

**WESTERN STATE COLLEGE OF LAW
IMMIGRATION CLINIC AND ADVANCED IMMIGRATION CLINIC
FALL 2017**

Professors Jennifer Lee Koh, Sabrina Rivera & Andrew Knapp

Welcome to the Western State Immigration Clinic! The Clinic is a five (5)-credit, one-semester course that exposes students to lawyering and advocacy skills necessary to be a reflective, ethical and effective lawyer. The Clinic also gives students the opportunity to reflect on the lawyer's role through reading, classroom discussion, and oral and written reflection.

Students will represent and provide legal services to individual clients under faculty supervision. This semester, students will also have an opportunity to engage in community-based education and advocacy on immigration issues and may find themselves responding to crisis in the community. In addition to attending the weekly seminar, students will meet in teams with their supervising attorney(s) every week at a regularly scheduled time.

The Clinic emphasizes a model of decision-making based on deliberative planning, identification of all possible options, and assessment of the relative advantages and disadvantages of available options. The Clinic is committed to helping students become familiar with the doctrines, institutions, procedures, conflicts, customs, and ethical problems relevant to lawyering. Through actual practice, students will gain first-hand appreciation for the effects of time pressures, interpersonal factors, and emotions on decision-making. The Clinic expects students to reflect deliberatively on their work, and to re-evaluate decisions as facts and circumstances change.

The syllabus provides an overview of the classes, reading assignments, and clinic methodology. A separate document, the **Immigration Clinic Manual**, explains many aspects of the Clinic in greater detail. All students are responsible for carefully reviewing both the syllabus and the Immigration Clinic Manual. The syllabus may be updated with additional readings and revisions as the semester progresses.

Course Materials and Lexis Blackboard

Readings will be posted on the course's LexisNexis Blackboard page. All students must sign up for the course's Blackboard page.

Contact Information

The Clinic office is located on the third floor of the law school. Professor Jennifer Koh, Director of the Immigration Clinic, can be reached on her work telephone at 714-459-1136 or via email at jkoh@wsulaw.edu. If you need to reach Professor Koh urgently, her cell phone number is 646-279-3504.

Professor Sabrina Rivera is a Staff Attorney in the WSCL Immigration Clinic. She will supervise students on several cases. She also carries her own caseload of clients who are not working with students, and provides critical administrative support to the Clinic. Her telephone extension is (714) 459-1157 and her email is srivera@wsulaw.edu. If you need to reach Professor Rivera urgently, her cell phone number is (562) 477-9361.

Professor Andrew Knapp is an adjunct professor at the law school and directs the Immigration Clinic's Ninth Circuit Representation Project. Three Clinic students will be representing a noncitizen before the Ninth Circuit Court of Appeals for the entire academic year. Professor Knapp will also be supervising cases in the Clinic. His email is andrewknappesq@gmail.com. If you need to reach Professor Knapp urgently, his cell phone number is (213) 507-2334.

Course Goals

The following list contains many of the primary learning goals of the Clinic.¹ Depending on the unique facts of each case and the student's motivation, Clinic

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 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

participants can expect to achieve more goals than listed below. The Clinic is designed so that all students can achieve the following goals:

- Learn to assume primary responsibility for real clients;
- Gain firsthand exposure to fundamental lawyering skills, such as client interviewing and counseling, fact investigation, case theory development, witness interviewing, negotiation, and legal research and writing;
- Improve written advocacy through a wide range of legal documents, such as memos to file, declarations, correspondence, and briefs;
- Appreciate the relationship between theory, fact and evidence;
- Engage in zealous advocacy and client-centered lawyering skills, including an understanding of how cultural factors affect the lawyering process;
- Identify, and respond appropriately, to ethical issues that arise in legal practice
- Learn a new area of law through exposure to the substantive and procedural aspects of immigration law practice;
- Understand, and think critically about, the core principles and policies behind our system of immigration law;
- Develop a professional identity, including a sense of one's strengths, areas of growth, and role as a future member of the legal profession;
- Improve collaboration and teamwork skills;
- Learn to meet deadlines, set agendas, and practice time management;
- Learn effective file management skills;
- Reflect upon the concept of social justice and the lawyer's role in navigating legal systems associated with political controversy, crisis, and arguable injustice.

Weekly Seminar and Case Rounds

The seminar component of the Clinic meets on Thursdays from 10AM – 12PM in [Room TBD] and will cover substantive lawyering skills, case rounds, and immigration law topics. (More information about case rounds will be provided during the semester. In general, during case rounds, students should come prepared to present the status of their cases, and to discuss strategies for resolving issues faced by other students in the Clinic. Students may also be asked to prepare a presentation on a particular case-related question for the group.)

