

A GUIDE FOR IMMIGRATION ADVOCATES

21TH EDITION

TABLE OF CONTENTS

Unit One	Overview of Immigration and the Law	
§ 1.1	A Nation with Borders	1-2
§ 1.2	Who Is a Citizen? Who Is an “Alien”?.....	1-4
§ 1.3	The Grounds of Inadmissibility.....	1-5
§ 1.4	What Can Happen to a Noncitizen Who Is Inadmissible?	1-6
§ 1.5	The Grounds of Deportability	1-7
§ 1.6	What Can Happen to a Noncitizen Who Is Deportable?.....	1-8
§ 1.7	Removal Proceedings: Admissibility, Deportability, Burden of Proof, and “Expedited Removal”	1-8
§ 1.8	What Is a Lawful Permanent Resident?	1-11
§ 1.9	A Noncitizen Who Is Inadmissible May Not Be Able to Immigrate; Waivers of Inadmissibility	1-12
§ 1.10	Immigration Through a Family Visa Petition INA §§ 203, 204	1-12
§ 1.11	Asylum: INA § 208	1-12
§ 1.12	Refugee Status: INA § 207.....	1-13
§ 1.13	Registry: INA § 249	1-13
§ 1.14	Amnesty: The Legalization and SAW Programs INA §§ 245A, 210	1-13
§ 1.15	Cancellation of Removal for Non-Permanent Residents INA § 240A(b)	1-14
§ 1.16	Immigration Status	1-14
§ 1.17	Applicants for Lawful Status.....	1-17
§ 1.18	Undocumented Immigrants	1-17
§ 1.19	What Is DHS?.....	1-18
§ 1.20	The Structure of the DHS Immigration Agencies	1-20
§ 1.21	USCIS, ICE & CBP Offices, and the Saga of the “A-File”	1-21
§ 1.22	How Does a Field Office Work?.....	1-22
§ 1.23	Immigration Court and the BIA: The Executive Office for Immigration Review.....	1-23
§ 1.24	The INA.....	1-24
§ 1.25	Agency Regulations	1-25
Appendix 1-A	Answers to Exercises	
Appendix 1-B	Flowchart: United States Department of Homeland Security	
Appendix 1-C	Student Work-Sheet for Role-Plays #1 and #2	
Appendix 1-D	List of Non-Immigrant Visas	
Unit Two	The Advocate/Client Partnership and Interviewing Skills	
§ 2.1	The Advocate/Client Partnership: What Is in It for Us?	2-1
§ 2.2	Creating a Partnership with Our Clients.....	2-2
§ 2.3	Building and Presenting a Case in Partnership with Our Clients	2-7
§ 2.4	The Client Meeting: Interviewing and Counseling Clients	2-12

§ 3.32	Clearing Up a Criminal Record.....	3-140
§ 3.33	The Good Moral Character Requirement.....	3-143
Appendix 3-A	Answers to Exercises	
Appendix 3-B	Chart of Grounds of Inadmissibility, Deportability, Good Moral Character	
Appendix 3-C	Form I-864P Poverty Guidelines	
Appendix 3-D	Instructions for Obtaining Criminal Record Checks and Requests for Criminal Records	
Appendix 3-E	Unpublished BIA Case on False Claim to U.S. Citizenship Dated October 27, 2008	
Appendix 3-F	USCIS Vaccination Requirements	
Appendix 3-G	Charts on the Three- & Ten-Year Bars	
Appendix 3-H	USCIS Public Charge Fact Sheet	
Unit Four	Family Visas: Qualifying Family Relationships, Eligibility for Visas and the State Department Visa Bulletin	
§ 4.1	Overview of the Family Immigration Process: A Two-Step Process.....	4-1
§ 4.2	The Immediate Relative Category and the Definition of “Child” and “Spouse”	4-5
§ 4.3	K Visas for Fiancé(e)s, Spouses, and Children of U.S. Citizens.....	4-12
§ 4.4	Petitions Under the Preference System: Definition of Siblings and Sons and Daughters	4-14
§ 4.5	The Preference Categories.....	4-16
§ 4.6	Derivative Beneficiaries	4-21
§ 4.7	How the Preference System Works	4-23
§ 4.8	Using the State Department Visa Bulletin to Make an Estimate of When Your Client Can Immigrate	4-24
§ 4.9	Advising Your Client About When a Visa May Become Available	4-31
§ 4.10	The Child Status Protection Act (CSPA)	4-32
§ 4.11	The V Nonimmigrant Visa	4-41
§ 4.12	When Is a Visa Petition Terminated or No Longer Valid?	4-44
§ 4.13	Diversity Immigrants, Employment Visas, and Children in Juvenile Court Proceedings	4-52
Appendix 4-A	Answers to Exercises	
Appendix 4-B	The Visa System	
Unit Five	Family Visas: Submitting the Petition; Marriage Issues; VAWA	
§ 5.1	Completing Government Forms.....	5-2
§ 5.2	Completing the Visa Petition, Form I-130	5-4
§ 5.3	The I-130A and Photograph: Required in a Petition for a Husband or Wife.....	5-11
§ 5.4	Documenting the Visa Petition.....	5-11
§ 5.5	What Documents Are Needed to Prove Family Relationship?	5-12

