

IMMIGRATION LAW
Spring 2018
Thursday, 6:40PM-9:50PM

Professor Daniel Sharp
(323) 718-3673
dsharp@carecen-la.org
Office Hours: Thursdays by appt

COURSE DESCRIPTION

This course provides an overview of immigration law and practice. The course surveys the legal, historical, and political considerations that shape U.S. immigration law, It is also a practical course to assist the student in understanding both the substantive and procedural aspects of practicing in this dynamic area of law. The course will involve analysis of immigration events that frequently appear in the news. As this course is only a semester long, the student will get the basics of many areas of immigration including:

- History of immigration law and constitutional basis for regulating immigration;
- Contours of the immigration bureaucracy and roles of the various federal agencies involved in immigration decisions;
- Admission of immigrant and non-immigrants into the U.S, understanding the common visas in each category and procedure for applications;
- Deportation/Removal procedure and law;
- Grounds of Inadmissibility vs. Grounds of Removal/Deportability;
- Waivers of Inadmissibility and Relief from Removal;
- Asylum and refugee law and procedure, and other Humanitarian Forms of Immigration Relief;
- Citizenship and Naturalization, and Expatriation;
- Immigration Federalism and the Role of Executive Action/Discretion in the Immigration System.

Much of the course focuses on the Immigration and Nationality Act of 1952 (“INA”), as amended by numerous laws and their implementing regulations. Although international law and comparisons to immigration law and policy of other countries may be referenced, the primary focus of this class is immigration law in the U.S. In light of the heightened focus on immigration in the national debate, the course will provide a space for dialogue about immigration policy in the news and address changes in the law and policy proposals as they occur, to the extent possible.

LEARNING GOALS¹

¹ These learning goals arise out of Western State College of Law’s Programmatic Learning Outcomes, and Argosy University’s Institutional Learning Outcomes, which are reproduced here: **Western State College of Law Programmatic Learning Outcomes:** (1) Doctrinal Knowledge (Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility); (2) Practice Skills (Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as

After completion of this course, you should be able to competently:

1. Analyze the federal immigration statute, regulations, case law and other legal authorities relevant to immigration law.
2. Apply the relevant statutes, standards, principles, and rules when presented in hypothetical and unfamiliar fact patterns.
3. Understand, and think critically about, the principles and policies behind our current and past system of immigration law.
4. Communicate, both orally and in writing, appropriate legal and factual arguments in support of each side of controversies involving commonly encountered issues in immigration law.
5. Communicate, both orally and in writing, with immigrant clients (including those with limited formal education) regarding eligibility/ineligibility for immigration relief and a matters related to effective case preparation.

LEXIS BLACKBOARD

I will post class-related material and announcements on Blackboard, the online program administered by Lexis Nexis. Please be sure that you are registered to use Blackboard. If you have any questions about using this program, or to get registered, please contact the library staff.

drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component. (3) Legal Analysis (Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.) (4) Legal Research (Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority. (5) Communication (Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas). (6) Advocacy of Legal Argument (Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.) (7) Client Sensitivity and Cultural Competency (Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.) (8) Legal Ethics (Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues. **Argosy University Institutional Learning Outcomes:** (1) Analytical Reasoning (Analyze issues objectively, interpret and synthesize data and ideas, and develop feasible, flexible, and creative solutions to real world problems) (2) Effective Communication (Identify audiences, assess information provided, interpret needs, and present relevant information using appropriate written, oral, and listening skills and media to meet the needs of the situation) (3) Information Competency (Gather, evaluate, and ethically use information from a variety of relevant technological and library resources to make decisions and take action) (4) Interpersonal Effectiveness (Develop individual and group interpersonal skills to improve and foster participation and interaction critical for achieving individual and group goals) (5) Personal and Professional Integrity and Ethical Behavior (Demonstrate a multi dimensional awareness of individual and social responsibility to act ethically and with integrity in a diverse, global society.) (6) Professional Competence (Apply skills appropriate to program objectives and employ critical reasoning to contribute to one's field and profession).

COURSE MATERIALS

The following course materials are *required**:

- 1) Stephen H. Legomsky & Cristina M. Rodriguez, Immigration and Refugee Law and Policy (6th ed. 2014).
- 2) Aleinikoff, Martin, Motomura, and Fullerton's Immigration and Nationality Laws of the United States: Selected Statutes, Regulations and Forms, 2016.*

(Note: the Legomsky & Rodriguez textbook was used during the Spring 2017 Immigration Law courses, so you are welcome to purchase or borrow it from students who took the course in prior semesters. *If you already purchased the 2016 INA from AILA, you may use this in lieu of the Aleinikoff statutes, regulations and forms book. However, you will occasionally have to search for federal regulations and certain immigration forms online.)

