

## Chapter 2: Legal Issues in Selection

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### TRUE/FALSE

1. The federal agency that regulates personnel activities and discrimination in the workplace covered by Title VII is the Department of Labor.

ANS: F                      PTS: 1                      REF: 26                      NOT: AACSB Reflective Thinking

2. Title VII of the Civil Rights Act of 1964 prohibits, among other things, discrimination on the basis of marital status in the workplace.

ANS: F                      PTS: 1                      REF: 25                      NOT: AACSB Reflective Thinking

3. Private clubs are not covered by Title VII of the Civil Rights Act of 1964.

ANS: T                      PTS: 1                      REF: 25                      NOT: AACSB Reflective Thinking

4. Since 2009, sexual preference discrimination is covered under Title VII of the Civil Rights Act of 1964.

ANS: F                      PTS: 1                      REF: 25                      NOT: AACSB Reflective Thinking

5. The Civil Rights Act of 1991 amends the Civil Rights Act of 1964.

ANS: T                      PTS: 1                      REF: 26                      NOT: AACSB Reflective Thinking

6. Race norming is the practice of ranking test scores of minorities separately from nonminorities and of choosing high scores within each group in order to create or maintain a more diverse workforce.

ANS: F                      PTS: 1                      REF: 27                      NOT: AACSB Diversity

7. Race norming is considered an acceptable practice according to the Civil Rights Act of 1991.

ANS: F                      PTS: 1                      REF: 27                      NOT: AACSB Reflective Thinking

8. Executive Order 11246 prohibits discriminatory acts and is directed toward contractors doing more than \$10,000 per year in business with the federal government.

ANS: T                      PTS: 1                      REF: 28                      NOT: AACSB Reflective Thinking

9. OFCCP (Office of Federal Contract Compliance Programs) is responsible for the enforcement of the Age Discrimination in Employment Act of 1967.

ANS: F                      PTS: 1                      REF: 28                      NOT: AACSB Reflective Thinking

10. The "glass ceiling effect" refers to an employer's effort to intentionally create barriers that impede the advancement of women and minorities to higher positions.

ANS: F                      PTS: 1                      REF: 28                      NOT: AACSB Reflective Thinking

11. ADEA stands for Age Discrimination in Employment Act.

ANS: T                      PTS: 1                      REF: 28                      NOT: AACSB Reflective Thinking

12. The Age Discrimination in Employment Act eliminates trials by jury..

ANS: F                      PTS: 1                      REF: 28                      NOT: AACSB Reflective Thinking

13. Homosexuality is considered a disability according to the Americans with Disabilities Act.

ANS: F                      PTS: 1                      REF: 29                      NOT: AACSB Reflective Thinking

14. The Americans with Disabilities Act does not consider mental retardation and specific learning disabilities "mental impairments".

ANS: F                      PTS: 1                      REF: 29                      NOT: AACSB Reflective Thinking

15. Rehabilitated drug users are protected by the Americans with Disabilities Act.

ANS: T                      PTS: 1                      REF: 29                      NOT: AACSB Reflective Thinking

16. A "qualified individual with a disability" refers to an individual with a disability that with or without reasonable accommodation can perform the "essential functions" of the job.

ANS: T                      PTS: 1                      REF: 32                      NOT: AACSB Reflective Thinking

17. The Americans with Disabilities Act protects active alcoholics who cannot perform their job duties from employment discrimination.

ANS: F                      PTS: 1                      REF: 29                      NOT: AACSB Reflective Thinking

18. The Americans with Disabilities Act allows pre-employment inquiries about a person's disability.

ANS: F                      PTS: 1                      REF: 31                      NOT: AACSB Reflective Thinking

19. It is the responsibility of the employer to question job applicants to determine if they have disabilities that must be accommodated.

ANS: F                      PTS: 1                      REF: 31                      NOT: AACSB Reflective Thinking

20. Employers may ask that individuals with disabilities request in advance any accommodations necessary to take employment tests.

