

IMMIGRATION POLICY SEMINAR (Law 422)
Antonin Scalia Law School, George Mason University
Spring 2024

(This is a two-credit course. There are no prerequisites.)

Instructors' contact information

Edward F. Kelly
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*phone and email information
will be provided during first class*

Course summary

This two-credit course will examine U.S. immigration policy as it is embodied in our laws and procedures and will ask how our nation's immigration policies reflect our values as a nation. The course will discuss whom we let in, whom we keep out, how we treat the people already here, and why.

The course is broken down topically along the lines of a typical immigration law class, but it is not focused on the mechanics of the immigration laws. Instead, this class is intended to reach into the nation's policy goals, the implications of our policies, and the unintended consequences when policies are poorly designed. For that reason, many of the sessions will engage the class in discussion of a "controversy du jour" — a whimsical label for a serious immigration topic of current, recent, or future debate.

Please be aware that immigration policy is especially dynamic right now, and we may deviate from the planned curriculum when there are emergent events of particular interest to the session. To facilitate classroom discussions of emerging topics, additional light readings may be assigned during the course of the semester in response to real-time events.

Learning Outcomes

This course is designed to achieve the following learning outcomes:

- Students will develop the ability to analyze immigration policies in the abstract and then discern the 'real world' implications of applying those policies.
- Students will learn to critique immigration policies through a proper consideration of issue context, legal framework, social and political factors, competing political interests, and solution limitations and parameters.

- Students will challenge their own suppositions about immigration issues and develop the reflex of weighing policy controversies with different perspectives and interests in mind.

Grading

Methodology. The course is designed to test your reasoning and insight, not your recollection, and there will be no exams. However, policymaking involves debate, research, and writing, and the course grade will therefore be based on a substantial research paper and classroom discussion. Your course grade will be drawn from a combination of a final paper (70% of the grade) and classroom participation (30% of the grade).

Paper. The research paper will be written on a discrete ‘law review type’ topic of immigration law and policy that is approved by the instructors. Information and details about the paper will be provided during the semester. However, you should expect to produce a paper that is at least 25 pages in length, with appropriate citations, footnotes, and bibliography. Regardless of topic, you are encouraged to produce publication-worthy papers.

Deadlines. There are three deadlines for the papers. The topic selection is due to the instructors by **March 11th**. A comprehensive outline or first draft of the paper is due to the instructors by **April 1st**. The final paper is due on **May 3rd**, during the exam period.

Classroom participation

Generally. We highly value and *require* class participation, and students are expected to offer their opinions. You should engage in honest contemplation and dialogue, challenge your own views and assumptions about immigration policy, and think outside the box as we wrestle with the leading controversies of the day. Accordingly, the specific areas of discussion in this course will evolve in response to the interests and creativity of the class as a whole.

Readings. You are also expected to be familiar with the required readings and other assigned items. If you are not familiar with them, it will be evidence, and your participation grade will suffer.

Student-led discussions on readings. Each class, we will have up to three assigned items (reading / podcast / video) that will be introduced by a student to ‘jump start’ the conversation on the topic. A sign-up list will be posted on TWEN, and the number of readings sign-ups required will depend on the number of students enrolled in the course.

Classroom ground rules

Discussion. Immigration is a controversial topic, and popular and unpopular views will be articulated. Civility is therefore mandatory at all times.

Virtual class protocol. Should a class need to be held virtually, the class will follow any rules or protocols that are established by the school or university for virtual learning.

- *Audio.* The professors ask that students keep their microphones muted when not speaking.
- *Video.* Unless the law school directs otherwise, the professors expect that students keep their video on during class. Should there be a technical or personal reason why a student does not want to, please bring it to our attention.

Instructor commentary

The professors are either current or former government officials. Any views expressed are not the current or past official position of the U.S. Government or any component or office thereof; nor do any statements made in class represent how the professors have conducted or will conduct their official duties. All professor commentary is made exclusively to facilitate learning and classroom debate.

