

**Advanced
EMPLOYMENT
LAW**

**Instructor's Manual
& Test Bank**

Jeffrey A. Helewitz, JD, LLM, MBA

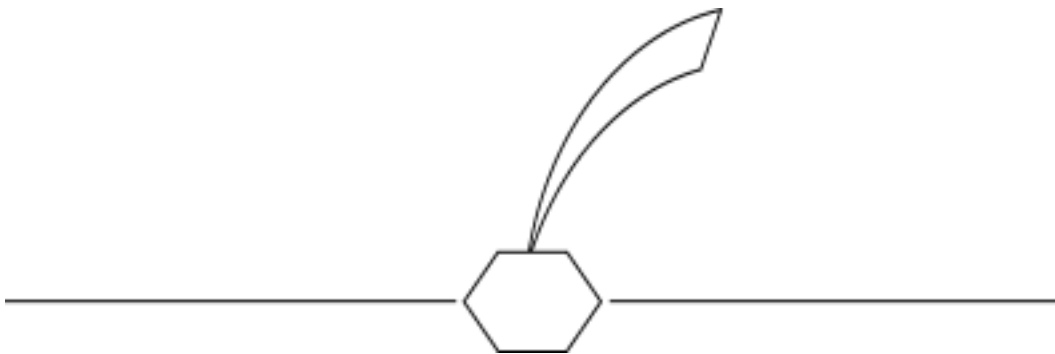


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**Employment Law
and the Paralegal**

The text discusses various laws governing the employment relationship. The purpose of the text is to give the student a comprehensive overview of the most important facets of employment law. Specific attention is given to the laws that create the employment relationship and define the parameters of litigating employment claims.

This Instructor's Manual is available on diskette from the publisher. Please feel free to forward any comments on how teaching this course could be improved to Jeffrey A. Helewitz, c/o Pearson Publications Company, 9614 Greenville Avenue, Dallas, Texas 75243.

Text Overview

For the legal assistant, employment law is a practical necessity for both his and her professional and personal life. Professionally, the paralegal may be called upon to assist in representing an employee who is charging his or her employer with unlawful employment practices, or the employer defending challenges to its employment policies. The paralegal may also be asked to draft the initial version of an employment contract or an employee handbook.

On a personal level, the legal assistant may be either an employer or an employee, and it therefore behooves him or her to be conversant with the laws that affect the workplace.

Chapter One highlights the historical background of employment law, providing the legal and conceptual basis for the modern statutory approach to regulating the employment relationship.

Chapter Two discusses the basic concepts and statutory base of labor law, indicating how this important area of law controls certain types of employment situations.

Chapter Three focuses on early federal wage regulation, including the Social Security Act, the Fair Labor Standards Act, and the Equal Pay Act. These statutes form the nucleus of modern employment legislation.

Chapter Four presents the concept of discrimination in the workplace, introducing the Civil Rights Act and the Age Discrimination in Employment Act. These two statutes form the basis of much of the current litigation in the field of employment law.

Chapter Five focuses on how various statutes concerning employment law impact on the employee's family, specifically with respect to pregnancy, medical care, and the concept of domestic partnership.

Chapter Six analyzes the Americans with Disabilities Act, and shows the legislative and judicial concern for providing reasonable accommodation in the workplace for persons who are physically or mentally impaired.

Chapter Seven examines the law of privacy and what rights to privacy an employee may or may not have in the workplace.

Chapter Eight picks up on the specific area of the Civil Rights Act that concerns sexual harassment in the workplace.

Chapter Nine discusses basic management policies and human resource management, the key to the effective operation of a well-run office.

Chapter Ten concludes the text with a discussion of the various federal regulations that affect the employment relationship, paying special attention to the preparation of an employee handbook, federal tax requirements, and the procedures for processing claims under the various federal statutes.

Chapter One

Background of Employment Law

Chapter Outline:

- Employment at Will
- Limitations
- Vicarious Liability
- Master-Servant
- Independent Contractor
- Principal-Agent
- Creating the Relationship
- Types of Authority
- Workers' Compensation Statutes

Chapter Objectives:

1. Identify and describe the concept of employment at will and distinguish it from other forms of employment relationships.
2. Apply the concept of vicarious liability to an employer's hiring decisions.
3. Explain the distinctions between a master-servant, principal-agent, and independent contractor relationship.
4. Identify the various Workers' Compensation Statutes that affect liability in the workplace.

Major Concepts:

Traditionally, all employment, other than that contractually based, was considered to be employment at will, meaning that both the employer and the employee were free to come and go without restriction. This concept is still the basis of all current law.

The general employment relationship may be categorized by one of the primary employment situations: the master-servant relationship; the principal-agent relationship; and the independent contractor. The type of employment relationship that exists determines the employer's potential liability to third persons for the acts of its employee that injure the third person.

Statutorily, each state has determined the extent of an employer's liability for injuries to its own workers in the workplace caused by the acts of other workers. These statutes are called Workers' Compensation statutes.

Chapter Two

The Rise of Labor Unions and Labor Laws

Chapter Outline:

- The Rise of Trade Unionism
- The Norris-LaGuardia Act
- The National Labor Relations Act of 1935

- The NLRB and its Claims Procedures
- Unfair Labor Practices
- Collective Bargaining
- The Bargain
- Pickets, Strikes, and Boycotts
- Mediation and Arbitration

Chapter Objectives:

1. Identify and explain the laws governing trade unions, particularly the Norris-LaGuardia and National Labor Relations Acts.
2. Explain how claims are processed through the NLRB.
3. Identify and explain what is meant by “unfair labor practices” under the National Labor Relations Act.
4. Explain the collective bargaining process and its effect on contract law and general employment practices.
5. Differentiate between pickets, strikes, and boycotts and explain their differences, indicating when each is legally appropriate.
6. Differentiate between mediation and arbitration and explain their affect on settling labor disputes.
7. Explain how labor law affects general employment law and the concept of employment at will.

Major Concepts:

Various federal statutes recognize workers’ rights to organize to better their working conditions and specify conduct that must be adhered to by both employers and unions in dealing with union matters. Congress has established the NLRB to hear and settle labor disputes between unions and employers. Labor law is merely one subset of the general topic of employment law and is linked to very specific situations and issues.

Chapter Three

**The Depression and
Early Federal Wage Regulation**

Chapter Outline:

- The Social Security Act of 1935
- Requirement to Qualify
- Effect of Social Security
- The Social Security Administration
- Fully Insured
- The Fair Labor Standards Act
- Requirements

- Exempted Employees
- Effect of the Fair Labor Standards Act
- The Equal Pay Act
- Equal Work
- Same Establishment
- Unequal Pay Rate
- Effect

Chapter Objectives:

1. Explain the requirements of the Social Security Act as they affect vesting and survivors' rights.
2. Explain the implications of the Fair Labor Standards Act with respect to minimum wages and exceptions to the minimum wage requirements.
3. Identify and differentiate between covered and excepted employees under the Fair Labor Standards Act.
4. Explain the requirements of the Equal Pay Act.
5. Explain what is meant by "equal pay" and "same establishment" under the Equal Pay Act.
6. Analyze situations to determine those in which unequal pay is permitted under the Equal Pay Act.

Major Concepts:

The three federal statutes discussed in this chapter are all governmental responses to a need to provide workers with adequate and fair wages throughout their working lives and during their retirements. These laws protect both the worker and the workers' dependents. The three statutes relate directly to wages and reflect the government's responsibility to protect the welfare of its citizens.

Chapter Four

**Discrimination Regulation:
The Civil Rights Act and the ADEA**

Chapter Outline:

- History of the Civil Rights Act of 1964
- Employers
- The Protected Categories
- Race and Color
- National Origin
- Sex
- Religion
- Employer Defenses to Title VII Charges
- *Bona Fide* Occupational Qualification

- Age Discrimination in Employment Act (ADEA)

Chapter Objectives:

1. Identify and explain the history of discrimination in employment.
2. Explain the general principles of Title VII and identify when Title VII applies.
3. Identify who qualifies as an “employer” under Title VII.
4. Identify the categories of individuals who are protected from discrimination in employment under Title VII.
5. Explain what qualifies as a defense to a charge of violating Title VII.
6. Explain and apply the provisions of the ADEA to the general work-place environment.

