

Chapter 2: Equal Opportunity and the Law

Multiple Choice

1. The _____ Amendment to the U.S. Constitution states, “no person shall be deprived of life, liberty, or property, without due process of the law.”
 - a. First
 - b. Fifth
 - c. Tenth
 - d. Thirteenth
 - e. Fourteenth(b; moderate; p. 32)

2. The _____ Amendment outlawed slavery, and courts have held that it bars racial discrimination.
 - a. First
 - b. Fifth
 - c. Tenth
 - d. Thirteenth
 - e. Fourteenth(d; moderate; p. 32)

3. In what year was the 13th Amendment to the U.S. Constitution ratified?
 - a. 1776
 - b. 1791
 - c. 1808
 - d. 1865
 - e. 1868(d; difficult; p. 32)

4. The _____ Amendment makes it illegal for any state to “make or enforce any law which shall abridge the privileges and immunities of citizens of the United States.”
 - a. First
 - b. Fifth
 - c. Tenth
 - d. Thirteenth
 - e. Fourteenth(e; moderate; p. 32)

5. Which amendment is generally viewed as barring discrimination based on sex, national origin, or race?
- First
 - Fifth
 - Tenth
 - Thirteenth
 - Fourteenth
- (e; moderate; p. 32)
6. The _____ gives all persons the same right to make and enforce contracts and to benefit from the laws of the land.
- Fifth Amendment
 - Civil Rights Act of 1866
 - Title VII of the 1964 Civil Rights Act
 - Civil Rights Act of 1991
 - Thirteenth Amendment
- (b; moderate; p. 32)
7. Title VII of the 1964 Civil Rights Act prohibits discrimination based on all of the following characteristics except _____.
- race
 - sexual orientation
 - color
 - religion
 - national origin
- (b; moderate; p. 32)
8. Title VII of the 1964 Civil Rights Act bars discrimination on the part of most employers, including all public or private employers of _____ or more persons.
- 5
 - 10
 - 15
 - 50
 - 100
- (c; easy; p. 32)
9. What type of organization is covered by Title VII of the 1964 Civil Rights Act?
- private educational institutions
 - private employers of 15 or more persons
 - federal government
 - state government
 - all of the above
- (e; easy; p. 32)

10. How many members serve on the Equal Employment Opportunity Commission?
- a. 3
 - b. 5
 - c. 9
 - d. 10
 - e. 12
- (b; easy; p. 32)
11. Members of the EEOC are appointed by the _____.
- a. Senate
 - b. Supreme Court
 - c. President of the United States
 - d. Vice-President of the United States
 - e. none of the above
- (c; easy; p. 32)
12. Members of the EEOC serve _____ terms.
- a. 3 years
 - b. 5 years
 - c. 10 years
 - d. indefinite
 - e. life long
- (b; easy; p. 32)
13. The _____ made it unlawful to discriminate in pay on the basis of sex when jobs involve equal work, require equivalent skills, effort, and responsibility, and are performed under similar working conditions.
- a. Title VII
 - b. Equal Pay Act of 1963
 - c. Executive Order 11246
 - d. Age Discrimination in Employment Act of 1967
 - e. 13th Amendment to the U.S. Constitution
- (b; moderate; p. 33)
14. When companies utilize _____, they take steps to eliminate the present effects of past discrimination.
- a. affirmative action
 - b. executive orders
 - c. rehabilitation action
 - d. anti-discrimination guidelines
 - e. equal pay rules
- (a; easy; p. 33)

15. Which of the following factors is not an acceptable basis for different pay for equal work under the Equal Pay Act of 1963?
- a. gender
 - b. seniority system
 - c. merit pay system
 - d. quality of production
 - e. all are unacceptable factors
- (a; moderate; p. 33)
16. Jack is a 55 year-old American of Anglo-Saxon descent. What legislation is intended to protect Jack from discrimination?
- a. Title VII
 - b. Equal Pay Act of 1963
 - c. Executive Order 11246
 - d. Age Discrimination in Employment Act of 1967
 - e. 13th Amendment to the U.S. Constitution
- (d; moderate; p. 33)
17. Which of the following federal agencies does not participate in the issuance of uniform guidelines on procedures including employee selection, record keeping, and preemployment inquiries?
- a. EEOC
 - b. Department of Labor
 - c. Better Business Bureau
 - d. Department of Justice
 - e. Civil Service Commission
- (c; easy; p. 34)
18. The _____ requires employers with federal contracts over \$2500 to take affirmative action in employing handicapped persons.
- a. Age Discrimination in Employment Act
 - b. Vocational Rehabilitation Act
 - c. Equal Pay Act
 - d. Office of Federal Contract Compliance Programs
 - e. none of the above
- (b; moderate; p. 33)

