

ANTONIN SCALIA LAW SCHOOL  
LAW 235-R02 - Immigration law  
Spring 2022

**Adjunct Professor:**

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Office Hours: by appointment (via Zoom)

**Required Text:**

Legomsky and Thronson,

Immigration and Refugee Law and Policy, 7th Edition, 2019

Readings will be from the assigned text and from freely available sources. These include the Immigration and Nationality Act (INA), Title 8 of the Code of Federal Regulations (8 CFR) and caselaw, including Board of Immigration Appeals cases, available from the Virtual Law Library website of the US Department of Justice, Executive Office for Immigration Review (EOIR): [http://www.usdoj.gov/eoir/vll/intdec/lib\\_indecitnet.html](http://www.usdoj.gov/eoir/vll/intdec/lib_indecitnet.html). Hard copies of the INA or 8 CFR are not necessary, but we will access them occasionally through the web.

Upon completing this course, students will be able to:

- 1) Communicate their knowledge of immigration law orally and in writing;
- 2) Navigate and analyze the Immigration and Nationality Act and other authorities on immigration law and policy;
- 3) Identify fundamental qualifications, procedures for, and barriers to immigration to the United States;
- 4) Evaluate and engage in debates on immigration topics from an informed standpoint.

**Grading:**

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| Final exam:                           | 75% |
| Homework and brief oral presentation: | 15% |
| Participation:                        | 10% |

The course is designed to familiarize the student with immigration law issues they may encounter in professional life, and to provide experience evaluating and discussing these issues competently. Accordingly, class participation will be a component of the grade.

**Final Exam**

The exam will require application of the immigration law provisions discussed in class to the hypothetical situations presented. Before the exam, there will be an opportunity to

practice with sample questions. The exam will be open book. You may use any books, supplements, notes, or outlines, but you may not consult others.

### **Attendance, Class Participation and Assignments**

Class Participation will be a component of your grade for the course. You are expected to attend and participate in each class, complete the assigned readings before class, and be prepared for discussion. The course is conducted remotely via video, and your attendance will be determined by whether you are visible on camera, absent extraordinary circumstances.

### **Overview**

Our immigration law overview will examine the history, foundations, controversies, and operations of US immigration law. We will proceed from the legal foundations to practical applications, including family and business-based immigration, entry qualifications, disqualifications, deportation, refugees and asylum, employment authorization, national security, and citizenship. Immigration law is complex and is currently a fast-moving target. This course will focus on a fundamental understanding that provides context and examples for today's immigration law debates, as well as some of the practical applications of the law in business and government.

### **Resources**

In addition to the text, there are free resources online to assist in understanding immigration law and the controversies of the day. Among the best is the Congressional Research Service (CRS), which aspires to provide neutral summaries and analyses of many of the critical immigration law issues we will confront. A searchable menu of CRS immigration law publications is available at:

<https://crsreports.congress.gov/search/#/?termsToSearch=Immigration%20law&orderBy=Relevance>

| Date                           | Topics   | Readings for class and prompts  |
|--------------------------------|--|---|
| Class 1<br>Tuesday,<br>Jan. 18 | 1. INTRODUCTION:<br><br>A. Course Overview<br>B. Some History<br>C. Sources of Authority<br>D. Foundational Cases<br>E. Due Process  | 1. Animated Map: 200 years of Immigration to the US (2 & 1/2 mins.) - use full screen:<br><a href="http://metrocosm.com/animated-immigration-map/">http://metrocosm.com/animated-immigration-map/</a><br><br>2. Text 107-114 (skim to identify at least 5 sources of Constitutional authority to regulate immigration)<br>3. Text 115-130 Including <i>Chae Chan Ping v. United States</i> and <i>Ekiu v. United States</i><br>4. Text 131-139 including <i>Fong Yue Ting v United States</i> and Justice Brewer's dissent;<br>5. Text 143-144: Qs 1, 2, and 3. |
| Class 2<br>Jan. 25             | 2. LEGAL IMMIGRATION I:<br><br>A. Federalism<br>B. Immigration Priorities<br>C. Family-Based Immigration   | 1. Text 192-213, <i>Trump v. Hawaii</i><br>2. Text 325-342 (through the first two paragraphs of p.342)<br>3. Text 346-347 (Visa Bulletin Chart)<br>5. Text 357-361, <i>Matter of Zeleniak</i> (BIA, 2013) and notes following.  |
| Class 3<br>Feb. 1              | 3. LEGAL IMMIGRATION II:<br><br>A. Marriage<br>B. Employment-Based Immigration<br>C. Diversity Visas   | 1. Text 362-386 including <i>Matter of Mourillon</i> (BIA 1981)<br>2. Text 386-408 including <i>Matter of Marion Graham</i><br>3. Text 425-433  |
| Class 4<br>Feb 8               | 4. NONIMMIGRANTS<br><br>A. Employment-based non-immigrant visas  | 1. Text 439-503   |
| Class 5<br>Feb. 15             | 5. ADMISSION AND INADMISSIBILITY<br><br>A. "Exclusion" and expedited removal<br>B. Adjustment of Status<br>C. Political and National Security grounds<br>D. Crime<br>E. Public Health and Morals, including "public charge"<br>F. Adjustment of Status | 1. Text 513-580<br>2. Text 628-639<br><br><b>Assignment #1 Due.</b>   |