Major Concepts:

The Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967 provide the basis of all modern legislation concerning discrimination in the workplace. These two statutes protect workers from being discriminated against in hiring, firing, promotion and benefits based on age, sex, race, color, religion, or national origin.

Chapter Five

Employment Law and the Family

Chapter Outline:

- The Employee Retirement Security Act of 1974 (ERISA)
- The Pregnancy Discrimination Act of 1979
- The Family Medical Leave Act of 1993 (FMLA)
- Domestic Partnership

Chapter Objectives:

1. Identify at least three sources of law that affect a worker with respect to his or her family situation.
2. Explain the concept of domestic partnership and its effect on employment law.
3. Identify the relationship between familial concerns and an employee’s effectiveness in the workplace.
4. Define and explain the term “employment law” and indicate how it encompasses a wide range of issues that go beyond the physical workplace.

Major Concepts:

Various laws have been enacted to guarantee the security of the employee's privately funded pension plan and to allow the employee leave from work to take care of family medical emergencies without fear of reprisal. By enacting these laws, the legislature has taken notice of society's changing attitude toward the needs of an employee with respect to the employee's familial concerns.

**Protecting Workers with Disabilities:
The Americans With Disabilities Act**

Chapter Outline:

- Background of the Law Relating to Disabled Workers
- Occupational Safety and Health Act (OSHA)
- Rehabilitation Act
- The Americans with Disabilities Act (ADA)
- Persons with a Disability
- Reasonable Accommodation
- Undue Hardship

Chapter Objectives:

1. Identify and explain the background of the legislative attempts to come to terms with disabled workers.
2. Explain the provisions of the ADA and its application to the workplace.
3. Identify the elements that must be proven to demonstrate a disability under the ADA.
4. Explain what is meant by a necessary job requirement under the ADA.
5. Identify and document a physical or mental impairment.
6. Explain the concept of reasonable accommodation under the ADA.
7. Identify the requirements needed to prove undue hardship under the ADA.

Major Concepts:

The Americans with Disabilities Act is intended to give job protection and security to American workers who are physically or mentally impaired. Because the ADA does not define “disability,” many lawsuits have been instituted claiming discrimination under the ADA. Therefore, any claim of disability must be substantially demonstrated and must be a condition that impairs a major life function of the worker.

To maintain a claim for violations under the ADA, the worker must prove that he or she is qualified for the job in question and that the disability does not prohibit him or her from performing an essential job function. If the worker is qualified but disabled, the employer is required to make a reasonable accommodation to assist the employee in performing his or her job.

Chapter Outline:

- Privacy
- Confidentiality
- Secrecy
- The Right To Privacy
- First Amendment
- Fifth Amendment
- Threats To Privacy
- Governmental Record Keeping
- Corporate Organizations
- Computer Databases
- Federal Statutes Regarding Privacy and Disclosure of Information
- Federal Reports Act
- The Freedom of Information Act
- The Privacy Act
- The Fair Credit Reporting Act
- Electronic Communication Privacy Act
- Employment Practices as Invasions of Privacy
- Employment Polygraph Protection Act of 1988
- Statistical Reports
- Telephone Use
- Computer Monitoring

Chapter Outline:

1. Identify and explain the constitutional concept of privacy.
2. Identify at least three current threats that exist to a person's right to privacy.
3. Explain the implications for the worker of having few, if any, rights to privacy in the workplace.
4. Identify the various federal statutes that relate to personal privacy issues, such as the Employment Polygraph Protection Act and the Freedom of Information Act.

Major Concepts:

There is no specific constitutional guarantee to a right to privacy, although various sections of the Bill of Rights have been used to attempt to formulate such a right. In the workplace, for the most part, an employee has no right to privacy.

Regulations for Preventing and Handling Sexual Harassment

Chapter Outline:

- Sexual Harassment Defined
- *Quid Pro Quo* Harassment
- Implications of Sexual Harassment at Work
- Procedures for Dealing with Sexual Harassment
- Internal Procedures
- The Equal Opportunity Employment Commission

Chapter Objectives:

1. Define and explain what is meant by “sexual harassment.”
2. Examine the implications of sexual harassment at the workplace with respect to morale and employee productivity.
3. Apply legal and managerial concepts to deal with sexual harassment through office guidelines.
4. Identify the method of processing sexual harassment claims with the EEOC.

Major Concepts:

Sexual harassment in the workplace is a problem that falls under Title VII of the Civil Rights Act. Employers are required to establish a written policy prohibiting sexual harassment in the workplace and must establish procedures for preventing and investigating charges of such conduct.

Chapter Outline:

- Recruitment and Hiring
- Performance Evaluations
- Employment Contracts
- Individual Contracts
- Consideration
- Duration
- Terminology
- Delegation and Assignment
- Covenant not to Compete
- Confidentiality
- Proprietary Covenants
- Termination
- Waivers
- Remedies
- Alternative Dispute Resolution
- Termination
- Just Cause
- Poor Performance
- Disciplinary Reasons
- Economic Conditions
- Unlawful Discrimination
- Retaliation

Chapter Objectives:

1. Identify at least three processes used to recruit and hire new employees.
2. Explain the importance of performance evaluations with respect to both office management and statutory requirements.
3. Explain the importance of the Civil Rights Act with respect to human resource management.
4. Apply basic contract law principles to human resource management policies.
5. Identify and explain at least three appropriate bases that an employer can use to terminate an employee.
6. Identify at least three hidden unlawful motives at play in the hiring and firing process.

Major Concepts:

Human resource management concerns formulating and implementing the personnel policies of a business. In the hiring and firing process the Civil Rights Act mandates that an employer seek qualified applicants from segments of society and prohibits an employer from discriminating against persons in protected categories. Once hired all employees must be made aware of their rights and obligations by means of an employee handbook or an individually negotiated contract. Both the employer and the employee are held to the terms of their contracts. Employers are prohibited from firing employees without just cause.

Chapter Ten

Employment Law in a Regulated Society

Chapter Outline:

- The Employee Manual

- Tax Reporting Requirements
- Income Tax
- Social Security Tax
- Medicare
- State Disability Insurance Tax
- Unemployment Compensation
- Employment Claims
- Title VII and the ADA
- The Age Discrimination in Employment Act
- Equal Pay Act and the FLSA
- Remedies

Chapter Objectives:

1. Identify, explain, and distinguish between the different types of taxes for which the employer is responsible.
2. Explain how an employee manual is used to meet statutory employment law requirements.
3. Identify the different types of proceedings that are used for the different types of employment claims.
4. Identify the different types of statutory remedies that are available to an employee who is victim of an unlawful employment practice.

Major Concepts:

Employee handbooks provide employees with specific written evidence of an employer’s policies and guidelines and may form the basis of a claim of violation of federal law if the employer does not fulfill the procedures and policies it so disseminates.

Employers are required to maintain appropriate and accurate financial records and to see that all necessary tax forms and returns are filed on behalf of themselves and their employees.

Each statute discussed in the previous chapters provides specific procedures for pressing claims for violations of its provisions, and an employee claiming a grievance under one of the statutes must follow the procedures so specified.