§ 5.6	Obtaining Documents in the United States to Show Family Relationship	5-13
§ 5.7	Obtaining Documents from Other Countries	5-14
§ 5.8	Making Proper Copies of Documents	5-15
§ 5.9	Making Certified Translations of Documents	5-16
§ 5.10	Documenting the Immigration Status of the Petitioner	5-16
§ 5.11	Filing the I-130 Packet	5-17
§ 5.12	USCIS Challenges to a Marriage	5-19
§ 5.13	The Legal Standard for a Marriage	5-20
§ 5.14	Documentation to Show That a Marriage Is Bona Fide	5-22
§ 5.15	What Will Happen at the Marriage Fraud Interview?	5-23
§ 5.16	Preparing Your Client: Self-Defense Techniques for USCIS Interviews.....	5-24
§ 5.17	Special Rules That Affect Spousal Visa Petitions.....	5-25
§ 5.18	“Self-Petitioning” of Abused Spouses, Children, and Parents Under the Violence Against Women Act (“VAWA”)	5-28
§ 5.19	Requirements for a VAWA Self-Petition for an Abused Child	5-37
§ 5.20	Requirements for a VAWA Self-Petition for an Abused Parent	5-41
§ 5.21	Procedures for Self-Petitioning Under VAWA.....	5-42
Appendix 5-A	Marriage Interview Preparation	
Appendix 5-B	Sample Visa	
Appendix 5-C	Assignment from Exercise 5.2	
Unit Six	Family Visas: Consular Processing and Waivers of Inadmissibility and Deportability	
§ 6.1	The NVC, the U.S. Consulates, and the Department of State	6-2
§ 6.2	How the DHS and the State Department Divide Responsibility in Visa Cases	6-3
§ 6.3	Initial Consular Processing at the NVC	6-6
§ 6.4	Obtaining Documents According to NVC Instructions and the FAM	6-12
§ 6.5	Getting Ready for the Interview	6-14
§ 6.6	What Will Happen at the Interview?	6-17
§ 6.7	What Happens After the Immigrant Visa Is Granted	6-20
§ 6.8	What to Do if Your Alien Registration Card Fails to Arrive	6-21
§ 6.9	Waivers of Grounds of Inadmissibility	6-21
§ 6.10	What Is a Waiver?	6-22
§ 6.11	What Is Discretion?	6-23
§ 6.12	How to Find the Waivers in the Act.....	6-24
§ 6.13	Waiver of Inadmissibility for Visa Fraud and Waiver of Deportability for Persons Inadmissible at the Time of Admission	6-25
§ 6.14	Waiver for Certain Crimes Under INA § 212(h).....	6-29
§ 6.15	Waiver of Inadmissibility/Exemption for Alien Smuggling	6-32
§ 6.16	Document Fraud Waiver of Inadmissibility	6-35
§ 6.17	Waiver for Communicable Disease, Lack of Vaccinations, or Dangerous Mental Disorders Under INA § 212(g)	6-37

§ 6.18	Waivers for Unlawful Presence, Past Removal, and Other Related Immigration Offenses.....	6-41
§ 6.19	Procedure for Applying for a Waiver.....	6-46
§ 6.20	How Do You Establish Extreme Hardship?.....	6-49
Appendix 6-A	Sample NVC cover letter to designated attorney, along with the Processing Fee Bill Invoices for the Immigrant Visa (IV) Application and the Affidavit of Support	
Appendix 6-B	Sample Payment Receipt print-outs from the Immigrant Visa Invoice Payment Center, along with the accompanying “Document Cover Sheets,” to be returned to NVC with the IV Application and the Affidavit of Support	
Appendix 6-C	Answers to Exercises	
Appendix 6-D	Sample Successful Waiver Application	
Appendix 6-E	Declaration in Support of Waiver of Unlawful Presence Bar	
Appendix 6-F	Overview of the Unlawful Presence Waiver, Form I-601A, Filing Process	
Appendix 6-G	Sample Provisional Unlawful Presence Waiver	
Appendix 6-H	USCIS Notification of National Visa Center I-601A Waiver Notification	
Appendix 6-I	Revised Sample Forms G-28 and I-601A	
Unit Seven	Family Visas: Adjustment of Status and Conditional Residence	
§ 7.1	What Is Adjustment of Status?.....	7-2
§ 7.2	Who Is Eligible for Adjustment of Status Based on a Family Petition?	7-3
§ 7.3	What Forms and Documents Are Needed to Apply for Adjustment of Status?.....	7-17
§ 7.4	The Application for Adjustment, Form I-485	7-19
§ 7.5	Fingerprints, Photos, and Medical Exam	7-20
§ 7.6	Submitting the Adjustment Application.....	7-22
§ 7.7	The Effect of Leaving the Country.....	7-23
§ 7.8	What Will Happen at the Adjustment Interview?	7-23
§ 7.9	The Decision: Approvals and Denials.....	7-26
§ 7.10	Introduction: The Immigration Marriage Fraud Amendment Act.....	7-28
§ 7.11	What Is Conditional Permanent Residency?	7-29
§ 7.12	Who Is a Conditional Permanent Resident?.....	7-29
§ 7.13	Removal of the Condition on Residency if the Marriage Still Exists After Two Years: The I-751 “Joint Petition”	7-31
§ 7.14	When to File the I-751 Joint Petition	7-31
§ 7.15	Completing the I-751 Joint Petition	7-34
§ 7.16	Application Procedure: Filing, Interview, Standard for Approval, Denials.....	7-34
§ 7.17	Termination of Conditional Residency by USCIS During the “Testing Period”	7-37
§ 7.18	Introduction to Waivers of the I-751 Joint Filing Requirement	7-39
§ 7.19	When to File	7-39