ANS: T                      PTS: 1                      REF: 31                      NOT: AACSB Reflective Thinking

21. Generally, the disabled person is responsible for informing the employer that accommodation is needed.

ANS: T                      PTS: 1                      REF: 31                      NOT: AACSB Reflective Thinking

22. Pre-employment medical examinations can be given to applicants only after a job offer is made.

ANS: T                      PTS: 1                      REF: 32                      NOT: AACSB Reflective Thinking

23. The Americans with Disabilities Act does NOT considers drug testing a medical examination.

ANS: T                      PTS: 1                      REF: 32                      NOT: AACSB Reflective Thinking

24. Court decisions regarding ADA interpretation must be in line with congressional intent when the law was passed.

ANS: F                      PTS: 1                      REF: 33                      NOT: AACSB Reflective Thinking

25. "Reasonable accommodation" does not require preferences be awarded to persons with disabilities.

ANS: T                      PTS: 1                      REF: 32                      NOT: AACSB Reflective Thinking

26. The ADA Amendments Act of 2008 makes it easier for plaintiffs to make a case for disability.

ANS: T                      PTS: 1                      REF: 34                      NOT: AACSB Reflective Thinking

27. The Immigration Reform and Control Act of 1986 makes employers liable for knowingly and unknowingly employing any alien not authorized to work in the United States.

ANS: F                      PTS: 1                      REF: 34                      NOT: AACSB Reflective Thinking

28. It is not an unfair employment practice to prefer to select or recruit an individual who is a citizen of the U.S. instead of another individual who is a noncitizen.

ANS: T                      PTS: 1                      REF: 34                      NOT: AACSB Reflective Thinking

29. Sexual, religious, and other forms of discrimination not covered by Title VII of the Civil Rights Act of 1964 are covered by the Civil Rights Act of 1866 and 1871.

ANS: T                      PTS: 1                      REF: 35                      NOT: AACSB Reflective Thinking

30. To establish a prima facie case, a person needs only to show that he/she belongs to a racial minority and that he/she was rejected for the job.

ANS: F                      PTS: 1                      REF: 37                      NOT: AACSB Reflective Thinking

31. The burden of proof is initially on the defendant in either a disparate treatment or a disparate impact discrimination case.

ANS: F                      PTS: 1                      REF: 37                      NOT: AACSB Reflective Thinking

32. The legal burdens for both plaintiffs and defendants are the same regardless of whether the case is heard as a disparate impact or a disparate treatment case.

ANS: F                      PTS: 1                      REF: 37                      NOT: AACSB Reflective Thinking

33. Lack of discrimination intent is sufficient defense in a court case of disparate treatment discrimination in selection.

ANS: F                      PTS: 1                      REF: 38                      NOT: AACSB Reflective Thinking

34. Statistical data are a major part of disparate impact cases.

ANS: T                      PTS: 1                      REF: 39                      NOT: AACSB Reflective Thinking

35. Demonstrating that not using the selection requirement would result in great cost or loss of business to the firm has generally been found adequate for establishing "business necessity."
- ANS: F                      PTS: 1                      REF: 39                      NOT: AACSB Reflective Thinking
36. Stock statistics compare groups at one point in time.
- ANS: T                      PTS: 1                      REF: 40                      NOT: AACSB Reflective Thinking
37. Flow statistics compare proportions taken at two points in time.
- ANS: T                      PTS: 1                      REF: 42                      NOT: AACSB Reflective Thinking
38. The *Uniform Guidelines on Employee Selection Procedures* serve as a primary reference for court decisions.
- ANS: T                      PTS: 1                      REF: 45                      NOT: AACSB Reflective Thinking
39. Only scored selection tests are addressed in the *Uniform Guidelines on Employee Selection Procedures*.
- ANS: F                      PTS: 1                      REF: 45                      NOT: AACSB Reflective Thinking
40. Under the *Uniform Guidelines on Employee Selection Procedures* skills and abilities easily learned during a brief training program are not acceptable as selection requirements.
- ANS: T                      PTS: 1                      REF: 46                      NOT: AACSB Reflective Thinking
41. All organizations are required to keep information about the demographic characteristics of applicants and hires.
- ANS: T                      PTS: 1                      REF: 46                      NOT: AACSB Reflective Thinking
42. All federal government contractors must have affirmative action plans.
- ANS: F                      PTS: 1                      REF: 48                      NOT: AACSB Reflective Thinking
43. In voluntary affirmative action programs, preferential treatment given one group may be interpreted as reverse discrimination by another group.
- ANS: T                      PTS: 1                      REF: 49                      NOT: AACSB Reflective Thinking
44. Employees' attitudes toward affirmative action programs are influenced by how explicitly the program is described to them.
- ANS: T                      PTS: 1                      REF: 51                      NOT: AACSB Reflective Thinking
45. An affirmative action goal is the same as a quota.
- ANS: F                      PTS: 1                      REF: 48                      NOT: AACSB Reflective Thinking
46. Sometimes under EEO there is a legal requirement to hire unqualified applicants to increase the "numbers" of specific groups.