Sample Syllabi

Four Session Course

Session Topics

- | | |
|---|---|
| 1 | Introduction; Historical Background of Employment Law; Labor Law Chapters 1 & 2 |
| 2 | Early Federal Regulation; Title VII & the ADEA; Sexual Harassment; Chapters 3 & 8 |
| 3 | Family Concerns; The ADA; Privacy in the Workplace; Chapters 4, 5 & 7 |
| 4 | Human Resource Management & Regulatory Procedures; Chapters 9 & 10 |

Twelve Session Course

Session Topics

- 1 Introduction; Historical background of Employment Law; Chapter 1
- 2 Labor Unions and Labor Law; Chapter 2
- 3 Early Federal Regulation; Chapter 3
- 4 The Civil Rights Act and the ADEA; Chapter 4
- 5 Family Concerns; Review; Chapter 5
- 6 MID-TERM EXAM
- 7 Disabilities and the ADA; Chapter 6
- 8 Privacy in the Workplace; Chapter 7
- 9 Sexual Harassment; Chapter 8
- 10 Human Resource Management; Chapter 9
- 11 Federal Employment Regulation & Procedures; Review; Chapter 10
- 12 FINAL EXAM

Thirty-Two Session Course (16 Weeks)

Session Topics

- 1 Introduction; Employment Law and the Paralegal
- 2 Employment at Will & Vicarious Liability; Ch. 1
- 3 Workers Compensation; Judicial Decisions; Ch. 1
- 4 Labor Unions and the NLRB; Ch. 2
- 5 Pickets, Strikes & Boycotts; Alternative Dispute Resolution; Ch. 2
- 6 Judicial Decisions; Ch. 2
- 7 Early Federal Regulation: SSA & FLSA; Ch. 3
- 8 The Equal Pay Act; Judicial Decisions; Review; Ch. 3
- 9 EXAM
- 10 The Civil Rights Act; Ch. 4
- 11 The ADEA; Ch. 4
- 12 Judicial Decisions; Ch. 4
- 13 Family Rights; Ch. 5
- 14 Judicial Decisions; Ch. 5
- 15 Disabilities and the ADA; Ch. 6
- 16 The ADA cont'd.; Ch. 6
- 17 Judicial Decisions; Ch. 6
- 18 Workplace Privacy; Review; Ch. 7
- 19 EXAM
- 20 Sexual Harassment; Ch. 8
- 21 Judicial Decisions; Ch. 8
- 22 Human Resource Management: Recruitment & Hiring; Ch. 9
- 23 Employee Contracts; Ch. 9
- 24 Judicial Decisions; Ch. 9
- 25 Federal Regulation: Tax Reporting ; Ch. 10
- 26 Filing Claims under Title VII and the ADA; Ch. 10
- 27 Filing Claims under the ADEA; Ch. 10
- 28 Filing Equal Pay and FLSA Claims; Ch. 10
- 29 Judicial Decisions; Ch. 10
- 30 Course Review
- 31 FINAL EXAM
- 32 Final Exam Returned and Reviewed

Identify or define the following:

Chapter One

1. Apparent Authority
The authority of an agent that a principal manifests to a third person.
2. Civil Servant
Person employed by the government.
3. Express Authority
Subdivision of actual authority, representing the instructions the principal stated in words to the agent.
4. Just Cause
Legitimate legal grounds for discharging an employee.
5. Principal-Agent Relationship
Legal relationship in which one person, the agent, is authorized to enter into contracts on behalf of another person, the principal.
6. Negligent Hiring
Liability of a master who does not meet the ordinary standard of care in employing a servant who is unfit for the position, such lack of fitness causing injury to a third person.
7. Workers Compensation
Statute permitting a worker who is injured because of the negligence of a co-worker to recover damages.
8. Respondeat Superior
Latin for "let the master answer."
9. Wrongful Discharge
Dismissing an employee for legally impermissible grounds.
10. Fiduciary
Person held to a standard of care higher than ordinary care.

Chapter Two

1. Arbitration
Process of letting an outside person decide a dispute outside of a courtroom situation.
2. Boycott
Labor practice of not buying goods or services from a particular employer.
3. Charging Party
Person filing a claim for wrongful discharge.
4. Collective Bargaining
Mandatory negotiating between unions and management for an employment contract.
5. Picket
Demonstrating outside an employer's place of business to bring public attention to a labor dispute.
6. Lockout
Employer practice of not permitting union workers into the work facility.
7. Featherbedding
Paying for work not performed.
8. Strike
Union practice of refusing to work because of a labor dispute.
9. Unfair Labor Practice
Union and management practices that violate the Wagner Act.
10. Mediation
Practice of having an independent outside person help negotiate a dispute.

Chapter Three

1. Equal Pay Act
Federal statute mandating equal pay for equal work regardless of the employee's gender.
2. Fair Labor Standards Act
Federal statute mandating minimum wages and maximum work hours.
3. Red Circle
Permitting temporary work assignments to qualify for a pay differential.
4. Minimum Wage
Dollar minimum amount that must be paid for an hour's worth of work.
5. Same Establishment
Under the FLSA, a requirement that two employees performing the same work in the same facility for the same employer must be paid the same wage.
6. Social Security Act of 1935
Federal statute that created the Social Security system.
7. Equal Work
Work that requires similar training and skill.
8. Fully Insured
Under Social Security, having worked a minimum number of quarters to qualify for retirement benefits.
9. Pay Rate
Amount paid to workers.
10. Social Security Number
Identifying number to qualify for Social Security benefits.

Chapter Four

1. Affirmative Action
Taking steps to remedy past discrimination against persons in categories protected under Title VII.
2. Title VII
Section of Civil Rights Act prohibiting discrimination in the workplace.
3. Protected Categories
Race, Color, Sex, National Origin and Religion (under Title VII).
4. Sexual Stereotyping
Assuming certain characteristics belong to each gender.
5. EEOC
Government agency that oversees discrimination claims.
6. Bona Fide Occupational Qualification
Legal right to discriminate against a protected category if an employer can prove that there is a legitimate job requirement demanding a certain category of employee.
7. Age Discrimination in Employment Act
Federal statute prohibiting job discrimination against persons over the age of 40.
8. Nationality
Belonging to a particular geographic subdivision.
9. Reverse Discrimination
Discriminating against white males in favor of protected categories.
10. Employer
Person who employs a minimum number of people to fall within the federal statutes.

Chapter Five

1. Domestic Partnership
Two non-married person living in a manner similar to marriage.
2. Employee Benefit Plan
Plan that provides workers retirement or other benefits as part of an employment package.
3. ERISA
Employee Retirement Income Security Act, federal statute protecting employee benefit plans.
4. Family Medical Leave Act
Federal statute requiring employers to grant leave to employees so that they can take care of family medical emergencies.
5. Fetal Protection Policy
Employer policy to keep pregnant women away from work situations that may prove harmful to the fetus.
6. Golden Parachute
Special employee benefit that guarantees certain financial benefits if the employer is taken over or the employee is forced to resign.
7. Partnership
An association of two or more persons engaged in business for profit as co-owners.
8. Pregnancy Discrimination Act
Federal statute prohibiting discrimination in hiring, promotion, firing, etc., based on a woman's pregnancy.
9. Sole Proprietorship
Business owned and managed by just one person.
10. Diversified Investments
ERISA mandates that pension fund managers spread investment risk by investing in securities of differing risk factors.

Chapter Six

1. Americans With Disabilities Act
Federal statute prohibiting job discrimination against persons with a physical or mental disability.
2. Disability
Physical or mental impairment that affects a major life function.
3. Job Related Qualification Standard
Proving that a particular job necessitates a particular physical or mental skill.
4. Mental Impairment
Mental disease or disorder that affects a major life function.
5. OSHA
Federal agency that oversees the safety or work conditions in the workplace.
6. Physical Impairment
Physical condition that affects a major life function such as seeing, breathing, walking, etc.
7. Reasonable Accommodation
Requirement under the ADA that employers make certain job modification to assist a disabled worker to be gainfully employed.
8. Rehabilitation Act of 1973
First federal statute designed to help disabled workers.
9. Undue Hardship
Standard that an employer must meet to be relieved of making a reasonable accommodation for its disabled employee.
10. Significant Life Activity
Standard used to determine disability, such as seeing, breathing, hearing, etc.

Chapter Seven

1. Attorney-Client Privilege

Evidentiary doctrine that permits a client to keep his attorney from divulging information given to the attorney as part of the attorney's representation of the client.

2. Confidentiality
Expectation that information will not be divulged to third persons.
3. Due Process
Constitutional guarantee that life, liberty or property cannot be taken away without procedural safeguards.
4. Electronic Communication Privacy Act
Federal statute concerning privacy of computer information.
5. Employee Polygraph Protection Act
Federal statute prohibiting an employer requiring an employee to take a lie detector test (in most situations).
6. FOIA
Freedom of Information Act, federal statute permitting access to government records.
7. Privacy Act
Statute concerning issues of personal privacy.
8. Secrecy
Expectation that certain information will never be divulged.
9. Workplace Privacy Bill
Federal bill concerning privacy in the workplace, has not passed into law.
10. Federal Reports Act
Federal statute requiring approval before a government agency creates a record.