§ 7.20	How to File a Waiver	7-40
§ 7.21	The “Good Faith” Waiver	7-41
§ 7.22	The Extreme Hardship Waiver.....	7-42
§ 7.23	The Battery or Extreme Cruelty Waiver	7-43
§ 7.24	Proof of Battery or Extreme Cruelty	7-44
§ 7.25	Additional Options for Immigrant Survivors of Domestic Violence	7-44
§ 7.26	Filing the I-751 if the U.S. Citizen or Permanent Resident Spouse Has Died.....	7-44
§ 7.27	Dependent Sons and Daughters.....	7-45
§ 7.28	Special Situations Involving Conditional Residency and Waivers	7-46
Appendix 7-A	Answers to Exercises	
Appendix 7-B	Sample Letter to Clients Regarding Conditional Residency	
Appendix 7-C	Sample Letter to Clients Regarding Conditional Residency (Spanish Translation)	
Appendix 7-D	Comparison of Adjustment Provisions	
Appendix 7-E	USCIS Interoffice Memorandum, March 9, 2005	
Appendix 7-F	Problems on § 245(i) Eligibility	
Unit Eight	Legal Research for Immigration Practice	
§ 8.1	What Is Legal Authority?.....	8-2
§ 8.2	Distinguishing Primary Law Sources from Secondary Research Sources.....	8-2
§ 8.3	Hierarchy in Legal Authority	8-3
§ 8.4	Sources of Legal Authority: The Constitution	8-4
§ 8.5	Sources of Legal Authority: Federal Statutes (The Immigration & Nationality Act).....	8-4
§ 8.6	Sources of Legal Authority: Regulations	8-4
§ 8.7	Sources of Legal Authority: Cases	8-5
§ 8.8	Sources of Legal Authority: Internal Agency Operating Instructions.....	8-7
§ 8.9	Secondary Sources	8-7
§ 8.10	Understanding the Code: The Citation System	8-8
§ 8.11	Citations in Administrative Decisions.....	8-9
§ 8.12	Citations in Judicial Decisions	8-11
§ 8.13	Citing the Immigration and Nationality Act.....	8-12
§ 8.14	Citing the Code of Federal Regulations	8-12
§ 8.15	A Step-by-Step Guide to Legal Research.....	8-13
§ 8.16	Low Cost and No Cost Legal Research Resources	8-14
§ 8.17	Gaining Access to Library Materials.....	8-15
§ 8.18	Practical Tips for Legal Research	8-15
Appendix 8-A	Citing Unpublished Federal Appellate Opinions Issued Before 2007	
Appendix 8-B	Chart: The Thirteen Federal Judicial Circuits	
Appendix 8-C	Library Resources for Immigration Paralegals	
Appendix 8-D	Immigration Law Research Websites	

