ASPPA

American Society of Pension Professionals & Actuaries

DC-2: 401(k) Plans and Intermediate Administration Topics

Practice Exam

2020 DC-2 Practice Exam

Question 1:
All of the following statements regarding 401(k) plans are TRUE, EXCEPT:

A. An employee may make an election to defer compensation that is currently available.
B. Participants may have their deferral rates automatically increased with future pay increases.
C. After-tax employee contributions may be found in a 401(k) plan.
D. Elective contributions are subject to withholding of Social Security and Medicare taxes.
E. A partner may make a deferral election on compensation that is received as draw.

Question 2:
All of the following are types of contributions that may be found in a 401(k) plan, EXCEPT:

A. Designated Roth contributions
B. Qualified nonelective contributions
C. Employer defined benefit contribution
D. After-tax employee contributions
E. Qualified matching contributions

Question 3:
All of the following statements regarding designated Roth contributions are TRUE, EXCEPT:

A. Designated Roth contributions are subject to the IRC §402(g) limit on elective deferrals.

B. Designated Roth contributions are tested for nondiscrimination purposes in the ACP test.

C. A participant may designate all or a part of his elective contributions as Roth contributions.

D. Designated Roth contributions are elective contributions made on a post-tax basis.

E. Designated Roth contributions are not taxed when distributed from a qualified plan.

Question 4:
Which of the following statements regarding automatic enrollment in 401(k) plans is/are TRUE?

I. Employees must receive a notice regarding automatic enrollment.
II. Safe harbor 401(k) plans must include an automatic enrollment provision.
III. A nonsafe harbor EACA must satisfy ADP testing.

A. I only
B. II only
C. I and III only
D. II and III only
E. I, II and III

Question 5:
All of the following may be considered catch-up contributions, EXCEPT:

A. Elective contributions exceeding the IRC §402(g) dollar limit
B. Elective contributions exceeding the plan's compensation limit
C. Elective contributions exceeding a plan-imposed contribution limit
D. Elective contributions exceeding the IRC §415 annual addition limit
E. Elective contributions exceeding the amount allowed to satisfy the ADP test

Question 6:
All of the following statements regarding the IRC §402(g) dollar limit on elective deferrals are TRUE, EXCEPT:

A. The IRC §402(g) dollar limit is determined on a calendar year basis.

B. The IRC §402(g) dollar limit is pro-rated in short plan years.

C. Elective contributions made to nonqualified deferred compensation plans are not subject to the IRC §402(g) limitations.

D. In general, elective contributions made to a 125 plan are not subject to IRC §402(g) limitations.

E. Catch-up contributions are not subject to IRC §402(g) dollar limitations.

Question 7:
Which of the following is/are acceptable events for which a participant may receive a distribution of elective contributions from a 401(k) plan?

I. Complete discontinuance of employer contributions to the plan
II. Termination of the plan, if no successor plan is maintained
III. In the event of financial hardship

A. I only
B. II only
C. I and III only
D. II and III only
E. I, II and III

Question 8:
Which of the following statements regarding nondiscrimination testing in a 401(k) plan is/are TRUE?

I. The ACP test must include all eligible participants whether or not they make elective deferrals.
II. The 2% spread test may only be used to satisfy the ADP test or the ACP test, but not both.
III. The ACP test must include after-tax employee contributions, if any.

A. I only
B. II only
C. I and III only
D. II and III only
E. I, II and III

Question 9:
Based on the following information, determine the ACP for the following NHCEs:

- The employer matching contribution is 50% of the amount deferred.
- Gross compensation is used to determine contribution ratios.
- No contributions are shifted between ADP and ACP tests.

Participant	Gross Compensation	Elective Deferrals
NHCE A	$205,000	$13,000
NHCE B	$100,000	$10,000
NHCE C	$95,000	$8,000

A. 3.17%
B. 3.94%
C. 4.13%
D. 4.21%
E. 5.00%

Question 10:
All of the following statements regarding the ADP and ACP testing methods are TRUE, EXCEPT:

A. A safe harbor 401(k) plan is considered to be using the current year testing method.

B. An employee that was an NHCE in the prior year and an HCE in the current year is reflected in both groups under the prior year testing method.

C. The current year testing method uses NHCE data from the current plan year.

D. The prior year testing method uses the HCE data from the prior plan year.

E. The default testing method under the statute is the prior year testing method.

Question 11:
Based on the following information, determine the maximum elective deferral that HCE 1 could make that would satisfy the ADP test:

- Gross compensation is used in the ADP test.
- None of the participants are catch-up eligible.

Employe	Gross	Elective Deferral
HCE 1	$100,000	
HCE 2	$50,000	$3,000
NHCE 1	$50,000	$2,000
NHCE 2	$40,000	$1,200
NHCE 3	$30,000	$600

A. $1,500
B. $3,750
C. $4,000
D. $5,000
E. $6,000

Question 12:
Which of the following statements regarding the calculation of an individual's ADR is/are TRUE?

I. QNECs may be included.
II. HCE excess deferrals are excluded.
III. NHCE excess deferrals are excluded.

A. I only
B. II only
C. I and III only
D. II and III only
E. I, II and III

Question 13:
Which of the following participants is/are included in the ACP test?

I. Employees eligible to make after-tax employee contributions
II. Terminated employees eligible to receive matching contributions
III. Employees eligible to receive matching contributions, but did not make elective contributions

A. I only
B. II only
C. I and III only
D. II and III only
E. I, II and III

Question 14:
All of the following statements regarding coverage testing in a 401(k) plan are TRUE, EXCEPT:

A. An employee that is eligible to receive a matching contribution, but chose not to make elective contributions is considered to be benefiting when testing the 401(m) component.

B. All employees who are eligible to make after-tax employee contributions are included in the coverage testing group for the 401(k) plan component.

C. Terminated participants with 500 or fewer hours are not excluded from the coverage testing group for the 401(k) plan component.

D. Terminated participants with 500 or fewer hours may be excluded from the coverage testing group for the 401(m) plan component.

E. The exclusion for terminated participants who complete 500 or fewer hours applies when testing the 401(m) component only if the plan has allocation requirements for matching contributions

Question 15:
Which of the following statements regarding QNECs used to correct failed nondiscrimination tests is/are TRUE?

I. The plan sponsor can pick and choose which participants will receive an allocation of QNECs
II. QNECs used in the ADP test may not be used in the ACP test.
III. To be included in the ADP test, QNECs must be contributed no later than 12 months after the close of the plan year for which they are allocated.

A. I only
B. II only
C. I and III only
D. II and III only
E. I, II and III

Question 16:
Which of the following statements regarding corrective distributions is/are TRUE?

I. If the HCE has both pre-tax elective contributions and designated Roth contributions, the designated Roth contributions are always the first to be refunded as excess contributions.
II. If a catch-up eligible HCE has not fully utilized the catch-up limit permitted by the plan, the HCE's excess contributions must be recharacterized as catch-up contributions up to the remaining catch-up limit.
III. Any nonvested matching contributions treated as excess aggregate contributions are forfeited instead of distributed.

A. I only
B. II only
C. I and III only
D. II and III only
E. I, II and III

Question 17:
All of the following are permitted correction methods for a failed ADP or ACP test, EXCEPT:

A. Distribution or forfeiture of excess aggregate contribution to correct a failed ACP test

B. Allocating a QMAC to all eligible participants to correct a failed ACP test

C. Distributing excess contributions to correct a failed ADP test

D. Recharacterizing excess contributions as after-tax employee contributions to correct a failed ADP test

E. Allocating a discretionary matching contribution that meets the 401(k) safe harbor requirements to correct a failed ADP test

Question 18:
Based on the following information, determine the amount of excess contributions and allocable earnings taxable to the following participant:

- Plan year elective deferrals are $15,000.
- The plan does not allow for designated Roth contributions.
- Plan year excess contributions are $2,000.
- Allocable loss on the excess contribution is ($50).
- Excess contributions and allocable earnings were distributed to the participant within 2½ months following the end of the plan year.
- The participant is not catch-up eligible.

A. $0
B. $50
C. $1,950
D. $2,000
E. $2,050

Question 19:
Based on the following information, determine the amount of excess contribution and allocable earnings taxable to the following participant:

- Elective deferrals for the plan year are $15,000.
- Excess contributions for the plan year are $2,000.
- Allocable earnings on the excess contribution are $60.
- Excess contributions and allocable earnings were returned to the participant on March 1 following the end of the plan year.
- The participant is not catch-up eligible.

A. $ 0
B. $ 60
C. $1,940
D. $2,000
E. $2,060

Question 20:
Which of the following statements regarding shifting techniques is/are TRUE?

I. The elective deferrals of some participants and not others may be shifted to the ACP test.
II. Elective deferrals shifted to the ACP test are not tested in the ADP test.
III. QMACs shifted to the ADP test are not tested in the ACP test.

A. I only
B. II only
C. I and III only
D. II and III only
E. I, II and III

Question 21:
Based on the following information, determine the deadline for refunding excess aggregate contributions from a 401(k) plan to avoid any excise tax on the employer:

- The plan year is January 1, 2019 to December 31, 2019.
- The distribution amount is $2,500.
- The plan is an EACA.

A. December 31, 2019
B. March 15, 2020
C. April 15, 2020
D. June 30, 2020
E. December 31, 2020

Question 22:
All of the following statements regarding 401(k) plan aggregation and disaggregation rules are TRUE, EXCEPT:

A. Otherwise excludable NHCEs may be disregarded for ADP testing.

B. Otherwise excludable NHCEs may be disregarded for ACP testing.

C. A safe harbor 401(k) plan may be designed to exclude the otherwise excludable employees from the safe harbor provisions.

D. Permissively aggregated plans need not have the same plan year.

E. The disaggregated plans testing method treats statutory employees and otherwise excludable employees as if each group participates in a separate plan.