Attendance at each seminar is mandatory for Immigration Clinic students. In accordance with the WSCL academic policy and as described in the Student Handbook, a student who misses more than two (2) class sessions will be withdrawn from class. However, *any* unexcused absence from the seminar will affect your grade, as well as your fellow students' learning experience. If you must miss a class, please contact Professor Koh in advance.

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).

Attendance at case rounds only is mandatory for Advanced Immigration Clinic students. Advanced Immigration Clinic students are welcome to attend any other class seminar, but are not required to do so.

During the first week of classes, we will have an intensive “boot camp” training session that will provide an overview of immigration law fundamentals and an introduction to the Clinic. Boot camp will be held on *Friday, August 18 from 10AM to 4PM*. Attendance at boot camp is mandatory for first-time Clinic students.

Casework and Student Hours

Work on the cases is the most important part of the clinical experience. Participation in the Clinic is akin to a legal job. Clients are real people with real legal problems.

First-Time Clinic Students: Students should expect to work a *minimum* of one hundred sixty (160) hours over the course of the semester,² which amounts to approximately twelve (12) hours per week on their cases (or community outreach/optional client work), not including preparation for and attendance at the weekly seminar. Hours should be recorded in CLIO, the Clinic’s case management software. Some of the activities required for representing your individual client may be self-scheduled, such as legal research, drafting declarations and briefs, writing memos to the file, reflecting on case strategy, and meetings with your partner. However, other required activities will require you to work during regular business hours, or around other people’s schedules, such as client meetings, fact investigation, and witness interviews. Other work is most productively done while physically in the Immigration Clinic, such as consulting the immigration practice treatises in the Clinic library, consulting the client file, accessing the Clinic’s shared computer drive (the G: drive), and brainstorming with classmates. *Students should expect to allocate at least half of the time they spend working on the case in the clinic space, and will be asked to commit to a regular schedule of being in the clinic.* Regardless of when you do the work, you will be asked to set internal deadlines and stick to them.

The minimum required hours of Clinic work do not include time spent on activities associated with the Clinic seminar, such as class readings, journal papers, or preparation for case rounds. For these activities, you should expect to spend an average minimum of **4 hours** a week outside of class seminar time.

Advanced Immigration Clinic Students: Advanced Immigration Clinic students have the option to enroll in either 2 or 3 credits. For 2 credits, the minimum hours expectation for the semester is 100 hours. For 3 credits, the minimum hour expectation is

² Note that in prior semesters, the Clinic has involved a 150-hour minimum requirement. The minimum hourly requirement has been revised in light of ABA requirements regarding the number of hours students should be expected to devote for each credit earned at the law school, and also in light of changes in the amount of assigned reading associated with the seminar.

150 hours. This does not include time spent on journal papers or preparation for case rounds.

All Students: Clinic is a combination of law school learning and real world work with clients who have real problems. Students are expected to put in as much time as is required to complete the work for their individual clients successfully. At times, the workload may be substantial. Keep in mind that what you do as a student lawyer has serious and permanent consequences for those clients. There is much hard work to be done on every case. While the effort and time you spend on your clinic work is, of course, very important, the *quality* of the work, as measured by what the court or administrative agency requires of you to ensure that your client has the best chance of winning, is critical.

What this means is that just showing up for Clinic and doing the various tasks associated with your cases, while necessary, is not sufficient. You will need to do the work competently and with the same degree of care, attention, and skill that you would want *your* lawyer to do on a case involving your life. Your clients deserve nothing less. We emphasize this important point now, before you have started the semester, because we do not want any student to take Clinic thinking that, since it is a course without a final exam, all one has to do is show up and put in the time and do some work and you will get a pass. That is not how the practice of law works, and it is not how Clinic works. Good lawyers are not just advocates for their clients' positions; they provide that advocacy effectively, professionally, and properly in the appropriate tribunal.

Students will be responsible for recording the number of hours spent on case work each week. Time sheets should be updated weekly (if not daily) on CLIO, the Clinic's case management system. It is recommended that students track their time as they go, including when working outside the Clinic.

Weekly Case Supervision Meetings and Office Hours

Most Clinic students will be assigned to work in teams during the first week of class. All students are required to meet on a weekly basis with their supervising attorney(s), typically with their case partners. Prior to each meeting, students are expected to submit (via email) an agenda. Only one agenda should be submitted per team. *Agendas are due by email at least 4 hours before the meeting.* Please also be sure to update the case file and CLIO before each weekly meeting. During the first week of classes, all students will be assigned a weekly meeting time.