Chapter Eight

1. Hostile Environment Harassment
Sexual harassment that makes the workplace uncomfortable for the victim.
2. *Quid Pro Quo* Harassment
Sexual harassment that demands sexual favors in exchange for hiring or promoting the employee.
3. Sex Discrimination
Basing employment decisions solely on the basis of the employee's gender.
4. Employer Policies and Procedures
Written statements of the employer's stance with respect to sexual harassment and the methods of dealing with the problem.
5. Sexual Harassment
Making unwelcome advances of a sexual nature.

Chapter Nine

1. Assignment
Transfer of a contract right.
2. Consideration
The bargain element of a valid contract.
3. Constructive discharge
An employer making the workplace so uncomfortable for an employee that the employee quits.
4. Covenant Not to Compete
Contract provision in which the employee agrees not to leave the employer and go into direct competition with the former employer.
5. Delegation
Having someone assist the contracting party in fulfilling the contractual obligations.
6. Express Contract
Contract manifested in words.
7. Human Resource Management
Hiring, firing, recruiting and promoting employees.

8. Implied Contract
Contract that comes about by actions rather than words.
9. Proprietary Covenants
Contact provision concerning ownership of copyrights, patents, client lists, etc.
10. Release
Contract relieving a person of his/her liability.
11. Right To Work
State statute mandating a person's legal right to be employed.
12. Whistle-blowing
An employee disclosing his employer's illegal conduct publicly.

Chapter Ten

1. Actual Authority
Authority given to an agent by the direct manifestations of the principal.
2. Tax Deduction
Legally permissible reduction in tax withholding to limit gross taxable income.
3. Front Pay
Remedy for discriminatory job practice that permits a victim to be paid a wage until a job opens up for him.
4. Back Pay
Remedy permitting a victim of unlawful discrimination to be paid for wages lost because of the discrimination.
5. Charge
Claim filed under Title VII.
6. Class Action
Lawsuit in which multiple plaintiffs are joined because of a similar injury resulting from the same alleged occurrence.
7. Employee Manual
Statement of employer practices and procedures provided by an employer.
8. Independent Contractor
Person hired solely for the results to be accomplished.
9. Deferral Agency
State agency where a discrimination suit must be filed before filing with the EEOC.
10. Liquidated Damages
Monetary amount stated in a contract that an injured party may recover for breach of the contract.
11. Payroll Department
Division in an employer company that deals with paychecks and tax withholding.
12. Right To Sue Notice
Prerequisite to filing suit in federal court for a discrimination claim.
13. Reasonable Cause
Legitimate grounds for bringing a lawsuit.

Sample Exams: True/False

Chapter One

1. Under the concept of employment at will an employee cannot be fired without cause.
FALSE
2. An employment contract does not supersede the common law doctrine of employment at will.
FALSE
3. An employment contract may specify termination at the will of the employer without cause.

TRUE

4. Persons covered by collective bargaining agreements are not subject to employment at will.
TRUE
5. An employer is never held liable for the acts of its employee.
FALSE
6. An independent contractor is liable for the contracts he enters into.
TRUE
7. An agent's actual authority may be implied.
TRUE
8. Apparent authority results from a principal's manifestation to the agent regarding his ability to act.
FALSE
9. A principal is a fiduciary.
FALSE
10. An employer is never liable to his employee for a fellow servant's negligence.
FALSE

Chapter Two

1. The Norris-LaGuardia Act gave workers the right to form unions.
TRUE
2. Historically unions were found to violate antitrust laws.
TRUE
3. The Norris-LaGuardia defined "unfair labor practices."
FALSE
4. An employer may not discriminate based on a worker's union membership.
TRUE
5. A "derivative violation" occurs when an employer interferes with an employee's right to unionize.
FALSE
6. Featherbedding is an unfair labor practice.
FALSE
7. The sale of a business is a mandatory topic of collective bargaining.
FALSE
8. An employer may boycott a union action.
FALSE
9. Healthcare workers may not go on strike until a cool-down period expires.
TRUE
10. A runaway shop is an unfair labor practice.
FALSE

Chapter Three

1. To qualify for Social Security a person must be fully insured.
TRUE
2. An ex-spouse cannot receive Social Security benefits based on the ex-spouse's employment.
FALSE
3. A parent may be entitled to Social Security benefits based on a child's contributions.
TRUE
4. The Social Security Act established minimum wages.
FALSE
5. An outside salesperson may be exempt from the FLSA.
TRUE
6. A computer programmer is not exempt from the FLSA.
FALSE

7. An employee's secondary duties may entitle the employee to additional pay under the FLSA.
FALSE
8. The term "red circle" refers to the creation of an unequal workplace.
FALSE
9. Salaries may not be based on gender.
TRUE
10. Different locations in the same building create separate establishments under the Equal Pay Act.
FALSE

Chapter Four

1. Title VII protects a person from being discriminated against on the basis of age.
FALSE
2. Reverse discrimination is prohibited under Title VII.
TRUE
3. The provisions of Title VII cover all employment situations.
FALSE
4. Sexual preference is a protected category under Title VII under the concept of sex discrimination.
FALSE
5. Native-born U.S. nationals cannot be discriminated against based on national origin.
FALSE
6. Only members of recognized religions are protected under Title VII.
FALSE
7. An employer can never justify discrimination.
FALSE
8. When a person attains the age of 50 he or she becomes protected against discrimination based on age.
FALSE
9. Elected officials are exempt from the provisions of the ADEA.
TRUE
10. The ADEA protects against age discrimination in apprenticeship programs.
FALSE

Chapter Five

1. ERISA protects public and private employees with respect to their pension plans.
FALSE
2. All employee benefit plans are covered by ERISA.
FALSE
3. Retirement plans maintained by general partnerships are not covered by ERISA.
TRUE
4. Golden parachutes are prohibited by ERISA.
FALSE
5. Men are protected under the Pregnancy Discrimination Act.
TRUE
6. The FMLA applies to employers who employ 25 or more persons.
FALSE
7. Domestic partnership only applies to gay couples.
FALSE
8. A valid fetal protection policy permits an employer to discriminate against a pregnant worker.
TRUE
9. ERISA requires pension fund managers to diversify investments.
TRUE
10. ERISA may apply to plans maintained outside the United States.
FALSE

Chapter Six

1. The Rehabilitation Act was the first federal statute to protect all disabled workers from employment discrimination.
FALSE
2. Persons who are not in fact disabled are not covered under the provisions of the ADA.
FALSE
3. A cosmetic disfigurement is considered a physical disability under the ADA.
TRUE
4. The ADA defines “employers” as employing a minimum of 25 employees.
FALSE
5. As defined by the ADA, significant life activity includes walking, seeing and learning.
TRUE
6. Employers of disabled persons are always required to make reasonable accommodations for the employees.
FALSE
7. Essential job functions must be restructured as a part of a reasonable accommodation.
FALSE
8. One factor that is taken into account in making reasonable accommodation is the structure of the workplace.
TRUE
9. Temporary disabilities are not covered by the ADA.
TRUE
10. Reasonable accommodation does not have to be made if making one would create an undue hardship for the employer.
TRUE

Chapter Seven

1. Confidentiality refers to information a person refuses to share.
FALSE
2. Paralegals are subject to the provisions of the attorney-client privilege.
TRUE
3. The right to privacy is guaranteed by the U.S. Constitution.
FALSE
4. All government documents may be inspected under the Freedom of Information Act.
FALSE
5. An employer may listen in on an employee’s telephone conversation.
TRUE
6. Employees are protected from being forced to take lie detector tests.
TRUE
7. An employer may not use software to monitor an employee’s activity on a company computer.
FALSE
8. The federal government has guaranteed a right to privacy in the workplace.
FALSE
9. The Privacy Act protects employees from invasions of privacy by the employer in the workplace.
FALSE
10. A citizen has no right to privacy with respect to government records.
FALSE

