

# 100年公務人員高普考試試題及解答

高考三級

法學知識與英文

功名文教機構

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## 測驗部分：(100分)

- (A)01.就公立大學教育而言，下列何者不屬於憲法第11條講學自由之保障範圍？
- (A)行政規費之收取 (B)教師之研究主題設定  
(C)教師之教學大綱決定 (D)學生之學習自由
- (D)02.人民有居住遷徙的自由，依司法院釋字第454號解釋，以下敘述何者錯誤？
- (A)憲法第10條規定人民有居住及遷徙之自由，旨在保障人民有自由設定住居所、遷徙、旅行，包括出境或入境之權利  
(B)對人民上述自由或權利加以限制，必須符合憲法第23條所定必要之程度，並以法律定之  
(C)對於「國人入境短期停留長期居留及戶籍登記作業要點」第7點規定，關於在臺灣地區無戶籍人民申請在臺灣地區長期居留得不予許可、撤銷其許可、撤銷或註銷其戶籍，並限期離境之規定，係對人民居住及遷徙自由之重大限制，應有法律或法律明確授權之依據  
(D)對人民入境居住之權利，固得視規範對象究為臺灣地區有戶籍人民，僑居國外或居住港澳等地區之人民，及其所受限制之輕重而容許合理差異之規範，惟必須符合憲法第23條所定必要之程度，並以法律定之，不得經立法機關明確授權由行政機關以命令定之
- (A)03.下列那一種公職人員之選舉並無婦女當選名額之保障？
- (A)區域立法委員 (B)全國不分區及僑居國外國民立法委員  
(C)直轄市、縣（市）議員 (D)鄉（鎮、市）民代表
- (C)04.下列那一種制度，在法理上也常被稱為「第二次權利保護」或「第二次權利救濟」？
- (A)訴願 (B)行政訴訟 (C)國家賠償 (D)徵收補償
- (D)05.憲法第1條明定中華民國為民主共和國，下列何者並非民主共和國之特徵？
- (A)國家元首是透過選舉產生 (B)國家元首有一定的任期  
(C)國家元首由人民直接或間接選出 (D)國家元首可以指定繼承人
- (B)06.下列我國憲法本文第10章及第11章之條文中，何者已因憲法增修條文第9條第1項之規定而不適用？
- (A)第110條有關縣立法並執行事項之條文  
(B)第113條有關省自治法內容之條文  
(C)第116條有關省法規與國家法律牴觸者無效之條文  
(D)第111條有關中央與地方權限爭議解決之條文
- (B)07.依地方制度法之規定，下列有關直轄市或縣（市）政府辦理自治或委辦事項之敘述何者錯誤？
- (A)直轄市政府辦理自治事項違背法律者，由中央各該主管機關報行政院予以撤銷、變更、廢止或停止其執行  
(B)直轄市政府辦理委辦事項違背法律者，由委辦機關予以撤銷、變更、廢止或停止其執行

- (C)縣(市)政府辦理自治事項違背法律者，由中央各該主管機關報行政院予以撤銷、變更、廢止或停止其執行
- (D)縣(市)政府辦理委辦事項違背法律者，由委辦機關予以撤銷、變更、廢止或停止其執行
- (A)08.下列何者並非憲法基本國策中明文規定，有關勞工及勞資關係之重要原則？
- (A)為保護本國勞工，應限制輸入外籍勞工 (B)婦女兒童從事勞動者，應給予特別之保護
- (C)勞資關係以協調合作為原則 (D)勞資糾紛之仲裁應以法律定之
- (D)09.下列何者非訴訟權保障之核心內容？
- (A)權利遭受侵害時，必須給予向法院提起訴訟之權利
- (B)權利遭受侵害時，可以請求依正當法律程序公平審判
- (C)權利遭受侵害時，可以獲及時有效救濟之機會
- (D)公私法上之訴訟，皆應有相同審級之救濟
- (A)10.有關財產權之限制，依據司法院大法官解釋，下列何項敘述正確？
- (A)得依其限制之程度，以法律或法律明確授權之命令予以規範
- (B)有關財產權之限制，必須以法律定之
- (C)屬憲法保留層次問題
- (D)原則上由法規命令或行政規則為之
- (B)11.法律限制大陸地區人民經許可進入臺灣地區者，非在臺灣地區設有戶籍滿十年，不得擔任公務人員之規定，依司法院大法官解釋，何者錯誤？
- (A)此規定目的為確保臺灣地區安全、民眾福祉暨維護自由民主之憲政秩序，應屬合理正當
- (B)此種有關兩岸關係事務之規定，係屬政治問題，立法機關就此所為之決定，釋憲機關不得審查
- (C)以設有戶籍滿十年，作為其擔任公務人員之要件，仍屬必要及合理之範圍
- (D)此種限制係考量原設籍大陸地區人民對自由民主憲政體制認識與臺灣地區人民之差異，仍屬合理
- (C)12.總統行使何種職權，無須經行政院會議之議決？
- (A)宣布戒嚴 (B)發布緊急命令
- (C)行使國家安全大政方針決定權 (D)行使大赦之權
- (D)13.有關審計長之敘述，下列何者正確？
- (A)任期十年 (B)與執政黨之更迭同進退
- (C)由總統提名，監察院同意後任命 (D)由總統提名，立法院同意後任命
- (C)14.有關言論自由，依司法院大法官解釋，下列說明何者錯誤？
- (A)言論自由有實現自我、溝通意見、追求真理、滿足人民知的權利，形成公意，促進各種合理的政治及社會活動之功能，乃維持民主多元社會正常發展不可或缺之機制
- (B)言論自由如以法律加以限制者，應符合比例原則之要求
- (C)人民團體法第2條規定：「人民團體之組織與活動，不得主張共產主義」，使主管機關於許可設立人民團體以前，得就人民「主張共產主義」之政治上言論內容而為審查，與憲法保障人民結社自由與言論自由之意旨相符
- (D)政黨成立後發生其目的或行為危害中華民國之存在或自由民主之憲政秩序者，經憲法法庭作成解散之判決後，始得禁止
- (D)15.人民身體自由享有充分保障，行政執行法拘提管收事由相關規定是否違憲，依司法院大法官解釋，下列敘述何者錯誤？
- (A)立法機關基於重大之公益目的，藉由限制人民自由之強制措施，以貫徹其法定義務，於符合憲法上比例原則之範圍內，應為憲法之所許