Appendix 8-E	Research Questions for 8 CFR and the Immigration and Nationality Act	
Appendix 8-F	Extra Research Questions for Legal Research Practice	
Unit Nine	Legal Writing and Appeals	
§ 9.1	Writing Techniques for Persuasive Legal Writing.....	9-2
§ 9.2	Accuracy.....	9-3
§ 9.3	Presenting the Facts in Legal Arguments.....	9-4
§ 9.4	Practical Tips for Written Communication with DHS and the Courts	9-6
§ 9.5	The Courts	9-7
§ 9.6	Overview of Administrative and Judicial Bodies.....	9-7
§ 9.7	Administrative Appeals of Immigration Cases	9-11
§ 9.8	Appeals of Immigration Cases in Federal Judicial Courts	9-12
§ 9.9	The Importance of Prompt Action on Denials	9-14
§ 9.10	Appeals and Motions to Reopen and Reconsider Compared	9-16
§ 9.11	Procedure for Appeals Before the BIA	9-16
§ 9.12	Motions to Reopen/Reconsider in EOIR.....	9-21
§ 9.13	Appeals and Motions to the Administrative Appeals Office (AAO)	9-25
§ 9.14	Who Is Qualified to File a Brief?	9-26
§ 9.15	Keeping Clients Involved in and Informed About Their Appeals.....	9-26
Unit Ten	The Removal Process	
§ 10.1	Overview and Definition of Terms	10-1
§ 10.2	Deportability, Inadmissibility, Voluntary Departure, and Types of Removal Proceedings	10-6
§ 10.3	Arrests, Issuance of the Notice to Appear, and Order to Show Cause	10-9
§ 10.4	The Master Calendar Hearing: Beginning Removal Proceedings.....	10-10
§ 10.5	Penalties for Failure to Appear at an Immigration Hearing or Interview and Failure to Leave Pursuant to Voluntary Departure or a Removal Order	10-18
§ 10.6	After a Final Removal Order: Surrender and Removal.....	10-26
§ 10.7	Persons Who Return Illegally After Having Been Earlier Removed: “Reinstatement of Removal”	10-27
§ 10.8	Detention, Bonds, and Procedure	10-30
§ 10.9	Bond Equities	10-46
§ 10.10	Preparing for the Bond Redetermination Hearing.....	10-48
§ 10.11	Posting the Bond	10-50
§ 10.12	Expedited Removal Proceedings Under INA § 235.....	10-50
Appendix 10-A	Sample Form I-862, Notice to Appear	
Appendix 10-B	Sample Form I-213, Record of Deportable/Inadmissible Alien	
Appendix 10-C	Form EOIR 33/IC, Alien’s Change of Address Form/Immigration Court	
Appendix 10-D	Instructions for Submitting Certain Applications in Immigration Court and for Providing Biometric and Biographic Information to U.S. Citizenship and Immigration Services	
Appendix 10-E	Sample Form I-286, Notice of Custody Determination	
Appendix 10-F	Custody Hearing Checklist	

Unit Eleven	Introduction to Cancellation of Removal Under INA § 240A(b) (Former Suspension of Deportation) and Introduction to Evidence for Immigration Cases	
§ 11.1	Overview of the Law	11-3
§ 11.2	Introduction to Cancellation of Removal Under INA § 240A(b)(1) (Non-LPR Cancellation of Removal)	11-4
§ 11.3	Continuous Physical Presence for Non-LPR Cancellation of Removal	11-6
§ 11.4	Documenting Continuous Physical Presence	11-10
§ 11.5	Good Moral Character and Criminal Bars.....	11-11
§ 11.6	Exceptional and Extremely Unusual Hardship for Non-LPR Cancellation of Removal	11-21
§ 11.7	Family Separation	11-24
§ 11.8	Special Note About Hardship to the Applicant’s Children	11-26
§ 11.9	Community Ties	11-28
§ 11.10	Medical and Psychological Conditions	11-29
§ 11.11	Conditions in the Country of Deportability.....	11-31
§ 11.12	Working with a Client and Her Family to Determine Hardship.....	11-33
§ 11.13	Putting It All Together	11-33
§ 11.14	Discretion, Judicial Review, and Abandonment of Application in Cancellation of Removal Cases.....	11-34
§ 11.15	Overview of the Law	11-36
§ 11.16	Definitions of Battery and Extreme Cruelty for VAWA Cancellation of Removal and Suspension	11-37
§ 11.17	The Abuser’s Legal Status and Family Relationship Under VAWA Cancellation and Suspension.....	11-38
§ 11.18	Continuous Physical Presence Under VAWA Cancellation and Suspension.....	11-40
§ 11.19	Good Moral Character, Inadmissibility, and Deportability Issues Under VAWA Cancellation and Suspension	11-41
§ 11.20	Extreme Hardship Under VAWA Cancellation of Removal.....	11-43
§ 11.21	No “Derivative Beneficiaries” for VAWA Cancellation or Suspension	11-45
§ 11.22	VAWA Cancellation Compared with VAWA Self-Petitioning	11-45
§ 11.23	Motions to Reopen in the VAWA Context	11-47
§ 11.24	What Is Suspension of Deportation and Who Can Qualify?	11-47
§ 11.25	What Is Evidence?.....	11-48
§ 11.26	Relevant and Irrelevant Evidence.....	11-49
§ 11.27	Analyzing the Strength of Evidence in Cancellation Cases	11-49
§ 11.28	How to Use Evidence	11-51
§ 11.29	Summary of Procedure.....	11-51
§ 11.30	Introduction to NACARA	11-53
§ 11.31	NACARA Cancellation and Suspension Requirements.....	11-55
§ 11.32	Ten-Year NACARA Suspension and Special Rule Cancellation Eligibility.....	11-57

