Certified Temporary Staffing Specialist (CTS) Study Guide

For use by staffing industry professionals preparing for the NAPS CTS certification examination and by state certification chairpersons, trainers and others engaged in helping certification candidates study for the CTS examination.

Based on NAPS Temporary Help Service Operations: A Legal Manual by Paula N. Rubin

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National Association of Personnel Services
Certified Temporary-Staffing Specialist (CTS) Study Guide

The National Association of Personnel Services is pleased to provide this study guide in support of the Temporary Help Services Operations: A Legal Manual. Written by Paula N. Rubin, this manual contains comprehensive information about the federal laws affecting the staffing industry and the work of temporary personnel consultants in the United States---knowledge of which is essential for those engaged in this important work.

This study guide is intended to serve as a tool for the review of the training manual and allow candidates for certification to prepare for the examination. It is not meant to be a substitute for the training manual. The examination questions within this study guide were developed independent of the actual test exam questions and are to be used as study aides, not as examples of actual questions. Individuals who fail to study and master the content in the Temporary Help Services Operations: A Legal Manual will seriously jeopardize their chances of obtaining a satisfactory score on the certification examination.

This study guide is being made available to candidates for certification and to the network of state certification chairpersons and trainers who have volunteered their time and energy to assist those candidates in preparing for the examination. The 2001 edition of the study guide is being made available online and available for downloading by these audiences.

The original NAPS CTS study guide was prepared in 1995 by volunteers and friends of NAPS throughout the country. The association is indebted to these individuals and to their continuing commitment to quality and professionalism in the staffing industry.

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NAPS views this study guide as an evolving tool and encourages individuals and organizations to make any contributions that will make it a better tool for candidates for certification. Accordingly, please forward to Dr. Frank Burtnett, NAPS Certification and Education Consultant, any comments, supplemental materials or material that you feel would strengthen or
augment this document. Dr. Burtnett will work with the NAPS Certification Chair and Committee and make ongoing chances to this document.

Comments, supplemental materials, etc. should be sent to: Dr. Frank Burtnett, NAPS Certification and Education Consultant, Education Now, 6604 Grey Fox Drive, Springfield, VA 22152-2608. Telephone and fax: 703/451-5889. Email: ednow@aol.com.

NAPS wishes to thank all of the members of the professional staffing community who have made certification a hallmark of the association’s work.

**Overview and Introduction**

The National Association of Personnel Services (NAPS) is the professional association representing the staffing industry (placement and temporary staffing) in the United States and internationally. The NAPS certification program has been created to ensure the provision of quality services by staffing industry professionals to the general public and to the clients utilizing their services. More than 12,000 staffing industry professionals have been certified by the association since the credentialing program was initiated in the 1960s.

The Certified Personnel Consultant (CPC), Certified Temporary-Staffing Specialist (CTS) and Physician Recruiting Consultant (PRC) examinations are given each year in May and November to candidates seeking certification. To be eligible for CTS certification candidates must meet the following criteria:

Two years experience in temporary staff placements as of the first day of the testing month. Position experience includes: owner, partner, manager, recruiter, placement consultant within a private firm; or corporate human resources or employee relations professional. Note: Candidates must be able to submit written verification of their two years experience upon request.

Be currently employed in any of the above.

Candidates must agree to uphold the National Association of Personnel Services (NAPS) Standards of Ethical Practices and abide by the certification program rules.

Applications for certification should be directed to the NAPS office in Alexandria, Virginia. Individuals with specific questions or comments about the certification process should contact the certification program manager at 703/684-0180.

**Preparing for the CTS Examination**

Certification candidates are required to study and master the information contained in
In addition, there are a number of study strategies that have been utilized by certification candidates to prepare for the examination, including participation in formal NAPS state association sponsored study sessions and informal meetings of staffing industry professionals that are often formed in various communities. To learn of such opportunities, contact the certification program manager at the NAPS headquarters.

**Study and review strategies**

Most candidates for certification have not experienced test taking in their recent lives or careers and NAPS has identified a number of strategies that individuals should follow in order to be successful.

1. Set up a schedule well in advance of the examination date (May and November each year) to engage in the reading and study required to learn the manual contents. Make notes in or mark (highlighter or marker) your manual to emphasize what you believe to be key concepts and passages. See the seven week study schedule below as possible guide.

2. Engage in study and review sessions with other certification candidates and take turns presenting passages or chapters in the manual.

3. Answer the practice examination questions that appear later in this study guide. They have been designed to help you review the important material in the manual while allowing you to experience taking an examination---something you may not have done in a long time.

**Suggested study session schedule**

Note: The study outline and study questions that follow are broken down according to this suggested study session schedule. If sufficient time exists, it would be reasonable to consider accomplishing one session per week to complete the entire study session schedule in six weeks.

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**Personal readiness for the examination**

As you move forward to the day of the examination, consider the following.

Get a good night’s sleep.
Eat a wholesome meal.
Dress comfortably
Get to the examination site well in advance of the set time.
Avoid stressful situations (e.g., traffic, long commute to exam site, etc.)

**Examination-taking strategies**

Once situated at the examination site, candidates for certification may wish to consider the following:

1. After you have checked in and are seated at the examination site, you will have three (3) hours to complete the CTS examination. Approach the examination as a personal experience and ignore the other test-takers in the room. Their anxiety (if it exists) isn’t good for you.

2. Listen carefully to the verbal instructions offered by the proctor and read all directions very thoroughly.

3. Be particularly attentive regarding the recording of your name on the examination answer sheet and the marking of your answers. Answer sheets are machine scanned and NAPS is cannot be responsible for illegible responses.

4. Before answering an item, be sure to read all answer choices first. Answer all of the test items you know first. Go back and answer the other items later.
5. Make sure you fill in the correct letter choice alongside the appropriate number on the answer sheet. This is especially important if you leave any answers blank as you move through the test the first time.

6. Keep track of time throughout the examination.

7. Each question in the CTS examination has only one correct answer. Your examination score will be based on the number of questions you answer correctly. Thus, it is to your advantage to answer every question.

8. In the case study section of the examination, read the case or scenario thoroughly before attempting to answer the questions. Return to the case or scenario as required as you attempt to respond to the specific question.

9. There is no break period during this examination. However, you will be allowed to go to the restroom, one at a time, during examination. Before leaving the room to go to the restroom, you must surrender your examination book and answer sheet to the proctor.

10. If you finish early, use the time to return to any questions that might have troubled you in the first reading.

11. If you finish the examination in less than the allotted time and wish to leave, you may do so, but it is essential that those who leave early do so one at a time and as quietly as possible. It is important to return all examination materials.

12. If you choose to withdraw from the examination, whether due to illness or some other reason, present all of your examination materials to the proctor. You will be asked whether or not you wish to have your answer sheet scored and the reason for withdrawal. If you choose not to have your answer sheet scored, it will be voided. All materials must be returned to the proctor at this point.

13. Your examination score will be reported to you by NAPS in approximately six to eight weeks.

**Overview of Certified Temporary-Staffing Specialist (CTS) Examination**

The CTS examination consists of: legal information relevant to practice of staffing industry firms and the professional personnel consultants that function within those firms. The examination also addresses the NAPS professional and ethical standards and the certification program rules.

The examination consists of 150 multiple choice, true/false and case study questions.
The time allocated for completion of examination is two hours. The examination will be administered twice annually (May and November) by a NAPS selected proctor at one of a number of sites around the country. Candidates must have registered in advance and possess an admission ticket and two forms of legal identification in order to be admitted into exam.

Chapter 1
The Employment Relationship
Study Questions

You may wish to print out these pages or keep a running log of the answers to the study questions in a separate tablet or notebook.

1. What are three common classifications of employees?

2. What is the largest category of employees (usually average 40 hours of work per week):

3. What are employees usually hired a short period of time called?

4. Define a part-time employee:

5. True or False. Part-time and seasonal employees are not eligible to receive unemployment insurance benefits.

6. True or False. Temps registered with more than one temporary help service are considered independent contractors.

7. What is the primary test of independent contractor status?

8. List five factors to consider when determining whether an individual is an employee or an independent contractor:

9. List five reasons why temps are employees of a temp service and are not independent contractors:

10. Define joint employer.

11. State the test determining joint employer status.

12. List four factors to consider in determining joint employer status:

13. What are some way for temporary services to avoid joint employer status?
Chapter 1
The Employment Relationship
Study Questions with Answers (in italics)

1. What are three common classifications of employers?

   Three common classifications of employees are:
   a. The regular or full-time employee
   b. The seasonal employee
   c. Part-time employees

2. What is the largest category of employees (usually average 35-40 hours of work per week)?

   Regular or full-time employees

3. What are employees usually hired for a short period of time called?

   Seasonal employees

4. Define a part-time employee.

   Common in the temporary help service industry, employee usually works less than 40 hours per week.

5. True or False - Part-time and seasonal employees are not eligible to receive unemployment insurance benefits.

   False. Mere part-time status or status as a temporary or seasonal employee may not automatically disqualify an individual from receiving unemployment benefits. Generally, work-related misconduct and not the duration of employment are a primary factor in determining one’s right to collect unemployment.

6. True or False - Temps registered with more than one temporary help service are considered independent contractors.

   False. Temps are employees of the temp service for which they perform assignments.

7. What is the primary test of independent contractor status?

   The test of employment is the amount of supervision and control retained by the entity for which the services are performed. The more direction and control retained, the more likely the individual will be classified as an employee. How the parties choose to characterize their relationship is irrelevant. The law presumes an employment relationship and the employer has the burden of proving otherwise.

8. List five factors to consider when determining whether an individual is an employee or an independent contractor:

   Factors to consider in determining status as an employer or independent contractor:
   Is the relationship on-going:
What are the hours the individual works and who sets them?
Where are the services performed and who decides where they are to be performed?
Are the services performed an integral part of the services performed by the employer?
Does the individual have the opportunity for profit or bear the risk of loss?
Who pays for overhead, supplies or tools used to perform the services?
Does the individual have his or her own office?
Does he or she do her own advertising?
Under whose name are the services performed?

