

ANTONIN SCALIA LAW SCHOOL
Law 235 - Immigration Law
Spring 2024

Syllabus

Adjunct Professors

Jillian Blake

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Required Text:

Immigration and Refugee Law and Policy, 7th 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. 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, as you will not have access to the internet 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* (17th 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* (7th 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).

Questions or Concerns:

If you have any questions or concerns regarding the class or topics discussed during the semester, students can reach out to Professors Blake and Groff at any time. Students are also encouraged to reach out to Annamaria Nields, Associate Dean for Administration and Student Affairs, at aniels@gmu.edu.

In addition, the University has many offices students can contact as well. For more information about these offices, click on the links below.

- [Compliance Diversity and Ethics](#)
- [Bias Incident Report](#)
- [Title IX](#)
- [Student Support and Advocacy Center](#)

DATE	TOPIC	MATERIALS TO BE READ BEFORE CLASS
Class 1 Wednesday, January 17	Overview of United States Immigration Law and the Constitution: Sources of Federal Immigration Power, The Foundational Cases	Text 1-11, 107-130 (including <i>Chae Chan Ping v. United States</i> and <i>Ekiu v. United States</i>)
Class 2 Monday, January 22	Immigration and the Constitution: Limits to the Federal Immigration Power; Modern Developments	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)

<p>Class 3 Wednesday, January 24</p>	<p>Immigration and the Constitution: Modern Developments Continued; Plenary Power and Federalism</p> <p>Modern Admission Procedure: Visa Petitions; Visa Applications; Adjustment of Status</p>	<p>Text 192-205, 293-294, 301-317 (including <i>Trump v. Hawaii</i> majority opinion, and <i>U.S. v. Arizona</i>)</p> <p>Text 587-592 (middle), 602-611 (top), 634-637 INA §§ 214(c)(1), 245(a, b, c, and k)</p>
<p>Class 4 Monday, January 29</p>	<p>Immigrant Priorities: Immigrants Subject to the General Quotas; Family Immigration; Children and Other Family Members</p>	<p>Text 325-342, 372-86 (including <i>Matter of Mourillon</i>) INA §§ 201(b), 203(a), 203(d) Current State Department Visa Bulletin (https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html) INA § 101(b)(1)(A)-(E)</p>
<p>Class 5 Wednesday, January 31</p>	<p>Immigrant Priorities: Family Immigration: Spouses</p>	<p>Text 347-371 (including <i>Adams v. Howerton</i> and <i>Matter of Zeleniak</i>)</p> <p><i>Matter of Da Silva</i>, 15 I&N Dec. 778 (BIA 1976) INA § 216(b)-(c)</p>
<p>Class 6 Monday, February 5</p>	<p>Immigrant Visas: Employment-Based Immigration: Five Preferences; Diversity Visas</p>	<p>Text 386-408 (including <i>Matter of Marion Graham</i>), 425-438</p> <p>20 C.F.R. § 656.17(e)(1), (h) INA §§ 101(a)(27) (skim), 203(b)(1)-(5), 203(c)</p> <p>DV-2023 Instructions (https://travel.state.gov/content/dam/visas/Diversity-Visa/DV-Instructions-Translations/DV-2023-Instructions-Translations/DV-2023-Instructions-Translations/English.pdf)</p>
<p>Class 7 Wednesday, February 7</p>	<p>Nonimmigrant Visas: 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&N Dec. 824 (BIA 1965) Text 442-452 (including <i>International Union of Bricklayers and Allied Craftsmen v. Meese</i>)</p>

