

EXAM SPECIFICATIONS FOR IMMIGRATION AND NATIONALITY LAW

PURPOSE OF THE EXAM. The purpose of the certification exam is to require an applicant to demonstrate substantial knowledge of significant legal concepts and corresponding skills in immigration and nationality law.

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 required passing score is **350**. The essay portion of the exam may be taken by laptop (supplied by the examinee) or by writing. Answers to the multiple choice questions will be documented by the applicant on a scantron answer sheet supplied by TBLS.

EXAM GRADING. 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.

ESSAY QUESTIONS. Essay questions consist of a fact pattern followed by a series of questions (usually 4-6) for an applicant to answer. Essays are designed to require an applicant 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. Applicants 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. In order to pass the exam, applicants 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 applicant to select the option that represents the **best** available answer.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES. An applicant in immigration and nationality law 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. A more detailed list of the knowledge, skills, and abilities is set out on the following pages.

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

1. Admission/Status

- a. Nationality and citizenship
- b. Acquisition and loss of U. S. citizenship
- c. Immigrant status (family based, employment based, diversity lottery visas, special immigrant juvenile)
- d. Non-immigrant status including all non-immigrant visa classifications
- e. Adjustment of status
- f. Temporary protected status
- g. Unlawful presence and INA 212(a)(9)
- h. Admission issues (withdrawal of application for admission, record of intercept, and errors on I-94s)
- i. Abandonment and Revocation of LPR status and non-immigrant status
- j. Expedited removal
- k. Grounds for and waivers of, inadmissibility and removal

2. Relief from Deportation

- a. Adjustment of status
- b. Cancellation of removal (various kinds)
- c. INA 212(c)
- d. Voluntary departure
- e. Motions to re-open
- f. Withholding of removal
- g. Convention against torture claims
- h. Parole
- i. Deferred inspection
- j. Voluntary return
- k. INA 212(h) and 212(i)
- l. Asylum
- m. Deferred Action
- n. Administrative Closure

3. Administrative Proceedings

- a. Consular processing
- b. EOIR hearings
 - (1) Bond redetermination
 - (2) Removal
- 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 LPR Issues involving labor certification and non-labor certification, including all employment based categories including NIW, Outstanding Researcher & Professor, Extraordinary Ability, Schedule A, Religious Workers, EB-5, and Multinational Managers & Executives**
- 9. Naturalization**
- a. Eligibility for Naturalization
 - b. Automatic and discretionary disqualifications
 - c. Expedited Naturalization (marriage based)
- 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. Legalization and Family Unity, NACARA (Nicaraguan Adjustment and Central American Relief Act), HRIFA (Haitian Refugee Immigration Fairness Act)
 - c. 245(i)
 - d. CSPA and Child Citizenship Act
 - e. Retaining priority dates

- f. Public charge considerations and I-864s
- g. Marital status
- h. VAWA (Violence Against Women Act)

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 applicant is advised to be familiar with all provisions of the TDRPC.

SKILLS.

An applicant must 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
- Invoke and utilize the procedures normally required in the area of specialty including pleadings and filings

SUGGESTED STUDY MATERIALS. Past experience has shown that most successful applicants will spend considerable time in preparation for the exam. This preparation should include attendance at appropriate CLE conferences and sustained study during the months preceding the exam. Most immigration practitioners tend to concentrate on a few areas of immigration and nationality law. Successful applicants find that it is especially useful to concentrate on areas in which applicant does not regularly practice. Suggested sources of information (not intended to be exclusive or complete, but rather to be used as a guide to preparation for the exam) are:

- 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 web sites of USCIS, ICE, CBP and DHS to keep abreast of current practices and procedures
- Recommended that applicant have access to the American Immigration Lawyers Association daily update web mails
- Follow U.S. Supreme Court decisions relating to immigration law
- Recommended that an applicant attend 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