

101年公務人員特種考試司法人員考試試題

等 別：三等考試

類 科：各類科

科 目：法學知識與英文

- (C) 1. 依據司法院釋字第 601 號解釋，下列何人不受憲法第 81 條「法官…非依法律，不得…減俸」規定之保障？
(A)臺灣臺北地方法院法官 (B)臺北高等行政法院法官
(C)司法院秘書長 (D)司法院副院長
- (D) 2. 依大法官解釋之見解，有關立法委員不得兼任官吏之敘述，下列何者錯誤？
(A)立法委員如願就任官吏，即應辭去立法委員，其未經辭職而就任官吏者，應於其就任官吏之時視為辭職
(B)公營事業機關之董事、監察人及總經理，均適用公務員服務法之規定，故立法委員不得兼任
(C)行憲後各政黨、各級黨部之書記長，已非公務員，故立法委員可以兼任
(D)由於法無明文限制，故不論職務之性質與立法委員職務是否相容，立法委員均得兼任除官吏以外的任何職務
- (D) 3. 有關立法院與司法院之關係，下列敘述何者錯誤？
(A)司法院就其掌理司法權行使之事項，得向立法院提出法律案
(B)立法院制定之法律，司法院所屬法院須依據法律，獨立審判
(C)立法院各委員會得邀請司法院秘書長到會備詢
(D)立法院制定之法律，是否抵觸憲法，得由司法院所屬各級法院解釋之
- (C) 4. 總統於立法院解散後，行使下列何種職權，立法院應於三日內自行集會，並於開議七日內追認之？
(A)依法宣佈戒嚴 (B)宣布行使大赦 (C)發布緊急命令 (D)行使締結條約
- (B) 5. 下列何者非由行政院院長提請總統任命之？
(A)行政院副院長 (B)行政院副秘書長
(C)各部會首長 (D)不管部會之政務委員
- (D) 6. 依司法院釋字第 520 號解釋，下列敘述何者正確？
(A)執行法定職務之經費，主管機關得停止執行
(B)無論法定預算中支出項目為何，主管機關皆得停止執行
(C)無論法定預算中支出項目為何，主管機關皆不得停止執行
(D)維持法定機關正常運作之經費，主管機關不得停止執行
- (A) 7. 假設法律規定：「凡申請設立之人民團體，若其組織與活動主張共產主義或分裂國土者，應不予以設立。」依據大法官解釋，此項法律規定侵害人民之下列何項憲法基本權利？
(A)言論自由與結社自由 (B)結社自由與平等權
(C)平等權與表意自由 (D)言論自由與集會自由
- (D) 8. 公務員服務法規定公務員於其離職後三年內，不得擔任與其離職前五年內之職務直接相關之營利事業董事、監察人、經理、執行業務之股東或顧問。該規定與離職公務員之何種基本權利有關？
(A)結社自由 (B)人身自由 (C)居住遷徙自由 (D)職業選擇自由
- (A) 9. 下列何種自由或權利之限制，縱國家處於非常時期，亦屬憲法所不許？
(A)思想自由 (B)財產權 (C)出版自由 (D)集會自由
- (D) 10. 下列何者非大學自治之範圍？
(A)學生畢業條件 (B)入學資格之限制
(C)學生退學規定 (D)國立大學之設置
- (D) 11. 下列何者不屬於憲法第 17 條參政權之保障範圍？