Each clinic student will also meet individually with their supervising attorney(s) halfway through the term for a mid-semester review. The mid-semester review is designed to allow students to "touch base" regarding their clinic performance.

In addition to meetings with their supervising attorneys, student teams are expected to meet regularly with each other, on at least a weekly basis, to discuss case progress and plans.

REFLECTION PAPERS

Written Journal Papers. All Clinic students (including Advanced Immigration Clinic students) are required to submit two (2) short written papers during the course of the semester. These papers are intended to spark reflection about any aspect of your case work in the Clinic. Journal papers should adhere to the following guidelines:

1. Journal papers should be submitted via email to jkoh@wsulaw.edu on or before the due dates listed below.
2. Journal papers should be 3-5 pages, double spaced, in Times New Roman font.
3. The first journal will be read by Professors Koh, Rivera and Knapp only, and is due on or before Friday, October 13. The last journal paper will be circulated to the entire class, and will be due on or before Friday, November 10. We will discuss the last journals during our last seminar meeting on November 16.
4. The purpose of the journals is to encourage you to reflect more deeply on your Clinic work. In the journal paper, reflect in an in-depth manner on one or more issues in your case. *Do not simply provide a summary of the work you have done on your case.* Below are some guidelines and themes for writing the paper. (You do not have to answer all of these questions; they are intended to provide some guidance for the papers.)
 - a. Pick one or two readings or themes from the seminar discussion. How do those readings or themes relate to your Clinic work? To your professional development as a lawyer?
 - b. Ask yourself about the status of your case or project work. Why did things happen the way they have? How might they have happened differently?
 - c. Identify a question or issue in your Clinic work that involved ethical, strategic, or other implications. Explain the issue, how it was resolved, and whether you think the resolution was proper and why.
 - d. Based on what has happened in the Clinic thus far, what have you learned about being a lawyer? What have you learned about the kind of lawyer you wish to be in the future? What habit or practice would you like to continue in my future legal career?
 - e. What have you learned about yourself? What would you like to improve upon in your future legal career?
 - f. What does it mean to be successful as an attorney?

You have the opportunity to improve your class grade through your journal papers. Good papers submitted on time will be given a \checkmark (“check”) grade. Excellent papers will be given a $\checkmark+$ (“check plus”). $\checkmark+$ performance on both papers will improve

your overall class grade. Consistent √ performance on the two papers will not affect your class grade. Please note, however, that poor papers or papers submitted late will be given a √- (“check minus”). √- performance on both papers will result in a reduction in your overall class grade.

Grading

Grading. For students taking the Clinic for the first time, *all* of the five (5) units allocated towards the Clinic are graded on the law school’s 4.0 scale. Grading will be determined according to three general categories of evaluation, which are described below. Each grading component is also described in greater detail in a handout that will be provided to you during the first week of the Clinic.

Casework and advocacy refers generally to the quality of all aspects of the work on the case. This includes client interviewing; client counseling; legal research and analysis; fact investigation; case planning; project work; witness interviewing; problem solving; preparation of all submissions; meeting submission deadlines; writing; mootings; oral advocacy; and any other advocacy or preparation for advocacy performed on behalf of a client. (40 percent).

The lawyering process and clinic methodology refers generally to *how* the work is completed. This includes well-prepared and appropriate self-reflection with regard to all clinic activities; being open to feedback; revising work product based on feedback; work on goals; preparation for, performance in, and follow up from case team meetings; effective collaboration; institutional responsibility; organization, including use of time effectively; recognition and resolution of ethical issues; and any other activities related to professional development and clinic methodology. (40 percent).

The *classroom component* refers to work done in the classroom. This includes reading the assigned materials; written assignments for the seminar, class attendance and punctuality; class participation; contribution to solving issues in others’ Clinic work; preparation for and participation in case rounds and writing workshops; encouragement of participation by others; respect for the views of others; oral presentations in classes; and any other activities (other than case team meetings) related to formal instruction. (20 percent).

Advanced Immigration Clinic Grading: Students are graded based on the same components as above, but with a slightly different allocation, as follows: (1) casework and advocacy (50 percent), (2) the lawyering process and clinic methodology (45 percent); and (3) the classroom component (5 percent).

Required Text

Most readings will be posted on Blackboard or distributed via email prior to class. Students are highly encouraged to purchase a bound volume of the Immigration and

Nationality Act, or borrow one from a classmate who took Immigration Law in the past year or two. Bound copies can be purchased at a discount rate through the American Immigration Lawyers Association at agora.aila.org using instructions and a discount code that will be emailed directly to students.