Appendix 11-A	Answers to Exercises	
Appendix 11-B	Cancellation of Removal Application Checklists	
Appendix 11-C	Sample Cancellation of Removal	
Appendix 11-D	Document Checklist	
Appendix 11-E	Immigration Case Analysis Chart	
Unit Twelve	Applying for Cancellation of Removal for Lawful Permanent Residents Under INA § 240A(a) (and Its Predecessor, the § 212(c) Waiver)	
§ 12.1	Introduction: Cancellation of Removal and the Former § 212(c) Waiver.....	12-2
§ 12.2	Overview of Legal Requirements.....	12-3
§ 12.3	Five Years Lawful Permanent Resident Status	12-4
§ 12.4	Seven Years Continuous Residence After Admission	12-5
§ 12.5	Bars to Cancellation of Removal.....	12-15
§ 12.6	The Standard for Exercising Discretion	12-16
§ 12.7	Positive Factors	12-17
§ 12.8	Negative Factors.....	12-18
§ 12.9	The Basis for the Decision	12-20
§ 12.10	Proving Rehabilitation: The Three Story Approach.....	12-21
§ 12.11	Summary of Procedure	12-23
§ 12.12	Preparing the Client for the Hearing	12-24
§ 12.13	Legal Requirements for Applying for § 212(c) Relief in Removal Proceedings	12-26
Appendix 12-A	Answers to Exercises	
Appendix 12-B	Waiver Checklists	
Appendix 12-C	Sample Letters of Support	
Appendix 12-D	Memo on Letters of Support	
Appendix 12-E	Sample Completed EOIR-42A	
Unit Thirteen	Ethical Duties of Paralegals	
§ 13.1	Overview of Authorized and Unauthorized Practice of Law	13-2
§ 13.2	What Is Authorized Practice of Law?	13-2
§ 13.3	Explicitly Authorized Representation in Immigration Cases	13-3
§ 13.4	Entering an Appearance	13-5
§ 13.5	Paralegals Working Under the Supervision of a Lawyer	13-8
§ 13.6	The Independent Paralegal and Immigration Consultants.....	13-8
§ 13.7	Overview of Ethical Duties	13-12
§ 13.8	What Are Legal Ethics?	13-12
§ 13.9	What Other Rules Govern Ethics of Nonlawyers?.....	13-12
§ 13.10	The Duty of Zealous Representation.....	13-13
§ 13.11	The Duty of Competence	13-13
§ 13.12	Duty of Client Confidentiality and Privileged Information.....	13-14
§ 13.13	Grounds for Discipline before DHS Immigration Agencies and EOIR	13-15
§ 13.14	Disciplinary System of the DHS and EOIR	13-20

§ 13.15	Summary Disciplinary Proceedings and Immediate Suspension	13-21
§ 13.16	Forms of Discipline	13-21
§ 13.17	Reinstatement	13-22
§ 13.18	Confidentiality in Disciplinary Proceedings	13-23
§ 13.19	Malpractice	13-23
§ 13.20	Tips for Giving Professional Service and Avoiding Professional Discipline	13-24
§ 13.21	Other Legal Actions by Disgruntled Clients	13-25
§ 13.22	Introduction to DOJ Recognition and Accreditation	13-25
§ 13.23	How to Apply for Recognition of Your Organization	13-26
§ 13.24	How to Apply to Become an Accredited Representative	13-31
§ 13.25	Limits on DOJ Recognition and Accreditation	13-34
§ 13.26	Complaints Against Recognized Organizations and Accredited Representatives	13-37
Appendix 13-A	Answers to Exercises	
Appendix 13-B	State Statutes Regarding Unauthorized Practice of Law	
Appendix 13-C	Sample Form EOIR-28, Notice of Entry of Appearance as Attorney or Representative before the Immigration Court	
Appendix 13-D	Form EOIR-28	
Appendix 13-E	Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, with Instructions	
Appendix 13-F	Form EOIR-31, Request for Recognition of a Non-Profit Religious, Charitable, Social Service, or Similar Organization, with Instructions	
Appendix 13-G	Board of Immigration Appeals Frequently Asked Questions (FAQs) About the Recognition and Accreditation (R&A) Program	
Appendix 13-H	Form EOIR-27, Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals	
Appendix 13-I	Draft Model Code of Professional Responsibility for Accredited Representatives	
Appendix 13-J	Blank Form EOIR-31A	
Unit Fourteen	Asylum	
§ 14.1	Overview of Asylum Law	14-2
§ 14.2	The Statute: Legal Requirements for Eligibility for Asylum	14-3
§ 14.3	Other Sources of the Law on Asylum: The Regulations, Caselaw, and the UN Handbook	14-4
§ 14.4	Well-Founded Fear of Persecution	14-6
§ 14.5	Past Persecution	14-7
§ 14.6	What Is Persecution?	14-9
§ 14.7	Persecutors: Government and Nongovernmental Forces	14-14
§ 14.8	Connecting Persecution to the “Enumerated Grounds”	14-16
§ 14.9	Political Opinion	14-20
§ 14.10	Imputed Protected Grounds	14-25
§ 14.11	Nationality	14-27
§ 14.12	Race	14-29

§ 14.13	Religion	14-29
§ 14.14	Membership in a Particular Social Group	14-31
§ 14.15	The REAL ID Act and Corroboration	14-47
§ 14.16	Bars to Asylum and Discretion	14-48
§ 14.17	Affirmative Applications Before USCIS.....	14-49
§ 14.18	Defensive Asylum in Removal Proceedings	14-53
§ 14.19	“Should I Apply for Asylum?” Analysis of Risks and Benefits.....	14-55