9. List five reasons why temps are employees of a temp service and are not independent contractors:
Temps are typically employees and not independent contracts because.
The temp usually retains an on-going relationship with the temp service, not the client company.
The temp service sets the hours that the temp will work for a client within the parameter of hours the temp is available. It is the temp service that controls, through its placement activities, the number of hours each temp works.
The temporary service decides where the temp will perform the service when it sends the temp on an assignment. The temp services select the temp to be provided to the client.
The temp, unless an owner of the service, does not share in the profits or losses of the company. Instead, the temp’s income depends on the hours worked.
Temps do not pay the overhead of the temp service.
The temp service is responsible for the temp’s withholding taxes.
Temps who do not customarily pay for advertising or maintain their own offices.
The temp typically performs the services under the name of the temp service and uses time sheets provided by the temp service.

10. Define joint employer.
A joint employer situation may exist if two independent entities handle employment aspects of their relationship together.

11. State the test determining joint employer status:
The test for whether joint employer status exists is whether the entity contracted for the employment services retained sufficient control over the essential terms and conditions of the employment to be considered an employer of the worker in question jointly with the entity providing the service.

12. List four factors to consider in determining joint employer status:
Four factors to consider in determining joint employer status include:
Hiring and firing
Discipline
Salary, insurance, and records
Supervision.
13. What are some ways for temp services to avoid joint employer status?

To avoid joint employer status, a temp service should:
- Avoid sharing responsibilities with their clients
- Train temps to remain professional but separate from the client by such things as refusing to accept keys to the office or attending client’s parties
- Monitor the activities of the temps on assignment

Chapter 1
The Employment Relationship

Practice Examination Questions (Correct answers follow in next section)

You may wish to print out these pages or keep a running log of the answers to the study questions in a separate tablet or notebook.

1. Which of the following are common classifications of employees?
   a. Regular or full-time employee
   b. Seasonal employee
   c. Full-time vs. part-time employees
   d. All of the above

2. Using a temporary service is the same as:
   a. Leasing employees
   b. Payrolling employees
   c. Reassigning employees
   d. None of the above.

3. The test for determining whether someone is an independent contractor or employee is the amount of direction/control the individual retains.
   a. True
   b. False

4. Employee status is determined by:
   a. The hours the individual works and who sets them
   b. Where the services are performed and who designates where those services are to be performed
   c. The compensation arrangement, including who pays the overhead
   d. All of the above.

5. The ultimate authority, direction and control over the temp with respect their assignment and the number of hours they work lies with the:
a. Client companies  
b. Temporary service.  
c. Temporary  
d. Local union  

6. Temporary workers are employees of the temporary service because:  
a. The temp retains an on-going relationship with the temp help service  
b. The temp help service decides where the temp will perform the services when it sends the temp on an assignment.  
c. The temp has an opportunity for profit and bears a risk of loss  
d. All but one of the above  
e. All of the above.  

7. The typical compensation agreement between a temp and the temporary service is an hourly wage.  
a. True  
b. False.  

8. A joint employer status exists when:  
a. Two independent entities handle employment aspects of their relationship together  
b. The entity which contracted for the employment services retained sufficient control over the essential terms and conditions of employment to be considered an employer of the worker in question jointly with the entity provides the services  
c. Both of the above  
d. Neither of the above  
e. One of the above.  

9. The client company has the authority for hiring and firing.  
a. True  
b. False  

10. Control over which terms and conditions are essential to deal with relationships between the temp service and client company:  
a. Hiring/firing  
b. Discipline  
c. Salary, insurance and records  
d. Supervision  
e. All of the above.  

11. The area in which the most difficulty arises in determining direction and control comes under the issue of:  
a. Supervision  
b. Salary, insurance and records
c. Discipline
d. Hiring/firing

12. To avoid problems with joint employer issues, temp services should:
a. Avoid sharing responsibility with their clients
b. Train their temps to remain professional but separate from the client
c. Counsel temps on issues, activities and proper conduct concerning long term assignments
d. All of the above
e. None of the above.

13. Which of the following factors are not considered by the IRS in determining status as an employee?
a. The amount of training of the individual related to that particular job
b. The number of jobs previously held by the individual
c. Whether the individual is reimbursed for expenses
d. Whether the individual works at more than one firm at a time
e. Establishment of set amount of work hours.

14. Any analysis of the employer-employee relationship begins with:
a. A complete job description
b. An overview of the employment relationship
c. A discussion regarding compensation
d. An interview with the supervisor
e. None of the above.

15. Sometimes employers refer to regular or full-time employees as:
a. Their flexible work force
b. Being on the payroll
c. Permanent employees
d. Employees in transition
e. All of the above.

16. Seasonal employees are:
a. Hired for a short period of time
b. Only utilized during the Christmas season
c. Available to work in moderate climates only
d. Utilized for summer work only
e. None of the above.

17. Mere status as a part-time employee will not automatically disqualify an individual:
a. From being considered a company employee
b. If they own a percentage of the business
c. From participating in the employer’s benefit program
d. From entitlement to unemployment benefits
e. None of the above.

18. One of the ways that a temp service differs from other personnel services is that the temps are:
a. Not full-time employees
b. Classified as employees
c. Ineligible for benefits
d. Unavailable for permanent employment
e. All of the above.

19. Temporary services and employee leasing or payrolling companies are:
a. Synonymous terms used to describe the same thing
b. Never owned by the same company
c. Distinctively different
d. Cannot employ the same temporaries

20. A common fallacy about the industry is that temps are somehow:
a. Independent contractors
b. Better than permanent employees
c. Both A & B
d. Neither A or B

21. An independent contractor is, as a practical matter:
a. Is better educated than a temp
b. Self employed
c. Always employed by a temporary service
d. A part-time employee.

22. It is the temporary service that:
a. Matches the temp with the position
b. Sets the hours the temp will be employed
c. Controls the number of hour’s each particular temp works
d. All of the above.

23. The client company decides where the temp will perform the services.
a. True
b. False

24. Unless the temporary employee is also the owner of the company, he, or she:
a. Has no opportunity for profit
b. Bears no risks of loss
c. Cannot accept a permanent position with a client
25. The temp service covers:
   a. All traditional overhead expenses
   b. Employment taxes
   c. Office equipment used to conduct the temp operations
   d. All of the above.

26. The typical compensation agreement between a temp and a temp service is a:
   a. Weekly wage
   b. Annual wage
   c. Hourly wage
   d. None of the above

27. An employee performs services under his or her:
   a. Employer’s name
   b. Own name
   c. Supervisor’s name
   d. Assumed name

28. The time sheet will indicate the name of the entity with whom the client is doing business.
   a. True
   b. False

29. An independent contractor performs services under his or her:
   a. Employer’s name
   b. Own name
   c. Supervisor’s name
   d. All of the above

30. Who has the ultimate authority, direction, and control over the temporary:
   a. The temporary services client
   b. The temporary service
   c. The temporary
   d. None of the above.

31. If there are not clear distinctions between the temp and the temp service and the temp and the client company.
   a. The temps will not receive their paychecks
   b. The temp service will not be paid on their invoices
   c. The owner of the temp service is violating IRS rules
   d. The temp service and the client may both be viewed as joint employers.
32. All compensation issues are determined by the:
   a. Client company
   b. Temporary
   c. Temporary service
   d. All of the above.

Chapter One
The Employment Relationship
Practice Examination Answers

1. d
2. d
3. a
4. d
5. b
6. d
7. a
8. c
9. b
10. e
11. a
12. d
13. b
14. b
15. c
16. a
17. d
18. b
19. c
20. a
21. b
22. d
23. b
24. d
25. d
26. c
27. a
28. a
29. b
30. b
31. d
32. c
Chapter 2
The Laws Against Discrimination
Study Questions

You may wish to print out these pages or keep a running log of the answers to the study questions in a separate tablet or notebook.

1. Match the title in section A to the description of the law in section B:

Section A

1. The Civil Rights Act of 1964 – Title VII
2. The Age Discrimination in Employment Act of 1967
3. The Equal Pay Act of 1963
4. The Pregnancy Discrimination Act
5. The Civil Rights Act of 1991
6. The Americans with Disabilities Act of 1990
7. Rehabilitation Act of 1973
8. Vietnam Era Veterans Readjustment Act
9. The Family and Medical Leave Act of 1993

Section B

a) Prohibits discrimination between employees on the basis of sex by paying a rate less than the rate paid to employees of the opposite sex.

b) Applies to contractors who enter into contracts with the United States calling for payments in excess of $10,000.

c) Makes it illegal for an employer to discriminate in connection with employment of any individual on the basis of that individual’s race, color, religion, sex, or national origin.

d) Makes it illegal to discriminate against anyone over the age of 40.

e) Requires an employer to treat pregnancy in the same manner as it treats any other temporary disability.

f) Reverses several recent Supreme Court decisions and primarily affects technical court rules affecting employment discrimination litigation.
g) Prohibits discrimination on the basis of disability by programs receiving federal funds or by federal agencies.

h) Requires employers with 50 or more employees to provide employees with up to 12 weeks of unpaid leave for family and medical reasons.

i) Makes it illegal to discriminate against qualified individuals with disabilities in connection with employment opportunities, the programs, services, and activities provided government entities, and access to public accommodations.

2. Name three forms of sex discrimination:

3. True or False. Sex discrimination includes discrimination based on sexual orientation or preference, under Federal law.

4. What is a BFOQ? Name a BFOQ based on sex. Name a BFOQ based on race.

5. Name four things employers should do to eliminate discrimination based on sex:

6. True or False. Employers may bar women from jobs that might be hazardous to unborn babies to avoid tort liability.

7. List four exceptions to the equal pay rule:

8. True or False. Employers must treat pregnancy as they would any other temporary disability.

9. What are two types of sexual harassment?

10. What is the hallmark of sexual harassment?

11. What should an employer include in its sexual harassment policy?

12. What may constitute religious beliefs or practices?

13. True or False. Employers must always reasonably accommodate an employee’s religious beliefs or practices.

14. True or False. It is illegal to discriminate on the basis of place of origin or an ancestor’s place of origin.

15. True or False. The Immigration Reform and Control Act makes it illegal to give preferences to applicants who are United States citizens.
16. How does the Americans with Disabilities Act define “disability”?

