Immigration Law
Fall 2019

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Classes Hours: Tue & Th 9:00 – 10:15 am
Location: Hulston Hall 109

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Course objectives and learning outcomes:

In the fast-changing world of immigration law, this course seeks to teach you current immigration law and policy while providing you with the broader context and tools necessary to advise a client about immigration law questions.

We will consider four broad questions:

1. Who is a citizen of the United States?
2. Who else can come to this country as an immigrant or a visitor?
3. When and why can non-citizens in the United States be forced to leave?
4. Who has the authority to answer these questions?

These questions will prompt us to examine the history of immigration to the United States, the federal agencies that apply immigration and citizenship laws, the constitutional aspects of immigration law, refugees and asylum, and the role of state and local actors. As immigration law covers a very broad range of topics from the practical and technical to the conceptual and policy-oriented, we will discuss some of the most significant law and policy questions facing decision-makers and the public at large. We will also seek to place current laws in their historical, social, and political contexts.

At the end of this course, you should be able to identify the rules, understand the doctrines and policies, and advise a client about admission categories, inadmissibility grounds, removal grounds, removal procedures, the basics of refugee and asylum law, and citizenship requirements.

Required Texts:


The Casebook and statutory supplement are available for purchase online and in the university bookstore. Excerpts of the 2019 Casebook Update will be available on TWEN, along with any additional readings not in the Casebook. I may post topics relevant to upcoming classes on TWEN. Please note that this syllabus and the assigned readings may change during the course of the semester according to the pace of our discussions and current events. For example, if new legislation passes or new executive orders are introduced, we may devote class time to studying them.

Some reading assignments will have questions or problems to help you prepare for class discussion (even if we don’t always address all of them in class explicitly). You should also read all statutes and regulations that are pertinent to the assigned statutory problems.

The syllabus, as well as any assigned readings that are not in the Casebook, can be found on TWEN.

Class Participation: Vibrant class participation is essential to our collective experience in this course. The class will involve a variety of learning experiences, including small group work, simulations or presentations, and class discussions. I expect all of us to be well-prepared every time we meet and to make thoughtful contributions to class discussions and exercises.

Topics addressed in this course may bring up a variety of reactions and feelings, and it is important that we maintain a respectful environment in which all viewpoints can be respectfully shared and heard non-judgmentally by peers. Any information shared by classmates about their own personal histories or experiences must remain within the confines of the classroom and be kept confidential. I encourage everyone to practice empathetic listening and to be cognizant of the language we choose to use.

You are expected to read the assigned materials before class and to arrive on time prepared to discuss them. If, for some reason, you are not able to come to class, please email me explaining the reason for your absence, preferably before the class meets.

If you would rather not volunteer in a particular class, you may also choose to email your thoughts or questions related to topics covered in class or current news events that relate to the course, preferably before the class.

I reserve the right to adjust your grade up based on your class attendance and participation. For exams that fall on the borderline between two grades, your class participation determines whether your grade is marked up or down.

Grading: You will be evaluated based on the following: family immigration history reflection [10% of your final grade] and a final examination [90% of your final grade].

Reflection: Please write a brief (around 500 words) description of your or your family’s immigration history or migration story within the United States or another country, or that of a friend or acquaintance from whom you obtain permission, and post it to the TWEN.
Feel free to include immigration histories to countries other than the United States, as appropriate. If you (a) have little access to information about family migration to the United States or other countries, (b) are a member of an indigenous American group that did not immigrate to the United States, or (c) would rather not share that information, you may write about your history or your family’s history of migration within the United States or another country, or you may choose to write about the experiences of a family member or friend (with their permission of course.)

If you would rather keep the reflection confidential, please email it to me with a note at the top of the submission indicating that you would like it kept confidential.

In writing the reflection, consider the following questions: When, how, and under what circumstances did you or your family come to the United States? What, if any, legal hurdles did you or your family members face? Have any of your ancestors immigrated to countries other than the United States? Why did they leave their home country (countries)? How did they get here/there? What work had they done before leaving, and what work did they do upon arrival? Did they comply perfectly with the immigration law at the time? If not, how do they (and you) evaluate that fact?

This assignment is due Sunday, September 29 at 5:00 pm and will be graded credit (on-time submissions) or no credit (late submissions).

Final Exam: At the end of the semester, there will be a final 3-hour examination. As a limited open-book examination, you may consult your casebook, casebook update, statutory supplement, class notes, handouts distributed in class, and any other class materials. You may not consult any other texts, study aids, commercial outlines, or other materials. You may not access the internet during the course of the three hours. Further instructions will be provided at or before the exam.

Computer Use Policy: Studies show that even the most committed students cannot resist the urge to check email or browse the web from time to time. Such behavior not only compromises your own learning, but it also significantly impacts that of classmates seated near you. Studies also show that students seated next to classmates who multitask on a computer, but who do not engage in such activities themselves, perform worse in comprehending the material. Please exercise discretion if you decide to use laptops and other electronic devices in classes.

Law School Disability Policy: The Americans with Disabilities Act (ADA) is a federal anti-discrimination statute that provides comprehensive civil rights protection for persons with disabilities. Among other things, this legislation requires that all students with disabilities be guaranteed a learning environment that provides for reasonable accommodation of their disabilities. If you anticipate barriers related to the format or requirements of this course, please let Associate Dean David S. Mitchell (mitchellsd@missouri.edu) or Denise Boessen (BoessenN@missouri.edu) know to make necessary arrangements.