- (B)行政執行法關於「管收」處分之規定，於法定義務人確有履行之能力而不履行時，拘束其身體所為間接強制其履行之措施，尚非憲法所不許
- (C)行政執行法如規定，「於調查執行標的物時，對於執行人員拒絕陳述者」得予以拘提管收，已逾越必要程度，與憲法第23條規定之意旨違背
- (D)憲法第8條第1項規定所稱「法定程序」，係指凡限制人民身體自由之處置，不問其是否屬於刑事被告之身分均須同一
- (A)16.刑法第153條第1款規定：「以文字、圖畫、演說或他法，公然為左列行為之一者，處二年以下有期徒刑、拘役或一千元以下罰金：一、煽惑他人犯罪者。」下列有關此條文之解釋，何者正確？
- (A)此規定所謂之他人，係指不特定之人 (B)此規定所謂之他人，係指特定之人
- (C)他人必須有犯罪之著手，行為人始構成此罪 (D)他人必須犯罪既遂，行為人始構成此罪
- (B)17.依民法規定，監護人執行監護職務所負之責任為何？
- (A)應負無過失責任 (B)應負抽象輕過失責任
- (C)僅就具體輕過失負責 (D)僅就重大過失負責
- (C)18.甲有配偶乙，子女A、B，別無其他親屬。甲死亡時留下遺產90萬元，並留下有效遺囑將遺產全部贈與密友丙。請問依照民法規定，乙、A、B各可主張多少數額的特留分？
- (A)乙、A、B各10萬元 (B)乙15萬元，A、B各10萬元
- (C)乙、A、B各15萬元 (D)乙30萬元，A、B各15萬元
- (A)19.下列關於意思表示的敘述，何者正確？
- (A)虛偽意思表示，隱藏他項法律行為者，適用關於該項法律行為之規定
- (B)表意人因過失而不知相對人之姓名、居所者，得依民事訴訟法公示送達之規定，以公示送達為意思表示之通知
- (C)意思表示因傳達人或傳達機關傳達不實者，傳達人或傳達機關之撤銷權，自意思表示後，經過一年而消滅
- (D)向法定代理人允許其獨立營業之限制行為能力人為意思表示者，以其通知達到其法定代理人時，發生效力
- (B)20.下列何種法學理論曾以「機械法學」批判法院之裁判？
- (A)概念法學 (B)社會法學 (C)法律實證主義 (D)立憲主義
- (D)21.下列何者屬於抽象危險犯？
- (A)殺人罪 (B)傷害罪 (C)竊盜罪 (D)偽證罪
- (C)22.甲、乙就A車成立讓與合意後，讓與人甲又以借用人身分與乙訂立A車之使用借貸契約。本題之交付方式為何？
- (A)現實交付 (B)簡易交付 (C)占有改定 (D)指示交付
- (B)23.下列何者並不是司法院大法官解釋認為憲法保障商業言論自由的理由？
- (A)商業言論所提供之訊息為真實
- (B)商業言論所提供之訊息須無獲利性
- (C)商業言論所提供之訊息係以合法交易為目的，且有助於消費大眾作出經濟上之合理抉擇者
- (D)商業言論所提供之訊息須無誤導性
- (A)24.近世法律關係趨於複雜，有時純靠私法並無法解決私人間的法律關係，因此公法往往介入私法領域，而有社會法及勞動法之產生，下列何者屬於此類法律？
- (A)團體協約法 (B)行政程序法