17. True or False. It is illegal to discriminate against persons with disabilities.

18. When will an employer be excused from providing persons with a disability with a reasonable accommodation?

19. True or False. It is illegal to discriminate against individuals between the ages of 40 and 65 only.

20. What are some examples of language to avoid under the Age Discrimination in Employment Act when placing advertising?

Chapter Two
The Laws Against Discrimination
Study Questions with Answers (in italics)

1. Match the title in section A to the description of the law in section B:

   C  1. The Civil Rights Act of 1964 – Title VII
   D  2. The Age Discrimination in Employment Act of 1967
   A  3. The Equal Pay Act of 1963
   E  4. The Pregnancy Discrimination Act
   F  5. The Civil Rights Act of 1991
   I  6. The Americans with Disabilities Act of 1990
   G  7. Rehabilitation Act of 1973
   B  8. Vietnam Era Veterans Readjustment Act
   H  9. The Family and Medical Leave Act of 1993

   a) Prohibits discrimination between employees on the basis of sex by paying a rate less than the rate paid to employees of the opposite sex.

   b) Applies to contractors who enter into contracts with the United States calling for payments in excess of $10,000.

   c) Makes it illegal for an employer to discriminate in connection with employment of any individual on the basis of that individual’s race, color, religion, sex, or natural origin.

   d) Makes it illegal to discriminate against anyone over the age of 40.

   e) Requires an employer to treat pregnancy in the same manner as it treats any other temporary disability.
f) Reverses several recent Supreme Court decisions and primarily affects technical court rules affecting employment discrimination litigation.

g) Prohibits discrimination on the basis of disability by programs receiving federal funds or by federal agencies.

h) Requires employers with 50 or more employees to provide employees with up to 12 weeks of unpaid leave for family and medical reasons.

i) Makes it illegal to discriminate against qualified individuals with disabilities in connection with employment opportunities, the programs, services, and activities provided government entities, and access to public accommodations.

2. Name three forms of sex discrimination:

   Discrimination based on sex can occur in:
   a) The screening and hiring process;
   b) Promotion and raises, and
   c) Work environments containing sexual harassment.

3. True or False. Sex discrimination includes discrimination based on sexual orientation or preference, under Federal law.

   False. Sex discrimination relates to issues based on gender, not sexual orientation. While Federal law does not prohibit discrimination on the basis of sexual preference, employers should check state and local laws.

4. What is a BFOQ? Name a BFOQ based on sex. Name a BFOQ based on race.

   Bona fide occupational qualifications (BFOQ) are valid, job-related requirements reasonably necessary to the normal operation of a particular business. Job requirements, which tend to eliminate members of a protected class, may still be permissible if the requirements are BFOQs. A BFOQ for sex might include models or restroom attendants. There is never a BFOQ based on race.

5. Name four things employers should do to eliminate discrimination based on sex:

   Eliminate separate tracks for promotion and advancement.
   Eliminate separate advertising based on gender absent a BFOQ.
   Eliminate salary and advancement criteria based on “head of household”.
   Eliminate stereotypical limitations on job requirements such as ability to lift a minimum amount of weight absent a BFOQ.
   Eliminate policies designed to be paternalistic or protective of women.

6. True or False. Employers may bar women from jobs that might be hazardous to unborn babies to avoid tort liability.
False. In the case of United Auto Workers v. Johnson Controls, Inc., the United States Supreme Court unanimously held that employers may not bar women from jobs that might be hazardous to their unborn children as a violation of the Civil Rights Act of 1964. The Court found that, in this case the employer failed to establish a BFOQ.

7. List four exceptions to the equal pay rule:
Pay differentials based on seniority.
Pay differentials based on quality of production.
Pay differentials based on quantity of production.
Pay differentials based on merit.
Pay differentials based on factors other than sex.

8. True or False. Employers must treat pregnancy as they would any other temporary disability. True. In addition, absent a BFOQ, employers may not refuse to hire an applicant solely because she is pregnant. This prohibition applies whether the woman is married or single. On the other hand, it is not unlawful to require employees to be able to complete reasonable training periods at the beginning of the employment relationship. Therefore, it may be permissible for employers to refuse to hire applicants who cannot complete the initial training period including those applicants are pregnant.

Remember:
Employees, on maternity leave are entitled to accrue seniority or vacation benefits in the same manner as any other temporarily disabled employee. If non-pregnant temporarily disabled employees do not have to use up their vacation benefits prior to using their sick leave, than neither do pregnant employees.

9. What are two types of sexual harassment?
Quid pro quo harassment – the request or demand to submit to sexual advances in return for job benefits, or the threat or loss of employment or other job benefits. This form of harassment forces the employee to choose between the job and the demands.
Hostile work environment – conduct which has the purpose or effect of unreasonably interfering with a person’s work performance or creating an intimidating, hostile, or offensive working environment. This form of harassment consists of repeated incidents or a series of incidents.

10. What is the hallmark of sexual harassment?
The sexual advances are unwelcome.

11. What should an employer include in its sexual harassment policy?
State the company’s policy against sexual harassment.
Define sexual harassment.
Advise employees of the company’s grievance procedure and how employees should file a complaint for sexual harassment. (Note: to the extent possible this procedure should
permit and employee wishing to file a complaint to avoid his or her immediate supervisor).
Assure employees that every complaint will be taken seriously and investigated immediately.
State the penalties for sexually harassing others.
State that anyone accused of sexually harassing someone will be given notice of the complaint and an opportunity to respond.

Remember also, in addition to sexual harassment, discrimination can include racial or ethnic as well as sexual slurs. Employers must do everything possible to ensure that such behavior does not occur and should take steps to inform employees that such conduct will not be tolerated.

12. What may constitute religious beliefs or practices?
“Religion can include traditional moral beliefs, ethical beliefs, and beliefs that individuals hold with the strength of traditional religious views. It can also include nontraditional practices such as new age practices and yoga”.

13. True or False. Employers must always reasonably accommodate an employee’s religious beliefs or practices.
False. Accommodation is only required where doing so does not cause an undue hardship, i.e. is reasonable.

14. True or False. It is illegal to discriminate on the basis of place of origin or an ancestor’s place of origin.
True. The Civil Rights Act of 1964 makes it illegal for employers with 15 or more employees to discriminate on the basis of national origin. Although some state laws have a lower threshold of employees.

15. True or False. The Immigration Reform and Control Act makes it illegal to give preferences to applicants who are United States citizens.
False. The Immigration Reform and Control Act does not make it illegal to give preferences to applicant’s who are United States citizens over equally qualified aliens who are authorized to work in this country. However, such preferences may violate Title VII of the Civil Rights Act of 1964 if applicants of a particular national origin are eliminated disproportionately.

16. How do the Americans with Disabilities Act define “disability”?
Under the ADA, a person is deemed to have a disability if he or she has a physical or mental impairment, which substantially impairs a major life activity; has a record of such impairment; or is perceived or regarded as having the impairment.

17. True or False. It is illegal to discriminate against persons with disabilities.
False. It is only illegal to discriminate against persons with disabilities who are “otherwise qualified” for the position. To be otherwise qualified for the job, the individual must be able to perform the essential functions of the job with or without an accommodation. Essential functions are those that are fundamental and not marginal to the job.

18. When will an employer be excused from providing persons with a disability with a reasonable accommodation?
Employers will not be required to provide a reasonable accommodation where doing so causes an undue hardship or poses a direct threat. Undue hardship means significant expense or difficulty. Not just money is involved, it also means disruption or fundamental alteration of the nature or operation of the agency. Direct threat means a significant risk to the health and safety of others that cannot be eliminated by reasonable accommodation.

19. True of False. It is illegal to discriminate against individuals between the ages of 40 and 65 only.
False. The Age Discrimination in Employment Act makes it illegal to discriminate against anyone 40 years or older. Therefore, it would also be illegal to discriminate against individuals over the age of 65.

20. What are some examples of language to avoid under the Age Discrimination in Employment Act when placing advertising.
Advertising which tends to discourage persons over the age of 40 from applying should be avoided. For example, absent a BFOQ avoid terms like “recent grad”, or “young”. On the other hand, terms like “trainee” or “apprentice” would be permissible because they describe the position, not the person.

Chapter 2
The Laws Against Discrimination
Practice Examination Questions (Correct answers follow in next section)

You may wish to print out these pages or keep a running log of the answers to the study questions in a separate tablet or notebook.

1. The Supreme Court has made clear that the hallmark of sexual harassment is that the conduct is:
   a. Physical
   b. Unwelcome
   c. Verbal
   d. Both physical and verbal
2. Reasonable accommodation for religious practices may include:
   a. Flexible scheduling
   b. Reassignment
   c. Lateral transfer
   d. All of the above

3. In order to qualify for a BFOQ based on religion, the institution or organization must:
   a. Be in significant part owned by a specific religion or religious organization/
   b. Have a majority of its employees members of one religious group.
   c. Make a formal application with the EEOC
   d. Inform all applicants of their intent to discriminate

4. To be qualified under the ADA, the job applicant or employee must be able to perform:
   a. All the functions of the job
   b. The essential functions of the job
   c. Any one function of the job
   d. They do not have to perform, they are protected

5. What areas do owners and operators of temp services need to evaluate to ensure compliance with Title III of the ADA:
   a. Policies and procedures
   b. Architectural and structural barriers
   c. Communications
   d. All of the above

6. The is never a BFOQ for:
   a. Sex
   b. Race
   c. National origin
   d. Religion

7. If an individual believes discrimination has occurred, a complaint may be filed with:
   a. FLSB
   b. EEOC
   c. ADA
   d. Department of Labor

8. The Civil Rights Act of 1991:
   a. Reverses several recent Supreme Court decisions and primarily affects technical court rules affecting employment discrimination litigation
   b. Requires an employee to treat pregnancy in the same manner as it treats any other disability
c. Makes it illegal to discriminate against anyone over the age of 40
d. Requires employers with 50 or more employees to provide employees up to 12 weeks of unpaid leave for family and medical reasons