The assigned readings should keep you sufficiently busy. I recommend that you read the assigned material, including statutory references, multiple times before turning elsewhere. If you want to read supplementary materials, the most thorough reference work for immigration practice is the multi-volume treatise by Charles Gordon, Stanley Mailman, & Stephen Yale-Loehr, Immigration Law and Procedure (Matthew Bender), which is available in the Immigration Clinic library. (This treatise appears on several “essential materials” lists). By far the most common practice-based book is the Immigration Law Sourcebook by Ira Kurzban, which is also in the Immigration Clinic library. For current immigration information, an online resource is *Bender's Immigration Bulletin* (available at www.bibdaily.com). Finally, the Immigration Law Professors' Blog (<http://lawprofessors.typepad.com/immigration/>) is another useful source of immigration law updates (these last two sources may inform preparation of your Immigration News Briefing but please identify your “immigration news briefing” story in other new outlets and address how news outlets are covering the topic).

GRADING AND LIST OF ASSIGNMENTS

Immigration Law is an elective course. If you are a candidate for the Immigration Law Certificate, then Immigration Law is a required course in order to obtain the Certificate. Immigration Law also satisfies the elective component of the Criminal Law Practice Certificate. The course is excellent preparation for taking the Immigration Clinic (which is a 5-credit course in which students represent real-life clients in immigration matters, and involves an application process). Please note that, Immigration Law does *not* satisfy the Upper Level Writing Requirement.

The will be graded according to the following evaluation criteria:

- ***Class Preparation, Participation and Teamwork (25% of grade):***² Like the rest of the faculty, I value in-class contributions and professionalism. Assigned reading volume will vary from week to week and may be substantial on occasion. Nonetheless, I expect you to come to class prepared. I aim for all classes to include substantial dialogue about the assigned material and expect all students to participate in class discussion every week.
- ***Immigration News Briefing (5% of grade):*** Each student will receive a date to present a current immigration issue that has been discussed in the news. Beginning in week 2, class will begin with an “Immigration News Briefing”. The assigned student will give a summary of the news item, relating the information to relevant coursework or policy issues that have been addressed. The presenting student will lead a short class discussion following the news briefing. Students are required to submit an electronic copy to their classmates in anticipation of their presentation on their assigned day. More information will be provided during Class 1.
- ***Naturalization Workshop: (5% of grade):*** I greatly value volunteerism and opportunities to engage in rewarding volunteer work in the immigration field abound throughout Southern California. Students will apply client interviewing and legal analysis skills from the class by participating in a CARECEN-sponsored naturalization application preparation workshop. Date, time and location TBD.
- ***Final Examination (65% of grade):*** The final examination will likely consist of a combination of multiple choice, short answer, and essays. It will likely be a three-hour exam in which you are able to bring your notes and a copy of the Immigration and Nationality Act.

APPOINTMENTS AND OFFICE HOURS

I will hold office hours regularly during the week. I will schedule these office hours after the first week of classes. You can also schedule an appointment by contacting me directly at dsharp@carecen-la.org. I am happy to discuss the course, assignments, policy issues, and career paths.

DISABILITY SERVICES STATEMENT

Western State College of Law provides accommodations to qualified students with disabilities. The **Disabilities** Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

² While I take attendance, it is always your own responsibility to keep track of your absences. Absences, if at all occurring, should be reserved for exceptional circumstances. If you have missed or will miss class, please review a classmate’s notes and the class Powerpoint slides and see me as soon as possible after the absence if you still have questions about the material. In accordance with the WSCL academic policy and as described in the Student Handbook, a student who misses more than four 1.5-hour class sessions will be withdrawn from class.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services Suite 119. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Allen Easley at aeasley@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

SYLLABUS

I have provided the topics that I expect to cover for the semester, as well as readings to be covered for the first few weeks of the semester. I will update the syllabus as we progress and assigned readings may change, so check in with me before getting more than a week ahead on the readings. It is difficult to anticipate how long it will take to discuss each topic and occasionally we may spend more time on a topic than initially anticipated. Please expect periodic adjustments to the syllabus throughout the semester.

Immigration law is primarily governed by one large, sprawling statute: the Immigration and Nationality Act, or INA. Familiarity with the INA is critical to success in this course, and in the practice of immigration law generally. Where I have assigned a section of the INA that contains subsections, you should read all of the subsections (e.g., if INA § 212(a) is assigned, then please read all of the subsections of 212(a)). The INA is a complicated statute, and it is difficult to read in isolation. You should therefore read the assigned sections of the INA **when they are referenced in the casebook**, even if I have not specifically assigned them.

