courts have recognized certain common law claims to remedy harm to people caused by other people or companies. Common law is defined by state courts, but broad similarities exist across states. One branch of common law is the traditional role of the courts in interpreting and enforcing contracts. The other branch is recognition of various tort claims for civil wrongs that harm people. Tort claims relevant to employment law include negligence, defamation, invasion of privacy, infliction of emotional distress, and wrongful discharge in violation of public policy.

26. Describe what the role of a good human resources manager should be in managing employment law issues.

ANSWER: The role of a good human resources manager in dealing with employment law issues may be described in 4 major functions: Knowing the law when it is clear. This includes recognizing, analyzing and dealing effectively with a variety of employment law issues, setting policies and enforcing them, so that the firm remains in legal compliance. Developing a strategy for dealing with legal issues that are still developing. This includes recognizing and coping with ambiguity, and developing long-term legal strategies for handling legal issues when what should be done according to the law is not clear. The best HR managers develop strategies that are protective of the firm in the long run. Anticipating legal problems and trying to avoid them. The best HR managers are proactive – not waiting for problems to arise, but doing all they can to prevent them from arising at all, setting policies and procedures in place that will address matters that may become legal issues before they become problematic. Knowing when to seek the advice of legal counsel. There are many things a good HR manager can do independently, but the best HR managers will also know when to consult with legal counsel. Early consultation can minimize or avoid many problems, and legal counsel can help the manager put in place policies that will accomplish the three functions named above.