Appendix 14-A After Winning Asylum: Benefits for Asylees

Unit Fifteen Asylum and Withholding of Removal; Statutory Bars to Asylum and Withholding on Removal; Preparing a Declaration

§ 15.1	Comparing Asylum and Withholding of Removal.....	15-2
§ 15.2	Differences in the Legal Standard	15-3
§ 15.3	Differences in Benefits.....	15-5
§ 15.4	Bars to Both Asylum and Withholding of Removal	15-8
§ 15.5	Statutory Bars to Asylum That Do Not Apply to Withholding of Removal	15-20
§ 15.6	Discretion in Asylum Cases	15-27
§ 15.7	Relief Under the Torture Convention.....	15-28
§ 15.8	Overview of Declarations.....	15-29
§ 15.9	Organization of an Asylum Declaration.....	15-30
§ 15.10	Use of Details in Declarations.....	15-30
§ 15.11	Working Together with Your Client to Write the Declaration.....	15-31
§ 15.12	Working with Children and Youth.....	15-33
§ 15.13	Interviewing the Applicant (The Circle Method).....	15-36
§ 15.14	Drafting a Declaration.....	15-37

Appendix 15-A Comparison of Asylum, Restriction of Removal (Withholding) and Convention Against Torture (CAT) Relief

Appendix 15-B Declaration of Eric Cohen in Support Of How to Write a Declaration

Appendix 15-C Sample Asylum Declaration

Appendix 15-D Statutory Bars to Asylum and Withholding of Removal

Unit Sixteen U and T Visas, Registry, Legalization, Family Unity and Discretionary Relief

§ 16.1	The U Visa for Victims of Crimes	16-3
§ 16.2	Who Is Eligible for U Nonimmigrant Status?	16-4
§ 16.3	Petitioning for the U Visa.....	16-8
§ 16.4	Adjustment of Status	16-12
§ 16.5	Derivative Family Members.....	16-14
§ 16.6	The T Visa for Victims of Trafficking	16-16
§ 16.7	Requirements for T Nonimmigrant Visas	16-17
§ 16.8	Establishing That the Applicant Is a Victim of a Severe Form of Trafficking in Persons	16-20
§ 16.9	T Visa Application	16-21

§ 16.10	T Visa Derivatives.....	16-22
§ 16.11	Adjustment of Status	16-23
§ 16.12	Special Immigrant Juvenile Status	16-23
§ 16.13	Temporary Protected Status (TPS).....	16-25
§ 16.14	Overview of the Law of Registry	16-26
§ 16.15	Entry Before 1972	16-26
§ 16.16	Continuous Residence in the U.S.	16-26
§ 16.17	Good Moral Character and Not Ineligible to Citizenship	16-27
§ 16.18	Grounds of Inadmissibility and Deportation	16-28
§ 16.19	Discretionary Denials	16-28
§ 16.20	Registry Application Procedure: Persons Not in Proceedings	16-28
§ 16.21	Applications in Removal Proceedings	16-29
§ 16.22	Documenting Residence for Registry Applications	16-29
§ 16.23	Documentation: Use of Affidavits	16-29
§ 16.24	Overview of the Immigration Reform & Control Act of 1986.....	16-30
§ 16.25	Legalization Program for Persons in U.S. Since Before 1/1/82	16-30
§ 16.26	Legalization Program for Agricultural Workers	16-31
§ 16.27	Legalization Denials: Appeals and Reopening.....	16-31
§ 16.28	Late Legalization or Late Amnesty	16-32
§ 16.29	Nicaraguan and Cuban Adjustment Under the Nicaraguan Adjustment and Central American Relief Act of 1997	16-33
§ 16.30	The Haitian Refugee Immigration Fairness Act of 1998	16-35
§ 16.31	Introduction: Family Unity.....	16-37
§ 16.32	Basic Eligibility Requirements for Family Unity.....	16-37
§ 16.33	Who Is a Legalized Alien?	16-38
§ 16.34	Children Under 21 as of the Applicable Date in 1988	16-38
§ 16.35	Spouse	16-38
§ 16.36	Residence in the U.S. Since Before the Applicable Date in 1988.....	16-39
§ 16.37	Effect of Absences from U.S.....	16-39
§ 16.38	Applicants Do Not Have to Remain Eligible for a Second Preference Visa	16-40
§ 16.39	Children Born Abroad to Mothers with Family Unity	16-41
§ 16.40	Criminal Disqualifying Grounds.....	16-41
§ 16.41	Other Grounds of Disqualification from Family Unity	16-42
§ 16.42	Benefits of Family Unity	16-43
§ 16.43	Limitations of Family Unity Status	16-43
§ 16.44	Overview of Types of Voluntary Departure.....	16-44
§ 16.45	Voluntary Departure as a Removal Defense	16-45
§ 16.46	Eligibility and Grounds of Disqualification	16-46
§ 16.47	Effective Date of Law with Warnings.....	16-48
§ 16.48	Clients Who Wish to Apply for Relief in Removal Proceedings May Apply Only for the Third Type of Voluntary Departure	16-49
§ 16.49	Stays of Deportation/Removal	16-50
§ 16.50	Prosecutorial Discretion	16-51
§ 16.51	Deferred Action.....	16-52