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- (A) 中華民國國民年滿 40 歲者得被選為總統副總統
(B) 中華民國國民年滿 20 歲者，有依法選舉之權
(C) 公民投票制度
(D) 擔任專門職業及技術人員
- (D) 12. 憲法第 16 條規定人民有訴訟權，下列敘述何者錯誤？
(A) 旨在確保人民有受公平審判之權利
(B) 旨在確保刑事被告依正當法律程序之要求，享有充分之防禦權
(C) 刑事被告與辯護人能在不受干預下充分自由溝通，為辯護人協助被告行使防禦權之重要內涵，應受憲法之保障
(D) 憲法第 16 條規定人民有訴訟權，尚包括選任法官之保障
- (B) 13. 依據憲法本文之規定，有關「行政區劃」係屬：
(A) 專由中央立法並執行之事項
(B) 由中央立法並執行，或交由省縣執行之事項
(C) 由省立法並執行，或交由縣執行之事項
(D) 專由縣立法並執行之事項
- (D) 14. 依據憲法本文規定，下列何者在發展經濟事業時，應受國家之扶助並保護？
(A) 身心障礙者 (B) 婦女 (C) 退役軍人 (D) 僑居外國之國民
- (A) 15. 下列何者之法位階和憲法本文第 170 條所稱立法院通過，總統公布之法律相同？
(A) 立法院議決之條約 (B) 自治條例
(C) 自治規則 (D) 自律規則
- (C) 16. 地方自治團體依法律、上級法規或規章規定，在上級政府指揮監督下，執行上級政府交付辦理之非屬該團體事務，而負其行政執行責任之事項，依據地方制度法規定，屬於下列何者？
(A) 自治事項 (B) 委託事項 (C) 委辦事項 (D) 監督事項
- (A) 17. 依行政罰法的規定，下列關於行政罰之裁處權消滅時效期間之敘述，何者正確？
(A) 三年 (B) 五年 (C) 十年 (D) 十五年
- (A) 18. 下列何人依憲法享有刑事豁免權？
(A) 現任總統 (B) 現任副總統 (C) 立法院院長 (D) 行政院院長
- (D) 19. 行政機關之管轄權，原則上以何種方式決定？
(A) 依人民請求對象而定
(B) 由上級機關指定
(C) 依機關間之協議產生
(D) 依據機關組織法規或其他行政法規之規定
- (D) 20. 下列有關獨立機關之敘述，何者錯誤？
(A) 獨立機關之組織應以法律定之
(B) 獨立機關之合議制成員，應明定其任職期限及任命程序
(C) 其合議之議事程序及決議方法應於組織法規內定之
(D) 獨立機關屬於中央行政機關之一級機關
- (C) 21. 下列有關公司經理人的消極要件之敘述，何者錯誤？
(A) 無行為能力或限制行動能力
(B) 使用票據經拒絕往來尚未期滿者
(C) 不具中華民國國籍者
(D) 曾犯詐欺、背信、侵占罪經受有期徒刑一年以上宣告，服刑期滿尚未逾二年者
- (D) 22. 下列何者不是簽發支票的應記載事項？
(A) 發票人的簽名 (B) 發票日 (C) 票面金額 (D) 到期日
- (C) 23. 股份有限公司的股東會原則上應由下列何者負責召集？
(A) 四分之三以上的股東 (B) 持股最大的股東
(C) 董事會 (D) 董事長