Question 23:
All of the following statements regarding double-counting limits are TRUE, EXCEPT:

A. They may apply to a plan that uses QNECs for ADP testing.
B. They may apply to a plan that uses QNECs for ACP testing.
C. They may apply to a plan that uses shifting techniques.
D. They may apply to a plan that uses QMACs for ACP testing.
E. They may apply to a plan that switches from current year testing to prior year testing.

Question 24:
All of the following statements regarding 401(k) nondiscrimination testing are TRUE, EXCEPT:

A. If all eligible employees are HCEs, the plan is deemed to satisfy the ADP test.

B. The NHCE ADP is deemed to be 3% in a new 401(k) plan using the current year testing method.

C. A 401(k) plan that benefits only NHCEs automatically satisfies the ADP test.

D. The NHCE ADP is deemed to be 3% in a new 401(k) plan using the prior year testing method.

E. The deemed 3% rule may not be used in ACP testing for years the employer does not make a discretionary matching contribution.

Question 25:
All of the following statements regarding safe harbor 401(k) plans are TRUE, EXCEPT:

A. A plan is permitted to require employment on the last day of the plan year in order to receive the safe harbor nonelective contribution.

B. Safe harbor contributions may be made for HCEs as well as NHCEs.

C. A matching contribution of 100% of the first 4% of compensation deferred will satisfy both the ADP and ACP test safe harbor contribution requirements.

D. Safe harbor matching contributions applied on a payroll basis must be deposited by the last day of the quarter following the quarter in which the elective contributions were made.

E. It is not permissible to require employees to complete more than one year of service to be eligible to receive an allocation of safe harbor contributions.

Question 26:
Based on the following information, determine the amount of the basic matching contribution for the non-QACA safe harbor 401(k) plan:

Participant	Compensation	Elective Contribution
A	$100,000	$10,000
B	$ 80,000	$ 0
C	$ 75,000	$4,500
D	$ 40,000	$1,200

A. $8,200
B. $8,600
C. $8,850
D. $10,600
E. $14,750

Question 27:
All of the following are matching contribution formulas that satisfy the ACP safe harbor, EXCEPT:

A. Matching 100% of the first 6% of compensation deferred
B. Matching 100% of the first 3% of compensation deferred, plus 75% of the next 2% of compensation deferred
C. Matching 200% of the first 3% of compensation deferred
D. Matching 100% of the first 4% of compensation deferred, plus 50% of the next 1% of compensation deferred
E. Matching 50% of the first 10% of compensation deferred

Question 28:
All of the following statements regarding safe harbor 401(k) plan notices are TRUE, EXCEPT:

A. An employee who becomes eligible mid-year must receive the notice no later than his/her date of eligibility.

B. The notice requirement is satisfied if given by the first day of the plan year for a new 401(k) plan.

C. Failure to provide the safe harbor 401(k) plan notice is considered a document failure.

D. The employer may reference the plan's SPD regarding some of the notice content requirements.

E. The safe harbor notice must be written in a manner that is calculated to be understood by the average participant.

Question 29:
Which of the following statements regarding blackout periods is/are TRUE?

I. A blackout period may occur if participants are temporarily unable to diversify investments in the plan.
II. A blackout period may occur if participants are temporarily unable to take distributions from the plan.
III. A blackout period may occur if participants are temporarily unable to obtain loans from the plan.

A. I only
B. II only
C. I and III only
D. II and III only
E. I, II and III

Question 30:
Based on the following information, determine when a blackout notice is last due to participants:

- The blackout is due to a transition to a new recordkeeper.
- The blackout period begins on August 1, 2019.
- The plan is a calendar year 401(k) plan.

A. May 1, 2019
B. July 2, 2019
C. July 29, 2019
D. July 31, 2019
E. August 1, 2019

Question 31:
All of the following conditions must be satisfied for ERISA §404(c) relief to apply to investments in employer securities, EXCEPT:

A. The security must be publicly traded.

B. Trading must be sufficiently frequent.

C. All voting rights must pass through to the participants or beneficiaries.

D. Participants must be notified of the day-to-day financial status of the employer.

E. An independent fiduciary must be appointed when there is a potential for undue employer influence.

Question 32:
Which of the following is/are QDIAs?

I. Target date investments
II. Demographically-averaged investments
III. Managed accounts

A. I only
B. II only
C. I and III only
D. II and III only
E. I, II and III

Question 33:
All of the following statements regarding required disclosures for participant-directed accounts under ERISA §404(a) are TRUE, EXCEPT:

A. They may be provided as part of the plan's SPD as long as the disclosure timing rules are satisfied.
B. They must contain benchmark information for fixed-return investment alternatives.
C. They must contain benchmark information for variable-return investment alternatives.
D. They may be provided as part of a quarterly employee benefit statement as long as the disclosure timing rules are satisfied.
E. They must contain general information about individual expenses that may be charged to a participant's account.

Question 34:
Determine the maximum disparity allowance for a plan with an integration level of 10% of the taxable wage base in effect for the plan year.

A. 0.0%
B. 4.5%
C. 4.7%
D. 5.4%
E. 5.7%

Question 35:
All of the following plans may use permitted disparity, EXCEPT:

A. Target benefit
B. Profit sharing
C. Money purchase
D. SEP
E. ESOP

Question 36:
Based on the following information, determine the allocation to Participant A:

- The Taxable Wage Base (TWB) is $132,900.
- The integration level is 85% of the TWB.
- Participant A's compensation for the plan year is $150,000.
- The employer has elected to make a contribution of 4% of total compensation plus 4% on excess compensation.

A. $4,548.00
B. $4,737.00
C. $6,000.00
D. $6,640.00
E. $7,481.00

Question 37:
Based on the following information, determine the number of rate groups for general testing under IRC §401(a)(4):

Participant	EBAR
HCE 1	10.18%
HCE 2	7.21%
HCE 3	7.21%
NHCE 1	10.57%
NHCE 2	6.52%

A. One
B. Two
C. Three
D. Four
E. Five

Question 38:
All of the following statements regarding nondiscrimination testing are TRUE, EXCEPT:

A. Plans may satisfy the general test on the basis of either contributions or benefits.
B. A defined benefit plan that satisfies nondiscrimination on a contributions basis is said to be cross-tested.
C. A defined contribution plan must first satisfy gateway requirements before it can be cross-tested.
D. A rate group consists of an HCE and all other participants who have an allocation rate equal to or less than the HCE's allocation rate.
E. Nonelective forfeiture allocations are included when determining rate groups.

Question 39:
Which of the following statements regarding defined contribution plans is/are TRUE?

I. Plans that do not satisfy the IRC §401(l) integration requirements may be general tested.
II. A cross-tested profit sharing plan may define differing contribution levels for various classes of employees.
III. There is only one rate group to test for nondiscrimination if all participants have the same EBAR.

A. I only
B. III only
C. I and II only
D. II and III only
E. I, II and III

Question 40:
All of the following are design-based safe harbor allocation formulas, EXCEPT:

A. An employer contribution of $1 for every hour of service during the plan year
B. Pro rata based on compensation for the entire plan year for a mid-year plan entrant
C. An employer contribution of $25 per month of service in the plan year
D. Pro rata based on compensation with a contribution limit of $1,000 per participant
E. Pro rata based on compensation earned from the date of participation

Question 41:
Which of the following is/are design-based safe harbor allocation formulas under IRC §401(a)(4)?

I. Pro rata based on plan year compensation
II. Pro rata based on compensation from date of participation
III. Pro rata based on compensation for the entire year for a mid-year entrant

A. I only
B. II only
C. I and III only
D. II and III only
E. I, II and III

Question 42:
All of the following statements regarding distributions are TRUE, EXCEPT:

A. Annuity contracts may be held by the plan with the plan acting as a conduit by receiving payments from the insurer and transmitting them to the participant.
B. Annuity contracts may be distributed to the participant, who will then receive the annuity payments directly from the insurance company.
C. An annuity distribution may be guaranteed for the participant's lifetime.
D. The plan sponsor may have the discretion to choose the type of payment method available to a participant.
E. An installment distribution is a periodic payment made for a specific period of time.

Question 43:
All of the following are requirements of a QJSA, EXCEPT:

A. If the QJSA form of benefit applies, the participant may not elect any other form of benefit.

B. A plan is required to provide a QJSA form of benefit unless specifically exempt from the requirement.

C. If the QJSA is required, it applies to the entire vested accrued benefit, including after-tax employee contributions and rollover contributions.

D. A profit sharing plan may be exempt from the QJSA requirement if the death benefit is payable in full to the surviving spouse.

E. The survivor annuity must be no greater than 100% and no less than 50% of the annuity paid during the participant's life.

Question 44:
Based on the following information, determine the amount of the RMD:

- The participant's required distribution is for calendar year 2019.
- The participant's account balance as of 12/31/17 was $82,000.
- The participant's account balance as of 12/31/18 was $87,000.
- The participant's account balance as of 12/31/19 was $100,000.
- The life expectancy factor is 25.6.

A. $0
B. $3,203
C. $3,398
D. $3,906
E. $5,000

Question 45:
All of the following statements regarding hardship withdrawals are TRUE, EXCEPT:

A. Hardship withdrawals are not allowed from money purchase pension plans.

B. The plan administrator may use a facts and circumstances test to determine if the hardship requirements have been satisfied.

C. Participants receiving a hardship withdrawal are suspended from making elective contributions for a minimum of three months.

D. Profit sharing plans are not required to have the same restrictions on hardship withdrawals that are applicable to 401(k) plans.

E. The hardship withdrawal must be allowed only on account of an immediate and heavy financial need.

Question 46:
Based on the following information, determine the required beginning date for an RMD to Participant A:

- Participant A is a 10% owner.
- Participant A was born on July 10, 1949.
- Participant A is still employed as of December 31, 2020.