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| <p>Class 6<br/>Feb. 22</p>  | <p>6. REMOVABILITY: GROUNDS</p> <p>A. The Entry Doctrine<br/>A. “Aggfel” &amp; Serious Crimes<br/>C. Misdemeanors<br/>D. “Crimmigration”</p>   | <p>1. Text 679-698, including <i>Padilla v. Kentucky</i> (read Qs 1-3 only).</p> <p>2. Text 708-711 “AggFels”</p> <p>3. Text 738-739</p> <p>4. Text 751-752 (Sentencing and Crimes Involving Moral Turpitude)</p> <p>5. Text 755-759, Including <i>Mellouli v. Lynch</i> (up to Section III)</p> <p>6. Text 764-771</p>  |
| <p>Class 7<br/>March 1</p>  | <p>7. REMOVABILITY: RELIEF:</p> <p>A. Cancellation<br/>B. Registry, Legalization, Adjustment, PD, DACA/DAPA, Voluntary Departure<br/>C. VAWA<br/>D. Sec. 212 Hardship Waivers</p>  | <p>1. Text 775-809 including <i>Matter of Recinas</i></p> <p>2. Text 849-859</p> <p>3. Text 587-592 (esp. VAWA)</p>  |
| <p>Class 8<br/>March 8</p>  | <p>8. REMOVAL PROCEDURE</p> <p>A. Hearings and appeals<br/>B. Expedited Removal<br/>C. NTA<br/>D. Counsel</p>  | <p>1. Text 866-876</p> <p>2. Text 877-887 (including <i>Pereira v. Sessions</i>)</p> <p>3. Text 906-915 (including <i>Aguilera-Enriquez v. INS</i>)</p> <p>4. Text 925-929 (read through the NOTES AND QUESTIONS #3; includes <i>Matter of Lozada</i>).</p> <p>5. Text 931-932 940, <i>INS v. Lopez-Mendoza</i> (read the first 3 paragraphs of Section I; all of Section III; and Section V).</p> |
| <p>Class 9<br/>March 22</p> | <p>9. REMOVAL PROCEDURE (cont’d), AND INTRODUCTION TO FORMS OF PROTECTION</p> <p>A. More on Removal Hearings and Administrative Appeals<br/>B. Judicial Review (lecture only, no reading assigned)<br/>C. Enforcement<br/>D. Forms of protection: Refugee status</p> | <p>1. Text 963-977</p> <p>2. Text 1032-1041 (scan for the alternative procedures)</p> <p>3. Text 1055-1083</p>   |

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| Class 10<br>March 29 | 10. HUMANITARIAN PROTECTION<br><br>A. Refugees<br>B. International Law and “Non-Refoulement”<br>C. Asylum   | 1. Text 1140-1157 (begin p. 1140 after the three asterisks)(***)<br>2. Text 1158 Question 5<br>3. Text 1161-1190 Including <i>Matter of Acosta</i><br>4. Text 1191-1208 Including <i>Matter of M-E-V-G-</i><br>5. INA Section 101(a)(42) (8 USC sec. 1101(a)(42))<br>6. INA Section 208(a), 8 USC 1208(a)                                 |
| Class 11<br>April 5  | HUMANITARIAN PROTECTION (Cont'd)<br><br>A. Asylum (cont'd)<br>B. Withholding<br>C. Torture Convention<br>D. TPS<br>E. Other   | 1. Text 1214-1220 <i>Matter of Toboso-Alphonso</i><br>2. Text 1224-1229 <i>Fatin v. INS</i><br>3. Text 1234-1244 <i>Matter of Kasinga</i> (& through Q.2)<br>4. Text 1278-1279<br>5. Text 1282-1284<br>6. Text 1340-1356 <i>Sale v. Hatian Centers Council</i><br>7. Text 1374-1375<br>8. Text 1391-1396<br><br><b>Assignment #2 Due.</b> |
| Class 12<br>April 12 | 12. CRIME, CIVIL VIOLATIONS, AND NATIONAL SECURITY<br><br>A. Border Security and National Security<br>B. Detention, ATD, and Bond<br>C. Terrorism<br>D. “Tier I,” “Tier II,” and “Tier III” Terrorist organizations | 1. Text 1095-1131<br>2. Text 228-235 <i>Zadvydas v. Davis</i><br>3. Text 241—244. (Notes and Questions 1-5, and 12)   |
| Class 13<br>April 19 | 13. CITIZENSHIP AND LPR STATUS<br><br>A. <i>Jus Soli</i> and <i>Jus Sanguinis</i><br>B. Value of and Loss of Citizenship<br>C. LPR Status Acquisition and Loss<br>D. Statelessness                                  | 1. Text pp. 1515-1529; 1539-1580  |
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