9. Federal laws relating to equal employment opportunity give protected classes equal access to benefits of employment including:
a. Promotion and benefits
b. Hours
c. Location
d. Paid vacation

10. When state and federal laws are different you should follow:
a. State
b. Federal
c. Whichever is stricter
d. Whichever best fits the situation

11. The Civil Rights Act of 1964 applies to:
a. Companies of 15 or more employees
b. All companies and organizations
c. Employers engaging in industry affecting commerce
d. Both A & C

12. The Family and Medical Leave Act of 1993 provides eligible employees with job protected leave for:
a. Unlimited time if needed
b. Up to six weeks
c. Up to twelve weeks
d. No more than six months

13. What percentage of temporary workers are women:
   a. 85%
   b. 62%
   c. 50%
   d. 78%

14. Examples of a BFOQ based on sex include:
a. Actors, models and restroom attendants
b. Secretaries and receptionists
c. Forklift operator
d. All of the above

15. Exceptions to the Equal Pay Act of 1963 include:
a. Seniority
b. Merit
c. Quantity of production
d. All of the above

16. To avoid liability for a claim of sexual harassment, the employer must establish:
   a. That is did not know about the conduct
   b. That the offender was terminated
   c. That it took immediate steps to remedy the offensive conduct
   d. Employers are never liable

17. It is illegal to discriminate against individuals:
   a. Between 40 and 70 years of age
   b. Over 40 years of age
   c. Over 65 years of age
   d. Between 40 and 65 years of age

18. In advertising, acceptable terminology includes:
   a. Trainee
   b. Young
   c. Recent graduate
   d. Attractive

19. If EEOC is handling a complaint of discrimination, the first:
   a. Set a hearing date
   b. Investigate the charge
   c. Send a copy of the charge to the party accused of violating the law
   d. Search for documents relating to the incident

20. The Rehabilitation Act of 1973 prohibits discrimination by:
   a. Companies involved in commerce
   b. Temporary help services
   c. Companies with 50 or more employees
   d. Programs receiving federal funds or federal agencies

21. The Pregnancy Discrimination Act outlaws discrimination on the basis of:
   a. Pregnancy
   b. Childbirth
   c. Medical conditions caused by childbirth
   d. All of the above

22. The Vietnam Era Veterans Readjustment Assistance Act applies to:
   a. All companies
b. All federal agencies and contractors  
c. Federal contractors with contracts of $10,000 or more  
d. Federal contractors with contracts of $50,000 or more  

23. The Americans with Disabilities Act of 1990:  
a. Makes it illegal to discriminate against qualified individuals with disabilities  
b. Provides persons with disabilities equal access to employment opportunities  
c. Provides equal access to public accommodations  
d. All of the above  

24. In the case of United Auto Workers versus Johnson Controls, Inc., the United States Supreme unanimously held that employers may not:  
a. Discriminate against people over 40  
b. Bar women from jobs that might be hazardous to unborn children  
c. Discriminate against qualified workers with disabilities  
d. Comply with state laws that may be more strict  

25. If the client of a temporary help service refuses to provide reasonable accommodations for disabled temporaries, ADA:  
a. Permits this under any circumstance  
b. Makes it illegal to contract with the client  
c. Permits this if the temporary gives his/her permission  
d. None of the above  

26. Under ADA, in order to provide reasonable accommodations, temporary services may:  
a. Charge temporaries for special services  
b. Not charge temporaries for special services  
c. Charge temporaries if the accommodations cost more than ten percent of the temporary’s salary  
d. None of the above  

27. With regard to the Age Discrimination in Employment Act, temporary help agencies:  
a. Are exempt of all provisions  
b. Are affected only if they are a federal contractor  
c. Need only be concerned if they have twenty of more employees at one client  
d. None of the above  

28. Under ADA, covered employees, include:  
a. Those with 15 or more employees  
b. Those with 25 or more employees  
c. Those with 50 or more employees  
d. None of the above
29. The EEOC defines religious practices as:
   a. Traditional moral beliefs
   b. Moral and ethical beliefs
   c. Beliefs that individuals hold as “strength or traditional religious views.”
   d. All of the above

30. Protection from discrimination on the basis of religion may include practices that are part of
    the religion such as.
   a. Clothing
   b. Grooming
   c. Both A & B
   d. None of the above

31. Sexual harassment occurs when:
   a. A sexual act is the condition precedent before an individual is hired, promoted or the
      recipient of other job benefits
   b. A male manager asks a female employee for a date
   c. A female manager asks a male employee for a date
   d. None of the above

32. EEOC Guidelines state that hostile work environment harassment occurs when:
   a. There is a chance that management will insist that employees work overtime
   b. There are more men than women in a particular job
   c. Conduct has the purpose or effect of unreasonably interfering with an individual’s work
      performance
   d. None of the above

33. EEOC Guidelines on pregnancy provide for:
   a. Employees on maternity leave are entitled to accrue seniority in the same manner as other
      temporarily disabled employees
   b. If non-pregnant temporarily disabled employees don not have to use up their vacation
      benefits prior to using their sick leave, neither do pregnant employees
   c. Both of the above
   d. None of the above

34. The Family and Medical Leave Act will look at the totality of the circumstances relating to
    joint employment such as:
   a. The power to determine the pay rates or the methods of payment of the workers
   b. The right, directly or indirectly, to hire, fire or modify the employment
   c. Preparation of the payroll and payment of wages
   d. All of the above

35. Federal law:
a. Prevents employers from asking an applicant’s age on an application
b. Allows employers to ask an applicant’s age on an application as long as the applicant consents
c. Does not prevent employers from asking an applicant’s age on an application
d. None of the above

36. Upon investigating a claim, the EEOC may:
a. Request copies of employment documents
b. Request written answers to written questions
c. Visit the employment site in question
d. All of the above

37. If the EEOC finds reasonable cause, the proceedings enter the conciliation phase. During this process the EEOC:
a. Will demand money from the accused
b. Endeavor to resolve the matter
c. Send the issue to the courts
d. None of the above

Chapter 2
The Laws Against Discrimination
Practice Examination Answers

1. b
2. d
3. a
4. b
5. d
6. b
7. b
8. a
9. a
10. c
11. d
12. c
13. b
14. a
15. d
16. c
17. b
18. a
19. c
Chapter 3
Screening and Selecting the Temp
Study Questions

You may wish to print out these pages or keep a running list of the answers to the study questions in a separate tablet or notebook.

1. Which of the following questions should or should not be asked on applications and during interviews.

a) Do you have children?
b) How did you learn to speak a foreign language?c) How do you intend to get to work?
d) Did you ever have any other name other than the one you are using now?e) What religious holidays do you observe?f) What is your weight and height?g) What is your date of birth?h) Have you ever been arrested?i) Are you a citizen of the United States?j) Can you lift “x” number of pounds?

2. True or False. The Age Discrimination in Employment Act (ADEA) impacts how owners of temp services may advertise for temps.
3. When may language in ads include such phrases as “recent grads”?

4. List some words to avoid under the ADEA when placing advertising for a specific position or positions:

5. True or False. An ad describing the temp service or client as a “young office” would violate the ADEA.

6. True or False. It is a good idea to standardize the application and interview process by asking all applicants in a particular category or class the same question.

7. True or False. Tests include pencil tests, performance tests, training programs, probationary periods, agility evaluations, psychological evaluations or profiles, applications, or interviews.

8. Discuss Griggs v. Duke Power Co.:

9. How is adverse impact determined?

10. True or False. The Americans with Disabilities Act (ADA) makes it illegal to conduct medical exams or make disability-related inquiries prior to extending a conditional offer of employment.

11. Which of the following would constitute a medical exam, thus requiring the temp service to make a conditional offer of employment prior to administering?

   a) Polygraph exam
   b) Psychological test
   c) Application
   d) Interview
   e) Background check
   f) Drug test
   g) Agility test

12. Who must comply with the Drug Free Workplace Act, and how should they comply?

Chapter 3
Screening and Selecting the Temp
Study Questions with Answers (in italics)

1. Which of the following questions should or should not be asked on applications and during interviews:
a. Do you have children?
Avoid this question. Asking an applicant, whether male or female, about children should be avoided because such questions have historically been used to discriminate against women.

b. How did you learn to speak a foreign language?
Avoid this question. Employers may ask whether an individual can speak a foreign language when relevant to the job, but asking how the applicant learned to speak that language tends to require the individual to reveal his/her national origin.

c. How do you intend to get to work?
This question is okay. Employers are entitled to satisfy themselves than an applicant will be able to get to work on time. However, employers should not ask whether or not the applicant owns a car since this tends to adversely impact on minority candidates.

d. Did you ever have any other name other than the one you are using now?
Avoid this question. This can related to marital status and thus impact on women.

e. What religious holidays do you observe?
Avoid this question. Religion is a protected classification.

f. What is your weight and height?
Avoid this question. Questions regarding height tend to impact on women and certain ethnic groups. Questions regarding weight could impact on individuals with disabilities who may be obese or have an eating disorder.

g. What is your date of birth?
Avoid this question. Age is a protected classification. Employers can, however, require applicants to be a minimum age unless prohibited by law.

h. Have you ever been arrested?
Avoid this question. Employers should only ask about convictions and even then there should be a job-related BFOQ for asking.

i. Are you a citizen of the United States?
Avoid this question. Other than a BFOQ such as a national security position, the citizenship status and methods of obtaining citizenship status and methods of obtaining citizenship impact on national origin.

j. Can you lift “x” number of pounds?
Avoid this question. Except when a BFOQ exists for such as a job that actually requires heavy lifting, this question may eliminate women from consideration unnecessarily.
2. True or False. The Age Discrimination in Employment Act (ADEA) impacts how owners of temp services may advertise for temps. 

*True. The ADEA makes it illegal to discriminate in employment against persons 40 years of age or older. Advertising which uses language which would tend to discriminate against persons 40 or older may violate ADEA.*

3. When may language in ads include such phrases as “recent grads”? 

*Certain global ads or institutional advertising may include words such as “recent grads” when used to appeal to class applicants. If the purpose of such ads is to let groups know about the temp service opportunities, in general, and not simply a specific job, then the requirement of the ADEA may not be offended.*

4. List some words to avoid under the ADEA when placing advertising for a specific position or positions: 

Words like “young,” “boy,” “girl,” or “recent grads” should be avoided.