ANS: F                      PTS: 1                      REF: 61                      NOT: AACSB Reflective Thinking

47. Small businesses are exempt from many of the EEO laws and directives.

ANS: T                      PTS: 1                      REF: 61                      NOT: AACSB Reflective Thinking

48. One option for an organization accused of illegal discrimination is to conduct a validation study to support the organization's contention that the selection instruments are job related.

ANS: T                      PTS: 1                      REF: 61                      NOT: AACSB Reflective Thinking

49. In equal opportunity affirmative action plans members in target groups are given advantage only in selection situations in which applicants are tied.

ANS: F                      PTS: 1                      REF: 50                      NOT: AACSB Reflective Thinking

50. Individual characteristics of employees (gender, race, political orientation) are all strongly related to attitudes toward affirmative action programs.

ANS: T                      PTS: 1                      REF: 50                      NOT: AACSB Reflective Thinking

#### **MULTIPLE CHOICE**

1. How does federal regulation of recent years differ from historical regulation?
- It is specific to one industry.
  - It protects only minorities and women from illegal discrimination.
  - It is not specific to any industry, but rather applies to many.
  - Fines can be levied against violators.

ANS: C                      PTS: 1                      REF: 23                      NOT: AACSB Reflective Thinking

2. According to the regulatory model of EEO, what begins the regulation process?
- societal problems
  - management responses
  - regulatory agencies
  - laws and executive orders

ANS: A                      PTS: 1                      REF: 24                      NOT: AACSB Reflective Thinking

3. What is the regulatory agency in charge of the enforcement of Title VII?
- Personnel Fair Contract Compliance Program (PFCCP)
  - Equal Employment Opportunity Commission (EEOC)
  - Interstate Commerce Commission (ICC)
  - Federal Fair Employment Commission (FFEC)

ANS: B                      PTS: 1                      REF: 26                      NOT: AACSB Reflective Thinking

4. Which of the following is not prohibited by Title VII of the Civil Rights Act of 1964?
- discrimination on the basis of sex
  - discrimination on the basis of religion
  - discrimination on the basis of sexual preference
  - discrimination on the basis of race

ANS: C                      PTS: 1                      REF: 25                      NOT: AACSB Reflective Thinking

5. A charge of discrimination must be filed how soon after an alleged act?

- a. within 80 days
- b. within 100 days
- c. within 180 days
- d. within one year

ANS: C

PTS: 1

REF: 26

NOT: AACSB Reflective Thinking

6. \_\_\_\_\_ enforces executive orders.

- a. The EEOC
- b. The U.S. Congress
- c. The Department of Labor
- d. The U.S. Attorney General

ANS: C

PTS: 1

REF: 28

NOT: AACSB Reflective Thinking

7. Which of the following organizations is not covered by Title VII of the Civil Rights Act of 1964?

- a. employment agencies
- b. unions
- c. private employers
- d. private clubs

ANS: D

PTS: 1

REF: 25

NOT: AACSB Reflective Thinking

8. The first response by the EEOC after a charge of discrimination has been filed is to:

- a. attempt conciliation between the two parties.
- b. conduct an investigation.
- c. attempt to negotiate a no-fault settlement.
- d. work with the plaintiff to develop a strategy to seek justice.