The casebook contains a number of hypothetical fact patterns ("problems"), many of which will be discussed in class. I have designated specific problems for you to be prepared to discuss. Many of the problems will require you to engage in a detailed analysis of the statute and apply the principle or rule from the reading to a new, hypothetical fact pattern. It is very difficult to be prepared in class, or to have a sophisticated discussion of the problem, if you are working from memory or if your preparation was vague. Therefore, for each problem, I highly recommend that you bring to class a set of typewritten answers, along with a record of the sources you consulted to answer the problem.

You should expect to spend at least **6 hours** each week outside of class on readings, exercises, note-taking, review, assignments and other class preparation. This is a rough estimate. You will likely find that some weeks you need to spend more (and possibly less) than the estimated amount of time.

WEEK 1 January 18, 2018: Introduction; Constitutional Foundations

- Legomsky & Rodriguez: pp. 1-36, 97- 136
- Excerpt from Benson et al, *Immigration and Nationality Law: Problems and Strategies* (2013) (distributed via email)
- American Immigration Council, *Did My Family Really Come “Legally”?*, Aug. 10, 2016. Available at:
https://www.americanimmigrationcouncil.org/sites/default/files/research/did_my_family_really_come_legally.pdf
- Prior to Thursday’s class, complete the “Immigration Priorities” Exercise (distributed via email)

WEEK 2 January 25, 2018: Immigrant Priorities: Quota System and Family-Based Immigration

- L&R, pp. 257-277 (Problems 1, 3, 4); pp. 291-312 (Problems 8, 9)
- INA § 201 (skim), 202 (skim), 203 (skim), 204(a)(1)(A)(i)-(iii); § 216
- Before class, find and skim the January 2018 Visa Bulletin
- The RAISE Act: Dramatic Change to Family Immigration, Less So for the Employment-Based System. By Julia Gelatt, August 2017. Available at:
<https://www.migrationpolicy.org/news/raise-act-dramatic-change-family-immigration-less-so-employment-based-system>
- Overview of Family-Based Immigration And the Effects of Limiting Chain Migration. By Kristie De Peña & Jeremy L. Neufeld, November 2017. Available at:
<https://niskanencenter.org/wp-content/uploads/2017/11/Overview-of-Family-Migration-Report.pdf>. Skim pgs 1-5 (overview of family-based system that your other reading covers), read the rest carefully & come prepared to discuss in class.
- Fewer family visas approved as Trump toughens vetting of immigrants: Reuters review. By Mica Rosenberg, Jan. 4, 2018. Available at:
<https://www.reuters.com/article/us-trump-effect-immigration/fewer-family-visas-approved-as-trump-toughens-vetting-of-immigrants-reuters-review-idUSKBN1ET15I>

WEEK 3 February 1, 2018: Immigrant Priorities: Employment-Based Immigration; Diversity Immigration; Intro to Nonimmigrant Visas

- L&R: pp. 313-58; 359-71 (Problems 1-2); 372-422
- INA § 203(b)(1) – (5), 212(a)(5); INA § 101(a)(15) (skim sections 101(a)(15)(T) and 101(a)(15)(U), which will be covered in depth in Week 10)

WEEK 4: February 8, 2018 Exclusion/Inadmissibility Grounds and Waivers; Admission Procedure;

- L&R: pp. 427-445 (Problems 1, 3, 5); 453-80 (Problems 7, 9, 10, 11); pp. 481-94, 498-508; 511-530; Casebook Supplement (on Blackboard)
- INA § 212(a), 212(h); 221, 245(a), 101(a)(13), 291, 235

WEEK 5: February 15, 2018: Grounds of Deportability/Removability

- L&R: pp. 531-39; 559-67; (Problems 9 and 10); 567-624; Casebook Supplement (on Blackboard)
- 237(a); 101(a)(43), 101(a)(48)(B)

WEEK 6: February 22, 2018: Recap of Inadmissibility & Removability Grounds; Intro to Relief from Removal

- L&R: pp. 625-632 (but *skim* 627-630 and instead review the LPR Cancellation of Removal Toolkit, available at https://pennstatelaw.psu.edu/sites/default/files/Final_Toolkit_Public.pdf)
- INA § 240A(a)
- *Optional*: Jennifer Lee Koh, Crimmigration and the Void for Vagueness Doctrine, 2016 Wis. L. Rev. 1127 (available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2846572).

