

ANTONIN SCALIA LAW SCHOOL  
Law 235 - Immigration Law  
Spring 2023

**Syllabus**

**Adjunct Professors:**

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**Required Text:**

*Immigration and Refugee Law and Policy*, 7<sup>th</sup> Edition, 2019 (Text)

Legomsky and Thronson

**Recommended:**

*Immigration and Nationality Law of the United States*, 2020 Edition (Supplement)

Aleinikoff, Martin, Motomura, Fullerton, Stumpf, and Gulasekaram

(2018 edition may also be used. Note that there is no 2017 or 2019 edition.)

While most reading for the class will be from the Text, reading will be assigned from other sources, including the Immigration and Nationality Act (INA), federal court cases, and Board of Immigration Appeals (BIA) cases. Note that the BIA cases are available in Westlaw and at the Executive Office for Immigration Review's Virtual Law Library at [http://www.usdoj.gov/eoir/vll/intdec/lib\\_indecitnet.html](http://www.usdoj.gov/eoir/vll/intdec/lib_indecitnet.html). A hard copy of the INA is not required, but it is recommended for a greater understanding of this complex statute and for easier navigation during the final exam.

Upon completing this course, students will be able to:

- 1) Communicate their knowledge of U.S. immigration law orally and in writing;
- 2) Navigate and analyze the Immigration and Nationality Act and other authorities; and
- 3) Evaluate immigration issues in the context of the U.S. immigration system.

**Grading:**

Final Exam: 75% - 75 points, 6 questions total

Assignments: 20% - 20 points, 10 points each assignment

Oral Presentation: 5% - 5 points

**Final Exam:**

The exam will require the 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 bring any books, supplements, or outlines. You may not use the internet during the exam.

### **Class Participation and Assignments:**

While class participation will not be a component of your grade, you are expected to participate and attend each class. You are required to complete the assigned readings before each class and should be prepared to contribute to class discussion. During the first week, we will discuss expectations for participation and for the assignments.

### **General Discussion of Material to be Covered:**

Immigration law is complex, with rules that do not always follow logic. As Justice Alito stated, “nothing is ever simple with immigration law.” *Padilla v. Kentucky*, 559 U.S. 356, 378 (2010) (Alito, J. concurring) (internal quotation omitted). The U.S. Court of Appeals for the Second Circuit described the “labyrinthine character of modern immigration law” as “a maze of hyper-technical statutes and regulations.” *Drax v. Reno*, 338 F.3d 98, 99 (2d Cir. 2003). The class is intended to provide a foundation on which to understand the law as it (currently) exists. Because this is a survey class, there will be significant areas that we either do not cover or do not cover thoroughly.

We will review the history and legal foundations of U.S. immigration law. We will substantively address a number of areas of immigration law, including immigration benefits, criminal immigration provisions, removal, refugee and asylum, and U.S. citizenship. We will also touch upon many of the key policy debates that are critical to understanding the context in which immigration law and immigration lawyers operate.

The law you learn in class could easily change in the future, or even during the course of the class. Immigration reform is a priority for the Biden administration, and we could see substantial change over the course of the semester; thus readings and class discussions may change to address new developments. We strongly encourage you to read about immigration changes debated in Congress, proposed by the Biden administration, and discussed by the Supreme Court and to bring thoughts and questions to class.

### **Useful Resources:**

The Practitioner Insights for Immigration in Westlaw has links to several resources for immigration law research including Cases, BIA Decisions, Statutes & Court Rules, Regulations, and Secondary Sources.

There are several useful secondary sources of immigration law available. Unless noted in the syllabus, these are not required reading but may be useful to gain a better understanding of the assigned material.

