

2009 IMMIGRATION AND NATIONALITY LAW

TEST SPECIFICATIONS

Note: These Are Subject to Change*

1. Statement of Purpose of Examination

a. Level of Expertise Represented by Examination

Every applicant must pass a written examination designed to demonstrate sufficient knowledge, skills, and proficiency in the field of immigration and nationality law to justify the representation of special competence to the legal profession and the public.

b. Types of Skills Assessed

Identify legal issues raised by a hypothetical factual issue;

Separate material which is relevant from that which is not;

Present a reasoned analysis of the relevant issues in a clear, concise and well organized composition;

Demonstrate an understanding of fundamental legal principles relevant to the probable solution of the issues raised by the factual situation;

Apply the law to the relevant facts in a manner likely to resolve the client's problem.

c. Explanation of core verses subarea emphasis

- Core areas include content knowledge expected of all examinees:**

A. Nonimmigrant Visas

B. Immigrant Visas

C. Waivers and Immigration Court Proceedings, and Admissions

D. Claims Based on Foreign Persecution or Civil Strife

E. Administrative Appeals and Federal Court Litigation

F. Citizenship

G. Ethics (Covered in all categories as listed above in A. through F.)

H. Recent Case Law (Covered in all categories as listed above in A. through F.)

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- **Subareas emphasis: (Identified in Number 2. below.)**

2. Content of the Examination

a. Listing of the content areas to be covered.

A. Nonimmigrant Visas *(25% of questions will cover the following.)*

1. Work Related I (B-1,E,H,I,L,O,P,R, and TN);
2. Student and Exchange (F, J, M and Q);
3. Miscellaneous NIVs (B-2, C-1, D, K-1, K-3, S, T, U, V);
4. Consular Issuance and Change of Status.

B. Immigrant Visas *(25% of questions will cover the following.)*

1. Employment Based (EB-1, EB-2, EB-3) & Labor Certification;
2. Family Based, including widows, orphans, children and Legalization Beneficiaries (CR, IR, FB-1, 2, 3, 4, etc.);
3. Employment Based (Employment Creation) and Hong Kong Provisions of IMMACT 90;
4. Labor Certification;
5. Consular Processing, Adjustment of Status, Alternate State Chargeability, Diversity Lottery and Registry.

C. Waivers and Immigration Court Proceedings, and Admissions *(25% of questions will cover the following.)*

1. Waivers, Stays, and Deferred Actions

- a. Admissibility: Nonimmigrant: 212(d) (3); 212(d) (4);
- b. Immigrant: 212(c), 212 (a)(6)(A) & (B) (Permission to reenter the United States after deportation or removal); 211(b), 212(a)(9)(B), 212(d)(11), 212(g), 212(h), 212(i), 212(k), 209;
- c. Nonimmigrant & Immigrant: 212(e);
- d. Removal: Waiver provisions under 212, 237 and relief under 240A;
- e. Administrative Stay & Deferred Action;
- f. Unlawful Presence.

2. Immigration Judge Proceedings, Removal, Rescission, Inspection and Parole

- a. Immigration Judge Proceedings, Rules Governing, generally;
- b. Immigration Judge Proceedings, Motions to Reopen and Application for Stay;
- c. Removal Grounds & Rescission;
- d. Inadmissibility;
- e. Inspection Procedures including Deferred Inspection, Parole, Humanitarian and Advance;
- f. Mandatory Detention and bond.

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2. Content of the Examination (Continued)

a. Listing of the content areas to be covered. (continued)

D. Claims Based on Foreign Persecution or Civil Strife (10% of questions will cover the following.)

1. Refugee Status;
2. Asylum and Withholding of Removal, in general;
3. Asylum and Withholding, Statutory Ineligibility;
4. TPS, DED
5. CAT

E. Administrative Appeals and Federal Court Litigation (5% of questions will cover the following.)

1. Board of Immigration Appeals, including Motions to Reopen, Reconsider and Applications for Stay;
2. Administrative Appeals Office;
3. Board of Alien Labor Certification Appeals;
4. Judicial Review of Removal Orders;
5. Habeas Corpus, Removal;
6. USDC Review of Agency Action;
7. Writs.

F. Citizenship (10% of the questions will cover the following.)

1. Citizen, National and Alien;
2. Citizenship at Birth;
3. citizenship, Naturalization, including Derivative;
4. Loss of Citizenship, Expatriation;
5. Denaturalization.

G. Ethics (*Covered in all categories listed above in A. through F.*)

Ethical and professionalism issues confronting lawyers in immigration and nationality law proceedings are also a component of the examination.

H. Recent Case Law (*Covered in all categories listed above in A. through F.*)

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2. Content of the Examination (Continued)

b. Content Allocation Plan (How is the content to be covered to ensure the exam is consistent from year to year in the emphasis for each content area?)

The content allocation for the examination is the same from year to year with the same number of essays and multiple choice questions. The total points for the examination remains the same from year to year as well.