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- (D) 24. 依刑法的規定，下列有關主刑與從刑之敘述，何者正確？
(A)主刑之種類亦包括褫奪公權和沒收
(B)主刑之種類只有四種，包括死刑、無期徒刑、有期徒刑和罰金
(C)被宣告死刑者，無須宣告褫奪公權
(D)褫奪公權必須於裁判時併宣告之
- (D) 25. 依刑法規定，下列那一種犯罪屬於告訴乃論之罪？
(A)強制猥褻罪 (B)業務過失致死罪
(C)竊盜罪 (D)普通傷害罪
- (B) 26. 依民法規定，下列有關喪失繼承權事由的敘述，何者錯誤？
(A)偽造、變造、隱匿或湮滅被繼承人關於繼承之遺囑者，喪失繼承權
(B)故意致被繼承人或應繼承人於死或雖未致死，經被繼承人或應繼承人向警察機關報案者
(C)以詐欺或脅迫妨害被繼承人為關於繼承之遺囑，或妨害其撤回或變更之者
(D)對於被繼承人有重大之虐待或侮辱情事，經被繼承人表示其不得繼承者
- (A) 27. 依民法規定，有關夫妻財產制的敘述，下列何者錯誤？
(A)夫妻財產制契約之訂立、變更或廢止，得以口頭或書面為之
(B)夫妻得於結婚前或結婚後，以契約就民法所定之約定財產制中，選擇其一，為其夫妻財產制
(C)夫妻之一方受破產宣告時，其夫妻財產制，當然成為分別財產
(D)債權人對於夫妻一方之財產已為扣押，而未得受清償時，法院因債權人之聲請，得宣告改用分別財產制
- (D) 28. 授益之行政處分若違法，經撤銷後，行政機關對於受行政處分者因而遭受的財產上損失給予補償，乃屬下列何種原則的實現？
(A)特別犧牲原則 (B)公益原則 (C)比例原則 (D)信賴保護原則
- (C) 29. 人民提起訴願時，應自機關之行政處分書或決定書到達之次日起的多久內提起之？
(A)十日 (B)二十日 (C)三十日 (D)六十日
- (C) 30. 人民與行政機關締結了行政契約，若涉及向行政機關為財產給付之請求時，應提起之訴訟類型為何？
(A)確認訴訟 (B)撤銷訴訟
(C)一般給付訴訟 (D)課予義務訴訟
- (B) 31. By drawing on his education at home and abroad, the young artist is able to ideas from different cultures into eclectic, exciting and unique designs.
(A) blur (B) fuse (C) refute (D) defy
- (D) 32. The employees were _____ for their hard work by getting a pay raise and a generous year-end bonus.
(A) triggered (B) simulated (C) pirated (D) compensated
- (B) 33. The Harry Potter movie series not only made big splashes at box office, but also led the actors and actresses to _____.
(A) boast (B) fame (C) drift (D) globe
- (C) 34. Along the Qinghai-Tibet Railway, there are many wildlife underpasses built to _____ the impact of the rolling trains on the highland animal's life.
(A) construe (B) fluctuate (C) mitigate (D) validate
- (C) 35. Global economic growth has gained speed in the last few months, and inflation remains under control _____ high world oil prices.
(A) at (B) for (C) despite (D) with

If you have the option of sentencing someone to the electric chair or inducing total amnesia, which would you decide? Is total amnesia more humane? Would it truly

erase all memories? These are the ____ 36 ____ that will swirl around the person who invents the first total amnesia inducer.

Much like formatting the hard drive of a computer, the amnesia inducer will erase all memories in the human brain. People ____ 37 ____ this process will have to start from ground zero, relearning how to eat, walk, talk, read, and write all over again. But it will still be portrayed as a more humane ____ 38 ____ to the death penalty.

Partial amnesia inducers, which erase only the past few days of someone's memory, will have application in erasing the lasting memory of a person ____ 39 ____ by such things as a brutal crime, the ravages of war, or child abuse.

(A) 36. (A) questions (B) clues (C) opinions (D) bargains

(B) 37. (A) arguing against (B) going through
(C) holding off (D) giving up

(B) 38. (A) dejection (B) solution (C) inspiration (D) attraction

(C) 39. (A) transcribed (B) terminated (C) traumatized (D) tranquilized

(D) 40. Saul Steinberg(1914-1999) was renowned for his sharp, witty drawings for the *New Yorker* magazine and widely acclaimed for expertly crossing the boundaries between illustration, cartoons and fine art.

(A)Saul Steinberg was famous for including different art forms in the design of the *New Yorker* magazine, particularly his appealing drawings.

(B)Saul Steinberg was famous for being a creative artist though he was less well-known for being a cartoonist for the *New Yorker* magazine.

(C)Saul Steinberg was praised for the brilliant drawings he did for the *New Yorker* magazine, but criticized for mixing different art forms in his works.

(D)Saul Steinberg was famous for his clever drawings for the *New Yorker* magazine and his ability to blend different art forms into his works.

(D) 41. Conventionally, life can be trying for boys who do not measure up to social male standards.

(A)Traditional life is harsh for boys who are judged by social male standards.

(B)Boys can lead their life in a conventional way by not meeting social male standards.

(C)Social male standards are supposed to be measured up by boys who want to lead a conventional life.