A. April 1 following the year of separation from service
B. December 31 following the year of separation from service
C. April 1, 2019
D. December 31, 2020
E. April 1, 2021

Question 47:
Which of the following statements regarding QDROs is/are TRUE?

I. QDROs must be made pursuant to state domestic relations law.
II. QDROs must include the name and last known mailing address of the plan administrator.
III. QDROs must include the alternate payee's date of birth.

A. I only
B. II only
C. I and III only
D. II and III only
E. I, II and III

Question 48:
All of the following distributions are exempt from the 10 percent tax on early distributions, EXCEPT:

A. Distributions from a qualified plan made to a participant who separates from service on or after attaining age 55

B. Hardship withdrawals taken to prevent eviction from or foreclosure on a principal residence

C. Excess deferrals returned under IRC §402(g)

D. Distributions made to an alternate payee under a QDRO

E. Distributions taken in substantially equal payments over the participant's lifetime, regardless of the participant's age when payments begin

Question 49:
All of the following statements regarding distribution reporting are TRUE, EXCEPT:

A. Form 945 must be filed each year, even if there was no withholding liability.

B. The amount of federal tax income withheld from a distribution is reported on Form 1099-R.

C. Form 945 reconciles actual deposits with withholding liability.

D. If part of a distribution is directly rolled over and the other part is paid to the participant, two Form 1099-Rs must be prepared.

E. Distributions from 401(k) plans are reported on Form 1099-R.

Question 50:
All of the following statements regarding eligible rollover distributions are TRUE, EXCEPT:

A. A rollover option is available to the surviving spouse of a deceased participant.

B. A rollover can be made directly by the plan trustee.

C. A rollover option is available to the spouse or former spouse who is receiving payment of the participant's benefits through a QDRO.

D. Rollover to a traditional IRA permits continued investment of the benefit on a tax-deferred basis.

E. A rollover option is available on all distributions.

Question 51:
All of the following statements regarding withholding are TRUE, EXCEPT:

A. Periodic payments are treated as wages for withholding purposes.

B. Unless otherwise elected by the participant, non-periodic payments that are not eligible for rollover are subject to 10% withholding.

C. An eligible rollover distribution comprised of only noncash employer securities distributed in kind is not subject to mandatory 20% withholding.

D. Hardship withdrawals are subject to mandatory 20% withholding.

E. Eligible rollover distributions that are directly rolled over are not subject to mandatory 20% withholding.

Question 52:
All of the following statements regarding eligible rollover distributions are TRUE, EXCEPT:

A. A hardship withdrawal from a qualified plan is not eligible for rollover.
B. Qualified plans are required to accept rollover contributions.
C. A rollover option may be available to the surviving spouse of a deceased participant.
D. A QDRO payment to a former spouse may be eligible for rollover.
E. A rollover option is not available on all distributions.

Question 53:
Based on the following information, determine the maximum loan amount available for a new loan to Participant X on January 1, 2019:

- Participant X is not a participant in any other plans.
- All required loan payments have been made timely.
- No other loans have been taken during 2018.
- The plan allows for multiple loans.

Vested account balance as of 1/1/19, including outstanding loan balance	$102,000
Outstanding loan balance on 1/1/19	$45,000
Outstanding loan balance on 1/2/18	$50,000

A. $0
B. $4,000
C. $5,000
D. $6,000
E. $10,000

Question 54:
All of the following statements regarding participant loans are TRUE, EXCEPT:

A. Loans must be adequately secured by 100% of the participant's benefit.

B. Participant loans are taxed as distributions if they fail to satisfy the requirements of IRC §72(p).

C. Loans must be repaid in substantially equal installments made not less frequently than quarterly over the term of the loan.

D. A participant may be allowed to take more than one loan from a plan at a time.

E. Spousal consent may be required for participant loans.

Question 55:
All of the following statements regarding participant loans are TRUE, EXCEPT:

A. Loans must be repaid through payroll deductions.
B. Loans must be adequately secured.
C. Loans must be made according to specific written procedures.
D. Loans must bear a reasonable rate of interest.
E. Loans may not exceed $50,000.

Question 56:
All of the following statements regarding deemed distributions are TRUE, EXCEPT:

A. A deemed distribution is subject to the 10 percent tax on early distributions.

B. The account balance of the participant may not always reflect an immediate reduction of a deemed distribution.

C. A deemed distribution is an eligible rollover distribution.

D. A deemed distribution does not erase the participant's obligation to repay the loan.

E. A deemed distribution is reported on Form 1099-R as a taxable event to the participant.

Question 57:
All of the following statements regarding participant loan refinancing are TRUE, EXCEPT:

A. A replaced loan refers to the existing loan that is being refinanced.

B. The maximum loan term for a replacement loan is five years from the original loan date of the replaced loan.

C. A replacement loan refers to the new loan resulting from a refinancing transaction.

D. The interest rate on the replacement loan is determined at the time of the refinancing transaction.

E. Refinancing is often used when a plan does not allow for multiple loans outstanding.

Question 58:
All of the following actions by an ARA member are violations of ARA's Code of Professional Conduct, EXCEPT:

A. Processing a participant hardship withdrawal in a careless manner without gathering sufficient information

B. Providing a client with Form 5558 (Application for Extension of Time) to file along with the plan's Form 5500, knowing that Form 5558 was not timely filed with the IRS

C. Refusing to provide conversion data to a client's new service provider

D. Being convicted of misdemeanor fraud related to a financial matter

E. Telling a client during a plan takeover case that you disagree with the prior plan administrator's top-heavy determination

Question 59:
Which of the following actions is/are acceptable in accordance with the ARA Code of Professional Conduct?

I. Being convicted of felony DWI
II. Being convicted of a misdemeanor due to reckless driving
III. Reviewing the provisions of a client’s qualified plan that is administered by another firm

A. I only
B. II only
C. I and III only
D. II and III only
E. I, II and III

Question 60:
A Principal consents to another professional reviewing certain aspects of the Principal's plan that you have prepared. You should:

A. Cooperate in assembling and transmitting pertinent data and documents without compensation.

B. Cooperate at your earliest convenience.

C. Cooperate once you determine the other professional will be in agreement with your work product.

D. Cooperate after you have permission from the Principal to interview the other professional.

E. Cooperate in assembling and transmitting the pertinent date and document subject to reasonable compensation.

Question 61:
All of the following statements regarding ARA’s Code of Professional Conduct are TRUE, EXCEPT:

A. A credentialed ARA member may be subject to disciplinary action by ARA if the member is found guilty of a felony that is not financially-related.

B. Working for clients who have conflicting interests is not permissible even if full disclosure is made and both clients are willing to continue the relationship.

C. An ARA member may not perform professional services if the member has reason to believe that the services may be used to evade the law.

D. Where the requirements of law conflict with ARA's Code of Professional Conduct, the requirements of law take precedence.

E. Precautions should be taken to ensure that professional communications are appropriate to the circumstances and the intended audience.

SHORT ANSWER KEY

Question #	Answer	Question #	Answer
1	A	32	E
2	C	33	B
3	B	34	E
4	C	35	E
5	B	36	E
6	B	37	B
7	D	38	D
8	C	39	E
9	C	40	C
10	D	41	E
11	C	42	D
12	C	43	A
13	E	44	C
14	B	45	C
15	D	46	E
16	D	47	A
17	E	48	B
18	C	49	A
19	E	50	E
20	C	51	D
21	D	52	B
22	D	53	A
23	D	54	A
24	B	55	A
25	A	56	C
26	A	57	B
27	E	58	E
28	C	59	D
29	E	60	E
30	B	61	B
31	D		

ANSWER KEY WITH EXPLANATIONS

1.	A	An employee may not elect to defer compensation that is currently available. The election to defer compensation is made before it is currently available. The employee is giving up the right to receive a portion of his or her current cash compensation in exchange for a plan contribution to be made for his or her benefit in the form of an elective contribution. If the plan permits, participants may have their elective contribution rates automatically increase with future pay increases. Elective contributions are subject to withholding of Social Security (*i.e.,* FICA) and federal unemployment (*i.e.,* FUTA) taxes. This is true regardless of whether the elective contributions were made on a pre-tax or post-tax basis for federal income tax purposes. There are four types of contributions that may be made to a 401(k) plan: (1) elective deferrals (i.e., pre-tax or Roth contributions); (2) after-tax employee contributions; (3) matchings contributions; and (4) nonelective contributions. A sole proprietor or a partner in a partnership can be a participant under the employer's 401(k) plan. For salary reduction purposes, the self-employed individual's compensation is not treated as currently available until the end of the sole proprietorship's or partnership's tax year. Thus, the salary reduction election to defer earned income for such year may be made up to the end of that year. The IRS has ruled that elective deferrals may be made from advances (draws) to partners of their distributive share of partnership earnings, because the advances are being made before the earned income is made available. (Syllabus Topic 1)
2.	C	There are four types of contributions that may be made to a 401(k) plan: (1) elective contributions {pre-tax deferrals and/or Roth contributions}; (2) after-tax employee contributions; (3) employer matching contributions {including Qualified Matching Contributions [QMACs] and matching contributions that are not QMACs}; and (4) nonelective contributions {including Qualified Nonelective Contributions [QNECs] and nonelective contributions that are not QNECs (e.g., profit sharing plan contributions)} . It seems obvious, but employer defined benefit contributions may not be made to a 401(k) plan. Such contributions can only be made to a defined benefit plan. (Syllabus Topic 1