Syllabus

The syllabus below lists the class readings and topics. Various classes will also be accompanied by handouts and instructional memos. **This syllabus will be updated in the future.**

We highly recommend *printing* the readings that are available on Blackboard and creating a binder/folder in which you can store all of your Clinic-related readings and handouts. You will receive a number of memos and handouts in the seminar, and you will likely wish to return to several of the readings later on in the semester. Please also note that several of the practice-oriented readings assigned during boot camp are part of larger practice manuals that are available in the Clinic library, and that you will be consulting heavily over the course of the semester.

Class 1 (Thursday, August 17): Introduction to the Clinic and Our Work this Semester; Introduction to Immigration Fundamentals

- Western State Immigration Clinic Manual
- David Chavkin, Clinical Methodology, in *Clinical Legal Education: A Textbook for Law School Clinical Programs* 7 (2002) (excerpt)
- Practical Training of Law Students Rules, available at <http://rules.calbar.ca.gov/LinkClick.aspx?fileticket=b5e7D8CuUJ8%3d&tabid=149>
- Tilman Hasch, An Overview of Immigration Law and the U.S. Immigrant Selection System

BOOT CAMP (Friday, August 18, 10AM-4PM): Immigration Fundamentals

- R. Mark Frey, A Brief Overview of Forms of Relief in Removal Proceedings (American Immigration Lawyers Association, 2016)
- Philip Eichorn, Introduction to Removal Proceedings (American Immigration Lawyers Association, 2016)
- Ingrid Eagly & Steven Shafter, Access to Counsel in Immigration Court (American Immigration Council, 2016)

- Jennifer M. Chacon, Immigration and the Bully Pulpit, 130 Harv. L. Rev. F. 243 (2017)
- WATCH “Exposed: The Injustice of Immigration Detention,” (by Community Initiatives for Visiting Immigrants in Confinement), at <https://www.youtube.com/watch?v=3HeV1QsrEdo&t=1s>

Class 2 (Thursday, August 24): Interviewing & Meeting Clients for the First Time

- David A. Binder et al., Lawyers as Counselors, (3rd ed. 2012), 78-110, 272-284.
- David Ngaguri Kennedy & Philip Schrag, Asylum Denied: A Refugee’s Struggle for Safety in America 109-124 (2008)

Practice a videotaped client consultation moot.

Class 3 (Thursday, August 31): Working with interpreters; Working with survivors of crime; teamwork; introduction to cross-cultural competency and professional responsibility

- Angela McCaffrey, Don't Get Lost In Translation: Teaching Law Students To Work With Language Interpreters, 6 Clinical L. Rev. 347 (Spring 2000) (excerpts)
- Lynette Parker, Increasing Law Students’ Effectiveness when Representing Traumatized Clients: A Case Study of the Katharine and George Alexander Community Law Center, 21 Geo. Immigr. L.J. 163 (2007) (excerpts)
- Rule 3-100 of the California Rules of Professional Conduct (Confidential Information of a Client)
- *Skim:* California Rules of Professional Conduct, California Business & Professions Code Section 6068, 8 C.F.R. 1003.101, 8 C.F.R. 1003.102
- Complete “Collaborative Spectrum Sheet” (on Blackboard)

Class 4 (Thursday, Sept. 7); Fact Investigation and Developing the Case Plan

- Stefan H. Krieger & Richard K. Neumann, Jr., Essential Lawyering Skills (4th ed. 2011), 149-157, 191-223
- Read a sample declaration in a case previously filed by the Clinic
- A Guide for Immigration Advocates (excerpt)

If you have been assigned an individual case, develop a case plan for the client.

Class 5 (Thursday, Sept. 14): CASE ROUNDS

Below is a list of topics that future classes will cover. The syllabus will be updated later with the readings.

Class 6 (Thursday, Sept. 21): Client-Centered Lawyering and Counseling

Class 7 (Thursday, Sept. 28): Preparing for Immigration Court; Trial Skills

Class 8 (Thursday, October 5): CASE ROUNDS

Class 9 (Thursday, October 12): Professional Responsibility and Zealous Advocacy

Class 10 (Thursday, October 19): Cross-Cultural Competence

Class 11 (Thursday, October 26): CASE ROUNDS

Class 12 (Thursday, November 2): Lawyering for Change

Class 13 (Thursday, Nov. 9): CASE ROUNDS

Class 14 (Thursday, Nov. 16): Clinic Potluck and End-of-Year Celebration