19. Payment for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses are called _____.
- compensatory damages
 - double damages
 - specific performance
 - punitive damages
 - none of the above
- (a; moderate; p. 36)
20. Uniform guidelines from the EEOC are recommended for employers to use in matters regarding all of the following except _____.
- employee selection
 - record keeping
 - preemployment inquiries
 - sexual harassment
 - psychological testing
- (e; difficult; p. 34)
21. What was the name of the landmark case the Supreme Court used to define unfair discrimination?
- Roe v. Wade
 - Meritor Savings Bank FSB v. Vinson
 - Griggs v. Duke Power Company
 - Burlington Industries v. Ellerth
 - Faragher v. City of Boca Raton
- (c; moderate; p. 37)
22. In Griggs v. Duke Power Company, Griggs sued the power company because it required coal handlers to be high school graduates. The case was decided in favor of Griggs because _____.
- high school diplomas were not related to job success as a coal handler
 - Duke Power Company intended to discriminate against blacks
 - no business necessity existed
 - Griggs held a GED
 - all of the above
- (a; moderate; p. 34)
23. If a person is in a protected class, he or she is protected by _____.
- Department of Labor
 - Sarbanes-Oxley Act
 - Title VII of the Civil Rights Act
 - Consumer Protection Act
 - Better Business Bureau
- (c; moderate; p. 34)

24. Which of the following is not a principle established by Griggs v. Duke Power Company?
- burden of proof is on the employer
 - intent not to discriminate is irrelevant
 - business necessity is a defense
 - testing must be job-related
 - performance standards must be clear and ambiguous (e; difficult; p. 35)
25. Which court case was important because its ruling provided details regarding how employers should validate screening tools?
- Roe v. Wade
 - Albemarle Paper Company v. Moody
 - Griggs v. Duke Power Company
 - Burlington Industries v. Ellerth
 - Faragher v. City of Boca Raton (b; moderate; p. 35)
26. _____ means that an employer engages in an employment practice or policy that has a greater adverse effect on the members of a protected group under Title VII than on other employees, regardless of intent.
- Disparate impact
 - Unintentional discrimination
 - Affirmative action
 - Adverse discrimination
 - Biased effect (a; moderate; p. 35)
27. Intentional discrimination is also called _____.
- disparate impact
 - disparate treatment
 - adverse discrimination
 - mixed motive
 - quid pro quo (b; moderate; p. 36)
28. Who has the heaviest burden when it comes to the burden of proof in discrimination cases?
- EEOC
 - the employer in question
 - the employee in question
 - the EEO office
 - all of the above (b; moderate; p. 35)

29. If an employee can show that an employer engaged in intentional discrimination with malice or reckless indifference to the federally protected rights of an aggrieved individual, the employee can ask for _____.
- a. job reinstatement
 - b. back pay
 - c. compensatory damages
 - d. punitive damages
 - e. all of the above
- (e; easy; p. 36)
30. Under the principles established by *Griggs v. Duke Power Company*, _____ can be used as a defense for any existing program that has adverse impact.
- a. occupational qualification
 - b. business necessity
 - c. affirmative action
 - d. burden of proof
 - e. fair in form
- (b; moderate; p. 35)
31. Under the Civil Rights Act of 1991, once a plaintiff shows disparate impact, who has the burden of proving that the challenged practice is job related for the position in question?
- a. the plaintiff
 - b. the defense attorney
 - c. the employer
 - d. the courts
 - e. the EEOC office
- (c; easy; p. 36)
32. If race, color, religion, sex, or national origin is a motivating factor in a termination, but the employee would have been terminated for failure to perform anyway, a(n) _____ exists.
- a. mixed motive
 - b. business necessity
 - c. disparate impact
 - d. defense for liability
 - e. none of the above
- (a; moderate; p. 36)

