

IMMIGRATION LAW (440A)
Spring 2023
Wednesday, 6:30PM-9:40PM

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Office Hours: Wednesday
afternoons by appointment

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, grounds of removal/deportability, and relief from removal;
- Asylum and refugee law and procedure;
- Humanitarian forms of immigration relief;
- Citizenship and naturalization, and expatriation;
- Immigration federalism and the role of executive action/discretion in the immigration system.

A significant portion of the course focuses on the Immigration and Nationality Act of 1952 (“INA”), as amended by numerous laws and their implementing regulations. While international law and comparisons to immigration law and policy of other countries may be referenced, this class focuses primarily on 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

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.

¹ Western State College of Law – Programmatic Learning Outcomes

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

- (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 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.

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 prospective eligibility for immigration relief and matters related to effective case preparation.

COURSE MATERIALS

The following course materials are *required*:

Stephen H. Legomsky & David B. Thronson, Immigration and Refugee Law and Policy (7th ed. 2018).

The following course materials are *optional*:

Aleinikoff, Martin, Motomura, Fullerton, and Stumpf, Immigration and Nationality Laws of the United States: Selected Statutes, Regulations, Forms, 2020.

Note: The above text is a printed version of the Immigration & Nationality Act (INA) and immigration regulations, which we will regularly reference in class. You may also use the AILA version of this printed text: American Immigration Lawyers Association (AILA), Immigration & Nationality Act + Immigration Regulations (CFR). The INA is also available in a free online version (www.uscis.gov).

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. Please note that Immigration Law does *not* satisfy the Upper Level Writing Requirement.

The course will be graded according to the following evaluation criteria:

- ***Class Preparation, Participation and Teamwork (20% of grade):***² Like the rest of the faculty, I value in-class contributions and professionalism. Assigned reading 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 (10% 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 discussed. The student will lead a short class discussion following the news briefing. Students are required to submit an electronic copy to the professor at least 3 days prior to class (Sunday evening) in anticipation of their presentation on their assigned day.
- ***Volunteer Assignment: (10% of grade):*** I greatly value volunteerism. Students will apply client interviewing and legal analysis skills from the class by participating in one immigration workshop. Dates, times and locations of potential workshops will be announced at the start of class. Tentative dates are 2/6, 2/10 or 3/4. Please note that week 4 of class is cancelled to accommodate participation in an immigration workshop, however, not all workshops will necessarily be scheduled during week 4.
- ***Immigration Presentations (10% of grade):*** An important component of practicing immigration law is being able to communicate complex immigration laws to diverse immigrant groups. At the beginning of the semester, students will select their topic for a 15-20 minute community-based presentation on a select immigration topic. Presentations will take place on April 19th.
- ***Final Examination (50% of grade):*** The final examination will consist of a combination of multiple choice, short answer, and essays. It will likely be a take home exam in which you are able to use your notes, textbook, INA and regulations.

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 email 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.

APPOINTMENTS AND OFFICE HOURS

I will hold office by appointment on Wednesday afternoons. You may schedule an appointment by contacting me directly at jmitchell@carecen-la.org. I am happy to discuss the course, assignments, policy issues, and career opportunities.

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.

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. 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 throughout the semester. However, I will update the syllabus as we progress and assigned readings may change. 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 occasional adjustments to the syllabus throughout the semester.

Immigration law is governed primarily 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”), some 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 recommend that you bring to class your notes 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, 2023

Introduction

Constitutional Foundations

Reading:

- Legomsky & Thronson (“L & T”): 1-27, 107-147

WEEK 2: January 25, 2023

Immigration & Detention

Public Charge

Reading:

- L & T: 151-186 (through note 5); 228 – 266.
- ILRC Public Charge Practice Advisory:
https://www.ilrc.org/sites/default/files/resources/may_2022_public_charge_final2.pdf
- ILRC Public Charge Update: <https://www.ilrc.org/latest-on-public-charge>
- Optional: <https://www.prolongeddetentionstories.org>

WEEK 3: February 1, 2023

Citizenship (Derived & Acquired)

Naturalization

Deferred Action for Childhood Arrivals (DACA)

Advance Parole

Reading:

- L & T: 1513-1523 (through problem 3); 1539-1558
- INA § 316
- L&T: 805-809
- DACA Litigation: Texas et al. v. United States of America et al., No. 21-40680 (5th Cir. 2022) <https://www.ca5.uscourts.gov/opinions/pub/21/21-40680-CV0.pdf>
- ILRC Advance Parole Practice Advisory: https://www.ilrc.org/sites/default/files/resources/8-31_advance_parole_under_daca.pdf

WEEK 4: February 8, 2023

CLASS REPLACED WITH VOLUNTEER IMMIGRATION WORKSHOP

You will receive a 1 hour recorded training to watch prior to attending the workshop.

WEEK 5: February 15, 2023

Immigrant Priorities: Quota System and Family-Based Immigration

Reading:

- L & T: 325 – 347 (Problems 1, 3, 4); 362 – 386 (Problems 8 & 9 on p. 367; Problem 13 on p. 379)
- INA § 201 (skim), 202 (skim), 203 (skim), 204(a)(1)(A)(i)-(iii); § 216
- Before class, find and skim the February 2023 Visa Bulletin. Be resourceful (hint: Google!)

WEEK 6: February 22, 2023

Immigrant Priorities: Employment-Based Immigration; Diversity Immigration;

Nonimmigrant Visas

Reading:

- L & T: 386- 408, 412 – 452, 506-512.
- INA § 203(b)(1) – (5), 212(a)(5), 101(a)(15) (skim sections 101(a)(15)(T) and 101(a)(15)(U), which will be covered in-depth later in the class)

WEEK 7: March 1, 2023

Exclusion/Inadmissibility Grounds

Reading:

- L & T: 513 – 542 (problems 1, 3, 5); 543 – 579 (problem 7 on p. 550; 9, 10, and 11 on p. 572).
- INA § 212(a), 212(h); 221, 245(a), 101(a)(13), 291, 235

WEEK 8: March 8, 2023

Grounds of Deportability

Reading:

- L & T: 684 – 755 (Problems 14, 15 & 16 on p. 751-52, problems 18, 19 & 21 on p. 754-55);
- INA § 237(a); 101(a)(43), 101(a)(48)(B).

NO CLASS on March 15 for SPRING BREAK.

WEEK 9: March 22, 2023

Relief from Removal; Removal Procedure; Access to Counsel Rights of Noncitizens.

Reading:

- L & T: 773-803; 849-856; 861-864; 865-876; 925-930
- INA § 240 (skim), 235; 241(a)(5); 238(b); 240(d); 240(b)(5)
- INA § 240A, 240B
- Take a look at the LPR Cancellation of Removal Toolkit, available at https://pennstatelaw.psu.edu/sites/default/files/Final_Toolkit_Public.pdf

WEEK 10: March 29, 2023

Refugees, Asylees, & Temporary Protected Status

Reading:

- L & T: 1133 – 1138, 1144 (beginning at last paragraph) – 1190; 1250 – 1270; 1391-1399
- 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>
- Read the latest about TPS litigation: <https://www.uscis.gov/humanitarian/update-on-ramos-v-nielsen>

WEEK 11: April 5, 2023

Humanitarian Immigration Introduction: U Visa, T Visa, S Visa, Special Immigrant Juvenile Status, VAWA.

Reading:

- L & T: 1278 – 1288; 1291 (beginning at second paragraph from bottom) – 1294; 1404-1418.
- INA § 101(a)(15)(S), (T) and (U); INA § 244

WEEK 12: April 12, 2023

**Immigration Federalism & State Action on Immigration; Immigration Legal Fraud
Admission Procedure**

Reading:

- L & T: 598-601
- American University Washington College of Law and the Catholic Legal Immigration Network, Inc., Stopping Immigration Services Scams: A Tool for Advocates and Lawmakers (2017). Available at: <https://cliniclegal.org/resources/stopping-immigration-services-scams-tool-advocates-and-lawmakers> (skim)
- L&T: 602-614; 628-639

WEEK 13: April 19, 2023

Immigration Presentations

WEEK 14: April 26, 2023

Semester Review

FINAL EXAM: TBD