Chapter Eight

1. Sexual harassment in the workplace is prohibited under Title VII.

- TRUE**
2. Sexual harassment only applies to women being harassed by men.
FALSE
 3. A hostile work environment is one in which an employee is made uncomfortable in the workplace.
TRUE
 4. Complaints of sexual harassment may be handled by the EEOC.
TRUE
 5. A supervisor may never be legally sexually harassed by a subordinate.
FALSE
 6. Most complaints of sexual harassment are groundless.
FALSE
 7. An employer may be held liable for its employee sexually harassing a co-worker.
TRUE
 8. Failure to complain of sexual harassment relieves the employer of liability.
FALSE
 9. Employers are generally required to maintain a policy prohibiting sexual harassment in the workplace.
TRUE
 10. *Quid pro quo* harassment results if submission to sexual advances is made a condition of employment.
TRUE

Chapter Nine

1. The concept of the right to work is a common law concept.
FALSE
2. Employers may require prospective employees to sign a release to verify information.
TRUE
3. Performance evaluations are mandated by federal law.
FALSE
4. An employee may never be hired by an implied contract.
FALSE
5. Vacation leave is an example of consideration in an employment contract.
TRUE
6. Restrictive covenants are prohibited as violating public policy.
FALSE
7. An employee may be fired for just cause, regardless of having an employment contract.
TRUE
8. An employment contract cannot specify a dollar amount of damages in case of breach.
FALSE
9. An employee may be legally fired for whistle blowing.
FALSE
10. Constructive discharge is a lawful employment practice.
FALSE

Chapter Ten

1. An employee manual should be used to specify grievance procedures.
TRUE
2. An employer is responsible for paying withholding taxes.
FALSE
3. A green card permits all aliens in the United States to work.
FALSE
4. FICA taxes do not apply to independent contractors.

- FALSE**
5. Both employers and employees contribute to the unemployment compensation fund.
TRUE
6. The EEOC refers all Title VII complaints to a deferral agency.
FALSE
7. A charging party in a Title VII complaint may only go to court after receiving a right to sue notice.
TRUE
8. Class actions are not permitted under Title VII.
FALSE
9. An employee is not entitled to liquidated damages in an Equal Pay Act case.
FALSE
10. Punitive damages are not allowed in FLSA cases.
FALSE
-

Sample Exams: Multiple Choice

Chapter One

1. The concept of employment at will is
- statutorily based
 - *based on common law
 - not abrogated by contract
 - applicable to unions
2. The legal term for a monetary award resulting from a legal injury is
- compensation
 - restitution
 - *damages
 - reimbursement
3. An example of an employment contract is
- an employee handbook
 - a collective bargaining agreement
 - neither a nor b
 - *a and b
4. A person who works under another person's direction is called a
- *servant
 - master
 - principal
 - independent contractor
5. The legal doctrine that makes a master liable for his servant's tortious acts is called
- fellow servant exception
 - vicarious liability
 - *respondeat superior
 - none of the above
6. An agency relationship may be created by
- agreement
 - estoppel
 - ratification

- d. *all of the above
7. “Actual authority” includes
 - a. apparent authority
 - b. direct authority
 - c. fiduciary authority
 - d. *implied authority
 8. A servant can recover for injuries caused by another servant’s negligence from
 - a. the master
 - b. the fellow servant
 - c. the workers’ compensation board
 - d. *b or c
 9. A master may be liable for a servant’s
 - a. *negligent action
 - b. intentional action
 - c. malicious action
 - d. contractual breaches
 10. The same individual may be
 - a. a servant and an independent contractor
 - b. a master and an independent contractor
 - c. an agent and a servant
 - d. * all of the above

Chapter Two

1. Historically unions were deemed illegal under the
 - a. Taft-Hartley Act
 - b. Norris-LaGuardia Act
 - c. Landrum-Griffin Act
 - d. *Sherman Act
2. The Wagner Act
 - a. created the NLRB
 - b. defined unfair labor practices
 - c. mandated collective bargaining
 - d. *all of the above
3. The NLRB consists of
 - a. 10 members
 - b. *5 members
 - c. 7 members
 - d. 25 members
4. Under the NLRA a complaint is issued by
 - a. the charging party
 - b. *the Regional Office
 - c. the ALJ
 - d. all of the above
5. “Mitigating damages” means
 - a. to prove damages

- b. to forgive damages
 - c. *to lessen damages
 - d. to request damages
6. “Unfair labor practices” includes
- a. refusing to bargain in good faith
 - b. to forbid union membership
 - c. a but not b
 - d. *a and b
7. A derivative action under the NLRA involves section
- a. 8(a)(1)
 - b. 8(a)(2)
 - c. 8(a)(3)
 - d. *b and c
8. An independent violation under the NLRA violates section
- a. *8(a)(1)
 - b. 8(a)(2)
 - c. 8(a)(3)
 - d. b and c
9. Forcing payment for work not actually performed is called
- a. boycotting
 - b. *featherbedding
 - c. enjoining
 - d. collective bargaining
10. Under the NLRA an employer may
- a. *lockout
 - b. boycott
 - c. picket
 - d. none of the above

Chapter Three

1. The Social Security Act was enacted in
- a. 1933
 - b. 1934
 - c. *1935
 - d. 1936
2. To qualify for Social Security benefits a person must
- a. be over 65 and have worked 40 quarters
 - b. be over 62 and have worked 35 quarters
 - c. be retired
 - d. *be over 62 and have worked 40 quarters
3. A parent may receive benefits as dependents of their contributing children
- a. always
 - b. never
 - c. *sometimes
 - d. only if widowed

4. Social Security applies to
 - a. self-employed persons
 - b. prisoners
 - c. *a and b
 - d. none of the above

5. To come within the purview of the FLSA, an employer must have earned income over
 - a. \$5,000,000
 - b. \$3,000,000
 - c. \$1,000,000
 - d. *\$500,000

6. Executives are
 - a. always exempt from the FLSA
 - b. never exempt from the FLSA
 - c. *sometimes exempt from the FLSA
 - d. required to be paid more than the minimum wage under the FLSA

7. A paralegal may be exempt from the FLSA as
 - a. a professional
 - b. an executive
 - c. an administrator
 - d. *all of the above

8. To maintain a claim under the Equal Pay Act a person must prove
 - a. the work was equal
 - b. the work was performed at the same facility
 - c. a differing rate was paid based on sex
 - d. *all of the above

9. “red circle” refers to
 - a. *temporary assignments
 - b. differing workplaces
 - c. overtime work
 - d. none of the above

Chapter Four

1. Under Title VII the following is a protected category
 - a. age
 - b. race
 - c. sex
 - d. *b and c

2. Under Title VII racial discrimination is
 - a. *unlawful
 - b. permitted
 - c. discouraged
 - d. inapplicable

3. To qualify as an employer under Title VII a person must employ
 - a. 10 people
 - b. *15 people
 - c. 25 people

- d. 50 people
- 4. Under Title VII race and color are
 - a. *two separate categories
 - b. one joint category
 - c. not both protected categories
 - d. none of the above
- 5. To claim discrimination based on national origin one can
 - a. be a national of the country in question
 - b. be an immigrant
 - c. be descended from immigrants
 - d. *all of the above
- 6. Sex discrimination under Title VII does not apply to
 - a. men
 - b. homosexuals
 - c. transsexuals
 - d. *b and c
- 7. Under Title VII religion
 - a. * is not defined
 - b. only refers to recognized religions
 - c. does not apply to religious practices
 - d. all of the above
- 8. Under Title VII an employer may discriminate
 - a. never
 - b. for a *bona fide* occupational qualification
 - c. for customer preferences
 - d. *b and c
- 9. Under the ADEA an “employer” must employ
 - a. 10 people
 - b. 15 people
 - c. *20 people
 - d. 50 people
- 10. To come under the ADEA, a person must have attained the age of
 - a. *40
 - b. 50
 - c. 55
 - d. none of the above