3.	B	Since January 1, 2006, a plan has been able to permit an employee to irrevocably designate **all or part** of his or her elective contributions as designated Roth contributions at the time they are deferred into the plan. Designated Roth contributions are a special type of elective contribution because they are made with after tax dollars. Elective contributions that are Roth contributions are treated by the plan **in the same manner** as other pre-tax elective contributions. For example, for purposes of the IRC §402(g) and §415 limits and for ADP nondiscrimination testing purposes. Designated Roth contributions are tested for nondiscrimination purposes in the actual deferral percentage (ADP) test, rather than the actual contribution percentage (ACP) test. The rules for taxing designated Roth amounts and earnings thereon when they are distributed are different from those for pre-tax elective contributions. In particular, while the amount of the Roth contributions will always be distributed on a tax free basis (because the contributions were taxed at the time they were made), if certain conditions are met the earnings on the designated Roth contributions may also be distributed on a tax free basis. (Syllabus Topic 1)
4.	C	Employees must receive a notice regarding automatic enrollment. The notice requirement applies to all forms of automatic enrollment arrangements (i.e., ACA, EACA and QACA). Traditional safe harbor 401(k) plans (i.e., non-QACA) **may** contain an automatic enrollment arrangement but it is not a requirement (like it is in a QACA safe harbor 401(k) plan). A **non-safe harbor** 401(k) plan that contains an EACA must satisfy ADP nondiscrimination testing. Only safe-harbor 401(k) plans are deemed to satisfy the ADP test. (Syllabus Topic 1)
5.	B	Exceeding the plan's compensation limit does not affect the characterization of catch-up contributions. (Syllabus Topic 1)
6.	B	IRC §402(g) sets a limit on the amount of elective deferrals that may be excluded from gross income by an individual in a single **calendar year**. The IRC §402(g) dollar limit is an **individual taxpayer limit**, which affects the individual's federal income tax consequences. Thus, it is applied at the individual taxpayer level and the individual taxpayer must aggregate all elective contributions for that calendar year **that are subject to the limit**, even if they are made to plans of more than one employer.

		There are other types of retirement savings programs or employee benefit programs for which an employee might make salary reduction contributions. These types of contributions are **not** subject to the IRC §402(g) dollar limit because they are **not listed** in IRC §402(g). These contributions include: (1) Salary reductions under 457(b) plans; (2) Salary reductions that are **catch-up contributions**; (3) **Cafeteria plan (i.e., IRC §125 plan)** contributions; (4) Qualified transportation fringe benefits provided through salary reduction; and (5) Salary reduction contributions made under a **nonqualified deferred compensation arrangement.** **The IRC §402(g) limit is an individual taxpayer limit and is based on the individual taxpayer's taxable year (i.e., the calendar year). The IRC §402(g) limit has nothing to do, in any way, with the 401(k) plan's plan year. The IRC §402(g) dollar limit is NOT pro-rated in short PLAN years. Again, the plan year has nothing to do, and does not affect, the individual taxpayer's IRC §402(g) limit.** (Syllabus Topic 1)
7.	D	Distributions of elective contributions from a 401(k) plan may be permitted upon occurrence of any of the following events: • The employee's severance from employment; • The employee's death; • The employee's disability; • The employee's attainment of age 59 ½ (or a later specified age), even if the employee has not had a severance from employment; • The employee's financial hardship, even if the employee has not had a severance from employment; • The termination of the plan, even of the employee has not had a severance from employment, but only of the employer does not maintain an alternate defined contribution plan; • Permissible withdrawal under an EACA (post-2007); • Certain military service by qualified reservists; or • Qualified hurricane distribution. Complete discontinuance of employer contributions to the plan is not an allowable distribution event. The term "complete discontinuance of employer contributions to the plan" is commonly associated as requiring participants to be made 100% vested in a profit sharing plan. (Syllabus Topic 1)

8.	C	The **actual contribution percentage (ACP)** test applies to the 401(m) arrangement in a qualified plan. A plan that includes employer matching contributions and/or after-tax employee contributions has a 401(m) arrangement. In a defined contribution plan, the ACP test is the exclusive means of showing that the 401(m) arrangement satisfies the nondiscrimination requirements. The actual contribution percentage is determined by averaging actual contribution ratios (ACRs) separately calculated for the **eligible employees** in the 401(m) arrangement. An employee is an eligible employee under the 401(m) plan if he or she is permitted to make after-tax employee contributions (if after-tax employee contributions are permitted) or is eligible to receive an allocation of employer matching contributions. A participant is treated as eligible to receive employer matching contributions even if he or she does not make the elective contributions required for a match, as long as he or she would receive the employer matching contribution had he or she made such elective deferrals. The **2% spread test** may be used to satisfy the ADP test, the ACP test **or both the ADP and ACP tests**. (Syllabus Topic 2)
9.	C	The ACP is 4.13%. NHCE A Match: $13,000 * 50% = $6,500 NHCE A ACR: $6,500 / $205,000 = 3.17% NHCE B Match: $10,000 * 50% = $5,000 NHCE B ACR: $5,000 / $100,000 = 5.00% NHCE C Match: $8,000 * 50% = $4,000 NHCE C ACR: $4,000 / $95,000 = 4.21% (3.17% + 5.00% + 4.21%) / 3 = 4.13% (Syllabus Topic 2)
10.	D	The ADP test and the ACP test may be run by using either the “prior year testing method” or the “current year testing method.” The primary difference between the two methods is that the “prior year testing method” looks at the NHCE data from the prior plan year to determine the applicable limit on the ADP or ACP of the HCEs for the current plan year (i.e., the testing year), whereas the “current year testing method” looks at the NHCE data for the current plan year to determine the applicable limit on the ADP or ACP of the HCEs for the current plan year. In other words, the designation of the testing method as “prior year” or “current year,” is really a reference to the plan year

from which the plan obtains the relevant NHCE data that determine the maximum ADP or ACP for the HCEs.

The “prior year testing method” uses the NHCE data from the prior year and HCE data from the current plan year. An employee that was an NHCE in the prior year and an HCE in the current year is reflected in both groups under the “prior year testing method.” The “current year testing method” uses NHCE data and HCE data from the current plan year.

The default testing method under the statute is the “prior year testing method.” Thus, the “prior year testing method” applies for ADP/ACP testing purposes unless the employer elects to use the current year testing method. **Note:** Consistency between the ADP and ACP tests is not required. A plan may use the “prior year testing method” for the ADP test while using the “current year testing method” for the ACP test or vice versa.

A safe harbor 401(k) plan is considered to be using the “current year testing method.” (Syllabus Topic 2)

11. C The ADRs are determined as follows: Elective Deferral / Gross Compensation = ADR

	Gross Compensation	Elective Deferral	ADR
HCE1	$100,000		
HCE2	$50,000	$3,000	$3,000 / $50,000 =
NHCE1	$50,000	$2,000	$2,000 / $50,000 =
NHCE2	$40,000	$1,200	$1,200 / $40,000 =
NHCE3	$30,000	$600	$600 / $30,000 = 2%

The NHCE ADP is 3.00% ((4% + 3% + 2%) / 3).

First test:
The NHCE ADP times 1.25 = 3.75%

Second test:

		The NHCE ADP times 2 = 6% The NHCE ADP plus 2% = 5% The HCE ADP may equal the greater of the first test (3.75%) or the lesser result of the second test (5%). The greater of the two is 5%. Since HCE2 deferred 6%, HCE1 may defer 4% without causing the plan to fail as this would result in an HCE ADP of 5% ((6% + 4%) / 2 = 5%). With compensation of $100,000, a 4% elective deferral contribution would equal $4,000. (Syllabus Topic 2)
12.	C	When calculating an individual's Actual Deferral Ratio (ADR), "excess deferrals" are excluded from the participant's ADR if he or she is an NHCE and the "excess deferrals" are included in the participant's ADR if he or she is an HCE. **Note:** These rules apply regardless of whether a corrective distribution of the excess deferrals is made on a timely basis (i.e., April 15th of the following calendar year). If the employer makes QNECs or QMACs for the plan year, those amounts may be treated as deferral amounts to compute the participants' ADRs. (Syllabus Topic 2)
13.	E	An ACP test includes only the employees who are eligible employees under the 401(m) arrangement. The eligible employees are defined as the employees who are eligible to make after-tax employee contributions (at any point in the plan year) or who are eligible for an allocation of employer matching contributions (regardless of whether an elective deferral was actually contributed) for all or a portion of the plan year. All of the listed participants are included in the ACP test. (Syllabus Topic 2)
14.	B	Employees who are eligible to make after-tax employee contributions are included in the coverage testing group for the 401**(m)** plan component. Terminated participants with 500 or fewer hours are not excluded from the coverage testing group for the 401(k) plan component. These participants are not excludable employees when testing the 401(k) component because termination during the year or the failure to complete a given number of hours during the year does not affect whether the employee is eligible to participate in the 401(k) plan component.

		Terminated participants with 500 or fewer hours may be excluded from the coverage testing group for the 401(m) plan component, but only if the 401(m) component only of employer matching contributions and hours of service and/or last-day employment condition applies to an allocation of employer matching contributions. (Syllabus Topic 2)
15.	D	QNECs may be treated as elective deferral amounts in the calculation of actual deferral ratios (ADRs) under the ADP test, or as matching contribution amounts in the calculation of the actual contribution ratios (ACRs) under the ACP test. QNECs used in the ACP test may **not** be used in the ADP test. Similarly, QNECs used in the ADP test may **not** be used in the ACP test. To be counted in the ADP test or the ACP test for a plan year, QNECs must be contributed no later than 12 months after the close of the plan year for which they are allocated. The QNECs must be allocated under a definite allocation formula, as required for **all** contribution to a profit sharing plan. The employer **cannot** pick and choose which participants will receive an allocation of QNECs. (Syllabus Topic 3)
16.	D	If an HCE's elective contributions for a plan year include both pre-tax elective contributions and designated Roth contributions, the plan **may permit** the HCE to elect which type of contribution (i.e., pre-tax or designated Roth) is attributable to the excess contributions being refunded. If the plan permits catch-up contributions and an HCE is a catch-up eligible participant, a portion of the HCE's corrective distribution of excess contributions must be recharacterized as a catch-up contribution if the catch-up limit has not yet been reached. If excess contributions that are distributed have been matched, the effect of the distribution of excess contributions is that the remaining matching contributions are excessive when compared to the remaining elective deferrals. If there are distributions of elective deferrals to correct the ADP test, but no adjustment to the corresponding match, the HCE ends up with a discriminatory rate of match. To avoid this result, the plan must forfeit the matching contributions associated with the distributed excess contributions.