5. True or False. An ad describing the temp service or client as a “young office” would violate the ADEA. 

*False. Since such language describes the employer, not the applicant, no violation exists. Likewise, words used to describe the position, not the applicant, such as “junior” executive or management “trainee” may be permissible under the ADEA.*

6. True or False. It is a good idea to standardize the application and interview process by asking all applicants in a particular category or class the same question. 

*True. To the extent possible, standardizing the application and interview process may help to diminish the chance of discrimination whether intentional or unintentional. Likewise, questions asked should relate to the job functions and the applicant’s ability to perform them.*

7. True or False. Tests include pencil tests, performance tests, training programs, probationary periods, agility evaluations, psychological evaluations or profiles, applications, or interviews. 

*True. It can also include medical exams or disability-related inquiries.*

8. Discuss Griggs v. Duke Power Co.: 

*Griggs v Duke Power Co. stands for the proposition that tests should no be used as a means for excluding members of protected classes. Since a hallmark of Title VII of the Civil Rights Act of 1964 is the elimination of barriers to equal employment opportunity, tests or other screening devices should not favor non-protected persons over women and minorities.*

9. How is adverse impact determined?
Adverse impact is determined by the 4/5 rule. That is, that the selection rate for any race, sex or ethnic group should not be less than 4/5 (i.e. 80%) of the selection rate for the highest group. If a selection procedure or test adversely impacts on the basis of sex, race, or ethnicity, it may need to be validated.

10. True or False. The Americans with Disabilities Act (ADA) makes it illegal to conduct medical exams or make disability-related inquiries prior to extending a conditional offer of employment.
   True.

11. Which of the following would constitute a medical exam, thus requiring the temp service to make a conditional offer of employment prior to administering?

   a. Polygraph exam
   While polygraph exams are not, per se, medical in nature, often-preliminary questions asked in order to validate the exam such as, “Are you currently taking any medication”? are medical in nature. Such questions may not be asked prior to making a conditional offer of employment.

   b. Psychological test
   The EEOC has not taken a position on psychological exams. However, to the extent they seek medical information (i.e., questions about dizzy spells, chest pains, or fainting spells, or information about a mental impairment) such exams may not be administered before extending a conditional offer.

   c. Application
   Applications, which ask questions about medical history, workers compensation history, on-the-job injuries or attendance due to illness records, may constitute a medical exam or disability-related inquiry. Questions like these should be removed from applications.

   d. Interview
   Interviews prior to making a conditional offer of employment should re-word those questions, which directly or indirectly solicit medical information (see example provided under applications, above).

   e. Background check
   Background checks are permitted at anytime in the selection process, provided that no medical information is obtained or disability-related inquiries are made.

   f. Drug test
   Drug tests are not considered medical exams for purposes of the ADA and may be given at any time in the application process.
An agility test may be administered where job-related at any time in the selection process and is not considered a medical exam under the ADA.

12. Who must comply with the Drug Free Workplace Act, and how should they comply?

Federal contractors with contracts of $25,000 or more are required to comply with the Drug Free Workplace Act. Compliance requires, among other things:
- Written notice to employees that law prohibits the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances in the workplace is prohibited.
- Creating a drug-free awareness program, which teaches employees of the dangers of drug abuse; informs them of the drug-free workplace policy; advises employees about drug-related employee assistance programs, and warns employees of the penalties for infractions of the policy.
- Providing a written copy of the policy to all employees directly involved in the federal contract.
- Addressing violations of the policy through penalties or rehabilitation.

Chapter 3
Screening and Selecting the Temp
Practice Examination Questions (Correct answers follow in next section)

You may wish to print out these pages or keep a running log of the answers to the study questions in a separate tablet or notebook.

1. How many employees must an employer have to be under the provisions of the ADEA:
   a. 20
   b. 15
   c. 10
   d. Any number

2. The ADEA makes it illegal for employers to discriminate against individuals:
   a. 40 years of age or older on the basis of the person’s age
   b. 60 years of age or older on the basis of the person’s age
   c. Depends on the particular job
   d. It is never okay to discriminate on the basis of age

3. When using adjectives in an ad to describe the person sought, avoid words which tend to:
   a. Discourage older applicants from applying
   b. Discourage younger applicants from applying.
   c. Both of the above
   d. Neither of the above.
4. The selection process includes the following:
   a. Advertising
   b. Applicants and interviews
   c. Tests
   d. All of the above

5. The law does allow for discrimination of some protected classifications if there is:
   a. A temporary agency involved
   b. Valid reason for discrimination
   c. A BFOQ
   d. None of the above

6. Under federal law, you can legally ask an applicant:
   a. His/her date of birth
   b. Marital status
   c. National origin
   d. None of the above

7. Questions about sex, height and weight are permitted:
   a. Never
   b. If worded properly
   c. If there is a bona fide occupational qualification
   d. If the information is not used to screen out applicants of protected classes

8. You may ask questions about an applicant’s arrest and conviction record:
   a. When there is a legitimate business necessity
   b. When the questions are related to the job being sought
   c. Both of the above
   d. Neither of the above

9. Any medical exams or inquiries may be made:
   a. After the person starts his/her employment
   b. After the first interview has taken place
   c. After a conditional offer if employment is made
   d. None of the above

10. The ADEA requires an employer to keep applications for:
    a. One year from date accepted
    b. Six months from date accepted
    c. Three years from date accepted
    d. Three months from date accepted

11. The assessment techniques ranging from traditional paper and pencil tests, medical
exams or disability-related performance tests, and training programs to probationary periods,
physicals and education and work experience fall under the scrutiny of the:
a. EEOC
b. ADEA
c. Department of Labor
d. ADA

12. Tests used for screening and selection can include:
a. Skill tests
b. Psychological tests
c. Medical examinations
d. All of the above

13. Tests should not be used as a means for excluding members of the protected class was the result of the:
a. Taft Hartley Act
b. Griggs vs. Duke Power Company
c. Castro vs. Beecher
d. ADEA

14. A selection rate for any race, sex or ethnic group that is less than 80% of the selection rate of the highest group is:
a. Non-discriminatory
b. Adverse impact
c. Reverse discrimination
d. All of the above

15. The fact that it is illegal to conduct medical exams or disability-related inquiries prior to extending a conditional offer of employment was the result of:
a. EEOC
b. ADA
c. ADEA
d. Executive order

16. If medical exams are required as a condition of employment, they must be:
a. Arranged prior to the interview
b. Fair and consistent
c. Performed by the applicant’s physician
d. Performed by the employer’s physician

17. It is illegal for private employers to administer polygraph exams:
a. Usually
b. Always
c. Never
d. None of the above

18. Drug and alcohol tests may be administered:
a. Prior to making an offer
b. Anytime during the selection process
c. Anytime during employment
d. All of the above

19. Who must comply with the Drug Free Workplace Act:
a. All federal contractors
b. All federal contractors with contracts of $25,000 or more
c. All federal contractors with contracts of $50,000 or more
d. All federal contractors with contracts of $10,000 or more

20. Applicants must provide for credit checks, school records and transcripts with:
a. Prior verbal permission
b. Prior written permission
c. No permission
d. Both A&B

21. In the interview process care must be taken not to screen out individuals by reason of their status as a member of a protected class.
a. True
b. False

22. Employers should __________ the application and interview process.
a. Expedite
b. Memorize
c. Standardize
d. Equalize

23. Examples of protected class(es) included:
a. Age
b. Sex
c. National origin
d. All of the above

24. Validation of a test means establishing a relationship between what the test measures and the:
a. Impact on women and minorities
b. Performance on the job
c. Implication of disability
25. A cornerstone of Title VII of the Civil Rights Act is:
   a. The illegality of interstate transportation of illegal aliens
   b. The right of Americans to bear arms
   c. The opportunity to engage in free speech
   d. Elimination of barriers to access to equal employment opportunity

26. Tests or other selection criteria may be viewed as discriminatory if:
   a. They are not administered at the same time of the day
   b. They make an adverse impact upon members of a protected class
   c. Only a few individuals can pass the test
   d. They are not evenly comprised of various kinds of test questions

27. The “four-fifths rule” has to do with:
   a. Adverse impact
   b. Hiring quotas
   c. Time allocation
   d. Higher education requirements

28. ADA in relationship to employment testing relates to which of the following:
   a. Americans with Disabilities Act
   b. American Discrimination Act
   c. Association of Disadvantaged Americans
   d. American Dental Association

29. “Procedures or tests that seek information about the nature, existence, or severity of an individual’s physical or mental impairment, or that seek information regarding an individual’s physical or psychological health” is the EEOC’s definition of:
   a. Physical workout.
   b. Psychological test
   c. Health report
   d. Medical exam

30. Under the ADA what type of test is not considered medical in nature and is therefore permissible prior to extending an offer of employment?
   a. EKG examination
   b. Agility test
   c. Psychological test
   d. Vision test

31. The Drug Free Workplace Act covers federal contractors with contracts of:
   a. $1,000
b. $2,500  
c. $25,000  
d. $250,000  

32. The ADA position on drug testing allows them to be administered:  
a. Only after a conditional offer is made  
b. Exclusively prior to the initial interview  
c. Anytime during the selection process  
d. Always at the same time as all other testing  

33. Under the Drug Free Workplace Act, contractors must create an awareness program which teaches/informs:  
a. Of the workplace policy  
b. About drug-related employee and assistance programs  
c. Of the penalties for infractions of the policy  
d. All of the above.  

34. What is most important with respect to background checks?  
a. Consistency and honesty  
b. Validation and review  
c. Timeliness and detail  
d. Thoroughness and persistence.  

Chapter 3  
Screening and Selecting the Temp  
Practice Examination Answers  

1. a  
2. a  
3. c  
4. d  
5. c  
6. d  
7. c  
8. c  
9. c  
10. a  
11. a  
12. d  
13. b  
14. b  
15. b
Chapter Four  
Hiring the Temp  
Study Questions

You may wish to print out these pages or keep a running log of the answers to the study questions in a separate tablet or notebook.