Chapter Five

- 1. ERISA applies to
 - a. government pension funds
 - b. *private pension funds
 - c. a and b
 - d. union pension funds
- 2. Under ERISA plan managers have
 - a. fiduciary obligations

- b. reporting obligations
 - c. *a and b
 - d. none of the above
3. The following is exempted from ERISA
- a. church plans
 - b. government plans
 - c. off-shore plans
 - d. *all of the above
4. Expectant fathers are protected against discrimination under
- a. Title VII
 - b. *the Pregnancy Discrimination Act
 - c. the ADEA
 - d. none of the above
5. Under the Family Medical Leave Act an employer must grant an employee leave for
- a. 10 weeks
 - b. *12 weeks
 - c. 4 months
 - d. 6 months
6. Domestic partnership benefits are guaranteed by
- a. federal statute
 - b. Title VII
 - c. over 30 state statutes
 - d. *none of the above
7. Golden parachutes are
- a. unlawful under the ADEA
 - b. permitted under the ADEA
 - c. required under the ADEA
 - d. *not covered by the ADEA
8. ERISA does not apply to
- a. sole proprietorships
 - b. partnerships
 - c. insured plans
 - d. *all of the above
9. Under ERISA a benefit plan
- a. is not subject to the ADEA
 - b. cannot be amended
 - c. *is subject to the ADEA
 - d. does not have to be in writing to be enforceable
10. Under ERISA an employee benefit plan provides
- a. welfare benefits
 - b. pension benefits
 - c. combined welfare and pension benefits
 - d. *all of the above

Chapter Six

1. The Rehabilitation Act applies to
 - a. all person with a physical disability
 - b. nongovernment workers
 - c. *employees of employers with government contracts
 - d. all of the above
2. The ADA applies
 - a. to persons with mental disabilities
 - b. to U.S. employees of foreign employers
 - c. to government workers
 - d. *a and b
3. The ADA does not apply to
 - a. workplaces
 - b. public accommodations
 - c. telecommunications
 - d. *none of the above
4. Physical appearance
 - a. *may be covered by the ADA
 - b. is not covered by the ADA
 - c. is not considered a disability under the ADA
 - d. has nothing to do with discrimination
5. Under the ADA “reasonable accommodation” may include
 - a. reassigning a worker
 - b. providing part-time work
 - c. *a and b
 - d. none of the above
6. An employer does not have to make reasonable accommodation for a disabled worker
 - a. if the worker is unfit for the job
 - b. it would interfere with the operation of the business
 - c. it would be unduly expensive
 - d. *all of the above
7. The ADA defines “disability”
 - a. *broadly
 - b. narrowly
 - c. specifically
 - d. not at all
8. The ADA
 - a. does not apply to labor unions
 - b. *does not apply to persons who employ fewer than 10 persons
 - c. does not apply to employment agencies
 - d. all of the above
9. The ADA defines “mental impairment” as
 - a. a learning disability
 - b. a psychological disease or disorder
 - c. a mental disorder
 - d. *all of the above

10. The following is a disability under the ADA
 - a. migraine headaches
 - b. dyslexia
 - c. compound fracture of the femur
 - d. *a and b

Chapter Seven

1. The expectation that private information will not be divulged by the person to whom it was given is
 - a. privacy
 - b. *confidentiality
 - c. secrecy
 - d. none of the above
2. The right to privacy is
 - a. guaranteed by the Constitution
 - b. guaranteed by state statute
 - c. a and b
 - d. *none of the above
3. Threats to personal privacy can come from
 - a. governmental recordkeeping
 - b. commercial recordkeeping
 - c. computer databases
 - d. *all of the above
4. The Federal Reports Act
 - a. concerns citizens' right to privacy in federal documents
 - b. *requires approval from the Office of Management and Budget before a federal agency can create a record
 - c. provides citizens access to government records
 - d. none of the above
5. The Privacy Act
 - a. *concerns public records
 - b. concerns private records
 - c. concerns privacy in the workplace
 - d. all of the above
6. The Electronics Communications Privacy Act
 - a. *permits an employer to monitor e-mail
 - b. prohibits an employer from monitoring e-mail
 - c. was not passed by Congress
 - d. none of the above
7. Employees are protected from taking lie detector tests by
 - a. the Electronics Communication Privacy Act
 - b. *the Employee Polygraph Protection Act
 - c. the Privacy Act
 - d. none of the above
8. An employer may
 - a. monitor an employee's telephone calls

- b. monitor an employee's computer use
 - c. collect personal information about an employee
 - d. *all of the above
9. An employee can expect privacy in the workplace
- a. sometimes
 - b. always
 - c. *never
 - d. when protected by federal statute
10. A constitutional right to privacy has been argued under the
- a. 1st Amendment
 - b. 4th Amendment
 - c. 5th Amendment
 - d. *all of the above

Chapter Eight

1. Sexual harassment is
 - a. *covered by Title VII
 - b. is not covered by any federal statute
 - c. has rarely been found to exist in the workplace
 - d. is protected under the Privacy Act
2. Sexual harassment includes
 - a. unwelcome sexual advances
 - b. requests for sexual favors
 - c. verbal conduct of a sexual nature
 - d. *all of the above
3. Demanding sexual favors for job advancement is called
 - a. hostile work environment sexual harassment
 - b. *quid pro quo sexual harassment
 - c. gender based sexual harassment
 - d. normal business practice
4. A person charged with sexual harassment can defend by showing
 - a. the victim asked for it
 - b. the victim enjoyed it
 - c. a and b
 - d. *none of the above
5. An employer may be held vicariously liable for an employee's sexual harassment
 - a. always
 - b. *sometimes
 - c. never
 - d. when it is so specified in the employee handbook
6. The law requires an employer to
 - a. have a procedure to deal with sexual harassment
 - b. have a policy to try to prevent sexual harassment
 - c. *a and b
 - d. none of the above
7. Examples of sexual harassment may include

- a. sexual innuendo
 - b. physical touching
 - c. having sexually explicit material in the workplace
 - d. *all of the above
8. In determining problems of sexual harassment the courts look at
- a. the victim's reaction
 - b. the harasser's intent
 - c. the gender of the parties
 - d. *all of the above
9. A person may be the victim of sexual harassment from
- a. his boss
 - b. his co-worker
 - c. the people he supervises
 - d. *all of the above
10. Hostile work environment and *quid pro quo* sexual harassment have been specifically defined by
- a. the courts
 - b. *the EEOC
 - c. Title VII
 - d. all of the above

Chapter Nine

1. The right to work is a creature of
 - a. *state statute
 - b. federal statute
 - c. common law
 - d. all of the above
2. Human resource management includes
 - a. hiring
 - b. firing
 - c. recruiting
 - d. *all of the above
3. Once a job applicant has submitted an application and résumé, the employer
 - a. *has the right to verify the information
 - b. may only verify information if the applicant signed a release
 - c. may not verify information
 - d. none of the above
4. Performance evaluations are
 - a. required by federal law
 - b. required by state law
 - c. required by common law
 - d. *generally a good idea
5. Employment contract consideration includes
 - a. vacation leave
 - b. sick leave
 - c. bonuses
 - d. *all of the above

6. Proprietary covenants concern
 - a. competing with the company
 - b. *patents
 - c. work restrictions
 - d. none of the above

7. Transferring rights to someone not an original party to a contract is called
 - a. delegation
 - b. *assignment
 - c. subordination
 - d. estoppel

8. Alternative dispute resolution includes
 - a. arbitration
 - b. mediation
 - c. *a and b
 - d. neither a nor b

9. Making an employer's illegal actions known to the public is called
 - a. *whistle blowing
 - b. featherbedding
 - c. boycotting
 - d. none of the above

10. An employee may be legally fired
 - a. for disciplinary reasons
 - b. for poor job performance
 - c. for economic reasons
 - d. *all of the above

Chapter Ten

1. Social Security taxes are known as
 - a. *FICA
 - b. FUTA
 - c. SSA
 - d. Voluntary deductions

2. Employers must contribute, on behalf of their employees, to
 - a. Medicare
 - b. disability insurance
 - c. unemployment compensation
 - d. *all of the above