- *Kurzban’s Immigration Law Sourcebook* (17<sup>th</sup> edition) (2020) by Ira J. Kurzban, a useful single (expensive) volume intended for immigration practitioners (available online through the library; a prior edition is available in the law library);
- *Immigration Law and Procedure in a Nutshell* (7<sup>th</sup> edition) (2017) by David S. Weissbrodt & Laura Danielson (available in the law library and for purchase);
- *Immigration Briefings*, a monthly monograph on immigration law issues (available in the law library and on Westlaw);
- *Interpreter Releases*, a weekly newsletter that covers current immigration law issues (available in the law library and on Westlaw);

DATE	TOPIC	MATERIALS TO BE READ BEFORE CLASS
<b>Class 1</b> <b>Wednesday,</b> <b>January 18</b>	<b>Immigration and the Constitution:</b> Sources of Federal Immigration Power, The Foundational Cases	Text 107-130 (including <i>Chae Chan Ping v. United States</i> and <i>Ekiu v. United States</i> )
<b>Class 2</b> <b>Monday,</b> <b>January 23</b>	<b>Immigration and the Constitution:</b> Limits to the Federal Immigration Power: Modern Developments (begin)	Text 131-143, 151-163 (including <i>Fong Yue Ting v. United States</i> , <i>Shaughnessy v. United States Ex Rel. Mezei</i> , and discussion of <i>Landon v. Plasencia</i> in note 4) <i>Kerry v. Din</i> , 576 U.S. 86 (2015)
<b>Class 3</b> <b>Wednesday,</b> <b>January 25</b>	<b>Immigration and the Constitution:</b> Limits to the Federal Immigration Power: Modern Developments  <b>Overview of United States Immigration Law: Admission Procedure:</b> Modern Procedure; Visa Petitions; Visa Applications; Adjustment of Status	Text 192-216 (including <i>Trump v. Hawaii</i> )  Text 1-11, 587-592 (middle), 602-611 (top), 634-637 INA §§ 214(c)(1), 245(a, b, c, and k)
<b>Class 4</b> <b>Monday,</b> <b>January 30</b>	<b>Immigrant Priorities:</b> Immigrants Subject to the General Quotas; Family Immigration; Children and Other Family Members	Text 325-42 (first two paragraphs only), INA §§ 201(b), 203(a), 203(d) Current State Department Visa Bulletin ( <a href="https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html">https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html</a> )  Text 372-86 (including <i>Matter of Mourillon</i> ) INA § 101(b)(1)(A)-(E)
<b>Class 5</b> <b>Wednesday,</b> <b>February 1</b>	<b>Immigrant Priorities:</b> Family Immigration: Spouses	Text 347-71 (including <i>Adams v. Howerton</i> and <i>Matter of Zeleniak</i> )  <i>Matter of Da Silva</i> , 15 I&N Dec. 778 (BIA 1976) INA § 216(b)-(c)
<b>Class 6</b> <b>Monday,</b> <b>February 6</b>	<b>Immigrant Visas:</b> Employment-Based Immigration: The First Three Preferences	Text 386-408 (including <i>Matter of Marion Graham</i> )  INA § 203(b)(1)-(3) 20 CFR 656.17(e)(1), (h)