		If a matching contribution treated as excess aggregate contributions are not fully vested, the nonvested portion (including the allocable earnings on that portion) is forfeited instead of distributed. (Syllabus Topic 3)
17.	E	If the 401(k) arrangement fails the ADP test, corrective action must be taken to protect the qualified status of the arrangement. There are four correction methods permitted: (1) distribution of excess contributions; (2) contributing QNECs; (3) shifting QMACs into the ADP test; or (4) recharacterization of excess contributions. Allocating a discretionary matching contribution that meets the 401(k) safe harbor requirements is not a permissible correction method for a failed ADP test. To qualify for the ADP safe harbor, a 401(k) plan must provide participants with a safe harbor notice prior to the beginning of the plan year. If the 401(m) arrangement fails the ACP test, corrective action must be taken to protect the qualified status of the plan. There are three correction methods permitted: (1) distribution or forfeiture of excess aggregate contributions; (2) contribution of QNECs or QMACs; or (3) shifting elective deferrals into the ACP test. (Syllabus Topic 3)
18.	C	Excess contribution of $2,000 must be adjusted for allocable earnings (the $50 loss). $2,000 - $50 = $1,950. The entire $1,950 distribution is taxable to the participant. (Syllabus Topic 3)
19.	E	The excess contribution of $2,000 must be adjusted for allocable earnings (i.e., the $60 investment gain). The total distribution is $2,060 (i.e., $2,000 + $60 = $2,060). The entire $2,060 distribution is taxable to the participant. (Syllabus Topic 3)
20.	C	There are two shifting techniques. One that shifts QMACs to the ADP test and the second that shifts elective deferrals to the ACP test. These techniques have very different nuances. Under certain circumstances, QMACs may be shifted from the ACP test (where matching contributions normally are tested) to the ADP test, where they can be used to help the ADP test to be satisfied. When shifting QMACs all or a portion of the QMACs are in the ADP test rather than the ACP test. Although the regulation cites the use of QMACs in the ADP test as a means of correcting a failure of the test, the inclusion of QMACs in the ADP is **not** limited to only those circumstances when a failure of the ADP test is being corrected through such inclusion. The regulations allow plans to include QMACs in the ADP test regardless of whether the QMACs are needed to

		pass the ADP test. Thus, some administrators will include QMACs in the ADP test simply as a means of simplifying testing; that is, if all matching contributions made under a 401(k) plan are QMACs, and after-tax contributions are not permitted under the plan, shifting QMACs to the ADP test eliminates the ACP test entirely. This is because after the QMACs are shifted, there are no contributions left to be tested under the ACP test. **Whether to include QMACs in the ADP test, the amount of QMACs to include in the ADP test and which participant's QMACs are included in their ADRs may be left to administrative discretion.** Another shifting technique is to include elective deferrals in the ACP test. Elective deferrals may be included in the ACP test **only if two conditions are satisfied:** (1) the ADP test must be satisfied when all elective deferrals are included; and (2) the ADP test must be satisfied when only non-shifted elective deferrals are included. Under this second condition, the portion of the elective deferrals that is not included in the ACP test must still satisfy the ADP test. **Note:** This dual requirement is different from the requirements for shifting QMACs to the ADP test. When QMACs are shifted to the ADP test, those amounts are not tested again in the ACP test. **However,** when elective deferrals are shifted to the ACP test, the contributions shifted are actually tested under both tests. **Whether to include elective deferrals in the ACP test, the amount of elective deferrals to include in the ADP test and which participant's elective deferrals are included in their ACRs may be left to administrative discretion.** (Syllabus Topic 3)
21.	D	For post-2007 plan years, an EACA has **6 months**, rather than 2 ½ months, after the close of the plan year to make corrective distributions to HCEs to correct a failure of the ADP and/or ACP tests, without incurring the 10% excise tax. The plan year ended December 31, 2019, therefore the deadline for refunding excess aggregate contributions is June 30, 2020. (Syllabus Topic 3)
22.	D	Under the coverage rules, plans may be aggregated to satisfy the coverage tests. This is known as **permissive aggregation,** because the employer is deciding whether to aggregate the plans in demonstrating whether coverage is satisfied. If the plans are not aggregated for coverage, they are treated as separate plans for nondiscrimination testing. On the other hand, if the plans are aggregated for coverage then they are required to be aggregated for nondiscrimination testing.

One of the conditions for permissive aggregation is that the plans being aggregated must have the same plan year.

When plans are permissively aggregated, the plans must use the same testing method (i.e., prior year testing method or current year testing method).

The regulations provide for a special testing rule for plans that cover employees sooner than the law requires. These employees are called **otherwise excludable employees**. An otherwise excludable employee is an eligible employee who would not have been an eligible employee if the one year of service and/or age 21 age requirement permitted by the IRC were imposed. Employees who have completed these maximum eligibility requirements are called **statutory employees.**

A plan may pass coverage by using the otherwise excludable employee rule. If the plan uses the otherwise excludable employee rule to test coverage, special testing rules must also apply to the ADP test and the ACP test performed under such plan.
If the plan disaggregates otherwise excludable employees for coverage testing purposes, there are two options for treating such employees under the ADP and ACP tests: (1) the **early participation rule testing method**; or (2) the **disaggregated plans testing method.**

Under the early participation rule, a plan that disaggregates otherwise excludable employees for coverage purposes may perform the ADP test and the ACP test, taking into account all statutory employees and only those otherwise excludable employees who are HCEs. In other words, the otherwise excludable NHCEs are left out of the ADP and ACP tests entirely.

If the disaggregated testing method is used for ADP and ACP testing, statutory employees and otherwise excludable employees are completely disaggregated, as if each group participates in a separate plan: one covering the otherwise excludable employees and the other covering the statutory employees. A separate ADP and, if applicable, a separate ACP test, is performed for each disaggregated plan.

The IRS permits the aggregation and disaggregation rules applicable to 401(k) plans in general to apply also to safe harbor 401(k) plans. Thus, a

		safe harbor 401(k) plan may be designed so that the safe harbor provisions apply only to statutory employees or only to otherwise excludable employees. (Syllabus Topic 4)
23.	D	The **double counting limits** apply after there has been a **switch from using the current year testing method in one plan year to the prior year testing method in the next plan year.** It does **not** apply when there is a switch from using the prior plan year testing method in one plan year to the current year testing method in the next plan year. When a plan switches from using current year testing in one year ("Plan Year 1) to using prior year testing in the next year ("Plan Year 2"), the NHCE data from Plan Year 1 is being used twice for testing purposes. (i.e., once to run the test for Plan Year 1 and **again** to run the test for Plan Year 2, because the prior year testing method is used for that year.) The prior year ADP and/or ACP (which has already been used for testing because the current year testing was used in Plan Year 1) must be adjusted **(For any QNECs)** before it can be used to set the ADP and/or ACP limits for the HCEs in Plan Year 2. If the ADP and/or ACP included **QNECs (Note: the adjustment is ONLY for QNECs.)** made in Plan Year 1 the double counting limits will adjust the ADP and/or ACP for those QNECs since those QNECs may **not** be counted again as part of the ADP or ACP in Plan Year 2. Again, the adjustment is only for QNECs. The double counting limits do **not** apply to QMACs. (Syllabus Topic 4)
24.	B	The deemed three percent rule generally applies to a new 401(k) plan that is using **prior year testing.** Since there is no prior year data for the NHCE group, the NHCE group's ADP (and ACP, if applicable) is deemed to be 3 percent under the prior year testing method, unless the plan provides that it will determine the prior year ADP (and ACP, if applicable) on the basis of the actual NHCE data for the first plan year. The deemed 3 percent rule applies only if the plan is using the prior year testing method. It will not apply to a new plan that is using the current year testing method. The deemed 3% rule may not be used in ACP testing for years the employer does not make a discretionary matching contribution as there is no ACP test required. The regulations provide that a 401(k) arrangement is deemed to pass the ADP test, and a 401(m) arrangement is deemed to pass the ACP test, under

		either of the following two situations: (1) all of the eligible employees in the arrangement are HCEs, or (2) all of the eligible employees in the arrangement are NHCEs. (Syllabus Topic 4)
25.	A	The law does not provide any exceptions to an eligible employee's right to accrue the safe harbor contribution. In other words, a plan may **not** require that the eligible employee complete a minimum number of hours of service for the plan year or be employed on the last day of the plan year to be entitled to the safe harbor matching contribution or the safe harbor nonelective contribution. It is not permissible to require employees to complete more than one year of service to be eligible to receive allocations of safe harbor contributions (i.e., safe harbor matching contribution or safe harbor nonelective contribution). The plan may impose a two-year eligibility requirement on other types of employer contributions (i.e., non-safe 401(k) safe harbor contributions), but not on safe harbor contributions. The safe harbor employer contributions must be made on behalf of all eligible NHCEs. The plan may, but is not required to, provide the safe harbor contribution to the eligible HCEs. A safe harbor matching contribution of 100% of the first 4% of compensation deferred will satisfy the ADP safe harbor (i.e., as an enhanced match) and the ACP safe harbor. The matching formula satisfies the ACP safe harbor since it does not match elective contributions in excess of 6% of compensation, the matching rate is constant and does not increase as the rate of deferrals increases, the matching contribution is constant for both NHCEs and HCEs (assuming HCEs are entitled to the safe harbor match) and the matching formula is not discretionary. The employer may apply a safe harbor matching formula on a plan year basis or on a payroll period basis. Safe harbor matching contributions applied on a plan year basis must be deposited no later than 12 months after the close of the plan year. Safe harbor matching contributions applied on a payroll basis must be deposited by the last day of the quarter following the quarter in which the elective contributions were made. (Syllabus Topic 5)
26.	A	The basic safe harbor matching contribution for a **non-QACA** safe harbor 401(k) plan is **100% of the first 3% of compensation deferred plus 50% of the next 2% of compensation deferred.** In other words, if a participant

<table>
<tr><td></td><td></td><td>defers 5% of compensation, he/she will receive an aggregate match equal to 4% of compensation.