(D)Traditionally, if boys fail to meet social male standards, their life will become difficult.

(D) 42. Fashion is a means of self-expression.

(A) What one wears can make him/her articulate.

(B) What one wears can make him/her fashionable.

(C) What one wears can draw others' attention.

(D) What one wears can show who he/she is.

Recently the medical researcher Wendy Levinson recorded hundreds of conversations between a group of physicians and their patients. Roughly half of the doctors had never been sued. The other half had been sued at least twice. Levinson found that just on the basis of those conversations, she could find clear differences between the two groups. The surgeons who had never been sued spent more than three minutes longer with each patient than those who had been sued did (18.3 minutes versus 15

minutes). They were more likely to make **orienting comments**, such as “First I’ll examine you, and then we will take the problem over” or “I will leave time for your questions” – which help patients get a sense of what the visit is supposed to accomplish and when they can ask questions. They were more likely to engage in **active listening**, saying such things as “Go on, tell me more about that,” and they were far more likely to laugh and be funny during the visit. Interestingly, there was no big difference in the amount or quality of information they gave their patients; they didn’t provide more details about medication or the patient’s condition. The difference was entirely in how they talked to their patients.

- (C) 43. Which of the following statements best describes the main idea of this passage?
- (A) It is hazardous to be physicians these days because half of them are sued.
 - (B) If a doctor does not want to be sued, he should try to spend three minutes on each patient.
 - (C) Whether physicians are sued or not depends on how they talk to their patients.
 - (D) All physicians give equal amounts of information to their patients.
- (B) 44. In this passage, the function of “orienting comments” is to help patients ____.
- (A) find their ways around the hospital
 - (B) understand what to expect from doctors
 - (C) get an idea when to sue their doctors
 - (D) comment on their doctors’ instructions
- (A) 45. According to this passage, what does “active listening” mean?
- (A) To encourage the patients to talk more
 - (B) To encourage the patients to listen carefully
 - (C) To listen actively the patients for positive messages
 - (D) To listen attentively the patients while speaking or smiling
- (C) 46. According to this passage, a doctor who has never been sued ____.
- (A) always gives more professional information
 - (B) is always serious and talks straight
 - (C) is most likely an effective communicator
 - (D) has more time to spare and therefore sees fewer patients

第 47 題至第 50 題為篇章結構，各題請依文意，從四個選項中選出最合適者，各題答案內容不重複

The scientific view of what determines a life span or how a person ages has swung back and forth. First, a couple of decades ago, the emphasis was on environment, eating right, exercising, and getting good medical care. 47 It is the idea that you either inherit the right combination of genes that will let you eat fatty steaks and smoke cigars and live to be 100, or you do not. And the notion has stuck. 48 If they can come up with an ancestor or two who lived a long life, they assume they have a genetic gift for longevity.

But recent studies find that genes may not be so important in determining how long someone will live and whether a person will get some diseases—except, perhaps, in some exceptionally long-lived families. 49 The likely reason is that life span is determined by such a complex mix of events that there is no accurate predicting for individuals. The factors include genetic predispositions, disease, nutrition, a woman’s health during pregnancy, and subtle injuries and accident. 50 The

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result is that old people can appear to be struck down for many reasons, or for what looks like almost no reason at all, just chance.

- (A) 47. (A)Then the view switched to genes.
(B)Now some of the other candidates have begun to emerge.
(C)Life spans are nothing like a trait such as height, which is mainly inherited.
(D)So these days, when it comes to life span, many people try to think of some long-lived family members.
- (B) 48. (A)Now some of the other candidates have begun to emerge.
(B)So these days, when it comes to life span, many people try to think of some long-lived family members.
(C)That means it is generally impossible to predict how long a person will live based on how long the person's relatives lived.
(D)Also, they may be simply chance events, like a randomly occurring mutation in a gene of a cell that ultimately leads to cancer.
- (C) 49. (A)Now some of the other candidates have begun to emerge.
(B)Life spans are nothing like a trait such as height, which is mainly inherited.
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