(C)漢生病病人權保障及補償條例

(D)國家賠償法

- (C)25.在一電子工廠服務的女性員工甲女於懷孕七個月時，雇主以「甲女生育後，有育兒的義務」為由將甲女解僱，依據性別工作平等法，該解僱效力如何？
- (A)非直接以懷孕為由之解僱，該解僱有效  
(B)以育兒為由之解僱，該解僱有效  
(C)雇主不得以育兒作為解僱甲女之理由，該解僱不生效力  
(D)雇主支付甲女一個月薪資後，即可解僱甲女
- (A)26.有關依法行政原則，下列何者錯誤？
- (A)行政行為應受法律拘束，不受一般法律原則之影響  
(B)包含積極的與消極的兩種面向  
(C)可區分為法律優越以及法律保留兩項  
(D)為法治國家的重要表徵
- (D)27.法院依法為某未成年子女A酌定B為其權利義務之行使或負擔之人的裁判後，B對A為家庭暴力，請問下列何人無法向法院請求，為A之最佳利益改定之？
- (A)A本身                      (B)縣市主管機關                      (C)社會福利機構                      (D)A友人之父母
- (A)28.直轄市家庭暴力防治中心應辦理的事項，不包括下列何者？
- (A)協調、督導警政、社政與司法機關家庭暴力防治事項之執行  
(B)提供二十四小時電話專線服務  
(C)提供被害人及其未成年子女短、中、長期庇護安置  
(D)追蹤及管理轉介服務案件
- (B)29.公司轉投資其他公司為有限責任股東時，其所有投資總額，原則上不得超過本公司實收股本百分之多少？
- (A)三十                      (B)四十                      (C)五十                      (D)六十
- (A)30.消費者保護法規定，於訂立定型化契約之前，消費者應有幾日之內之審閱期間？
- (A)30日之內                      (B)20日之內                      (C)15日之內                      (D)10日之內
- (D)30. The \_\_\_\_\_ of the candidate expressed itself in his extreme and unrealistic isolationism.
- (A) acrophobia                      (B) homophobia                      (C) photophobia                      (D) xenophobia
- (A)32. The tribal elders \_\_\_\_\_ for three hours before banishing the two offenders.
- (A) deliberated                      (B) delivered                      (C) depicted                      (D) deported
- (D)33. Pope Benedict XVI has \_\_\_\_\_ into the evolution debate in the United States, saying the universe was made by an "intelligent project."
- (A) disappeared                      (B) ascended                      (C) involved                      (D) waded
- (A)34. One is often amazed by the speed with which armies collapse, bureaucracies \_\_\_\_\_, and social structures dissolve once the autocrat is removed.
- (A) abdicate                      (B) accelerate                      (C) vibrate                      (D) fabricate
- (D)35. Disputes between Taiwan and Japan over who should have \_\_\_\_\_ over Diaoyutai Islands have become heated recently.
- (A) bureaucracy                      (B) conspiracy                      (C) solidarity                      (D) sovereignty
- (C)36. Despite the \_\_\_\_\_ of excellent children's books in recent years, reading is increasingly unpopular among children.
- (A) deterioration                      (B) fabrication                      (C) proliferation                      (D) transaction

- (D)37. Genetic discoveries will trigger a flood of new \_\_\_\_\_, including drugs that aimed at the causes of disease rather than the symptoms.  
(A) therapies (B) diagnoses (C) stethoscopes (D) pharmaceuticals
- (B)38. Society is a joint-stock company in which the members agree for the better securing of the bread to each shareholder, to surrender the liberty and culture of the eater.  
(A) Like a company, society may deprive individuals of their bread in order to maintain the liberty and culture of each shareholder.  
(B) Like a company, society may operate at the expense of individuals' liberty and culture to ensure the profits for each shareholder.  
(C) Society operates like a joint-stock company that generates profits for shareholders to sustain each individual's liberty and culture.  
(D) Society would produce profits as a joint-stock company for each shareholder when its members agree to give away their bread.
- (A)39. Out of the barren earth of their homeland, the farmers are able to create a lush landscape.  
(A) The farmers manage to create a rich landscape despite the barren soil.  
(B) By getting out of the barren earth, the farmers are able to create a rich landscape.  
(C) Outside the poor territory of their homeland, the farmers succeed in creating a lush landscape.  
(D) Away from the barren earth of their homeland, the farmers manage to create a rich landscape.
- (B)40. Because of the belief that a woman generally does not provide the sole financial support for her family as a man does, she often fails to receive equal pay for equal work.  
(A) Women often do not make as much money as men do because it is generally believed that a woman receives other financial support in her family.  
(B) Women and men often do not get equal pay for equal work because a woman's paycheck is generally considered a secondary income for her family.  
(C) Women often fail to receive equal treatment at work because they believe they do not make as much money as men do.  
(D) Women and men often fail to get equal pay for equal work because a woman's income is generally more important than a man's.