3. A sworn written statement made by a person claiming discrimination under the ADA is called a
 - a. complaint
 - b. *charge
 - c. information
 - d. deposition

4. A person claiming discrimination under Title VII must first file a complaint with
 - a. the EEOC
 - b. *a deferral agency

- c. the federal court
 - d. all of the above
5. The EEOC has exclusive jurisdiction over a claim of discrimination for
- a. 100 days
 - b. *180 days
 - c. 260 days
 - d. 1 year
6. Discrimination suits filed under Title VII
- a. *may be class actions
 - b. may not be class action
 - c. must first be filed in state court
 - d. are permitted any time after the alleged discrimination took place
7. A claim of discrimination under the ADEA must be filed
- a. within 1 year of the alleged act
 - b. *within 2 years of the alleged act
 - c. within 3 years of the alleged act
 - d. anytime after the alleged act took place
8. Reckless indifference to the employee's rights by the employer permits the employee to receive
- a. consequential damages
 - b. liquidated damages
 - c. *punitive damage
 - d. injunctions
9. Attorneys fees may be awarded
- a. to plaintiff employees only
 - b. to defendant employers only
 - c. *to both plaintiffs and defendants
 - d. to neither party in a discrimination suit
10. A court order requiring an employee to stop an unlawful practice is called
- a. a stay
 - b. *an injunction
 - c. a punitive charge
 - d. a resolution
11. Claims under the FLSA
- a. must be filed with the EEOC
 - b. must be filed within 3 years of the cause of action
 - c. *are filed by the Secretary of Labor
 - d. none of the above
-

Sample Exam: Short Answer

Chapter One

1. What is meant by the term "vicarious liability?"
It means that one person will be held legally responsible for another person's action that injures a third party.

2. Briefly discuss the concept of employment at will.
Employment at will means that a person can be hired or fired, come or go, at the whim of the employee or the employer.
3. List four grounds for terminating an employment contract.
Disability, failure to perform, criminal activity, at the will of either party with written notice.
4. When is the concept of employment at will inoperative?
When there is an employment contract, union worker, and civil servant.
5. What is meant by the term “just cause?”
Having legally sufficient grounds to fire an employee.
6. How is an agency relationship created?
By agreement, by estoppel or by ratification.
7. Distinguish between a servant and an agent.
A servant works under the direction of and control of the master and has not independent discretion; an agent has discretion and can bind the principal contractually to third persons.
8. Briefly discuss the types of authority an agent may have.
 - a. *Actual: direct manifestation to the agent from the principal*
 - b. *Apparent: manifestation by the principal to third persons*
 - c. *Estoppel: authority the principal permits third persons to believe that the agent has.*
9. What is the purpose of the Workers’ Compensation statutes?
To permit a worker to recover for injuries caused by a fellow worker.
10. What is meant by the term “fiduciary?”
Being held to a standard of care higher than ordinary care.

Chapter Two

1. What was the first act to legally recognize a right to unionize?
Norris-LaGuardia Act
2. What were the three immediate effects of the Norris-LaGuardia Act?
 - a. *recognized the right to form a union*
 - b. *declared federal courts could not create labor law*
 - c. *mandated government neutrality*
3. What are the three main provision of the National Labor Relations Act?
 - a. *established the NLRB*
 - b. *defined unfair labor practices*
 - c. *required collective bargaining*
4. List four remedies available under the Wagner Act.
 - a. *posting notices*
 - b. *back pay*
 - c. *set aside election*
 - d. *employer may maintain a private suit*
5. Briefly discuss the concept of collective bargaining.

Collective bargaining means that the unions and the employer must sit down and negotiate a fair employment contract in good faith.

6. Define and explain the purpose of a secondary boycott.
Boycotting a supplier of the employer who is committing the unfair labor practice to force the employer to bargain.
7. Define and distinguish between picketing and boycotting.
Picketing is a demonstration that brings public attention to a labor dispute; boycotting is refusing to purchase from an employer to force the employer to negotiate with the union.
8. What are the three permissible grounds for a strike under the Wagner Act?
 - a. *protest economic conditions*
 - b. *protest unfair labor practices*
 - c. *protest dangerous work conditions*
9. Distinguish mediation from arbitration.
Mediation has an independent third person help the parties come to a resolution; arbitration has an independent third party resolve the matter.
10. What is a runaway shop?
A business opened by an employer after closing the first business to get rid of union workers.

Chapter Three

1. Briefly discuss the purpose of Social Security.
To guarantee workers a retirement income.
2. Who may qualify for Social Security survivor benefits?
62 years old; received half of one's support from a contributor; do not receive benefits on one's own or through marriage.
3. What are the requirements to qualify for Social Security?
Fully insured and be at least 62 years old.
4. What is the function of a Social Security number?
To identify persons for the purpose of determining benefits.
5. Which persons are exempt from FLSA?
Executives, administrators, outside salespersons, professionals.
6. List the requirements to maintain a claim under the Equal Pay Act.
 - a. *equal work*
 - b. *same establishment*
 - c. *differing pay scale*
7. What factors would permit a differing pay scale under the Equal Pay Act?
 - a. *shift differential*
 - b. *red circle*
 - c. *temporary or part-time workers*
 - d. *salary matching*
 - e. *extra training*

8. Briefly discuss the impact of the Equal Pay Act.
Mandates the same pay rate for men and women performing the same work at the same facility.
9. Which statute mandates minimum wages?
FLSA

Chapter Four

1. What are the protected categories under Title VII?
Race, color, religion, sex, and national origin.
2. What agency oversees the implementation of Title VII?
EEOC
3. Define and briefly discuss affirmative action.
Affirmative action is an employer response to rectify past discrimination by encouraging hiring and promotion of persons in the protected categories.
4. What is meant by reverse discrimination?
Discriminating against white males in favor of people in the protected categories.
5. Which organizations are exempted from Title VII?
Private membership clubs, Indian tribes, the military.
6. Define what is meant by “race” under Title VII.
Belonging to an ethnically identifiable group.
7. Is sexual preference covered by the category of “sex” under Title VII?
No.
8. Briefly define and discuss sexual stereotyping.
Assuming particular characteristics belong to each sex. It is considered discriminatory under Title VII.
9. May an employer maintain a minimum age under the ADEA?
Yes.
10. Who are exempt from the provisions of the ADEA?
 - a. *law enforcement officers and firefighters*
 - b. *executives*
 - c. *elected officials*
 - d. *apprenticeship programs*

Chapter Five

1. What is the purpose of ERISA?
To protect the security of private pension plans from mismanagement.
2. Which benefit plans are exempt from ERISA?
 - a. *government plans*
 - b. *church plans*
 - c. *plans outside the U.S.*

- d. *plans formed under Sec. 415 of the IRC*
 - e. *sole proprietorships and partnerships*
 - f. *workers compensation*
3. What is meant by the term “golden parachute?”
Special financial benefits if an employee is retired because of take over.
 4. What is the purpose of the Pregnancy Discrimination Act?
To protect pregnant women and fathers from being discriminated against because of the pregnancy.
 5. Briefly discuss the concept of a fetal protection policy.
A policy initiated by employers to protect pregnant workers form dangers to the fetus due to certain work situations. If a policy is in effect an employer may keep a pregnant worker from that work area without it being considered discrimination.
 6. When was the Family Medical Leave Act enacted?
1993
 7. Define domestic partnership.
Nonmarried persons living together in a situation similar to marriage.
 8. Do you believe an employer should be concerned with the employee’s family? Explain.
No set answer; each student has his/her own opinion.
 9. What five requirements does ERISA impose on employee benefit plans?
 - a. *writing*
 - b. *procedures to amend*
 - c. *state basis for payment*
 - d. *reasonable procedures for filing claims*
 - e. *state minimum age and service requirements*
 10. What types of benefits are covered under an employee benefit plan under ERISA?
Welfare and pension plans.

