

EXAM SPECIFICATIONS FOR IMMIGRATION AND NATIONALITY LAW

PURPOSE OF THE EXAM. The purpose of the certification exam is to require an examinee to demonstrate substantial knowledge of significant legal concepts and corresponding skills in the specialty area.

EXAM FORMAT. The exam consists of a three-hour morning session with three essay questions each worth 100 points and a three-hour afternoon session with 100 multiple-choice questions (10 of which involve professional ethics) each worth 2 points. The exam (essay and multiple-choice) must be taken by laptop (supplied by the examinee).

ESSAY QUESTIONS. Essay questions consist of a fact pattern followed by a series of questions (usually 4-6) for an examinee to answer. Essays are designed to require an examinee to recognize and analyze issues in the fact pattern and explain how those issues should be resolved. The fact patterns will involve situations you would likely encounter in your practice. Essays typically involve issues on how immigration status may be affected by one's employment, job requirements, and profession; conduct or activity which might result in removal of an individual and the procedures involved in that process; and the effect of one's marital or family status on immigration status. Examinees should ensure they provide the specific information each question requests and communicate their response as clearly as possible. An organized, clearly written answer using complete sentences will almost always receive a higher score than a choppy, disorganized one. To pass the exam, examinees must be able to clearly express answers in a manner that would be persuasive to the decision-maker in a case.

MULTIPLE-CHOICE QUESTIONS. These questions are designed to test a breadth of issues in the specialty area and require an examinee to select the option that represents the best available answer.

EXAM GRADING. The required passing score is 350. All exam materials are confidential and not available for review. Essay answers are graded anonymously and identified only by an assigned examinee number. Multiple-choice answers are computer graded. Successful examinees are notified that they passed but are not provided with their specific score. Unsuccessful examinees are notified of their exam score. Exams that score 10 points below the passing grade are automatically regraded. Exam results are final.

REQUIRED KNOWLEDGE, SKILLS, AND ABILITIES. An examinee is expected to understand how employment and family status affect an immigrant's classification and how certain conduct might result in deportation of an immigrant. An examinee must also demonstrate the ability to:

- Communicate effectively and persuasively to clients, counsel, and courts;
- Develop and evaluate strategies for solving a problem or accomplishing an objective;
- Analyze and apply legal rules and principles;
- Analyze, sort, and use facts, plan, and direct factual investigations;
- Organize and manage a legal task efficiently within time constraints;
- Represent a client consistent with applicable ethical standards; and
- Invoke and utilize the procedures normally required in the specialty area, including pleadings and filings.

EXAM TOPICS. The following is a listing of topics on which essays and multiple-choice questions in the specialty area exam may be based on.

NOTE: NOT ALL TOPICS LISTED BELOW WILL BE COVERED ON ANY GIVEN EXAM. EXAMINEES WILL BE TESTED ON RULES AND LAWS IN EFFECT AT THE TIME OF THE EXAM, UNLESS OTHERWISE SPECIFIED.

1. Admission and Status

- A. Immigrant visa classification and processing (family based, employment based, special immigrant juvenile, asylum, and refugees)
- B. Non-immigrant visa classifications, eligibility, and processing, and maintaining status
- C. Adjustment of Status eligibility and procedures
- D. Temporary Protected Status
- E. Entry Without Inspection, Unlawful presence, and INA 212(a)(9)
- F. Admission issues (withdrawal of application for admission, record of intercept, expedited removal, and errors on I-94s)
- G. Abandonment and Revocation of permanent residence and non-immigrant status
- H. Grounds of inadmissibility and waivers for immigrant and non-immigrants

2. Relief from Removal

- A. Bond and custody
- B. Voluntary departure
- C. Adjustment of status
- D. Cancellation of removal (various kinds)
- E. Motions to re-open
- F. Withholding of removal
- G. Asylum (affirmative and defensive)
- H. Convention against torture claims
- I. Parole (advance parole, humanitarian parole, etc.)
- J. Deferred inspection
- K. INA 212(c)
- L. INA 212(h) and 212(i)
- M. Deferred Action
- N. Recent and precedential Supreme Court, 5th Circuit, and BIA decisions
- O. Administrative Closure
- P. Voluntary Return
- Q. Prosecutorial Discretion

3. Administrative Proceedings

- A. Consular processing of immigrant and nonimmigrant visas
- B. EOIR hearings (detained and non-detained procedures, rules, bond, and bond redetermination)
- C. Administrative appeals (BALCA, AAO, BIA, BAR, OCAHO)
- D. Deportation and exclusion proceedings commenced pre-IIRIRA
- E. Administrative removal (of aggravated felon no-LPRs)
- F. Reinstatement of removal orders

4. Federal Court

- A. Litigation (habeas, mandamus, and declaratory actions)
- B. Appeals

5. **Immigration Consequences of Criminal Conduct**
 - A. Aggravated felonies
 - B. Drug related offenses
 - C. Bond and custody
 - D. CIMTs (including effect of Silva-Trevino)
 - E. Family violence
 - F. Alien smuggling and related offenses
 - G. Document fraud
6. **Employer Sanctions**
 - A. Worksite enforcement penalties
 - B. E-Verify
 - C. Discrimination
 - D. Employment Verification Issues /I-9
7. **Administrative Agency Jurisdiction**
8. **Employment-Based Immigrant Visa Eligibility and Processing**
 - A. Labor Certification (aka PERM)
 - B. Extraordinary Ability, Outstanding Researchers and Professors, Multinational Managers and Executives
 - C. Exceptional Ability – Schedule A, National Interest Waivers
 - D. Religious Workers
9. **Citizenship and Naturalization**
 - A. Acquisition and loss of U.S. citizenship
 - B. Naturalization eligibility and processing, including special cases (marriage, military, etc.)
 - C. Automatic and discretionary disqualifications
10. **Other Issues Related to Immigration and Nationality Law**
 - A. Asylum and refugees, including Refugee status (INA 207) and I-730s (following to join refugee/asylee)
 - B. 245(i)
 - C. CSPA (Child Status Protection Act) and Child Citizenship Act
 - D. Retaining priority dates
 - E. Public charge considerations and I-864s
 - F. Marital status
 - G. VAWA (Violence Against Women Act)
 - H. DACA (Deferred Action for Childhood Arrivals)
11. **The Texas Disciplinary Rules of Professional Conduct.** The ethics questions regarding this topic will involve an array of hypothetical fact situations which will cover several different aspects of ethical issues that arise in the practice of law. The questions will not be limited to the practice of any one specialty area, and consequently, an examinee is advised to be familiar with all provisions of the TDRPC.

SUGGESTED STUDY MATERIALS. There are no preparatory courses provided by TBLS. The following resources are some suggested materials to use for study; however, these resources are not intended to be definitive, but rather provide resources that cover many topics in immigration and nationality law.

- Study INA and CFR in all immigration-related titles of both the statutes and the regulations
- Review the latest edition of Kurzban's Immigration Law Sourcebook
- Register for BIA precedent decisions automatic update emails

- Register for U.S. Court of Appeals for Fifth Circuit decisions automatic update emails (to get immigration-related published and unpublished decisions)
- Read the websites of USCIS, ICE, CBP and DHS to keep abreast of current practices and procedures
- Recommend access to the American Immigration Lawyers Association daily update web mails
- Follow U.S. Supreme Court decisions relating to immigration law
- Recommend attendance at a variety of immigration conferences and build a network of colleagues to discuss immigration matters and how to study for this exam
- American Immigration Counsel Practice Advisory