<table>
<tr><th>Participant</th><th>Deferral %</th><th>Match</th></tr>
<tr><td>A</td><td>12% (i.e., $12,000/$100,000)</td><td>$4,000 (i.e., $100,000 * 4% since deferred more than 5% of</td></tr>
<tr><td>B</td><td>0% (i.e., $0/$80,000)</td><td>$0 (i.e., made no deferrals)</td></tr>
<tr><td>C</td><td>6% (i.e., $4,500/$75,000)</td><td>$3,000 (i.e., $75,000 * 4% since deferred more than 5% of</td></tr>
<tr><td>D</td><td>3% (i.e., $1,200/$40,000)</td><td>$1,200 (i.e., $40,000 * 3% * 100% since deferred exactly 3% of</td></tr>
</table>

Total amount equals $4,000 + $3,000 + $1,200 = $8,200.
(Syllabus Topic 5)</td></tr>
<tr><td>27.</td><td>E</td><td>To qualify for the ACP safe harbor, the matching contribution must satisfy certain conditions.

1) Matching contributions may not be made with respect to elective deferrals in excess of 6% of compensation. Note that this does not mean that the amount of matching contributions is limited to 6% of compensation. It means that, in determining the amount of a participant’s matching contributions, elective deferrals that are in excess of six percent of compensation must be disregarded.

2) The matching contribution cannot provide a higher rate of match as the participant’s rate of elective deferrals or after-tax contributions increases.

3) The matching contribution made for any eligible HCE at any rate of elective deferrals cannot be greater than that for any eligible NHCE who contributes at the same rate.

4) Although not applicable in this particular questions since nothing in the question suggest the matching formulas are discretionary, discretionary matching contributions are eligible for the ACP test safe harbor so long as the discretionary matching contributions made on any participant’s behalf for the plan year does not exceed 4% of compensation.

“Matching 50% of the first 10% of compensation deferred” does not satisfy the ACP safe harbor requirements because it matches more than 6% of</td></tr>
</table>

		compensation deferred. Note that this is not saying that the matching formula is illegal, but that an ACP test would be required to demonstrate nondiscrimination. (Syllabus Topic 5)
28.	C	The safe harbor 401(k) plan notice must be sufficiently accurate and comprehensive to apprise the employee of his/her rights and obligations under the plan. It must be written in a manner that is calculated to be understood by the average employee eligible to participate. All safe harbor 401(k) notices (i.e., for both traditional and QACA) must contain the following: (1) the safe harbor matching or nonelective contribution formula used in the plan; (2) any other contributions under the plan (including the potential for a discretionary match or nonelective contribution) and the conditions under which such contributions are made; (3) the plan to which the safe harbor contributions are made, if different from the plan that includes the 401(k) arrangement; (4) the type and amount of compensation that can be deferred; (5) how to make deferral elections, including any administrative requirements that apply to such elections; (6) the periods available under the plan for making a cash or deferred election; (7) the withdrawal and vesting provisions applicable to contributions under the plan; and (8) information that makes it easy to obtain additional information about the plan (including an additional copy of the SPD), such as telephone numbers, addresses and, if applicable, electronic addresses of individuals or offices from whom employees can obtain such plan information. **Note:** The employer may supply much of the information required in the safe harbor notice and cross-reference to the appropriate SPD sections in the safe harbor notice. This cross-reference option is available for information described in items (2), (3) and (4) above. The notice must be given within a reasonable time before the first day of the plan year (generally between 30 and 90 days before the beginning of the plan year). For mid-year entrants, the timing requirement is deemed satisfied if given by the mid-year entrant's eligibility date. For a new 401(k) plan, the notice requirement is satisfied if given by the first day of the plan year. If notice is not given on a timely basis, the employer has failed to operate the plan in accordance with the terms of the document. In other words, failure to provide the safe harbor notice is considered an **operational failure**, rather than a document failure. (Syllabus Topic 5)

29.	E	All of the statements are true. A blackout period is defined in ERISA to be any period of three or more consecutive business days in which participants are unable to make investment elections or diversify investments, take distributions, or obtain loans from the plan. (Syllabus Topic 6)
30.	B	A **blackout period** is defined in ERISA to be any period of **more than three consecutive business days** in which participants are unable to make investment elections, or diversify investments, take distributions or loans from the plan. In general, the plan administrator is required to give participants 30 to 60 days advance written notice of the blackout period. (Syllabus Topic 6)
31.	D	For ERISA §404(c) relief to apply to employer securities, the following requirements must be satisfied: (1) the security must be publicly traded on a national exchange or other generally recognized market (**Note:** Investments in stock of closely held companies are not publicly traded and not subject to ERISA §404(c) relief, even if the participant elects to invest portions of his or her account in such stock); (2) trading must be sufficiently frequent so that the plan may promptly execute buy or sell instructions; (3) participants and beneficiaries investing in the securities must receive the same information as other shareholders; (4) all voting rights, tender offers and similar rights must be passed through to the participant or beneficiary: (5) a fiduciary must be identified who is responsible for safeguarding the confidentiality of the investments, and who is authorized to appoint an independent fiduciary when there is the potential for undue employer influence upon the participants in regard to the direct or indirect exercise of shareholder rights under the plan; and (6) the independent fiduciary (i.e., a fiduciary that is not affiliated with the employer) is actually appointed when there is a potential for undue employer influence to carry out the above activities. Participants need not be notified of the day-to-day financial status of the employer for the plan to receive ERISA §404(c) relief with regard to investment in employer securities. (Syllabus Topic 6)
32.	E	All of the listed satisfy the QDIA requirements. Regulations issued by the DOL reflect three separate types of investments that are deemed to meet the requirements for being QDIAs:

		1. **Target date** – An investment fund product or model portfolio that is based upon a participant's age, target retirement date, or life expectancy. The funds change their asset mix over time to reflect the closer retirement maturity and lessening of risk tolerance. A **life cycle fund** or a **target retirement date fund** would meet this requirement, 2. **Demographically averaged investment** – An investment fund product or model portfolio that is consistent with a target level of risk appropriate for participants of the plan as a whole. A **balanced fund**, which provides for a reasonable mix between debt and equity securities would meet this requirement; or 3. **Investment management service** – An investment management service arrangement with respect to which a fiduciary allocates the assets of a participant's account based on the individual's age, target retirement date, or life expectancy. A **managed account**, under which an investment manager allocates the funds among assets of various types, including those intended for long-term appreciation and that provide capital preservation would meet this requirement. (Syllabus Topic 6)
33.	B	The DOL regulation require fiduciaries to make certain disclosure to participants and beneficiaries who are permitted to direct investments in a defined contribution plan. The required disclosures include: • General plan-related information (at least annually); • General information on administrative expenses (at least annually); • General information about individual expenses that may be charged to a participant's account (at least annually); • Specific information about the administrative expenses and individual expenses actually charged to the participant's account (at least quarterly); and • Investment related information (some mandatory, some upon request) • **Information will differ between investment alternatives that do not have a fixed or stated return.** **The disclosure (comparative chart) for variable-return investments must contain benchmark information (i.e., the name and returns of an appropriate broad-based securities market index over the applicable performance periods.** **Benchmark information is NOT required for fixed-return investments.**

		These disclosures may be provided as part of the plan's SPD or as part of a quarterly employee benefit statement as long as the disclosure timing rules are satisfied. (Syllabus Topic 6)
34.	E	The maximum disparity percentage depends on the integration level, and how it compares to the taxable wage base in effect at the beginning of the plan year. The maximum disparity percentage is determined under the following table: **Integration level** — **Maximum Disparity** Taxable wage base (TWB) — 5.7% More than 80%, but less than 100%, of — 5.4% More than 20%, but not more than 80%, of TWB — 4.3% 20% or less of TWB — 5.7% The maximum disparity percentage for a plan whose integration level is 10% of the taxable wage base is 5.7%. (Syllabus Topic 7)
35.	E	An ESOP, or a portion of a plan that is an ESOP, may not use permitted disparity as an allocation formula to show nondiscrimination. (Syllabus Topic 7)
36.	E	4% of total compensation (4% * $150,000) equals $6,000. The integration level is 85% of the TWB (i.e., 85% * $132,900) equals $112,965. Excess compensation equals $150,000 (i.e., total compensation) less $112,965 (i.e., 85% of TWB) or $37,035. 4% of excess compensation (i.e., 4% * $37,035) equals $1481. Total allocation equals $6,000 plus $1,481 or $7,481. (Syllabus Topic 7)
37.	B	Rate groups are identified by reference to the rate of each HCE. An HCE's rate group includes all employees (HCEs and NHCEs) who have a rate equal to or greater than the HCE's rate. In this example, there are two rate groups for general testing purposes: one