Readings and resources

Each session has specific readings assignments. The purpose of this course is not to test your knowledge of the reading materials, but your grasp of the concepts and your insight into the policy implications. However, this can only be accomplished if you are diligent about reading and understanding the readings. Read the materials and prepare for class with this goal in mind.

We do not use an assigned text but rely instead on readings that are available on the internet, Westlaw, Lexis, and case reporters.

Pay attention to material cited in the footnotes. Those footnotes provide excellent leads for paper topics and resources.

In addition to the reading assignments, you should be aware of the following resources and consider utilizing them in the drafting of your research paper:

Gordon, Mailman, and Yale-Loehr, IMMIGRATION LAW AND PROCEDURE (on Lexis/Nexis) — an exhaustive treatise on immigration and nationality law

Kurzban, IMMIGRATION LAW SOURCEBOOK — a one-volume practitioner's handbook detailing the current immigration laws

IMMIGRATION BRIEFINGS (available on Westlaw) — a monthly periodical containing in depth discussions of discrete immigration topics

BENDER'S IMMIGRATION BULLETIN (available on Lexis/Nexis) — a monthly periodical containing in depth discussions of discrete immigration topics

INTERPRETER RELEASES (available on Westlaw) — a weekly immigration newsletter

We strongly encourage you to bring to our attention any outside reading materials you have personally found helpful or worthwhile. Some of our best course materials have been identified by students.

First class

Readings *are* required for the first class. Please consult TWEN for those readings.

**IMMIGRATION POLICY SEMINAR (Law 422)
Spring 2024**

- Jan. 18th** 1. *Introduction to the Immigration Debate*
- A. Course theme
 - B. Defining the debate
 - C. Overview of the law
 - D. Governmental structure
- Jan. 25th** 2. *Federalism*
- A. Controversy du jour: Federal vs. state interests
 - B. Powers of the President
 - C. Role of states and municipalities
 - D. Sanctuary cities
- Feb. 2nd** 3. *Illegal Immigration & Border Issues*
- A. Controversy du jour: The southern border
 - B. Defining the population
 - C. Removal priorities
 - D. Expedited removal
- Feb. 8th** 4. *Legal Immigration: Employment-Based Immigration*
- A. Controversy du jour: The unskilled labor dilemma
 - B. Overview of legal immigration
 - C. Employment-based immigration and labor certification
 - D. Non-immigrant visas
- Feb. 15th** 5. *Legal Immigration: Family-Based Immigration & Diversity*
- A. Controversy du jour: Finding love in the INA
 - B. Quotas and diversity
 - C. Defining the “family” in family immigration
 - D. Family vs. business

IMMIGRATION POLICY SEMINAR Course Outline & Calendar

Feb. 22nd

6. *Admission and Exclusion*

- A. Controversy du jour: Mason Nation visas
- B. Health grounds
- C. Public charges
- D. Visa waiver program

Feb. 29th

7. *Immigration Detention*

- A. Controversy du jour: Detaining children and families
- B. Standards and conditions of detention
- C. Costs of detention
- D. Alternatives to detention

Mar. 14th

8. *Relief from Removal*

- A. Controversy du jour: Storms, earthquakes, and floodgates
- B. Temporary Protected Status
- C. Cancellation of removal
- D. VAWA relief

Mar. 21st

9. *Forms of Protection*

- A. Controversy du jour: When refugees lie
- B. Origins and purpose of asylum law
- C. Withholding of removal
- D. Convention Against Torture

Mar. 28th

10. *Asylum*

- A. Controversy du jour: Climate change refugees
- B. Refugee definition
- C. Paths to protection
- D. Particular social groups

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Apr. 4th

11. *Crime*

- A. Controversy du jour: Drunk drivers and gang members
- B. Aggravated felons and serious criminals
- C. Morality and immigration law
- D. Crimmigration

Apr. 11th

12. *Security*

- A. Controversy du jour: Material support of terrorism
- B. Border security
- C. National security
- D. Terrorism

Apr. 18th

13. *Immigration Courts*

- A. Controversy du jour: Balancing fast and fair
- B. Structure and location
- C. The role of the Department of Homeland Security
- D. Representation in immigration proceedings