PART I Essay Questions All areas as outlined in Question 2 a. above	Points: 3 Essays (40 points each)	Time Allocation: Part I is allotted 3 hours total to complete. Examinee determines how much time to complete each essay.
TOTAL POINTS FOR PART I	120 POINTS	
PART II Essays All Areas as outlined in Question 2. a. above	Points: 1 Essay (40 points) 50 Multiple Choice Questions (2 points each = 100 points)	Time Allocation: Part II is allotted 3 hours total to complete. Examinee determines how much time to complete each essay and multiple choice questions.
TOTAL POINTS FOR PART II	140 POINTS	
TOTAL POINTS FOR EXAMINATION	120 POINTS - PART I 140 POINTS - PART II	TOTAL POINTS FOR EXAMINATION: 260

3. Description of the Examination

a. Format

Part I:

3 mandatory essays

All questions must be completed in a one three hour block during the morning session of the examination.

Part II:

1 mandatory essay
50 multiple choice questions

All questions must be completed in a one three hour block during the afternoon session of the examination

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3. Description of the Examination (Continued)

b. What time period is covered for the law? (Will new changes in the law be included? If so, how will this be specified?)

Examinee is instructed to "apply the law in effect on the day of the **examination**," unless they have been notified otherwise.

c. How will state verses federal laws be emphasized?

There is no difference because immigration law is all federal law. There is no state law applicable.

d. How much time is allotted to the entire exam and to each part?

PART I - 180 minutes (morning session)

PART II - 180 minutes (afternoon session)

TOTAL AMOUNT OF TIME ALLOTED TO EXAM: 6 HOURS (360 Minutes)

4. Directions to Examinees

a. What are the time allocations for parts of the examination?

Part I - Registration - 8:00 a.m. - 8:50 a.m.

Part I - Instructions to all examinees - 8:50 a.m. - 9:00 a.m. (in classroom)

Part I - 3 hours (180 minutes total) - 9:00 a.m. - 12:00 Noon

Mandatory lunch break after morning session for 12:00 Noon - 1:30 p.m.

Part II - Registration - 1:30 p.m. - 1:50 p.m.

Part II - Instructions to all examinees - 1:50 p.m. - 2:00 p.m. (in classroom)

Part II - 3 hours (180 minutes total) - 2:00 p.m. - 5:00 p.m.

b. What materials, equipment, etc. are allowed / required in the examination room?

The examination is a closed book exam and no materials may be brought into the examination room.

c. What penalties are given, if any, for spelling, handwriting, etc.?

"No points will be given for answers that are not legible."

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5. Scoring Procedures

a. How are the essays scored?

Essays are scored holistically and score (based on a scale of 1 to 6) is converted to analytical points thereafter.

b. Who scores the essays and what is the process? (Number of readers, discrepant score resolution process.)

All essays are reviewed by a minimum of 2 committee members who come to a decision as to what will be the final holistic score for each essay.

If the 2 reviewers disagree on what the final score should be, a third member of the Committee reviews the essay in question to set the final score.

c. How is score scale created? (i.e. percentage weights for sections of the exam; adjustment of scores to account for differences in difficulty of the examination across the years; total number of points awarded.)

Score scale has been designated by the Committee. The following score scale is applicable for the 2009 examination:

ESSAYS - PARTS I AND II ----- HOLISTIC SCORING SCALE

EACH ESSAY WORTH 40 POINTS (4 Essays Total) (Maximum)

Total points for essays in Part I: 120.00 (3 essays) (45% of Examination)
Total points for essay in Part II: 40.00 (1 essay) (16% of Examination)

TOTAL PERCENTAGE OF EXAMINATION ESSAYS ARE WORTH: 62%

Holistic Score	Points Converted To:
1	6.67
2	13.33
3	20.00
4	26.67
5	33.33
6	40.00

MULTIPLE CHOICE QUESTIONS - PART II ONLY - ANALYTICAL SCORING SCALLE

EACH MULTIPLE CHOICE QUESTION (50 Total) WORTH 2 POINTS EACH (Maximum)

Total points for multiple choice questions in Part II: 100.00 (38%)

TOTAL PERCENTAGE OF EXAMINATION MULTIPLE CHOICE QUESTIONS ARE WORTH: 38%

Analytical Score	Points Converted To:
2	2.00

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5. Scoring Procedures (Continued)

Adjustment of scores to account for differences in difficulty of the exam across the years?

The examination is developed to maintain the same level of difficulty from year to year.

Total number of points awarded.

The total for the 2009 examination will be 260.00 points.

d. What is the passing standard? Is there an overall standard or is there a multi-part standard? What level of skill does the passing standard(s) represent?

Passing Standard:

Examinee must score a holistic score of 4 or better on each essay (26.67 points analytical score).

182.00 overall points (analytical score) and above is passing

Is there an overall standard or is there a multi-part standard?

Examinee must score a holistic score of 4 or better on each essay (26.67 points analytical score).

182.00 overall points (analytical score) and above is passing. (70% and above.)

What level of skill does the passing standard(s) represent?

The examination is designed to measure an applicant's ability to: identify legal issues raised by a hypothetical factual issue; separate material which is relevant from that which is not; presents a reasoned analysis of the relevant issues in a clear, concise and well organized composition; demonstrate an understanding of fundamental legal principles relevant to the probable solution of the issues raised by the factual situation; and, apply the law to the relevant facts in a manner likely to resolve the client's problem.

*** - At the time these Test Specifications were posted on The Florida Bar Website, the Immigration and Nationality Law Certification Committee had not met to discuss whether or not the examination structure would remain the same for the 2009 examination. If it is changed, the Test Specifications will be updated and posted on the website closer to the examination date. Any applicant approved to sit for the examination will be notified in advance of the changes to the Test Specifications.**