Chapter Six

1. Which categories of employees are covered under the Rehabilitation Act?
 - a. *federal workers*
 - b. *recipients of federal financial incentives*
 - c. *employees of employers with government contracts*
2. The ADA prohibits discrimination in which four areas?
 - a. *employment*
 - b. *public services and transportation*
 - c. *public accommodations*
 - d. *telecommunication services*
3. Which employers come under the ADA?
 - a. *having 15 or more workers*
 - b. *labor organizations*
 - c. *employment agencies*
 - d. *joint labor-management committees*

4. What are the two qualifications that a person must prove to maintain a claim under the ADA?
That he is able to perform the essential job skills and that he has a disability that permanently limits a substantial life function.
5. How does the ADA define “mental impairment?”
Mental or psychological disorder.
6. List three life activities the ADA considers significant.
Walking, breathing, seeing.
7. What is meant by “reasonable accommodation?”
Making changes to accommodate the work’s disability so that the worker may be employed; such things as modifying machinery, work schedules, having readers, etc.
8. What is meant by a “job-related qualification standard?”
A physical or mental ability that is required to perform an essential job function.
9. What is meant by “undue hardship” under the ADA?
Economic factors that would make it unfair to require a particular employer to accommodate a particular disabled employee.
10. Briefly discuss your opinion of the ADA.
Opinion question; no set answer.

Chapter Seven

1. What is meant by secrecy?
Not giving out information.
2. Which provisions of the U.S. Constitution have been used to argue a right to privacy?
First, Fourth and Fifth.
3. List three threats to personal privacy in the workplace.
 - a. *government recordkeeping*
 - b. *commercial recordkeeping*
 - c. *computer databases*
4. What is the purpose of the Freedom of Information Act?
To permit citizens to gain access to government records.
5. What is the primary purpose of the disclosure requirements of the Privacy Act?
To let people review government material and make corrections.
6. When may an employer monitor an employee’s e-mail?
When the employee has been forewarned.
7. Are employers permitted to monitor employee telephone calls?
Yes
8. What is your opinion of the lack of privacy in the workplace?
Opinion question; no set answer.
9. Define the attorney-client privilege.

Evidentiary rule permitting a client to prevent the attorney from divulging any information the client told the attorney in the course of legal representation.

10. What can an individual do to protect his/her privacy in the workplace?

Opinion question; no set answer.

Chapter Eight

1. What is meant by the term “sexual harassment?”

Making unwelcome advances or comments of a sexual nature.

2. Briefly discuss hostile work environment sexual harassment.

Making the workplace uncomfortable because of unwelcome sexual comments.

3. Briefly discuss *quid pro quo* sexual harassment.

Requiring sexual favors in exchange for hiring, advancement or other benefits of employment.

4. Which law protects an individual from sexual harassment in the workplace?

Title VII.

5. Is an employee prohibited from filing a claim of sexual harassment if the employee does not complain to the employer immediately?

No.

6. May an employer be held liable for the sexual harassment of nonemployees by an employee?

Yes.

7. Is an employer required to have a written policy prohibiting sexual harassment in the workplace?

Yes.

8. Indicate some procedures that should exist to deal with sexual harassment.

Counseling, disciplinary action, complaint procedures, investigation, etc.

9. May a person be sexually harassed by a person of the same sex?

Yes.

10. In what way is sexual harassment counterproductive in the workplace?

It creates an unpleasant work atmosphere hindering effective work; it is illegal; it can create a hostile environment.

Chapter Nine

1. What functions are involved in human resource management?

Recruitment, hiring, promotion, firing.

2. Briefly discuss the concept of negligent hiring.

An employer not checking the credentials of an employee so that a person who is not qualified is hired, and that person's lack of qualification eventually injures a third person when the employee is attempting to perform his duties.

3. Briefly discuss the function of a performance evaluation.

It lets the employee know how s/he is doing and can provide the basis for firing for just cause.

4. Distinguish between an express and an implied contract.

An express contract comes about by the manifestations in word of the parties, and implied contract is created by the parties' actions.

5. What is the purpose and function of an employee handbook?
It can provide the basis of the contract between the employer and the employee and provides the employer with the opportunity to express policies and procedures required by federal statutes.
6. List five provision that might appear in an employment contract.
 - a. *consideration*
 - b. *duration*
 - c. *terminology*
 - d. *proprietary covenants*
 - e. *termination*
7. Briefly discuss the concept of constructive discharge.
When an employer makes the work situation so unpleasant the employee resigns thereby relieving the employer of the necessity of firing the worker, it can be a form of unlawful discrimination.
8. Define "proprietary covenant."
Contract restriction with respect to ownership of patents, copyrights, and client lists.
9. What can an employee do if the employee believes that he or she was unjustly fired?
File a grievance with the EEOC or file suit in court.
10. Briefly discuss the concept of whistle blowing.
Whistle-blowing occurs when an employee makes the public aware of illegal activities of his employer.

Chapter Ten

1. What does a "green card" have to do with employment?
A green card is the government authorization for an immigrant or nonimmigrant to work in the United States; without the green card, an alien is prohibited from working in the country.
2. What is an employer's responsibility with respect to withholding taxes?
The employer must withhold taxes on behalf of its employee and place such funds in an escrow account for the benefit of the government.
3. What are FICA taxes?
Social Security taxes.
4. Define and explain the purpose of a deferral agency under Title VII.
A deferral agency is a state agency authorized to hear initial Title VII charges; and employee must first file a charge with the deferral agency before filing with EEOC.
5. What is the purpose of a Right To Sue Notice?
It is a prerequisite to an individual filing suit in federal court based on an unlawful discharge.
6. Define "class action."
It is a suit with multiple plaintiffs all injured by the same action by the same defendant. The number of plaintiffs is so plentiful that their claims can be joined for the efficient administration of justice.
7. What is the time period for filing a claim under the ADEA?
Two years for the alleged action.

8. What is the time period for filing a claim under the Equal Pay Act?
Two years after the cause of action arose.
 9. List four types of remedies that may be awarded to a successful claimant under Title VII.
 - a. *injunction*
 - b. *back pay*
 - c. *punitive damages*
 - d. *consequential damages*
 10. Who may receive attorneys' fees in a discrimination suit?
The successful party if approved by the court.
 11. What is the dollar limit for punitive damages for Title VII cases?
\$50,000 for employer with no more than 101 employees to a maximum of \$300,000 for employers with more than 500 employees.
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Sample Exam: Essay

There are no form answers for these questions. The students must use their own thought processes to arrive at answers. These essay questions are merely provided as examples of the type of essay questions that may be asked.

Chapter One

Discuss the concept of negligent hiring and indicate how you would be able to document or prove that the employer should be held liable, not vicariously but personally, for injuries to third persons.

Chapter Two

What is your opinion of organized labor? Do you believe that, at the present time, it serves a valid function with respect to work and productivity? In what ways, if any, would you reform labor law?

Chapter Three

Why should people who work as computer programmers be exempt from the provisions of the FLSA? If a paralegal works on a computer for the majority of her work time, does this mean that the paralegal should be exempt from the FLSA?

Chapter Four

Because of historical discrimination based on race, many individuals are biased against persons of their own race. How does federal law handle this situation? How would this type of discrimination be documented? How could it be eradicated?

Chapter Five

What is your opinion of domestic partnership? To which persons, if any, should such benefits be extended? Under what circumstances would domestic partnership be in opposition to federal law?

Chapter Six

A group of workers is claiming that a new facility constructed by their employer is causing them severe allergic reactions, making it impossible for them to work at the facility. They claim the problem is not only with the cosmetic material used, but with the internal construction material as well. They demand the right to work. What, if any, reasonable accommodation could the employer make? The employees claiming the allergic reactions represent 3% of the employer's workforce, and the employer no longer owns any other facility.

Chapter Seven

Discuss what an employee can do to protect his or her privacy in the workplace.

Chapter Eight

Why must a person who is claiming sexual harassment prove that her harasser knew, or should have known, that such conduct was unlawful? Do you agree with this position? How would you prove such knowledge on the part of the harasser?

Chapter Nine

Discuss how the law with respect to labor organizations affects human resource management.

Chapter Ten

Discuss the various provisions that should appear in an employee handbook to meet the requirements of federal law.