1. True or False. The Immigration Reform and Control Act requires employers to verify the eligibility to work in the United States of any employee hired who works 20 hours per week or more.

2. When must an employer verify an employee’s eligibility to work in this country?

3. How long must Form I-9s be retained by the temp service?

4. True or False. Temporary employees are exempt from the Fair Labor Standards Act (FLSA).

5. When does the FLSA apply to an employer?

6. List the criteria necessary to qualify for an administrative exemption from the FLSA:
7. True or False. One of the most valuable assets of a temporary help service is its trade secrets.

8. What is the hallmark of a trade secret?

9. What should a temp service include in its trade secrets policy?

10. True or False. Former employees are free to use the temp service’s trade secrets unless the temp service has a written, signed employment agreement containing a covenant not to compete.

11. Discuss any advantages in using an agreement of confidentiality?

12. List four advantages of having an employee handbook:

13. What is the doctrine of employment at will?

14. List topics temp services would want to include in an employee handbook:

15. List four types of insurance a temp service should consider having:

16. What is general liability insurance?

17. When does an employee qualify for unemployment compensation insurance?

18. What type of insurance seeks to indemnify an injured or disabled employee?

19. What are the two types of blanket fidelity bonds?

20. What does errors and omissions insurance do?

Chapter 4
Hiring the Temp
Study Questions with Answers (in italics)

1. True or False. The Immigration Reform and Control Act requires employers to verify the eligibility to work in the United States of any employee hired who works 20 hours per week or more.
   [False. Employers are required to verify eligibility for employment regardless of the numbers of hours the employee works a week.]

2. When must an employer verify an employee’s eligibility to work in this country?
The verification must take place within three business days after the employee is hired. In that time, the temp service must establish two things: (1) the new employee’s identity; and (2) the individual’s eligibility to work in the United States.

3. How long must Form I-9’s be retained by the temp service?
For three years. For employees who remain employed longer than three years, the I-9 should be retained for one year beyond the employee’s date of separation from the temp service.

4. True or False. Temporary employees are exempt from the Fair Labor Standards Act (FLSA).
False. Unless otherwise exempt, temps will be covered by this federal law which regulates minimum wages and overtime pay.

5. When does the FLSA apply to an employer?
The FLSA applies to employers if:
The employee engages in interstate commerce, including commerce in and outside the United States;
The employee is involved in producing goods in commerce or is closely associated with such production; or
The employee works for an enterprise engaged in commerce or the production of goods for commerce. (Temps are considered employed by both the temporary help service and the client companies of the temp service. Thus, if either the temp service or the client company falls within these definitions, then the temp is covered by the FLSA).

6. List the criteria necessary to qualify for an administrative exemption from the FLSA:
An employee might be considered “administrative” if the following criteria are met:
The main duties of the temp are office, not manual, in nature and relate to management or the general business of the temp service or its’ clients;
The temp would need to regularly exercise independent judgment or discretion;
The temp consistently and personally helps an owner, executive or administrator, or whose duties are performed under supervision along specialized or technical lines needing special training, experience or knowledge or executes, under supervision, special assignments and tasks;
The temp spends at least 80% of his or her time doing the above listed activities; and
The temp does not earn less than $250 a week.

7. True or False. One of the most valuable assets of a temporary help service is its trade secrets?
True. Trade secrets are defined as, “the whole or any part of any scientific or technical information, design, process, procedure, formula, or improvement that has value and that the owner has taken measures to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes. A California court
found that a temporary help service’s customer list and related information were
protectable as trade secrets under the Uniform Trade. This information includes such
things as billing rates, key contacts, specialized requirements and mark up rates.

8. What is the hallmark of a trade secret?
*That it is information not readily available to the public and it cannot be replicated
without significant expense or time.*

9. What should a temp service include in its trade secrets policy?
*This policy should define and list the type of information that the temp service considers
confidential. The policy should state clearly what the penalty is for the unauthorized
taking, using or copying of trade secrets or confidential information. Typically, such
penalties may include immediate termination, where appropriate, or, if the individual is
no longer an employee, the temp service’s right to seek immediate legal action, injunctive
relief and money damages.*

10. True or False. Former employees are free to use the temp service’s trade secrets unless the
temp service has a written, signed employment agreement containing a covenant not to
compete.
False. Even in the absence of a signed non-competition agreement, former employees
may not compete unfairly with the temp service. That means that they may not copy,
take, use or give to a third party any of the temp services trade secrets or confidential
information. If a former employee unlawfully misappropriates, takes, or uses the temp
service’s trade secret information, the temp service may consider bringing an action and
seeking immediate injunctive relief.

11. Discuss any advantages in using an agreement of confidentiality:
Typically, such agreements contain the same information that would be contained in a
company policy on trade secrets. While such an agreement may not have the force of a
contract, per se, it would certainly be evidence of the company’s endeavor to treat and
protect this information and serve as notice to the employee of the temp services trade
secret policy. This agreement can be a separate, stand-alone agreement or it can be
incorporated into any employee handbook prepared by the temp service.

12. List four advantages of having an employee handbook:
*It serves as a second notice for those policies already posted;*
*It serves as written evidence of company policy and expectations on employee;*
*It effectively communicates policies and procedures; and*
*It can be used as a training device.*

13. What is the doctrine of employment at will?
*This doctrine holds that absent an agreement to the contrary, an employee may be fired
at any time, for any reason, or for no reason at all, except for an illegal reason. An*
example of an illegal reason might be firing an employee for filing a complaint with the EEOC. In order to preserve the right to terminate an employee with or without cause, it is important that any employee handbook should be written in such a way to avoid promising guaranteed employment.

14. List topics temp services would want to include in an employee handbook:
Topics that the temp service will want to consider including are:
Absenteeism
AIDS
Affirmative Action and Equal Employment Opportunity
Benefits
Compensation (including the need for prompt submission of time sheets signed by the client, where applicable)
Conflicts of Interest
Discipline
Drugs and Alcohol
Grievances and Complaints
Administrative Matters (e.g. office hours, parking, etc.)
Leave
Privacy
Sexual Harassment
Termination
Trade Secrets and Confidential Information
Vacation/Sick Leave

15. List four types of insurance a temp service should consider having:
They are:
Liability Insurance;
Workers’ Compensation Insurance;
Bonding;
Errors and Omission Insurance.

16. What is general liability insurance?
This type of insurance is used to protect the temp service from claims made by third parties. Typically proceeds are used to defend lawsuit brought or pay claims made.

17. When does an employee qualify for unemployment compensation insurance?
Unemployment compensation insurance was created to help unemployed workers during times of involuntary unemployment by providing them a percentage of their income. To be entitled to receive these benefits the worker must be willing and able to work, actively seeking employment, unemployed through no fault of his own, must register with the state employment office and file a claim for benefits.
18. What type of insurance seeks to indemnify an injured or disabled employee? 
Workers’ compensation insurance covers injuries and diseases arising out of or occurring in the course of employment which were not caused by the willfulness or intoxication of the worker. This type of insurance is regulated by state law including amounts that can be paid to the worker.

19. What are the two types of blanket fidelity bonds? 
Fidelity bonds reimburse the employer for loss of money or property growing out of an employee’s dishonest acts. Typically this is written under a blanket fidelity bond which covers all employees. There are two type of blanket fidelity bonds: Commercial blanket bonds and blanket position bonds. Commercial blanket bonds are written for a state limit per loss, with an aggregate sum applied collectively to all employees. The blanket bond covers all employees but the loss limit is applied per employee.

20. What does errors and omissions insurance do? 
It provides a defense in the event damage or injury is caused by the mistake or negligence of a temp or by you or your permanent employees who place temps.

Chapter 4
Hiring the Temp
Practice Examination Questions (Correct answers follow in next section)

You may wish to print out these pages or keep a running log of the answers to the study questions in a separate tablet or notebook.

1. Which of the following requires all employers to verify that employees are authorized to work in the US? 
   a. Fair Credit Reporting Act 
   b. Fair Labor Standards Act 
   c. Immigration Reform and Control Act 
   d. None of the above 

2. Which of the following documents establish both identity and authorization to work in the United States? 
   a. Certificate of Naturalization 
   b. US Passport 
   c. Expired foreign passport 
   d. Both A & B 

3. Employment verification must take place within: 
   a. Five business days after the employee is hired.
b. Two business days after the employee is hired

c. Before an employee can actually begin work

d. Three business days after the employee is hired

4. The I-9 form must be kept for:

a. 180 days beyond termination

b. One year beyond the termination of an employee who worked longer than three years

c. Seven years

d. None of the above

5. Exempt from the provisions of the FLSA are positions which fall in the following categories:

a. Executive

b. Professional

c. Administrative

d. All of the above

6. The FLSA regulates:

a. Minimum wage

b. Disability leave

c. Overtime requirements

d. All but one of the above

7. The “employment at will” doctrine means that even with an employment contract to the contrary, an employee may be fired at any time, for any reason, or for no reason at all.

a. True

b. False

8. Which of the following would be considered trade secrets?

a. Mark up rates

b. Key contacts

c. Billing rates

d. All of the above

9. Workers’ compensation statutes are Federal laws

a. True

b. False

10. Workers’ compensation insurance:

a. Covers an employer’s duty to indemnify an injured or disabled employee

b. Does not cover those injuries caused by the willful actions of the employee

c. Pays for injuries or diseases arising out of or occurring during the course of employment

d. All of the above
11. General liability insurance is:
   a. Written for business and covers bodily injury and property damage
   b. Written for individuals and covers bodily injury and property damage
   c. A & B
   d. None of the above

12. Which of the following are advantages for distributing employee handbooks?
   a. Can be used as training devices
   b. Effectively communicate policies and procedures
   c. Serve as written evidence of employer expectations
   d. All of the above

13. To be eligible for unemployment compensation insurance, unemployed workers must:
   a. Be willing and able to work
   b. Be unemployed through no fault of their own
   c. Register with the state’s employment office and file a claim for benefits
   d. All of the above

14. Which of the following documents establish eligibility for work?
   a. State issued driver’s license
   b. Temporary resident card
   c. Voter’s registration card
   d. All of the above

15. Which of the following reimburses the employer for loss of money or property growing out of an employee’s dishonest acts?
   a. Bonding
   b. Errors and omissions insurance
   c. A & B
   d. Neither of the above

16. Which of the following documents establish identity only?
   a. School ID with photo
   b. US military card
   c. Social Security card
   d. A & B

17. The IRCA makes it illegal for employers with four or more employees to discriminate on the basis of national origin or citizenship status.
   a. True
   b. False
18. The FSLA applies to employers if:
   a. The employee works for an enterprise engaged in commerce or the production of goods for commerce
   b. The employee is involved in producing goods for commerce or is closely associated with such production
   c. The employee engages in intrastate commerce
   d. A & B

19. The hallmark of a trade secret is that it is information readily accessible to the public and cannot be replicated without significant expense and time.
   a. True
   b. False.