33. The _____ prohibits employers with 15 or more workers from discriminating against qualified individuals with disabilities with regard to applications, hiring, discharge, compensation, advancement, training, or other terms, conditions, or privileges of employment.
- a. Civil Rights Act of 1991
 - b. Federal Violence Against Women Act of 1994
 - c. American with Disabilities Act of 1990
 - d. Vietnam Era Veterans' Readjustment Assistance Act of 1974
 - e. Vocational Rehabilitation Act of 1973
- (c; easy; p. 36)
34. According to the Americans with Disabilities Act, which of the following is considered a disability?
- a. homosexuality
 - b. voyeurism
 - c. pyromania
 - d. compulsive gambling
 - e. AIDS
- (e; moderate; p. 37)
35. The ADA prohibits discrimination against _____, those who can carry out the essential functions of the job with or without reasonable accommodation.
- a. disabled individuals
 - b. qualified individuals
 - c. women
 - d. drug users
 - e. all of the above
- (b; moderate; p. 36)
36. The greatest number of claims brought under the ADA is related to _____ disabilities.
- a. learning
 - b. mobility impairments
 - c. mental
 - d. vision
 - e. hearing
- (c; easy; p. 38)

37. Depression, anxiety disorders, panic disorders, obsessive-compulsive disorders, and personality disorders are examples of _____ under EEOC guidelines.
- mobility impairments
 - physical impairments
 - hearing and/or speech impairments
 - mental impairments
 - none of the above
- (d; easy; p. 38)
38. Under the ADA, who holds the responsibility of establishing that an employee has a disability as defined by the ADA?
- employee
 - employer
 - EEOC office
 - Supreme Court
 - none of the above
- (a; moderate; p. 38)
39. When is harassment on the basis of sex a violation of Title VII?
- when such conduct has the purpose or effect of substantially interfering with a person's work performance
 - when such conduct has the purpose or effect of creating an intimidating, hostile, or offensive work environment
 - when a crime of violence is motivated by gender
 - both a and b
 - all of the above
- (d; moderate; p. 41)
40. The _____ provides that a person who commits a crime of violence motivated by gender and thus deprives another of her rights shall be liable to the party injured.
- Civil Rights Act of 1991
 - Federal Violence Against Women Act of 1994
 - Pregnancy Discrimination Act
 - Vietnam Era Veterans' Readjustment Assistance Act of 1974
 - Vocational Rehabilitation Act of 1973
- (b; easy; p. 42)

41. Which of the following is not a form of sexual harassment according to EEOC guidelines?
- a. unwelcome sexual advances that create an intimidating work environment
 - b. requests for sexual favors made as a condition of employment
 - c. verbal conduct of a sexual nature which unreasonably interferes with an individual's work performance
 - d. mutually consensual physical conduct of a sexual nature
 - e. all are forms of sexual harassment
- (d; difficult; p. 43)
42. All of the following are ways an employee can prove sexual harassment except _____.
- a. quid pro quo
 - b. hostile environment created by supervisors
 - c. hostile environment created by co-workers
 - d. hostile environment created by nonemployees
 - e. all are ways an employee can prove sexual harassment
- (e; moderate; p. 43)
43. Judy was up for a promotion when her supervisor, Will, encouraged her to develop a sexual relationship with him. He suggested that her promotion would be a sure thing if they were involved. When Judy declined his advances, Will fired her. Which form of sexual harassment is this?
- a. quid pro quo
 - b. hostile environment created by supervisors
 - c. hostile environment created by co-workers
 - d. hostile environment created by nonemployees
 - e. none of the above
- (a; moderate; p. 43)
44. Gus is always making sexual jokes at work. Many employees find the jokes funny, but Shelley, Gus's executive assistant, is uncomfortable with the jokes. Eventually, she decided to quit rather than endure the jokes any longer. What form of sexual harassment is Shelley a victim of?
- a. quid pro quo
 - b. hostile environment created by supervisors
 - c. hostile environment created by co-workers
 - d. hostile environment created by nonemployees
 - e. none of the above; Shelley is not a victim of sexual harassment
- (b; moderate; p. 43)