		for the HCE with a 10.18% Equivalent Benefit Accrual Ratio (EBAR) and one for the two HCEs with a 7.21% EBAR. Since two HCEs have the same EBAR, a single rate group covers them both. (Syllabus Topic 7)
38.	D	Plans may satisfy the general test on the basis of either contributions or benefits, thus, the first statement is true. When a defined contribution plan satisfies IRC §401(a)(4) by testing benefits or when a defined benefit plan satisfies IRC §401(a)(4) by testing contributions, the plan is said to be cross-tested because it is testing nondiscrimination as if it were the other type of plan. If a defined contribution plan is going to be cross-tested, it must first satisfy certain gateway conditions. These conditions grant the plan permission to do nondiscrimination testing on a benefits basis. A rate group consists of an HCE and all other participants who have an allocation rate equal to or greater than the HCE's allocation rate. Nonelective forfeiture allocations are considered when determining rate groups. (Syllabus Topic 7)
39.	E	All three statements are true. If a plan does not meet the requirements of one of the safe harbors (e.g., design-base safe harbor allocation formula, nondesign-base safe harbor allocation formula, permitted disparity allocation formula), it still may be nondiscriminatory under IRC §401(a)(4). The plan contribution allocations are subject to an objective, numerical test called the **general test.** In some cases, the plan is not designed specifically to use the general testing method, but general testing becomes necessary because the safe harbor rule is failed for a particular plan year. In other cases, the plan is designed with the specific intention to use general testing (e.g., age weighted allocation formula, new comparability allocation formula). New comparability plans can be designed with differing contribution levels for various classes of employees. (Syllabus Topic 7)
40.	C	A design-based safe harbor plan may satisfy the uniformity requirement by allocating the same dollar amount per unit of service performed by the participant during the plan year. **However,** the unit of service may **not**

		exceed one week. An employer contribution of $1 for every hour of service is a design-based safe harbor because the unit of time used to compute the dollar amount does not exceed one week. **In contrast**, an employer contribution of $25 per month is **not** a design-based safe harbor because the unit of time used to compute the dollar amount allocation exceeds one week. In a design-based safe harbor plan, contributions for a mid-year plan entrant may be based on compensation for the entire year. Alternatively, contributions for a mid-year plan entrant may be based on compensation for only the portion of the plan year in which the employee is a participant without jeopardizing the plan's status as a design-based safe harbor. In addition, a participant's allocation can be limited to a specified dollar amount without jeopardizing the plan's status as a design-based safe harbor. (Syllabus Topic 7)
41.	E	All of the formulas are design-based safe harbor allocation formulas. A design-based safe harbor allocation formula provides uniform allocation rates (e.g., all receive an allocation equal to the same percentage of compensation or all receive an allocation equal to the same dollar amount) or deemed to be a uniform (e.g., allocation formula using permitted disparity). Use of compensation from date of participation or for the full year for mid-year entrants does **not** affect the formula's status as a design-based safe harbor formula. (Syllabus Topic 7)
42.	D	A defined contribution plan is not able to pay an annuity directly from the account, because the account balance is subject to investment fluctuations and the annuity must be able to guarantee a stream of payments for the relevant life or lives. If an annuity is to be paid from a defined contribution plan, the plan administrator or trustee will purchase an annuity contract on the participant's behalf from an insurance company so that payments can be properly guaranteed. The annuity contract may be held by the plan, and the plan can act as a conduit by receiving payments from the insurer and then transmitting them to the participant, or the contract may be distributed to the participant, who will then receive the annuity payments directly from the insurance company.

		An installment distribution is a periodic payment, such as a monthly or annual payment, that is made for a specified period of time. The employer, or any other fiduciary or third party, may **not** have the discretion to choose the form of payment to be made. The participant chooses the form of payment based on the optional forms offered under the plan. (Syllabus Topic 8)
43.	A	A plan is required to provide a qualified joint and survivor annuity (QJSA), unless a specific exemption applies (e.g., profit sharing plan/stock bonus plan exemption). A QJSA is a joint and survivor annuity that provides a life annuity to the participant and a survivor annuity for the spouse's life following the participant's death. The survivor annuity must be no greater than 100% and no less than 50% of the annuity paid during the participant's life. For a profit sharing plan or stock bonus plan to be exempt from the QJSA requirements, the following requirements must be satisfied: (1) spouse must be the death beneficiary of the entire death benefit; (2) life annuity option cannot be elected; and (3) account balance does not include any direct transfer from a plan that was subject to the QJSA rule. If benefits are required to be distributed as a QJSA, all of the benefit must be paid this way, including amounts attributable to employee after-tax contributions and rollover contributions. If the QJSA rule applies to a participant, the QJSA form of payment is mandatory unless the participant elects a different form of payment available under the plan. An election by a married participant to take a different form of payment, even if it is only from a portion of the participant's benefit, is not effective unless the participant's spouse also consent to the election. (Syllabus Topic 8)
44.	C	The required minimum distribution (RMD) for 2019 (i.e., the "distribution year") is based on the account balance as of December 31, 2018 (i.e., the "valuation year"). The RMD is $3,398 ($87,000 / 25.6). (Syllabus Topic 8)

45.	C	A plan may make distribution of benefits available only where it is not contrary to the distribution restrictions applicable to that type of plan. The limitations on permitted distributions are greater for pension plans (e.g., defined benefit plan, money purchase plan or target benefit plan) than for nonpension (e.g., profit sharing or stock bonus) plans. A pension plan (e.g., defined benefit plan, money purchase plan or target benefit plan) may provide for distribution upon retirement, termination of employment, disability or death of the participant. A pension plan is permitted to allow for in-service distributions to a participant who has reached age 62, even if normal retirement age is later than age 62. Generally, a participant may not receive a distribution from a pension plan before NRA, unless he or she has terminated employment or attained age 62. **Pension plans are not permitted to make in-service withdrawals for hardship reasons.** Plans that are not pension plans (i.e., nonpension plans), such as profit sharing plans and stock bonus plans, may provide for distribution after a fixed number of years, the attainment of a stated age, or upon any other stated event, including financial hardship (as defined by the plan), regardless of whether the participant has terminated employment. **Note:** The financial hardship event in a profit sharing plan or stock bonus plan is **not** required to comply with the financial hardship rules prescribed by the IRC §401(k) regulations, except with respect to any 401(k) arrangement in that profit sharing plan or stock bonus plan. The 401(k) regulations contain rules for determining when a financial hardship withdrawal is available from the employee's elective deferrals. The 401(k) regulations require that a hardship withdrawal of elective deferrals must meet two requirements: (1) it must be made on account of an immediate and heavy financial need, and (2) it must be necessary to satisfy the financial need. Prior to January 1, 2020, there were two ways in which a plan may determine whether a participant has met each of the requirements. The plan may use a **facts-and-circumstances** analysis, under which the plan administrator reviews the hardship need and the participant's ability to meet that need, and then makes a determination whether the requirements have been met. Alternatively, the IRC and regulations outline **safe harbor standards** that may be used to have the requirement deemed to have been met.

		Prior to January 1, 2019, if the plan used the **safe harbor standards** to satisfy the requirement that the amount is necessary to satisfy the financial need, the plan (or other legally enforceable agreement) must prohibit the employee from deferring or making elective contributions to **any** plan maintained by the employer for at least **six months** after the hardship withdrawal. This suspension also applied to catch-up contributions. A plan could have provided for a longer suspension period, so long as it was not a safe harbor 401(k) plan with matching contributions, however, the plan was not permitted to provide for a shorter suspension period. Effective January 1, 2019 (or January 1, 2020), as a result of the changes made by the Bipartisan Budget Act (BBA), a plan is not permitted to provide for any such suspension as a result of taking a hardship withdrawal from the 401(k) plan. (Syllabus Topic 8)
46.	E	The required beginning date differs for participants who are 5 percent owners and for participants who are not 5 percent owners. For a participant who is not a 5 percent owner, the required beginning date is April 1st of the year following the later of the calendar year in which the participant attains age 70½ or retires. The required beginning date for a more than 5% owner is April 1 following the year the participant attains age 70½, regardless of whether he or she retires by the end of that year. Participant A attains age 70½ on January 10, 2020 so the required beginning date is April 1, 2021. (Syllabus Topic 8)
47.	A	Qualified domestic relations orders (QDROs) are not required to include the name and last known mailing address of the plan administrator or the alternate payee's date of birth. A QDRO is a domestic relations order issued by a court or other state-authorized body that provides for the payment of all or a portion of the participant's benefits to an alternate payee. The order must be a judgment, decree or order relating to child support, alimony payments or marital property rights, and which is made pursuant to state domestic relations law. QDROs must include the name and last known mailing address of the participant and the alternate payee covered by the order, the name of the

		plan involved, the amount or percentage of the participant's benefits to be paid to the alternate payee and the number of payments or the period to which the order applies. (Syllabus Topic 8)
48.	B	Not all distributions paid before the participant reaches age 59 ½ are subject to the additional tax. The exceptions to the application include: (1) substantially equal payments following separation from service; (2) age 55 exception; (3) disability; (4) death benefits; (5) QDRO payments; (6) corrective distributions; (7) P.S. 58 costs; (8) exceptions relating to employer securities (i.e., dividend payments); (9) distributions to Qualified Reservists; and (10) permissible withdrawals under Eligible Automatic Contribution Arrangements (EACAs). Hardship withdrawals do **not** qualify for an exemption from the 10 percent tax on early distributions. (Syllabus Topic 9)
49.	A	Plan distributions are reported on Form 1099-R. The form includes boxes for reporting the gross distribution and the taxable distribution. If a portion of the distribution is not includible in income, the taxable amount reported will be less than the gross distribution. If part of a distribution is directly rolled over and the other part is not, two forms must be prepared, one to report the direct rollover and the other to report the distribution paid to the participant. Form 1099-R must be provided to the participant by the January 31st of the calendar year following the year of the distribution. A copy of the form must be filed with the IRS by February 28th of the calendar year following the year of the distribution. A Form 1099-R need not be prepared for distributions that are less than $10. Withholding from a plan is reported on an annual basis by filing Form 945, even if that withholding is done electronically. This for reconciles actual deposits with the income tax liability. The return is due January 31 of the following calendar year. However, if deposits are made in full for the year, the Form 945 deadline is extended to February 12. A Form 945 filing is not required for any year in which no withholding was required. (Syllabus Topic 9)