20. Errors and omissions is insurance protection for:
   a. Full time staff
   b. Temporary employees
   c. A & B
   d. Neither of the above

21. Which of the following individuals, hired by a temp service, have to be verified under the Immigration Reform and Control Act?
   a. A temp working 35 or more hours per week
   b. An in-house employee
   c. A temp working 20 hours per week
   d. All of the above

22. Employees covered by the Fair Labor Standards Administration are entitled to overtime pay for hours worked:
   a. In excess of 20 hours/week
   b. In excess of 37-1/2 hours/week
   c. In excess of 40 hours/week
   d. None of the above

23. The employee handbook should cover:
   a. Employee expectations
   b. Employer expectations
   c. Administrative issues.
   d. All of the above

24. An employee might be considered administrative under the FLSA if:
   a. They do not earn less than $250/week.
   b. They regularly exercise independent judgment and discretion
   c. Their main duties are not manual
25. Some states have a higher minimum wage than the federal law specifies.
   a. True
   b. False

26. Non-compete agreements are easily enforceable in all fifty states.
   a. True
   b. False

27. In some states, overtime compensation may be required for work in excess of:
   a. Five hour per day if on a holiday
   b. Eight hours a day
   c. 25 hour per week
   d. None of the above

28. In the absence of a signed non-competition agreement:
   a. Former employees may not copy, take or use the temp services trade secrets
   b. Former employees may give confidential information to a third party
   c. Both of the above
   d. Neither of the above

29. An employee handbook should state that policy may be modified only with prior notice to employees.
   a. True
   b. False

30. Topics that an employee handbook could include:
   a. AIDS in the workplace
   b. Benefits
   c. Privacy
   d. All of the above

31. It is never necessary for an employee to sign an acknowledgment or receipt of the employee handbook.
   a. True
   b. False

32. The aggregate limit to the general liability insurance policy is the maximum amount of money the insurance carrier will pay for one occurrence.
   a. True
   b. False
33. Errors and omission insurance will:
a. Provide money for a defense  
b. Provide money to cover damages paid by the service.  
c. Reimburse the employer for loss of money or property growing out of an employee’s dishonest acts  
d. Both A & B

34. A Form I-9 that contains an expired employment authorization stamp is an acceptable document to establish identity and eligibility under IRCA.
a. True  
b. False

35. An executive exemption and not entitled to receive overtime pay includes:
a. Routinely supervise three or more employees  
b. Earn at least $185/week  
c. Has hiring, firing or promotion authority  
d. All of the above

36. If someone routinely exercises discretion and independent judgment in the performance of their job, they are exempt from overtime pay under:
a. Executive exemption  
b. Administrative exemption  
c. Professional exemption  
d. None of the above

37. If the primary duties include teaching, tutoring, lecturing or instructing for an educational institution, they are exempt from overtime pay under:
a. Executive exemption  
b. Administrative exemption  
c. Professional exemption  
d. None of the above

38. If an employee earns at least $250/week and whose duties only include work that requires discretion and independent judgment, they are exempt from overtime pay under:
a. Executive exemption  
b. Administrative exemption  
c. Professional exemption  
d. None of the above

Chapter 4  
Hiring the Temp  
Practice Examination Answers
Chapter 5
Relationships with Clients
Study Questions

You may wish to print out these pages or keep a running log of the answers to the study questions in a separate tablet or notebook.

1. Define contract.

2. Identify and describe two types of contracts.

3. What are the three elements of a contract?

4. What are the ways that an offer can be accepted?

5. What constitutes consideration in the contract law?

6. What is the Statute of Frauds?

7. What are the rules of contract construction?

8. What are the two types of authority?

9. What should a temp service consider in its time sheet?

10. What should a temp service consider including in its liquidated fee conversion time schedule?

11. What are the two things short of filing a lawsuit a temp service can do to collect fees it is owed?

12. True or False: The lack of a written contract will automatically prevent the temp service from recovering fees it is owed?

13. What are the essential elements for a breach of contract case and what documents can a temp service use to prove these elements?

14. What is the doctrine of “quantum meruit?”

Chapter 5
Relationship with Clients
Study Questions with Answers (in italics)

1. Define contract:
A contract is defined as a promise for the breach of which the law gives a remedy or the performance of which the law recognizes a duty.

2. Identify and describe two types of contracts:
Bilateral contracts - A promise for a promise.
Unilateral contracts - All of the obligations remain with one party until the obligations are met; a promise in return for performance.

3. What are the three elements of a contract?
Offer, acceptance and consideration.

4. What are the ways that an offer can be accepted?
Acceptance can come in various ways:
Express acceptance - The party agrees to the terms of the offer exactly as it is made.
Implied acceptance - The party does not respond in words, but rather responds by action. An example might be the client who requests that the temporary service permit it to interview possible candidates before accepting them on site.
Counter-offer - The party rejects some or all of the terms and instead proposes different terms. When this happens the party originally making the offer must accept the new counter-offer for there to be an agreement.
Silence - Even in the absence of express acceptance, sometimes acceptance may be construed nevertheless. For example, offers contained in letter agreements which are mailed or faxed to a client may be binding upon the client unless the client has expressly rejected the terms and conditions. This is especially true where the client has received the benefits of the bargain in that the temporary service has met its obligations under the terms and conditions of the agreement.

5. What constitutes consideration in contract law?
For bilateral contracts, a return promise is consideration. In unilateral contracts, consideration is the act performed in reliance on the promise.

6. What is Statute of Frauds?
A legal doctrine regarding what types of contracts are required in writing. Examples of contracts which must be in writing are contracts for the sale of real property, personal services agreements, and contracts which cannot be wholly performed within one year

7. What are the rules of contract construction?
These rules include:
Giving words their ordinary meaning (dictionary, industry practice);
Giving words used by the parties in one section the same meaning throughout the documents;
Interpreting language in the agreement so that the agreement makes sense as a whole;
Interpreting the document to give effect to all language and all clauses (avoid any interpretation that would render a provision void or meaningless); Avoiding an interpretation that would result in a harsh or unreasonable result; Construing ambiguous language in a contract against the party who wrote it (since the author could have most easily prevented doubts as to meaning); Expressly including a group of exceptions or class or items that implicitly excludes others; and Custom and industry practice.

8. What are the two types of authority?
Actual authority - The individual who entered into a contract or signed the time sheet on behalf of the client has the express right to do so thereby obligating the company to the terms and conditions of the agreement or time sheet.
Apparent authority - The individual who entered into the contract or signed the time sheet appeared to have the right or authority, by his or her position or actions, to bind the client and the temporary service has no reason to know that was not the case.

What should a temporary service consider including in its time sheet?
Some things to consider including are:
Name, address and phone number of the temporary service;
Name of temp performing the services;
Date, times and hours worked;
Space for name, signature and title of the person signing the time sheet and date of signature;
Payment terms and finance charges;
Overtime, night and holiday compensation policies;
Quality control and guarantee policies;
Any policies on liabilities; and
Policy on liquidated fees and conversion fees

10. What should a temporary service consider including in its liquidated fee/conversion charge schedule?
Temporary services might consider including the following language:
A statements that temporary workers are also seeking permanent positions of employment through the temp services permanent placement division or affiliate;
A statement that in the event the client hires the service’s temp on a permanent basis, and in what time frame (i.e. six months, etc.) which the company will be obligated to pay a fee to the temporary service’s permanent placement division or affiliate;
A calculation of the liquidated fee/conversion fee should be presented and, where possible, an example provided;
A statement explaining when the fee is earned (i.e. on the date the temp commences employment with the client), and
A statement of billing terms and any finance charges.
11. What are two things short of filing a lawsuit a temporary service can do to collect fees it is owed?

The temporary service can call the client to discuss the fees and arrange for payment or the service can send a Dunning letter demanding payment and clearly stating a date by which payment is due. Dunning letters should never threaten a lawsuit unless the temporary service intends to carry out that threat.

12. True or False  The lack of written contract will automatically prevent the temporary service from recovering fee it is owed?

False. The absence of a written agreement will not automatically prevent the temporary services from recovering a fee. The agency can prove the essential elements of an oral agreement through its business records.

13. What are the essential elements of breach of a breach of contract case and what documents can a temporary service use to prove these elements?

The essential elements are:

1. Order - That the client requested the temp service to provide one or more temporary employees. what business forms the service uses to record the order so long as they are customary forms used the ordinary course of its business may suffice.
2. The client’s agreement to pay the service’s fee – this can be established most often by the signed time sheet, as well as by any conforming letters, marketing brochures or fee schedules.
3. Providing the temp and temp performing the services for the client---this is most often proven by the testimony of the temp or other witness with personal knowledge.
4. Calculation of the fee based on the hours the temp worked---the time sheet, or fee schedules or conversion schedule will most often help to establish this element.
5. Demand for the fee---the Dunning letter is documentary evidence for the demand made.

14. What is the doctrine of “quantum meruit?”

An equitable doctrine which says that parties can recover monies they are owed even in the absence of an express agreement, whether oral or written. Under this doctrine, the party may be able to recover the reasonable value of the services provided.