<p><b>Class 7</b> <b>Wednesday,</b> <b>February 8</b></p>	<p><b>Immigrant Visas:</b> Fourth and Fifth Employment-Based Preferences; Diversity Visas</p>	<p>Text 425-38</p> <p>INA §§ 101(a)(27) (skim), 203(b)(4)-(5) 82 FR 4738 (read only II. Executive Summary and III. Background)</p> <p>INA § 203(c) DV-2021 Instructions, available on <a href="https://travel.state.gov">travel.state.gov</a></p>
<p><b>Class 8</b> <b>Monday,</b> <b>February 13</b></p>	<p><b>Nonimmigrant Visas:</b> Nonimmigrant Priorities; Business Visitors; Visa Waiver Program</p>	<p>Review admission procedures, Text 602-611 INA § 217(skim section a, read section b)</p> <p>Text 439-442 (top) INA § 101(a)(15) (skim), 214(b) first sentence only</p> <p><i>Matter of Hira</i>, 11 I&amp;N Dec. 824 (BIA 1965) Text 442-452 (including <i>International Union of Bricklayers and Allied Craftsmen v. Meese</i>)</p> <p>9 FAM 402.2-5, skim and stop at 9 FAM 402.2-5(H), available at <a href="https://fam.state.gov">https://fam.state.gov</a></p>
<p><b>Class 9</b> <b>Wednesday,</b> <b>February 15</b></p>	<p><b>Nonimmigrant Visas:</b> Temporary Workers; Treaty Nonimmigrants; Educational Categories; Tourists</p>	<p>Text 453-477 (including <i>Matter of Artee Corporation</i>), 483-499 (including <i>Nice v. Turnage</i>, <i>Sheku-Kamara v. Karn</i>, and <i>Matter of Healy and Goodchild</i>)</p> <p>INA § 212(n)(1)(A)-(D), 214(c)(1)</p> <p><i>Chamber of Commerce, et al., v. DHS, et al.</i>, 2020 WL 7043877 (N.D. Cal. 2020) Only Background sections A, C-E.</p> <p><i>Fogo De Chao (Holdings) Inc. v. U.S. Dept. of Homeland Sec.</i>, 769 F.3d 1127 (D. C. Cir. 2014) (skip sections “II. Standard of Review” and “III. Subject-Matter Jurisdiction”)</p>
<p><b>Class 10</b> <b>Monday,</b> <b>February 20</b></p>	<p><b>Exclusion Grounds:</b> Historical Background; Grounds Related to Immigration Control; Criminal; Economic Public Health</p>	<p>Text 512-543, 569-580 (including <i>Matter of Arrabally</i>)</p> <p><b>Assignment #1 Due</b></p>
<p><b>Class 11</b> <b>Wednesday,</b> <b>February 22</b></p>	<p><b>Exclusion Grounds:</b> Political and National Security Grounds</p>	<p>Text 543-63 (including <i>Matter of S-K-</i> and discussion of <i>Holder v. Humanitarian Law Project</i> in Note 6)</p> <p>INA §§ 212(a)(3)(B), 212(f)</p> <p><b>Discuss Assignment #1</b></p>

<b>Class 12</b> <b>Monday,</b> <b>February 27</b>	<b>Deportability Grounds:</b> “Admission”; Immigration Control Grounds; Political and National Security	Text 649-678 (including <i>Rosenberg v. Fleuti</i> , <i>Padilla v. Kentucky</i> ), 767-771  INA §§ 237(a)(1)(A)-(H), 237(a)(3)(D), 237(a)(4), 237(a)(6)
<b>Class 13</b> <b>Wednesday,</b> <b>March 1</b>	<b>Deportability Grounds:</b> Crime-Related	Text 678-731(including <i>Padilla v. Kentucky</i> , <i>Moncrieffe v. Holder</i> ), 739-766 (including <i>Sessions v. Dimaya</i> , <i>Mellouli v. Lynch</i> )  INA §§ 101(a)(43)(A), 101(a)(43)(B), 101(a)(43)(F), 101(a)(48), 237(a)(2)
<b>Class 14</b> <b>Monday,</b> <b>March 6</b>	<b>Relief from Removal:</b> Cancellation of Removal	Text 773-799 (including <i>Matter of Recinas</i> ), 849-854 <i>Matter of Monreal-Aguinaga</i> , 23 I&N Dec. 56 (BIA 2001) (en banc) (majority opinion only)  <i>Matter of C-V-T-</i> , 22 I&N Dec. 7 (BIA 1998) INA §§ 240A(a), (b)(1), (c), (d)(1)-(2), 240B(a)(1), 240B(b)
<b>Class 15</b> <b>Wednesday,</b> <b>March 8</b>	<b>Relief from Removal:</b> Registry; Legalization; Adjustment of Status; Private Bills; Voluntary Departure; Prosecutorial Discretion; Temporary Protected Status	Text 799-849 (including <i>Texas v. United States</i> ), 1391-97 <i>Matter of Sosa Ventura</i> , 25 I&N Dec. 391 (BIA 2010) Skim Prosecutorial Discretion Memos (Available on TWEN) INA §§ 237(d)(2), 244 (skim), 245(a)-(c), 245(i), 249
<b>Class 16</b> <b>Monday,</b> <b>March 20</b>	<b>Detention</b>	Text 228-289 (including <i>Zadvydas v. Davis</i> , <i>Denmore v. Kim</i> , <i>Jennings v. Rodriguez</i> ) <i>Matter of Joseph</i> , 22 I&N, Dec. 660 (BIA 1999) INA §§ 236(a)-(c), 235(b)(2)(A), 241(a)(2)
<b>Class 17</b> <b>Wednesday,</b> <b>March 22</b>	<b>Deportation Procedure:</b> NTAs; IJs; Representation, Evidence and Proof; Administrative Review	Text 877-890 (including <i>Pereira v. Sessions</i> ), 899-929 (including <i>Matter of Lozada</i> ), 963-976 INA §§ 292, 239(b)  <b>Assignment #2 Due</b>
<b>Class 18</b> <b>Monday,</b> <b>March 27</b>	<b>Deportation Procedure:</b> Judicial Review; Exceptions to Usual Procedures	Text 977-1014 (including <i>INS v. St. Cyr</i> ), 1032-42 INA §§ 240(c)(6)-(7), 242(a)  <i>Patel v. Garland</i> , 142 S. Ct. 1614 (2022) (only majority opinion)