Statement for Academic Dishonesty: Academic integrity is fundamental to the activities and principles of a university. All members of the academic community must be confident that each person’s work has been responsibly and honorably acquired, developed, and presented. Any effort to gain an advantage not given to all students is dishonest whether or not the effort is successful. The academic community regards breaches of the academic integrity rules as extremely serious matters. Sanctions for such a breach may include academic sanctions from
the instructor, including failing the course for any violation, to disciplinary sanctions ranging from probation to expulsion. Consult me when in doubt about plagiarism, paraphrasing, quoting, collaboration, or any other form of cheating.

All written work should be labeled with your name and the assignment title. Each page should be numbered, and submissions should be made in 12-point font with 1-inch margins.

Office Hours: My office hours are Tuesday and Thursday 3:00 – 4:00 pm. Please sign up by emailing me. If my regular office hours do not work for you, please email me to set up an appointment at another time. You should also feel free to stop by – my door is generally open. I encourage all of you to make an appointment to come and see me at least once during the semester. I want to get to know you, so please come by and say hi.

READING ASSIGNMENTS (Part I)

The reading assignments are as follows, with questions to help you prepare for class.

I. Immigration Law in Historical Context, Current structures

Aug 20. Casebook 1-23. Immigration and citizenship law in historical context

   - When a nation-state adopts laws and policies on immigration and citizenship, what basic questions must it answer?
   - What answers has the United States given since its founding?

   Casebook 235 – 51, Casebook Update 52 – 58: Federal agencies

   - What factors have most shaped our nation’s immigration policy?
   - Which factors matter more now than they did a century ago? Which factors matter less than they did a century ago?
   - What historical trends are surprising to you?

II. Foundations of Immigration Law

Aug 27. Casebook 151- 178 the foundations of constitutional immigration law

   - What, if anything, is wrong with the reasoning and outcome in Chae Chan Ping? Are there parts of the decision that make sense today as policy, or as constitutional law?
In *Fong Yue Ting*, why does Justice Gray treat deportation and exclusion alike? Why do Justices Brewer, Field, and Fuller see them as different? See Note 2 on pages 177-78.

**Aug 29.** Casebook 185-95 the foundations of constitutional immigration law; 21 - 51 Casebook Update, Travel ban, (Trump vs. Hawaii)

- Assume you can work with just four precedents—*Chae Chan Ping*, *Yick Wo*, *Wong Wing*, and *Fong Yue Ting*. As compared to the travel ban, would the hypothetical statute in the Exercise on page 195 be easier or harder to challenge as unconstitutional?

**III. Citizenship**

**Sept. 3.** Casebook 49-54, 94-117 (to end of page 117) citizenship by birth; dual nationality; naturalization

- What are the practical consequences of allowing or prohibiting dual nationality?
- Please do all of statutory Problems 1 and 2 on pages 53 - 54, using §§ 301 and 309 of the Immigration and Nationality Act (INA).

**IV. Immigrants and Nonimmigrants**

**Sept. 5.** Casebook 269 – 295; Casebook Update 66 – 67 the immigrant admission system

- First, please read all of this assignment, then think about how you would advise the people in Problems 1, 2, and 3 on page 273, using the [https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2019/visa-bulletin-for-august-2019.html](https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2019/visa-bulletin-for-august-2019.html)

**Sept. 10.** Casebook 295-328, Casebook Update 66 – 68: Admission categories, the Constitution, and marriage

- May the Department of Homeland Security constitutionally adopt an immigration regulation that does not recognize same-sex marriage? See the Questions at the top of page 321.
- What marriages should go unrecognized for immigration purposes? For example, what is a “sham marriage,” or a “factually dead marriage”? See Notes 1, 2, and 3 on pages 326-28.

**Sept. 12.** Casebook 328-48: Marriage and the INA; Investors

- Please do statutory problems 1, 3, and 4 on pages 329-30. See INA §§ 204(g), 216, 245(e).
- As an attorney, what would you do in the four situations described on page 337?
- What advice would you give in the Exercise on page 348?

- How would you interview the professor in the Exercise on pages 352-53? What information do you need to advise him, and how would you get that information from him?

Sept. 19. Casebook 380-412; Casebook Update 68 – 69: Nonimmigrants

- As a consular officer, how would you decide if a student visa applicant is a bona fide nonimmigrant?
- Does the statute give you enough guidance? How might it be amended to better define who is a “nonimmigrant”? See Notes 1 and 2 on pages 392-93.
- What nonimmigrant categories are available to the Engineer, the Vice President, and the Vice President’s wife in the Exercise on pages 384-86? For each of these three individuals, what are the advantages and disadvantages of each category?

Sept. 24. Casebook 412-21; 444-77; Casebook Update 69: Temporary workers and undocumented migration

- What are the problems with the current avenues of lawful admission for temporary workers? How would you solve or reduce those problems?
- What sorts of responses to unauthorized migration to the United States seem more advisable or less advisable? Why is there so much disagreement over the answers to this question?

(The rest of reading assignments will be in Part II of the syllabus)