45. Sally is known as a big flirt around the office. She often makes sexual innuendos to men at work—both co-workers and her subordinates. What form of sexual harassment is this an example of?
- quid pro quo
 - hostile environment created by supervisors
 - hostile environment created by co-workers
 - hostile environment created by nonemployees
 - This is not sexual harassment.
- (e; moderate; p. 43)
46. Which of the following is not a way an employer can show reasonable care to defend against sexual harassment liability?
- development of a strong sexual harassment policy
 - training employees in sexual harassment policies
 - instituting a sexual harassment reporting process
 - investigating sexual harassment charges promptly
 - all are ways of showing reasonable care
- (e; easy; p. 44)
47. What is the first step an employee should take to address a problem of sexual harassment?
- file a complaint with the local EEOC office
 - file a complaint with the human resource director
 - write a letter to the accuser
 - file a verbal complaint with the harasser's boss
 - consult an attorney
- (d; moderate; p. 44)
48. When harassment is of a serious nature, an employee can consider suing for _____.
- assault and battery
 - intentional infliction of emotional distress
 - injunctive relief
 - compensatory and punitive damages
 - all of the above
- (e; moderate; p. 44)

49. _____ exists when an employer treats an individual differently because that individual is a member of a particular race, religion, gender, or ethnic group.
- a. Disparate treatment
 - b. Disparate impact
 - c. Unintentional discrimination
 - d. Adverse impact
 - e. Prima facie
- (a; easy; p. 48)
50. _____ refers to the total employment process that results in a significantly higher percentage of a protected group in the candidate population being rejected for employment, placement, or promotion.
- a. Disparate treatment
 - b. Disparate impact
 - c. Unintentional discrimination
 - d. Adverse impact
 - e. Prima facie
- (d; easy; p. 48)
51. Which of the following is a way to show adverse impact?
- a. disparate rejection rates
 - b. restricted policy
 - c. population comparisons
 - d. McDonnell-Douglas test
 - e. all of the above
- (e; moderate; p. 49)
52. If a person belongs to a protected class, and applied and was qualified for a job for which the employer was seeking applicants, and after rejection, the position remained open and the employer continued to seek applications from persons with the complainant's qualifications, then the _____ can be used to show adverse impact.
- a. disparate rejection rates
 - b. restricted policy
 - c. population comparisons
 - d. McDonnell-Douglas test
 - e. all of the above
- (d; moderate; p. 50)

53. The formula used by federal agencies to determine disparate rejection rates is based on a selection rate for any racial, ethnic, or sex group less than _____ percent of the rate for the group with the highest rate.
- 25
 - 50
 - 75
 - 80
 - 100
- (d; difficult; p. 49)
54. A _____ approach to showing adverse impact means demonstrating that the employer's policy intentionally or unintentionally excluded members of a protected group.
- disparate rejection rates
 - restricted policy
 - population comparisons
 - McDonnell-Douglas test
 - prima facie
- (b; moderate; p. 49)
55. The _____ approach compares the percentage of the minority/protected group and white workers in the organization with the percentage of the corresponding groups in the labor market.
- disparate rejection rates
 - restricted policy
 - population comparisons
 - McDonnell-Douglas test
 - all of the above
- (c; moderate; p. 49)
56. Employers primarily use bona fide occupational qualification (BFOQ) as a defense against charges of discrimination based on _____.
- race
 - sexual orientation
 - age
 - gender
 - all of the above
- (c; easy; p. 51)

57. Religion may be used as a BFOQ if _____.
- a. a religious organization requires employees to share their religion
 - b. an employer does not want to honor an employee's religious holidays
 - c. hiring a person to teach in a nondenominational school
 - d. all of the above
 - e. none of the above
- (a; moderate; p. 51)
58. Which of the following characteristics could serve as a BFOQ depending on the nature of the job requirements?
- a. age
 - b. gender
 - c. national origin
 - d. religion
 - e. all of the above
- (e; easy; p. 51)
59. Pictures and Promotions Modeling Studio seeks to hire male models for an upcoming fashion show featuring men's wear. The studio is using _____ as a justification for not considering women for the jobs.
- a. BFOQ
 - b. ADEA
 - c. ADA
 - d. EEOC
 - e. none of the above
- (a; moderate; p. 51)
60. The defense of _____ requires showing that there is an overriding business purpose for the discriminatory practice and that the practice is therefore acceptable.
- a. BFOQ
 - b. business necessity
 - c. adverse impact
 - d. mixed motive
 - e. none of the above
- (b; easy; p. 51)
61. Which of the following recruitment practices could be considered discriminatory?
- a. word of mouth
 - b. misleading information
 - c. refusal to advise some of work opportunities
 - d. help wanted ads with discriminatory language
 - e. all of the above
- (e; moderate; p. 53)