§ 16.52	Deferred Action for Childhood Arrivals	16-53
§ 16.53	Criminal Bars to DACA	16-56
§ 16.54	What Does an Approval of DACA Provide?	16-60
§ 16.55	Parole in Place	16-60
§ 16.56	Private Bills Passed by Congress	16-61

Appendix 16-A	Sample Affidavit in Support of Registry Case
Appendix 16-B	Sample Voluntary Departure Advisal Form
Appendix 16-C	DHS 2017 Enforcement Memo

Unit Seventeen Naturalization and Acquisition and Derivation of Citizenship for Children

§ 17.1	What Is Naturalization?.....	17-2
§ 17.2	Advantages and Disadvantages of the Naturalization Process	17-2
§ 17.3	The Nine Requirements.....	17-4
§ 17.4	Lawful Permanent Resident Status: INA § 318	17-4
§ 17.5	Age: INA § 334(b)	17-4
§ 17.6	Residence: INA § 316	17-5
§ 17.6(a)	Abandonment of Residence: Losing One’s Status as an LPR.....	17-11
§ 17.6(b)	Special Exception: Nationals of the United States	17-13
§ 17.6(c)	Special Exception: People Serving in the U.S. Armed Services	17-13
§ 17.7	Good Moral Character: INA § 316(a)(3).....	17-15
§ 17.8	Temporary Bars to Naturalization	17-20
§ 17.9	Permanent Ineligibility for Naturalization.....	17-20
§ 17.10	English Language: INA § 312(a)(1).....	17-21
§ 17.11	U.S. History and Government: INA § 312(a)(2).....	17-23
§ 17.12	Belief in the Principles of the U.S. and the Oath of Allegiance: INA § 316(a)(3).....	17-23
§ 17.13	Step One: The Application	17-25
§ 17.14	Step Two: The Interview and Naturalization Application.....	17-26
§ 17.15	Step Three: The Final Hearing and the Oath of Allegiance	17-26
§ 17.16	Contested Naturalization Proceedings.....	17-27
§ 17.17	Overview of Acquisition and Derivation of Citizenship	17-27
§ 17.18	Introduction to Acquisition of Citizenship	17-28
§ 17.19	Who Can Acquire Citizenship at Birth Outside of the U.S.?	17-28
§ 17.20	How to Use the Charts.....	17-29
§ 17.21	Documenting a Claim of Acquisition of Citizenship	17-31
§ 17.22	Acquisition of Citizenship Exercises	17-33
§ 17.23	Derivation of Citizenship	17-33
§ 17.24	Who Can Derive Citizenship.....	17-33
§ 17.25	Using the Chart to Determine Derivative Status	17-34
§ 17.26	Child Citizenship Act of 2000.....	17-36
§ 17.27	Submitting an Application for and Documenting a Claim of Derivative Citizenship.....	17-36
§ 17.28	Section 322: Citizenship for Children.....	17-37

§ 17.29	Introduction to Loss of Citizenship	17-39
§ 17.30	Practice Questions	17-40
Appendix 17-A	Answers to Exercises	
Appendix 17-B	Charts A, B & C: Acquisition and Derivation of Citizenship	
Appendix 17-C	Case Example: Advantages and Disadvantages of Naturalization Example	
Appendix 17-D	Homework Assignment -- Naturalization Cases	
Appendix 17-E	Practice Exercises on Acquisition of Citizenship	
Appendix 17-F	Answers to Practice Exercises on Acquisition of Citizenship: Acquisition Exercises and Answers	
Appendix 17-G	Title 8 of Code of Federal Regulations (8 CFR), Part 316: General Requirements for Naturalization	
Appendix 17-H	Requirements for Becoming a U.S. Citizen through “Naturalization” (English, Spanish & Chinese)	
Unit Eighteen	Identifying Immigration Solutions	
§ 18.1	Introduction	18-1
§ 18.2	A Systematic Approach to Identifying Solutions	18-2
§ 18.3	Long-Term Option Sheet.....	18-3
§ 18.4	Incorporation into the Case File	18-5
§ 18.5	Two-Part Approach	18-5
§ 18.6	Sample Exercises.....	18-6
Appendix 18-A	Answers to Exercises	
Appendix 18-B	Long Term Option Worksheet (blank)	
Appendix 18-C	Long-Term Option Sheet for Gloria	
Appendix 18-D	Long-Term Option Sheet for Carlos Cliente	
Appendix 18-E	"Case Management Systems: Promoting Effective, Efficient Service Delivery," an excerpt written and published by Catholic Legal Immigration Network, Inc.	
Appendix 18-F	Additional Long-Term Option Sheet from Exercises	
Appendix 18-G	Guide to Abbreviations in the Long-Term Option Sheet	
Unit Nineteen	Constitutional and Statutory Rights of Immigrants	
§ 19.1	Overview of this Unit	19-2
§ 19.2	Introduction to Constitutional Rights	19-3
§ 19.3	Authority to Question People About Immigration Status	19-4
§ 19.4	Questioning and Types of “Stops” of Immigrants	19-4
§ 19.5	Searches.....	19-9
§ 19.6	Warrants	19-10
§ 19.7	The Fourth Amendment in Context.....	19-11
§ 19.8	The Border Exceptions to the Fourth Amendment.....	19-16
§ 19.9	The Changing Role of Local Law Enforcement in Immigration.....	19-18
§ 19.10	Immigration Detainers and the Fourth Amendment.....	19-20
§ 19.11	Current Authority of Local Police to Make Immigration Stops.....	19-25