ANS: C

PTS: 1

REF: 26

NOT: AACSB Reflective Thinking

9. An affirmative action program is a requirement for contractors who have more than \$50,000 in business with the government and more than 50 employees under:

- a. Title VII of the Civil Rights Act of 1964.
- b. the Rehabilitation Act of 1973.
- c. Executive Order 11246.
- d. the Age Discrimination in Employment Act of 1967.

ANS: C

PTS: 1

REF: 28

NOT: AACSB Reflective Thinking

10. The Department of Labor is responsible for the enforcement of which of the following?

- a. Title VII of the Civil Rights Act of 1964
- b. Executive Order 11246
- c. the Age Discrimination in Employment Act
- d. the Immigration Reform and Control Act of 1986

ANS: B

PTS: 1

REF: 28

NOT: AACSB Reflective Thinking

11. The Age Discrimination in Employment Act (ADEA) prohibits discrimination against which of the following?

- a. individuals 40 and over
- b. individuals 50 and over
- c. individuals 55 and over
- d. individuals 65 and over

ANS: A

PTS: 1

REF: 28

NOT: AACSB Reflective Thinking

12. The Americans with Disabilities Act covers which of the following employers?

- a. all employers
- b. those with 15 or more employees
- c. those with 25 or more employees
- d. those with 50 or more employees

ANS: C

PTS: 1

REF: 29

NOT: AACSB Reflective Thinking

13. An employee or an applicant with a physical or mental limitation (i.e., a disability) must have a "reasonable accommodation" unless it creates "undue hardship" for the business. Which of the following is TRUE about definitions of "reasonable accommodation" and "undue hardship?"
- Generally, the nature and cost of the accommodation as well as the size, type, and finances of the specific facility and those of the parent employer are considered.
  - The Rehabilitation Act of 1973 specifically defines these terms.
  - The executive order that gives enforcement power to the Department of Labor details such a requirement.
  - Legislative intent outlined in the Federal Register makes clear what is meant by these terms.

ANS: A

PTS: 1

REF: 32

NOT: AACSB Reflective Thinking

14. "Qualified individual with a disability" refers to which of the following?
- individuals with a disability who, with reasonable accommodation, can perform the essential functions of the job
  - individuals with a disability, who, without reasonable accommodation, can perform the essential functions of the job
  - individuals with a disability, who, with or without reasonable accommodation, can perform the essential functions of the job
  - individuals with a disability who, with reasonable accommodation, can perform all of the functions of the job

ANS: C

PTS: 1

REF: 32

NOT: AACSB Reflective Thinking

15. Which of the following groups are specifically excluded under the Americans with Disabilities Act of 1980?
- compulsive gamblers
  - homosexuals
  - pyromaniacs
  - persons with bad attitudes

ANS: D

PTS: 1

REF: 29

NOT: AACSB Reflective Thinking

16. A lawsuit charging illegal discrimination against homosexuals could be filed under which of the following:
- Gay and Lesbian Antidiscrimination Act of 2002
  - Executive Order 11246
  - the Fifth or Fourteenth Amendments to the Constitution
  - Civil Rights Act of 1991

ANS: C

PTS: 1

REF: 35

NOT: AACSB Reflective Thinking

17. The Civil Rights Act of 1866 covers which of the following private employers?
- all of them
  - those that employ 15 or more
  - those that employ 25 or more
  - those that employ 50 or more

ANS: A

PTS: 1

REF: 35

NOT: AACSB Reflective Thinking

18. Which of the following is TRUE about the *Uniform Guidelines on Employee Selection Procedures*?
- They are laws enacted by Congress.
  - They are given great deference by the courts when considering discrimination cases.
  - They are only general guidelines and as such carry little weight in discrimination cases.

- d. They provide guidelines for designing fair selection procedures and are based upon the cumulative findings of discrimination cases.

ANS: B                      PTS: 1                      REF: 45                      NOT: AACSB Reflective Thinking

19. What is disparate impact?

- a. Selection standards are applied uniformly to all groups, but the net result is to produce differences in the selection of various groups
- b. Certain groups are treated negatively because of race, religion, color, sex, etc.
- c. Different standards are applied to various groups even though there may not be an explicit statement of discrimination.
- d. Certain groups are treated negatively because of job-related factors.