		9 FAM 402.2-5, skim and stop at 9 FAM 402.2-5(H), available at https://fam.state.gov
Class 8 Monday, February 12	Nonimmigrant Visas: Temporary Workers; Treaty Nonimmigrants; Educational Categories; Tourists	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>) INA §§ 212(n)(1)(A)-(D), 214(c)(1) <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”)
Class 9 Wednesday, February 14	Exclusion Grounds: Historical Background; Grounds Related to Immigration Control; Criminal; Economic Public Health	Text 513-543, 569-580 (including <i>Matter of Arrabally</i>)
Class 10 Monday, February 19	Exclusion Grounds: Political and National Security Grounds	Text 543-569 (including <i>Matter of S-K-</i> and <i>Matter of A-C-M-</i>) INA §§ 212(a)(3)(B), 212(f)
Class 11 Wednesday, February 21	Deportability Grounds: “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) Assignment #1 Due
Class 12 Monday, February 26	Deportability Grounds: Crime- Related Part I	Text 678-731 (including <i>Padilla v. Kentucky</i> , <i>Moncrieffe v. Holder</i>), INA §§ 101(a)(43)(A), 101(a)(43)(B), 101(a)(43)(F), 101(a)(48), 237(a)(2)
Class 13 Wednesday, February 28	Deportability Grounds: Crime- Related Part II	Text 739-766 (including <i>Sessions v. Dimaya</i> , <i>Mellouli v. Lynch</i>) <i>Mathis v. United States</i> , 579 U.S. 500 (2016) (majority opinion) Discuss Assignment #1

Class 14 Monday, March 11	Relief from Removal: 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)
Class 15 Wednesday, March 13	Relief from Removal: Registry; Legalization; Adjustment of Status; Private Bills; Voluntary Departure; Temporary Protected Status; Country-Specific Programs	Text 1391-97 <i>Matter of Sosa Ventura</i> , 25 I&N Dec. 391 (BIA 2010) INA §§ 237(d)(2), 244 (skim), 245(a)-(c), 245(i), 249 The Biden Administration’s Humanitarian Parole Program for Cubans, Haitians, Nicaraguans, and Venezuelans: An Overview, American Immigration Council, October 31, 2023 (https://www.americanimmigrationcouncil.org/research/biden-administration%E2%80%99s-humanitarian-parole-program-cubans-haitians-nicaraguans-and)
Class 16 Monday, March 18	Relief from Removal: Federal Prosecutorial Discretion and Role of States	Text, 803-849 (including <i>Texas v. United States</i>), 1419-56 (including <i>Plyler v. Doe</i>) Skim Prosecutorial Discretion Memos (Available on TWEN) <i>United States v. Texas</i> , 599 U.S. 670 (2023)
Class 17 Wednesday, March 20	Detention	Text 228-289 (including <i>Zadvydas v. Davis</i> , <i>Denmore</i> <i>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)
Class 18 Monday, March 25	Deportation Procedure: 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) Assignment #2 Due
Class 19 Wednesday, March 27	Deportation Procedure: 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)

Class 20 Monday, April 1	Refugees: Asylum and Withholding: Introduction; Meaning of “Persecution;” Religion; Nationality; Political Opinion; Race	Text 1160-89 (including <i>Matter of Acosta</i> , <i>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) Discuss Assignment #2
Class 21 Wednesday, April 3	Refugees: 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 M-R-M-S-</i> , 28 I&N Dec. 757 (BIA 2023) <i>Hernandez-Avalos v. Lynch</i> , 784 F.3d 944 (4th Cir. 2015)
Class 22 Monday April 8	Refugees: Particular Social Group: Gender; Nexus	Text 1220-1277 (including <i>Fatin v. INS</i> , <i>Matter of Kasinga</i> , <i>Matter of A-B-</i>) <i>Matter of A-R-C-G-</i> , 26 I&N Dec. 388 (BIA 2014) Amicus Brief in <i>Nunez-Gonzalez v. Garland</i> (skim) (https://www.aila.org/aila-files/5E7E1050-42D7-4C98-9342-206D1E4EB768/23032800.pdf)
Class 23 Wednesday, April 10	Refugees: 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)
Class 24 Monday, April 15	Deportation Procedure: Simulated Hearing	Materials Available on TWEN
Class 25 Wednesday, April 17	Citizenship: Introduction; Acquiring Citizenship; Dual Nationality	Text 1512-62 (including <i>Sessions v. Morales-Santana</i>)
Class 26 Monday, April 22	Citizenship: Who Should Be a Citizen?	Text 1562-80 Discuss Final/Review Questions