§ 19.12	The Right to Remain Silent	19-26
§ 19.13	Right to Legal Representation	19-28
§ 19.14	Rights upon Being Arrested by the DHS and While in DHS Detention	19-30
§ 19.15	Rights of Juveniles	19-39
§ 19.16	The “Equal Protection” Rights of Immigrants	19-40
§ 19.17	Right Not to Be Discriminated Against in Employment.....	19-41
§ 19.18	Forced Labor	19-42
§ 19.19	Right to Public Education.....	19-43
§ 19.20	An Overview	19-44
§ 19.21	Administrative Complaints.....	19-45
§ 19.22	Lawsuits Against DHS	19-52
§ 19.23	Motions to Suppress and Motions to Terminate in Removal Proceedings	19-52
§ 19.24	Organizing a Community Response to Rights Abuses.....	19-56
§ 19.25	Legal Support When Rights Have Been Violated.....	19-57
Appendix 19-A	Assignments, Outlines and Materials for a “Know Your Rights” Community Meeting	
Appendix 19-B	Relevant Constitutional Amendments	
Appendix 19-C	KYR Materials	
Appendix 19-D	Sample Raids Intake	
Appendix 19-E	Homework Assignment: Administrative Complaints	
Appendix 19-F	2015 Immigration Detainer Forms	
Appendix 19-G	Sample Motion to Suppress, Covering 4th and 5th Amendment Arguments, Including an Argument on Widespread 4th Amendment Violations	
Unit Twenty	Negotiation Skills and Building Community Support	
§ 20.1	What Is Negotiation?.....	20-1
§ 20.2	Clients as Negotiators.....	20-2
§ 20.3	Negotiating: Practical Tips	20-3
§ 20.4	Negotiation Strategies	20-5
§ 20.5	Introduction	20-8
§ 20.6	Obtaining Letters and Testimony	20-8
§ 20.7	Organizing Campaigns in the Immigrant Community	20-9
§ 20.8	Encouraging Clients to Be Advocates.....	20-11
§ 20.9	Helping Immigrants Form Immigrant-Based Committees.....	20-11
§ 20.10	Committee Activities.....	20-14
§ 20.11	Potential for Future Campaigns.....	20-16
Appendix 20-A	Negotiation Letter Providing Evidence of USCIS Delay	
Appendix 20-B	Dream Act Online Petition and Scripts to Call Congress	

Unit Twenty-One History of Immigration Law and Policy and Employment-Based Immigration

§ 21.1	The Interests That Affect U.S. Immigration Policy	21-2
§ 21.2	The First Immigrants (Colonial–1800).....	21-4
§ 21.3	European Immigration to the East Coast, the First Wave (1800s)	21-5
§ 21.4	Chinese Immigration to the West Coast (1848–1890)	21-6
§ 21.5	The Second Wave of Europeans (1880–1915).....	21-7
§ 21.6	West Coast II, Mexican Migration (1900–1930)	21-8
§ 21.7	World War II and McCarthyism (1938–1965).....	21-9
§ 21.8	Changing Political Views (1965–1976)	21-10
§ 21.9	Refugee Act of 1980 and Act of 1986.....	21-11
§ 21.10	The Anti-Immigrant Crusades of the 1990s	21-12
§ 21.11	The Effects of September 11	21-14
§ 21.12	Deporter-in-Chief: Obama v. Trump.....	21-17
§ 21.13	Conclusions	21-18
§ 21.14	A Word to Nonprofit Agency Staff on Employment Visas.....	21-18
§ 21.15	Overview and Relation to Other Immigration Options	21-19
§ 21.16	The Employment-Based Preference System	21-19
§ 21.17	The First Preference: Extraordinary Aliens, Outstanding Professors and Researchers, Multi-National Executives and Managers	21-20
§ 21.18	The Second Preference: Professionals and Exceptional Ability Immigrants	21-22
§ 21.19	The Third Preference: Professionals, Skilled Workers, and Other Workers	21-24
§ 21.20	The Fourth Preference: Special Immigrant Religious Workers	21-25
§ 21.21	The Fifth Preference: Special Immigrant Investors.....	21-27
§ 21.22	Labor Certification	21-28
§ 21.23	Special Considerations: Adjustment of Status and Consular Processing for Employment-Based Immigrants.....	21-35

Glossary of Immigration Terms