ANS: A                      PTS: 1                      REF: 36                      NOT: AACSB Reflective Thinking

20. Which of the following has been shown to cause disparate impact?

- a. Not hiring women with young children while hiring men with such children.
- b. Hiring minority group members for cleaning jobs while similarly qualified Whites are hired as cashiers or waiters.
- c. Requiring a high school diploma requirement for entry-level positions when 7th grade education is all that is necessary.
- d. Intentionally not hiring qualified women for management positions.

ANS: C                      PTS: 1                      REF: 36                      NOT: AACSB Reflective Thinking

21. An intention to discriminate must be shown to provide evidence for which kind of discrimination?

- a. unfair treatment
- b. indirect impact
- c. disparate impact
- d. disparate treatment

ANS: D                      PTS: 1                      REF: 36                      NOT: AACSB Reflective Thinking

22. What are the three options an employer has for defense in an adverse impact discrimination case?

- a. BFOQ (bona fide occupational qualification), reliability, customer preference
- b. business necessity, BFOQ (business-related occupational qualification), business necessity
- c. BFOQ (business firm order quantity), customer preference, business necessity
- d. business necessity, validity, BFOQ (bona fide occupational qualification)

ANS: D                      PTS: 1                      REF: 39                      NOT: AACSB Reflective Thinking

23. Which of the following criteria can be used for framing a BFOQ (bona fide occupational qualification) defense?

- a. race
- b. color
- c. gender
- d. all of these

ANS: C                      PTS: 1                      REF: 39                      NOT: AACSB Reflective Thinking

24. What determines the relevant labor market for an organization?

- a. SMSA (standard metropolitan statistical area), license requirements
- b. geographical location, skill level
- c. education, job interest
- d. managerial judgment and job analysis

ANS: B                      PTS: 1                      REF: 40                      NOT: AACSB Reflective Thinking

25. What is the major difference between stock and flow statistics?

- a. timing of comparisons
- b. location of comparisons
- c. relevant labor market
- d. types of applicants



ANS: A                      PTS: 1                      REF: 40                      NOT: AACSB Reflective Thinking

26. Which of the following is the rule-of-thumb used by the courts to determine discrimination?
- a. the three-fourths rule
  - b. the four-fifths rule
  - c. the standard determination rule
  - d. the proportional differences test

ANS: B                      PTS: 1                      REF: 43                      NOT: AACSB Reflective Thinking

27. Using the four-fifths rule, if 70 percent of White applicants are selected, then the selection proportion of any minority group should be at least \_\_\_\_ percent.
- a. 48
  - b. 52
  - c. 56
  - d. 60

ANS: C                      PTS: 1                      REF: 43                      NOT: AACSB Analytic

28. In \_\_\_\_\_ assigning negative weights to members of target groups is forbidden.
- a. Equal Opportunity Affirmative Action Programs
  - b. Strong Preferential Affirmative Action Programs
  - c. Opportunity Enhanced Affirmative Action Programs
  - d. Tiebreak Affirmative Action Programs

ANS: A                      PTS: 1                      REF: 50                      NOT: AACSB Reflective Thinking

29. When using the 'Standard Deviation Rule' to test the differences in selection rates among groups, if the difference in means is greater than \_\_\_\_\_ standard deviations, the difference in means is considered to be significant between the two groups.
- a. 1.0
  - b. 1.64
  - c. 1.96
  - d. 2.55

ANS: B                      PTS: 1                      REF: 43                      NOT: AACSB Analytic

30. Disparate impact may be indicated even if the four-fifths rule is satisfied. This would be due to which of the following?
- a. significance level
  - b. industry type
  - c. sample size
  - d. applicant characteristics

ANS: C                      PTS: 1                      REF: 45                      NOT: AACSB Reflective Thinking

31. Which of the following is considered acceptable according to the *Uniform Guidelines on Employee Selection Procedures*?
- a. using skills and abilities that are easily learned during a brief training program as selection requirements
  - b. using requirements drawn from higher-level jobs if the majority of individuals move to the higher-level job within a reasonable period of time
  - c. using a cutoff score that individually ranks all applicants even if the use of such method results in adverse impact
  - d. using high cutoff scores to ensure fair selection rather than validating lower cutoff scores