50.	E	A rollover is the transfer of a qualified plan distribution (or part of the distribution) to another plan or to an IRA. The purpose of the rollover is to delay the taxation of the amount rolled over. **A rollover option is NOT available on all distributions.** To be rolled over the distribution must satisfy the definition of an eligible rollover distribution. A rollover can be made by the individual following payment from the plan or directly by the plan trustee. IRC §402(c) refers to an employee as the recipient of an eligible rollover distribution. This reference includes a former employee who is receiving payments from the plan. A rollover option is also available to a surviving spouse of a deceased participant, to a spouse or former spouse who is receiving payment of the participant's benefit through a QDRO and, for distributions made in 2007 or later, a nonspouse beneficiary of a deceased participant, but a nonspouse beneficiary can only directly rollover to an inherited IRA. (Syllabus Topic 9)
51.	D	If a distribution is an eligible rollover distribution, 20 percent federal tax withholding is required, to the extent the distribution is not rolled over in a direct rollover transaction. Since hardship withdrawals are not eligible rollover distributions, they are not subject to the 20 percent withholding rules. If the distribution is not an eligible rollover distribution, the rate of withholding depends on whether the distribution is a periodic payment or a non-periodic distribution. Withholding on periodic payments is determined in the same manner as withholding on wages, as if the payment was a payment of wages by an employer to an employee for the appropriate payroll period. The withholding rate on a non-periodic payment is 10 percent of the amount includible in income, unless the withholding waived by the participant. Special withholding rules apply to distributions of certain noncash or cashless distributions including distributions of employer securities. (Syllabus Topic 9)
52.	B	Although they commonly accept rollover contributions, qualified plans are **not** required to do so. A rollover option is not available on all distributions. Examples include the following:

		• Hardship withdrawals • Required minimum distributions (RMDs) • Corrective distributions • Deemed distributions • Dividends paid on employer securities • A payment that is part of a series of substantially equal payments over one's lifetime or a period of ten or more years (Syllabus Topic 9)
53.	A	The maximum loan amount available for a new loan to Participant X on January 1, 2019 is $0. When a new loan is made to a participant, the $50,000 limit is reduced by the repaid loan amount during the last 12 months. The repaid loan amount is the highest loan balance in the prior 12-month period, reduced by any outstanding loan balance at the time of the new loan. The general effect of this rule is to limit the total principal amount lent during any 12-month period to $50,000. Because Participant X borrowed $50,000 within the past 12 months, $0 is currently available for a new loan. We could also go through the steps of determining amounts available for loan: <u>First Limitation</u> 1. Participant's highest outstanding balance during the 12 months ending on the day before the loan is to be made: $50,000 2. Participant's outstanding loan balance on the date the second loan is to be made: $45,000 3. Difference between 1 and 2 (repaid loan amount): $5,000 4. Subtract line 3 from $50,000 (reduced $50,000 limit): $45,000 <u>Second Limitation</u> 5. Current value of participant's vested account balance: $102,000 6. 50% of participant's current vested account balance: $51,000 7. The greater of $10,000 or the amount on line 6: $51,000 Note: The $10,000 minimum only applies to the second limit if the plan allows for collateral in addition to the participant's vested interest. <u>Participant's Loan Limit</u> 8. The lesser of line 4 or line 7 $45,000

		9. Participant's outstanding loan balance on the date the second loan is to be made: $45,000 10. Subtract line 9 from line 8 to get the participant's loan limit: $0 (Syllabus Topic 10)
54.	A	IRC §72(p) treats a loan as a taxable distribution **unless** the loan satisfies the exception under IRC §72(p). The exception sets limits on the amount of the nontaxable loan and prescribes rules for repayment of the loan. As part of the rules prescribed for repayment of the loan, principal and interest must be amortized in substantially level payments that are made at least on a quarterly basis. A plan may allow a participant to take have more than one loan outstanding at a time. Furthermore, spousal consent **may** be required under the terms of the plan for participant loans even if not required by law (i.e., when the plan is not subject to the QJSA requirements). If the plan is subject to the QJSA rules, spousal consent must be obtained on the use of any portion of the participant's accrued benefit as collateral. Under the prohibited transaction exemption pertaining to participant loans, no more than 50% of the vested accrued benefit may be considered by the plan as security for the outstanding balance of all plan loans made to the participant. (Syllabus Topic 10)
55.	A	Under the prohibited transaction rules of the IRC and ERISA, the plan may not lend money to a party-in-interest. A plan participant is generally a party-in-interest. However, there is a statutory exemptions from the prohibited transaction rules for participant loans. If the requirements of this exception are met, the loan is not considered to be a prohibited transaction. To comply with the prohibited transaction exemption the loans must: (1) be available on a reasonably equivalent basis; (2) be nondiscriminatory in amount; (3) made according to specific written procedures; (4) charge a reasonable rate of interest; and (4) be adequately secured. Under the limits on the amount of a nontaxable loan in the Internal Revenue Code (i.e., IRC §72(p)) a participant loan (or the aggregate of the participant's loans) can never exceed $50,000. Neither the IRC nor ERISA require that participant loans be repaid through payroll deductions. (Syllabus Topic 10)

56.	C	When a loan (or portion of a loan) becomes taxable because it fails to satisfy the IRC §72(p) rules, the distribution is a deemed distribution for tax purposes. A deemed distribution is subject to the same tax rules as an actual distribution from the plan. The amount deemed to be distributed is includible in gross income, is subject to the 10 percent tax on early distributions and is reported on Form 1099-R as a taxable event to the participant. The account balance of the participant may not always reflect an immediate reduction of a deemed distribution. Because the deemed distribution, under the terms of the plan, may not be treated as an actual distribution. Until there is an offset, the value of a participant's account balance in a defined contribution plan must reflect the continued existence of the loan. By definition, a deemed distribution is not an eligible rollover distribution. (Syllabus Topic 10)
57.	B	Refinancing transactions are transactions in which one or more existing loans are replaced by a new loan. The loan being replaced is treated as repaid after the refinancing transaction is completed. The loan being replaced is referred to as the replaced loan. The new loan resulting from the refinancing transaction is referred to as the replacement loan. The replacement loan is a new loan. That means the interest rate, the security interest and the term on the replacement loan are generally determined as of the date of the refinancing. Because the replacement loan is new loan, its term may run for the five-year period (or longer period, if the loan is a principal residence loan). However, to prevent the use of refinancing as a means of circumventing the IRC §72(p) repayment requirements, the replaced loan may need to be taken into account to determine whether the limits on loan amounts are exceeded by the replacement loan. (Syllabus Topic 10)
58.	E	Under the **Professional Integrity** section of ASPPA's Code of Professional Conduct, it states that professional services are to be rendered with honesty, integrity, skill and care. Processing a participant hardship withdrawal in a careless manner without gathering sufficient information, or providing a client with Form 5558 (Application for Extension of Time) to file along with the plan's Form 5500, knowing that Form 5558 was not timely filed with the IRS would clearly be in violation of the Code since these services were not

		rendered with honesty, integrity, skill and care. Furthermore, in the same section it states that a Member who pleads guilty to or is found guilty of any misdemeanor **related to financial matters** or **any** felony (regardless of the nature of the crime) shall be presumed to have contravened the Code. Note that **only** misdemeanors related to financial matters is a violation of ASPPA's Code. Other non-financial misdemeanors (e.g., reckless driving, disorderly conduct) would not technically be considered a violation of the Code. Under the **Courtesy and Cooperation** section, it states that when a Principal has given consent for a new or additional professional to be involved, the Member is required to cooperate in assembling and transmitting pertinent data and documents, subject to receiving reasonable compensation for the work. Refusing to provide conversion date to a client's new service provider would clearly be in violation of this section of the Code. Telling a client during a plan takeover case that you disagree with the prior plan administrator's top-heavy determination is **not** a violation of the Code. In fact, not telling the client that you disagree with the top-heavy determination would be a violation of the Code. (Syllabus Topic 11)
59.	D	A member who pleads guilty to or is found guilty of any misdemeanor related to financial matters or any felony is in violation of ASPPA's Code of Professional Conduct. Since the misdemeanor reckless driving charge is not financially-related, it does not violate the Code. The felony DWI violates the Code since any felony is in violation, regardless of whether the action is financially-related. (Syllabus Topic 11)
60.	E	Under Section 8 "Courtesy and Cooperation" of the ASPPA Code of Conduct, when a Principal has given consent for a new or additional professional to consult with a Member with respect to a matter for which the Member is providing or has provided Professional Services, the Member **shall cooperate in assembling and transmitting pertinent data and documents, subject to receiving reasonable compensation for the work required to do so**. (Syllabus Topic 11)
61.	B	According to ASPPA's Code of Professional Conduct, working for clients who have conflicting interests is acceptable if the member's ability to act fairly is unimpaired, full disclosure is made and both clients agree to continue the relationship.

		An ASPPA member who pleads guilty to or is found guilty of any financially-related misdemeanor or any felony (regardless of the nature of the crime) is in violation of the professional integrity portion of ASPPA’s Code of Professional Conduct and will be subject to ASPPA’s counseling and disciplinary procedures. Performing professional services if the member has reason to believe that the services may be used to evade the law is in violation of the “control of work product” portion of ASPPA’s Code of Professional Conduct. Where the requirements of law conflict with ASPPA’s Code of Professional Conduct, the requirements of law take precedence. The "communications" portion of ASPPA’s Code of Professional Conduct section indicates that precautions should be taken to ensure that professional communications are appropriate to the circumstances and the intended audience. (Syllabus Topic 11)

END ANSWER KEY WITH EXPLANATION