<b>Class 19</b> <b>Wednesday,</b> <b>March 29</b>	<b>Refugees:</b> Asylum and Withholding; Introduction; Meaning of “Persecution;” Religion; Nationality; Political Opinion; Race	Text 1160-89 (including <i>Matter of Acosta, INS v. Elias-Zacarias</i> ) <i>INS v. Cardoza-Fonseca</i> , 480 U.S. 421 (1987) <i>Matter of S-P-</i> , 21 I & N Dec. 486 (BIA 1996) INA §§ 101(a)(42), 207(c)(1), (3), 208(a), (b)(1)(A), (d)(4), 241(b)(3)(A)  <b>Discuss Assignment #2</b>
<b>Class 20</b> <b>Monday,</b> <b>April 3</b>	<b>Refugees:</b> Particular Social Group: Introduction; Sexual Orientation Religion; Nationality; Political Opinion; Race	Text 1189-1220 (including <i>Matter of M-E-V-G-</i> , <i>Matter of Toboso-Alfonso</i> )  <i>Matter of L-E-A-</i> , 27 I&N Dec. 40 (BIA 2017) <i>Crespin-Valladares v. Holder</i> , 632 F.3d 117 (4th Cir. 2012)
<b>Class 21</b> <b>Wednesday,</b> <b>April 5</b>	<b>Refugees:</b> Particular Social Group: Gender; Nexus	Text 1220-77 (including <i>Fatin v. INS, Matter of Kasinga, Matter of A-B-</i> )  <i>Matter of A-R-C-G-</i> , 26 I&N Dec. 388 (BIA 2014)
<b>Class 22</b> <b>Monday</b> <b>April 10</b>	<b>Refugees:</b> Standard and Methods of Proof, Exceptions to Eligibility; Convention Against Torture	Text 1278-1306; 1370-87 8 C.F.R. §§ 1208.16-18  <i>Matter of J-E-</i> , 23 I&N Dec. 291 (BIA 2002) <i>Matter of R-A-F-</i> , 27 I&N Dec. 778 (A.G. 2020)
<b>Class 23</b> <b>Wednesday,</b> <b>April 12</b>	<b>Deportation Procedure:</b> Simulated Hearing	Materials Available on TWEN
<b>Class 24</b> <b>Monday,</b> <b>April 17</b>	<b>Undocumented Immigrants:</b> Introduction; Rights; Legalization; State and Local Responses	Text 1419-56 (including <i>Plyler v. Doe</i> )
<b>Class 25</b> <b>Wednesday,</b> <b>April 19</b>	<b>Citizenship:</b> Introduction; Acquiring Citizenship; Dual Nationality	Text 1512-62 (including <i>Sessions v. Morales-Santana</i> )
<b>Class 26</b> <b>Monday,</b> <b>April 24</b>	<b>Citizenship:</b> Who Should Be a Citizen?	Text 1562-80  <b>Discuss Final/Review Questions</b>