請依下文回答第41-45題

We measure our lives in months and years. The wood mouse's life is measured in hours and days. This tiny mammal, a member of the rodent family, has a childhood lasting only for three weeks.

Survival is a difficult task for such a small creature. The wood mouse ventures out mainly at night, using its whiskers to feel its way through the darkness. It has good sight and hearing, and an excellent sense of smell. However, the wood mouse is relatively defenseless, and many fall prey to owls, hawks, crows, foxes, and other predators.

The mouse's main survival strategy is to breed at speed. A single mother may have several litters of babies, totally 25 to 30 offspring in a year. With so many babies, the chances are that only one or two will survive.

The wood mouse has many similarities to its close cousin, the house mouse. For both, life starts in a cozy nest. The new babies are pink and furless. Their eyes are closed, and there is no sign of the typically large mouse ears. They depend completely on their mother. She suckles them with her milk, licks them clean, removes their droppings, and keeps the nest clean. If they wriggle too far, she picks them up in her mouth and returns them to the nest.

- (B)41. How long does it take a wood mouse to grow into maturity?

- (A) Less than one week  
(C) More than one month
- (B) Less than one month  
(D) More than one year
- (A)42. How does the wood mouse move around in darkness?  
(A) With the help of whiskers  
(C) With the help of eyes  
(B) With the help of ears  
(D) With the help of the nose
- (B)43. What is the way for the wood mice to survive?  
(A) They run very fast.  
(C) They scare away their enemies.  
(B) They produce their young in big quantity.  
(D) They don't go out in the daytime.
- (A)44. According to the passage, what makes a difference between a wood mouse and a house mouse?  
(A) The size of the ears  
(C) The color of the fur  
(B) The size of the eyes  
(D) The color of the nose
- (B)45. According to the passage, which of the following statements is true?  
(A) The wood mice have no predators.  
(B) The house mouse is a member of the rodent family.  
(C) The baby wood mouse is independent.  
(D) The mother wood mouse drops her babies outside the nest when she cleans it.

請依下文回答第46 50題

Psychologists have long known that people can solve their problems at work and home by "sleeping on it." Dr. Deirdre Barrett advises individuals to ponder questions just before falling asleep (Should I take this job? Should I marry that guy?) and then let the subconscious provide the answers. "I've known artists looking for inspiration who simply dream up a future show of their art and wake up with plenty of new painting ideas," says Barrett. "More and more people are learning these techniques to control their dreams."

Dr. Stephen LaBerge, for example, has pioneered a way of directing the sleeping mind through "lucid dreaming," in which a sleeping person realizes he or she is dreaming *while it is happening*. In "lucid dreaming," your dreams are like private movies where you are the star, director, and writer all at once. Lucid dreamers can use the experience for a variety of purposes: problem solving, developing creative ideas, and healing. A person may use lucid dreaming for everything from talking to his/her long-dead father to gorging on sweets. Moreover, a weak swimmer in the waking life may dream of diving to the bottom of the dream ocean without worrying about breathing (or his/her swimming skills). Most importantly, lucid dreaming is free and available to everybody.

- (B)46. Why does Dr. Barrett suggest people ponder questions before falling asleep?  
(A) To remember the questions clearly when waking up  
(B) To come up with creative ideas from dreams  
(C) To solve the problems before falling asleep  
(D) To give the subconscious a good rest
- (D)47. According to the passage, which of the following can help us solve problems?  
(A) Sleeping without dreams  
(C) Forgetting our dreams  
(B) Interpreting others' dreams  
(D) Directing our dreams
- (C)48. Which of the following statements is NOT a benefit of lucid dreaming?  
(A) It is free of charge.  
(C) It induces sound sleep.  
(B) It has healing power.  
(D) It generates creative ideas.

- (D)49. What does the author try to prove with the example of the weak swimmer?
- (A) Dreams reinforce illusions.
  - (B) Dreams introduce new ideas.
  - (C) Dreams are different from reality.
  - (D) Dreams satisfy subconscious desires.
- (C)50. Which of the following statements about "lucid dreaming" is true?
- (A) "Lucid dreaming" is available to those able to both direct and act in movies.
  - (B) Movie stars can enjoy "lucid dreaming" more than movie directors.
  - (C) People both act in and direct their dreams in "lucid dreaming."
  - (D) Sleeping persons are more like movie stars than like movie directors in "lucid dreaming."