ANS: B                      PTS: 1                      REF: 46                      NOT: AACSB Reflective Thinking

32. Requirements drawn from higher-level jobs are permissible only if it can be documented that a majority of individuals move to higher-level jobs within a reasonable time period. What do the *Uniform Guidelines on Employee Selection Procedures* define as a reasonable time period?
- a. no more than 2 years
  - b. no more than 3 years
  - c. no more than 4 years
  - d. no more than 5 years

ANS: D                      PTS: 1                      REF: 46                      NOT: AACSB Reflective Thinking

33. The *Uniform Guidelines on Employee Selection Procedures* requires organizations to keep information about the demographic characteristics of applicants and hires. These records must be kept for which groups?
- all groups
  - only those groups that constitute at least 1% of the relevant labor market
  - only those groups that constitute at least 2% of the relevant labor market
  - only those groups that constitute at least 3% of the relevant labor market

ANS: C                      PTS: 1                      REF: 46                      NOT: AACSB Reflective Thinking

34. Most of the EEO laws and executive orders dealing with federal contractors contain the requirement of affirmative action for those with contracts of at least:
- \$10,000
  - \$25,000
  - \$50,000
  - \$100,000

ANS: A                      PTS: 1                      REF: 48                      NOT: AACSB Reflective Thinking

35. What is the current status of voluntary affirmative action programs?
- Organizations are not restricted in how they implement these programs.
  - Organizations must meet specific criteria in order to establish these programs.
  - These programs have been found illegal in all circumstances due to reverse discrimination.
  - These programs have been abandoned in favor of consent decrees.

ANS: B                      PTS: 1                      REF: 49                      NOT: AACSB Reflective Thinking

36. Which type of validation strategy is especially appropriate for a small business?
- construct validation
  - criterion validation
  - content validation
  - cross-validation

ANS: C                      PTS: 1                      REF: 61                      NOT: AACSB Reflective Thinking

## MATCHING

Match the key issues to the major selection court cases.

- Company must insure that all parts of a multiple-step selection program have no disparate impact
  - Company's burden of proof against adverse impact diminishes as human risk increases
  - Selection test must be job-related if disparate impact results
  - Validation must reflect selection decision practices
  - In disability cases, organization must prove that individual cannot perform job
  - Company's moral concerns about health of future children is not sufficient to bar women from employment
  - Cases focusing on subjective selection devices (e.g., interviews and judgments) could be heard as disparate impact cases
- Griggs v. Duke Power (1971)
  - Spurlock v. United Airlines (1972)
  - Connecticut v. Teal (1982)
  - U.S. v. Georgia Power (1973)
  - Watson v. Ft. Worth Bank & Trust (1988)
  - Auto Workers v. Johnson Controls (1991)
  - OFCCP v. Ozark Air Lines (1986)

- ANS: C                      PTS: 1
- ANS: B                      PTS: 1

- |           |        |
|-----------|--------|
| 3. ANS: A | PTS: 1 |
| 4. ANS: D | PTS: 1 |
| 5. ANS: G | PTS: 1 |
| 6. ANS: F | PTS: 1 |
| 7. ANS: E | PTS: 1 |

## ESSAY

1. What basic principles should an organization follow to develop a selection program that is both legally defensible and ensures hiring the most qualified applicants?

ANS:

Student response will vary.

PTS: 1

2. Should an organization keep detailed records of its human resource management practices (selection procedures, performance appraisal procedures, etc.) if they have not been validated? Discuss the trade-offs involved.

ANS:

Student response will vary.

PTS: 1

3. How do you measure the effectiveness of an affirmative action program? When can an organization discontinue its affirmative action program?

ANS:

Student response will vary.

PTS: 1

4. An organization has been accused of disparate impact discrimination through the use of a statistical argument. Provide two alternative explanations for a statistically unbalanced work force that are not due to illegal discrimination.

ANS:

Student response will vary.

PTS: 1

5. Describe specific actions that an organization can take using the regulatory model to anticipate potential EEO issues.

ANS:

Student response will vary.

PTS: 1