WEEK 7: March 1, 2018: Relief from Removal

- L&R: pp. 633-675; Casebook Supplement
- INA § 240A(b)(1); INA § 240B
- Nicaraguan Adjustment & Central American Relief Act (NACARA) § 203

WEEK 8: March 8, 2018: Relief from Removal Recap, Deportation Procedure, Interview Simulation

- L&R: 677-700, 749-761; 810-817
- INA § 240 (skim), 235; 241(a)(5); 238(b); 240(d); 240(b)(5)

NO CLASS March 15th for SPRING BREAK

WEEK 9: March 22, 2018: Humanitarian Immigration: Refugees & Asylees;

- L&R: 897-900; 910 (from the third full paragraph) – 933; 941-977; INA § 101(a)(42); 207; 209(a), (c); 212(d)(5)(B)

- Susan Bibler Coutin, *Falling Outside: Excavating the History of Central American Asylum Seekers*, *Law & Social Inquiry* 36 (3), 569-596 (Summer 2011), available at: <https://escholarship.org/content/qt2pv4d9nj/qt2pv4d9nj.pdf>

WEEK 10: March 29, 2018: Humanitarian Immigration: Refugees & Asylees;

- L&R: 1009-1019; 1032-49; 1055-1066; 1071 (starting at “b. Barring or Discouraging Access...” – 1073 (through 1st full paragraph); 1079 – 1088 (through first full paragraph);
- Matter of A-R-C-G-, 26 I&N Dec. 388 (BIA 2014): <https://www.justice.gov/sites/default/files/eoir/legacy/2014/08/26/3811.pdf>
- Velasquez v. Sessions (4th Cir. 2017): <http://www.ca4.uscourts.gov/Opinions/Published/161669.P.pdf>
- Matter of A-B-: <https://www.justice.gov/eoir/page/file/1041481/download>
- Simulated Asylum Exercise

WEEK 11: April 5, 2018: Special Immigrant Juvenile Status and Asylum for Children; Citizenship & Naturalization; Interviewing and Representing Children and Adults with Limited Formal Educational

- Guest speakers: Camila Alvarez and Julie Mitchell, Managing Attorneys, Central American Resource Center (CARECEN).
- L&R: 1156-1164; INA § 101(a)(27)(J); INA § 203(b)(4),
- L&R 1261-84; INA § 316.

WEEK 12: April 12, 2018: Humanitarian Immigration: Refugees & Asylees; U Visa, T Visa, S Visa, and TPS

- INA § 101(a)(15)(S), (T) and (U); INA § 244
- Immigration Relief for Victims of Abuse and Domestic Violence, Center for Immigrants’ Rights, Penn State Law School (June 2012). Read/skim pgs 9-39. <https://pennstatelaw.psu.edu/sites/default/files/Cover%20Page%20and%20Handbook%20FINAL.pdf>
- “Reforming America’s Immigration Laws: A Woman’s Struggle” by Kavitha Sreeharsha, Esq. Immigrant Policy Center, Special Report, June 2010. Available at: https://www.americanimmigrationcouncil.org/sites/default/files/research/A_Woman_s_Struggle_062810.pdf
- SB 674: Immigrant Victims of Crime Equity Act Summary by Immigrant Legal Resource Center, available at: https://www.ilrc.org/sites/default/files/resources/sb_674_fact_sheet_final-20161011.pdf

- **Ramirez v. Brown, 852 F.3d 954 (9th Cir. 2017):**
<https://cdn.ca9.uscourts.gov/datastore/opinions/2017/03/31/14-35633.pdf>

WEEK 13: April 19, 2018: Immigration Law & the Constitution: Procedural Due Process; Detention; Access to Counsel Rights of Noncitizens in US;

- **L&R: Bottom of p. 136-168 (through note 5); 186-223; 721-738**
- **C.J.L.G. v. Sessions (9th Cir. 2018):**
<http://cdn.ca9.uscourts.gov/datastore/opinions/2018/01/29/16-73801.pdf>

WEEK 14: April 26, 2018: Immigration Federalism; Course Recap

- **L&R: pp. 1169-94; 236-256**
- ***The Atlantic*, “When Republicans Attack States' Rights”, Garrett Epps, Mar. 13, 2018. Available at:**
<https://www.theatlantic.com/politics/archive/2018/03/when-republicans-become-anti-states-rights/555362/>
- **City of El Cenizo et al v. Texas (5th Cir. 2018) (skim):**
<https://www.courthousenews.com/wp-content/uploads/2017/09/SanctuaryCities5th.pdf>
- **Please read the complaint in U.S. v. California, filed March 6, 2018:**
<https://www.politico.com/f/?id=00000161-fe3e-d513-a767-febf57c70002>

FINAL EXAM: Tuesday, May 15, 2018 from 6:40 – 9:40 PM