Chapter 5
Relationships with Clients
Practice Examination Questions (Correct answers follow in next section)

You may wish to print out these pages or keep a running log of the answers to the study questions in a separate tablet or notebook.
1. A contract is most simply defined as:
   a. A promise for a breach of which the law gives a remedy or the performance of which the
      law recognizes a duty
   b. A unilateral promise for which there is a legal debt
   c. Consisting of bilateral and unilateral elements
   d. When an offer to perform services is implied but never written.

2. The following are two types of legal contracts:
   a. Binding and non-binding
   b. Offer and acceptance
   c. Bilateral and unilateral
   d. Express authority and apparent authority

3. A bilateral contract is one in which:
   a. Two promises are offered
   b. Mutual promises are exchanged
   c. Both parties are obligated
   d. Neither party is obligated

4. Unilateral contracts are those agreements in which:
   a. All of the obligations remain with one party until the conditions are met at which time the
      other party becomes obligated to perform their part of the agreement
   b. The obligations are immediately shared between both parties
   c. One party unilaterally decides it wants to enter into an agreement
   d. There are no such things are unilateral contracts

5. The elements of a contract are as follows:
   a. Offer, acceptance, consideration and collection
   b. Offer, consideration and execution
   c. Offer and acceptance
   d. Offer, acceptance and consideration

6. The offer:
   a. If accepted by the other party, results in a contract
   b. If accepted by the other party is implied acceptance
   c. Can be implied or expressed
   d. Is implied if it leads to a counter offer

7. Which of the following cannot be construed as a form of acceptance of a contract?
   a. Express acceptance
   b. Implied acceptance
   c. Silence
d. Consideration

8. If a party rejects some or all of the terms of an offer and instead proposes different terms:
   a. The offer is enforceable with consideration
   b. The original party must accept the new counter offer for there to be an agreement
   c. The new terms would be invalid
   d. Silence would constitute implied acceptance

9. Consideration is:
   a. One of four elements present in a contract
   b. For bilateral contracts, a return promise
   c. For unilateral contracts, a return promise
   d. Implied through an express acceptance of a contract

10. Under the legal doctrine, known as the Statute of Frauds:
   a. All contracts must be in writing
   b. Contracts dealing with personnel must be in writing
   c. All contracts must be performed within one year
   d. Oral contracts are not valid

11. In the recruiting industry:
   a. All contracts must be in writing
   b. All contracts must be oral
   c. Contracts can be either oral or written
   d. All contracts should be notarized

12. A time sheet signed by an authorized client
   a. Implies acceptance of an offer
   b. Is evidence of consideration
   c. Is a written agreement
   d. Must also be signed by the temporary employee

13. A time sheet signed by a client:
   a. Is valid if there is either actual or apparent authority
   b. Is not valid without actual authority
   c. Is not valid without apparent authority
   d. Can be signed by any employee at the client company

14. Which of the following statements is correct?
   a. An agreement must have both and actual and apparent authority to be valid
   b. An agreement need not have either actual or apparent authority to be valid
   c. Agreements must have implied authority to be valid
   d. An agreement must have either actual or apparent authority to be valid
15. Implied acceptance of a contract means:
   a. The party agrees to the terms of the offer exactly as it was made
   b. The party does not respond by words, but rather responds by actions
   c. The party rejects all of the terms
   d. The party accepts the terms through silence

16. Rules of contract construction include:
   a. Giving words their ordinary meaning and avoiding an interpretation that would result in a
      harsh or unreasonable result
   b. Dictates that issues be addressed in chronological order
   c. Creating various interpretations of similar words throughout the documents
   d. Offer and acceptance

17. The following should appear on the time sheet:
   a. The name of the temp performing the services along with the dates, times and hours worked
   b. Quality control and guaranty policies, including policies on liability
   c. Space for the name, signature and title of person signing the time sheet and the temporary
      employee
   d. All of the above

18. A conversion occurs:
   a. When a temp referred for a specific assignment is transferred to another assignment within
      the company
   b. When a temporary assignment is filled on a permanent basis
   c. When a temp referred to a specific assignment is subsequently hire by the client company on
      a permanent basis
   d. When a fee is charged for a permanent placement

19. A “temp to perm” occurs when:
   a. The client company screens candidates by having them work as a temporary employee
      before making a permanent hiring decision.
   b. A staffing company does both permanent and temporary placements
   c. A fee is charged by the temporary services company
   d. The client company had no previous indication that a permanent position would be available

20. Temp services might consider charging a liquidated fee/conversion charge when:
   a. The client hires the temp through a “conversion”
   b. The client hires the temp through “a temp to perm”
   c. Both of the above
   d. Neither of the above

21. Language for a proper liquidated fee/conversion charge would include:
22. The following may constitute a written contract upon which to predicate a lawsuit for collecting fees:
   a. Time sheets
   b. Letter agreements
   c. Contracts prepared by the client
   d. All of the above

23. Lawsuits based on oral agreements:
   a. Prevent the temp services from recovering its fee
   b. May enable the agency to collect its fee if it can prove its “prima facie” case through the records it keeps in the ordinary course of business
   c. Must be collaborated through the signed time sheet
   d. None of the above

24. Collecting fees can be achieved by:
   a. Calling the client and reaching an understanding
   b. Sending a Dunning letter to the client
   c. Filing a lawsuit against the client
   d. All of the above

25. Under the doctrine of quantum meruit:
   a. The absence of an agreement automatically prevents an agency from recovering fees
   b. Parties can recover monies owed even when there has been no expressed contracts either written or oral
   c. A temp service may be paid for services rendered at a rate up to twice the pay rate
   d. There is implied a quantity discount for services rendered

26. Providing temporary employees constitutes a unilateral contract because:
   a. This is a proposal which, if accepted by the other party, results in a contract
   b. The client company is not obligated to pay the term service unless and until the service has provided the temp and the temp has performed work for the client
   c. There is express acceptance
   d. There is no implied counter offer

27. A client who requests that the temp service permit it to interview possible temps before accepting them on site, is an example of:
   a. Express acceptance
   b. Implied acceptance
c. A counter offer
d. Consideration

28. An example of consideration given by the client should be:
a. The fees paid to the temp service for the hours work for the client
b. Allow the temp service to enter into the contract
c. Providing a “professional work environment” for the temp
d. All of the above

29. Under the “Statute of Frauds,” which contracts must be in writing:
a. The sale of real property
b. Contracts dealing with personnel services
c. Contracts which cannot be wholly performed within one year
d. All of the above

30. A demand letter used in collecting fees:
a. Should be avoided at all costs
b. Requires the temp service to file a lawsuit
c. Should clearly state that a fee is due and payable
d. Requires evidence of a written contract

31. The doctrine of “quantum meruit”:
a. Provide for equal pay for equal work performed
b. Implies that an offer, if accepted with consideration, is incontestable
c. Allows a temp service to be paid for reasonable value of the services performed
d. Provides satisfaction for an oral contract

32. In contract terms, silence:
a. Can be deemed to constitute an acceptance of an offer
b. Require the act be performed in reliance on the promise
c. Cannot constitute acceptance of a contract
d. Is a form of express acceptance

33. An example of consideration by a temp service to a client is:
a. Performing a comprehensive interview of the candidate
b. Paying the temporary on a weekly basis
c. Respecting the confidentiality of a client’s business
d. Providing temporary help to a client and the work performed by that temp

Chapter 5
Relationships with Clients
Practice Examination Answers
Appendix

CTS Certification Program Rules and Standards of Ethical Practice

Practice Examination Question

You may wish to print out these pages or keep a running log of the answers to the study questions in a separate tablet or notebook.
1. What is the time period a candidate for CTS certification who has failed the exam has to apply to retake the exam?
   a. Within the next three test dates
   b. Within three years of the original test
   c. Within twelve months of the original test
   d. The next available test date

2. How often following certification must a certificant show evidence of continuing education?
   a. Every three years
   b. Every five years
   c. Every seven years
   d. None of the above

3. During the decertification process, what happens when the state association chooses not to process the complaint?
   a. It is referred back to the President of NAPS
   b. It is referred to the NAPS Executive Committee
   c. It is referred to the NAPS Certification Committee
   d. It is dismissed

4. It is the responsibility of the NAPS Certification Committee to:
   a. Forward a copy of the charge and related documents to the accused
   b. Forward a copy of the charge and related documents to the state association
   c. Forward a copy of the charge and related documents to the accused’s attorney
   d. Forward a copy of the charge and related documents to the accused’s employer

5. The designation Certified Temporary Staffing Specialist (CTS) may be used:
   a. Following the professional name of the certified firm
   b. Following the professional name of the certified individual only
   c. Following the professional name of the certified individual or firm
   d. None of the above

6. A service charge should not be issued to either a client or candidate unless:
   a. They have been made aware of the charge before it is incurred
   b. An offer, acceptance and start date have been confirmed
   c. The starting salary has been set
   d. All of the above

7. If an employer experiences a strike or lockout, the temporary services firm should:
   a. Not refer any applicants to that employer
   b. Refer non-union candidates
   c. Refer union candidates
d. Inform candidates of the strike or lockout before referral to the employer

8. A candidate, employee, personnel service or employer who has a complaint about the practices of a personnel service should be directed to file the complaint:
   a. The offering firm
   b. NAPS headquarters in Alexandria, VA
   c. Both A & B
   d. Neither of the above

9. The National Association of Personnel Services Standards of Ethical Practice?
   a. Supersede federal law
   b. Supersede state law
   c. Both A & B
   d. Neither of the above

10. Newspaper ads for temporary assignments shall be representative of:
    a. Bona fide openings available at the time that copy is given to the newspaper
    b. Representative of the types of openings generally available through the service
    c. Representative of the types of opening occasionally available through the service
    d. Both A & B
    e. None of the above

11. A candidate shall be referred to an employer/client for interview only after:
    a. A written contract has been signed
    b. Prior authorization of the employer/client has been given
    c. The service charge has been disclosed to the client and/or employer
    d. Both B & C
    e. Both A & C

Appendix
CTS Certification Program Rules and Standards of Ethical Practice
Practice Examination Examination Answers

1. a
2. d
3. c
4. a
5. b
6. a
7. d
8. b
9. d
10. e
11. d
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