

# Section 1981 Cheat Sheet

## What Employers Are Covered?

All

## What Does Section 1981 Provide?

That all persons have the same rights to make and enforce contracts, to sue, to give evidence and to the full and equal benefit of all laws and proceedings

## Comparison to Title VII

Section 1981 typically only matters when it comes to litigation. Some plaintiffs' attorneys like it because of advantages over Title VII. A comparison:

- Compensatory and punitive damages
  - Title VII: capped
  - Section 1981: uncapped
- Exhaustion of administrative remedies before filing a lawsuit:
  - Title VII: required
  - Section 1981: not required
- Employers covered
  - Title VII: only those with 15 or more employees
  - Section 1981: all employers
- Discrimination prohibited:
  - Title VII: race, sex, national origin, color or religion; includes disparate impact
  - Section 1981: race only; disparate impact not included

## What Remedies Are Available?

All the remedies that are available under Title VII are also available under Section 1981, including reinstatement, back pay, injunctive relief, and attorneys' fees. Again, unlike Title VII, compensatory and punitive damages are not subject to a statutory cap.