62. All of the following are examples of discriminatory selection standards except _____.
- a. educational requirements
 - b. non-job-related tests
 - c. preference to relatives
 - d. height, weight, and physical characteristics
 - e. arrest records when security clearance is necessary
- (e; moderate; p. 54)
63. EEOC regulations require that all covered employers keep all personnel or employment records for _____.
- a. six months
 - b. one year
 - c. two years
 - d. three years
 - e. five years
- (b; easy; p. 53)
64. Under the Civil Rights Act of 1991, a discrimination claim must be filed within _____ after the alleged incident took place.
- a. six months
 - b. one year
 - c. two years
 - d. three years
 - e. five years
- (c; moderate; p. 55)
65. The EEOC describes a(n) _____ as an informal process in which a neutral third party assists the opposing parties to reach a voluntary, negotiated resolution of a charge of discrimination.
- a. fact-finding conference
 - b. voluntary mediation
 - c. negotiation
 - d. attempted conciliation
 - e. mandatory arbitration
- (b; easy; p. 56)

66. The EEOC describes a(n) _____ as an informal meeting held early in the investigation aimed at defining issues and determining if settlement is possible.
- a. fact-finding conference
 - b. voluntary mediation
 - c. negotiation
 - d. attempted conciliation
 - e. mandatory arbitration
- (a; easy; p. 55)
67. Firms using _____ make an extra effort to hire and promote those in protected groups.
- a. ethical hiring practices
 - b. affirmative action
 - c. diversity management
 - d. BFOQ
 - e. network groups
- (b; easy; p. 63)
68. _____ aims to ensure that anyone, regardless of race, color, disability, sex, religion, national origin, or age has an equal chance for a job based on his or her qualifications and requires employers to make an extra effort to hire and promote those in a protected group.
- a. Equal employment opportunity
 - b. Affirmative action
 - c. Diversity management
 - d. Statements of diversity
 - e. BFOQ
- (b; moderate; p. 63)
69. In *Bakke v. Regents of the University of California*, the University of California at Davis Medical School denied admission to white student, Allen Bakke, allegedly because of the school's affirmative action quota system, which required that a specific number of openings go to minority applicants. Bakke charged that _____ had occurred.
- a. sexual harassment
 - b. racial discrimination
 - c. reverse discrimination
 - d. affirmative action
 - e. quid pro quo
- (c; moderate; p. 65)

70. Organizations can measure diversity by using _____.
- a. equal employment hiring metrics
 - b. employee attitude surveys
 - c. management and employee evaluations
 - d. focus groups
 - e. all of the above
- (e; moderate; p. 64)

True/ False

71. The 13th Amendment to the U.S. Constitution states, “no person shall be deprived of life, liberty, or property, without due process of the law.” (F; easy; p. 32)
72. It was the 14th Amendment to the U.S. Constitution that established the EEOC. (F; moderate; p. 32)
73. Title VII of the 1964 Civil Rights Act bars discrimination on the part of most employers, including all public or private employers of 15 or more persons. (T; easy; p. 32)
74. The EEOC receives and investigates job discrimination complaints from aggrieved individuals. (T; easy; p. 32)
75. Only an aggrieved individual can file discrimination charges against another. (F; moderate; p. 32)
76. The Equal Pay Act of 1963 made it unlawful to discriminate against employees or applicants for employment who are between 40 and 65 years of age. (F; moderate; p. 33)
77. In O’Connor versus Consolidated Coin Caterers Corp., the Supreme Court held that an employee who is over 40 may sue for discrimination if he or she is replaced by a “significantly younger” employee, even if the replacement is also over 40. (T; moderate; p. 33)
78. If an employer offers its employees disability coverage, then it must treat pregnancy and childbirth like any other disability and include it in the plan as a covered condition. (T; moderate; p. 33)
79. Title VII forbids testing or screening of job applicants because testing could systematically discriminate against some protected classes. (F; moderate; p. 39)
80. An employer can avoid liability for discrimination by proving that it would have taken the same action even without the discriminatory motive. (F; difficult; p. 36)
81. The American with Disabilities Act of 1990 does not list specific disabilities. (T; easy; p. 36)
82. People with AIDS are protected from discrimination under the Americans with Disabilities Act. (T; moderate; p. 36)
83. Simply being disabled qualifies someone for a job under the ADA. (F; easy; p. 36)

84. Employees must show that the costs of accommodation do not outweigh the benefit to show that an accommodation for an employee's disability is a reasonable one. (T; moderate; p. 37)
85. Mental disabilities like depression account for the greatest number of claims brought under the ADA. (T; moderate; p. 38)
86. The ADA requires employers to have job descriptions in order to document the essential functions of each position. (F; moderate; p. 39)
87. To prove sexual harassment, it is necessary to show that the harassment had tangible consequences such as demotion or termination. (F; moderate; p. 43)
88. In order for discrimination to exist, an employer's intent to discriminate must be established. (F; difficult; p. 43)
89. Adverse impact refers to employment processes that result in more individuals from a protected group being rejected regardless of whether the difference is significant. (F; easy; p. 48)
90. With the exception of Title VII, congressional legislation generally applies only within U.S. territorial borders. (T; moderate; p. 48)
91. U.S. citizens working overseas for U.S. companies do not have the same equal employment opportunity protection as those working within U.S. borders. (F; easy; p. 48)
92. Under the Civil Rights Act of 1991, disparate impact claims require proof of discriminatory intent. (F; moderate; p. 48)
93. Shippers Express is accused of adverse impact on a protected group. 80% of all male applicants are hired but only 50% of female applicants are hired. Using the formula for disparate rejection rates, adverse impact cannot be shown. (F; moderate; p. 49)
94. The restricted policy approach to showing adverse impact means demonstrating that the employer's policy intentionally or unintentionally excluded members of a protected group. (T; easy; p. 49)
95. Defining the relevant labor market is a crucial step in using population comparisons to show adverse impact. (T; moderate; p. 49)
96. Employers primarily use a bona fide occupation qualification as a defense against charges of intentional discrimination based on gender. (F; moderate; p. 50)
97. The Age Discrimination in Employment Act prohibits discriminating against a person 50 or over in any area of employment because of age. (F; difficult; p. 51)
98. The EEOC uses testers – individuals who pose as applicants to test a firm's equal employment procedures. (T; moderate; p. 51)
99. EEOC investigators are empowered to act as courts and can conclude discrimination based on their investigations. (F; moderate; p. 51)
100. Managing diversity means maximizing diversity's potential advantages while minimizing the potential barriers that can undermine the functioning of a diverse workforce. (T; easy; p. 61)

Essay/ Short Answer

101. What were the three crucial guidelines affecting equal employment legislation that Chief Justice Burger identified in his written opinion on *Griggs v. Duke Power Company*? (difficult; p. 34; AACSB: reflective thinking)

Answer: Discrimination by the employer need not be overt. The employer does not have to be shown to have intentionally discriminated against the employee or applicant. It need only show that discrimination did take place. An employment practice must be job related if it has an unequal impact on members of a protected class. The burden of proof is on the employer to show that the hiring practice is job related.

102. Under the ADA, if a disabled individual cannot perform a job as currently structured, the employer must make a reasonable accommodation unless doing so would present an undue hardship. What might qualify as reasonable accommodation? (easy; p. 37)

Answer: Reasonable accommodation might include redesigning the job, modifying work schedules, modifying or acquiring equipment or other devices to assist the person.

103. What legal obligations are required for employers by the Americans with Disabilities Act? (difficult; p. 37)

Answer: An employer must not deny a job to a disabled individual if the person is qualified and able to perform the essential functions of the job. If the person is otherwise qualified but unable to perform an essential function, the employer must make a reasonable accommodation unless doing so would result in undue hardship. Employers are not required to lower existing performance standards or stop using tests for a job. Employers may not make preemployment inquiries about a person's disability, but they may ask about the person's ability to perform specific essential job functions. Employers should review job application forms, interview procedures, and job descriptions for illegal questions and statements. While employers do not have to have job descriptions, it is advisable to have them.

104. What are the three forms of sexual harassment? Name and describe each one. (moderate; p. 43)

Answer: The three main ways an employee can prove sexual harassment is quid pro quo, hostile environment created by supervisors, or hostile environment created by co-workers or nonemployees. Quid pro quo means that submission to sexual conduct is made a term or condition of employment or advancement. Even when no direct threats or promises are made in exchange for sexual advances, if an offensive work environment is created, sexual harassment has occurred. Further, advances do not have to be made by the person's supervisor in order to qualify as sexual harassment. An employee's co-worker or customers can cause the employer to be held responsible for sexual harassment. EEOC guidelines state that an employer is liable for the sexually harassing acts of its nonsupervisor employees if the employer knew or should have known of the harassing conduct.

105. How can an employer defend itself against sexual harassment liability? Name two methods. (difficult; p. 44)

Answer: An employer must show that it exercised reasonable care to prevent and correct promptly any sexually harassing behavior. Reasonable care can be shown through strong sexual harassment policies, training managers and employees regarding their responsibilities for complying with these policies, instituting reporting processes, investigating charges promptly, and taking corrective action promptly. Second, the employer can demonstrate that the plaintiff "unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer." The employee's failing to use formal organizational reporting systems satisfies the second component. Figure 2-1 on page 45 provides a list of guidelines for minimizing liability in sexual harassment claims.

106. Some say that even when employers use reasonable care by taking steps to minimize liability for sexual harassment, minimize or eliminate the occurrence of sexual harassment, and take immediate action once it knows of harassing conduct, it still may not be enough. Why might this be the case? Explain. (difficult; p. 45; AACSB: reflective thinking)

Answer: Studies show that there are significant gender differences in perceptions of sexual harassment. Women tend to perceive a broader range of sexual behaviors as harassing than men. Employees may also be reluctant to report incidents of harassment. Reporting could trigger retaliation. Many victims do not complain or sue. They quit or try to avoid the harasser instead. In many cases, the harasser doesn't even know that he or she is offending another person.

107. What steps can an employee take to address the problem of harassment? (moderate; p. 47)

Answer: Employees can take the following 5 steps. First, employees can file a verbal complaint or protest with the harasser and the harasser's boss stating that the unwanted overtures should cease because the conduct is unwelcome. Second, employees can write a letter to the accused. This letter provides a detailed statement of the facts as the writer sees them, describes his or her feelings and what damage the writer thinks has been done, and states that he or she would like to request that the future relationship be on a purely professional basis. This letter should be delivered in person with a witness. Third, if the unwelcome conduct does not cease, verbal and written reports should be filed regarding the unwelcome conduct and unsuccessful efforts to get it to stop. These reports should be filed with the harasser's manager and/or the human resource director. Fourth, if the letters and appeals do not suffice, the accuser should turn to the local office of the EEOC to file a claim. Fifth, if the harassment is of a serious nature, the employee can also consult an attorney about suing the harasser for assault and battery, intentional infliction of emotional distress, and injunctive relief and to recover compensatory and punitive damages.

108. Compare and contrast disparate treatment and disparate impact. (moderate; p. 48)

Answer: Disparate treatment means intentional discrimination. It exists where an employer treats an individual differently because that individual is a member of a particular race, religion, gender, or ethnic group. Disparate impact means that an employer engages in an employment practice or policy that has a greater impact on the members of a protected group under Title VII than on other employees, regardless of intent. Disparate treatment requires finding intent to discriminate while disparate impact claims do not require proof of discriminatory intent.

109. What conditions did the U.S. Supreme Court set for applying the McDonnell-Douglas approach to showing adverse impact? (moderate; p. 50)

Answer: The person belongs to a protected class. He or she applied and was qualified for a job for which the employer was seeking applicants. The applicant was rejected and after rejection, the position remained open and the employer continued to seek applications from persons with the complainant's qualifications. If the plaintiff meets all these conditions, then a prima facie case of disparate treatment is established.

110. What are the five sets of voluntary organizational activities that support the success of a diversity management program? (moderate; p. 61)

Answer: The activities are to provide strong leadership, assess the situation, provide diversity training and education, change culture and management systems, and evaluate the diversity management program.