

Week 2 Study Guide

2.1 U.S. Law Structures

- There are 2 main systems of government in the U.S:
 - State Governments
 - Used to play a big role in determining immigration laws, but not anymore
 - Similar structure to federal government - Governor, state legislature, state court system
 - Federal Government
 - Constitution doesn't mention the Federal government's ability to regulate immigration, but the Supreme Court ruled that the Federal government has inherent power to do so
 - Structure:
 - Legislative - Senate & House of Reps (congress) make laws
 - Executive - President and his Cabinet enforce laws thru regulation
 - Judicial - Supreme court and federal circuit courts interpret laws

2.2 INA, CFR & Court Decisions

- Immigration and Nationality Act of 1952 (INA)
 - The main source of immigration law
 - Passed by Congress and signed into law by the president.
 - Contained in Title 8 of the United States Code (U.S.C.; "Aliens and Nationality").
 - In order to change the INA, both houses of Congress need to pass the amendments, and the president needs to sign them into law.
 - Because of this, it is hard to change the INA and it is unlikely that major changes will be made to the INA.
- Code of Federal Regulations (CFR)
 - Another major source of current immigration law
 - Contains many regulations published by different executive departments and agencies in the federal Executive Branch.
 - Chapter 8 deals with immigration.
 - In order to change the CFR, agencies publish their proposed changes, respond to public comments, and then publish the final regulations.
 - Compared to the INA, it is easy to change or create new regulations.
 - Major changes to immigration law often come through the CFR.
- Court Decisions
 - Another important source of immigration law.
 - Federal courts interpret the USC (including the INA) and the CFR.

- Supreme Court decisions have established that, although the US Constitution doesn't mention immigration, the federal government has an inherent power to govern immigration.
- Chae Chan Ping, also known as the Chinese Exclusion Case, established the exclusions power, which refers to the Court's determination that the federal government has the power to exclude individuals from the United States.
- Fong Yue Ting, another Supreme Court case, established the deportation power, which means that a nation has an absolute right to deport foreigners who have not been naturalized.

2.3 DHS & DOS

- DHS stands for Department of Homeland Security
- Entities of the DHS that are involved in immigration:
 - United States Citizenship and Immigration Services (USCIS). Responsible for adjudicating (processing) applications for immigrant benefits.
 - Immigration and Customs Enforcement (ICE). Responsible for the enforcement of immigration law within the United States (besides at borders and ports of entry). It is also responsible for the deportation of non-citizens.
 - US Customs and Border Protection (CBP). Responsible for enforcing immigration law at borders and ports of entry.
 - Borders include the US-Canada border and the US-Mexico border.
 - Ports of entry include international airports, seaports, etc.
- DOS stands for Department of State
 - Processes immigration petitions and applications for individuals living abroad.
 - If an individual is not in the United States when they apply for an immigration status or benefit, a DOS consular office abroad will process the request.

2.4 DOJ

- DOJ stands for Department of Justice
- Entities of the DOJ that are involved in immigration:
 - Attorney General (AG). Oversees the DOJ, including EOIR. He or she is authorized to rehear immigration cases that have already been decided by the Board of Immigration Appeals.
 - Executive Office of Immigration Review (EOIR). Oversees immigration courts which are separate from the US judicial system.
 - Board of Immigration Appeals (BIA). Part of EOIR. Issues decisions to provide guidance and direction for immigration judges to decide future cases. After cases are presented to the BIA, they may move on to federal circuit courts and then to the Supreme Court.
 - Immigration Judges (IJs). Also under EOIR. Decide cases of individuals who are being prosecuted by ICE.

- Defensive immigration refers to cases when a person is arrested, detained, or otherwise prosecuted for violating immigration laws.
 - NOMAS does not take these cases.
- Affirmative immigration cases are those where a person has not violated immigration laws but wishes to change their immigration status or become a citizen.
 - NOMAS does take these cases.

Resources and References

- [General Info about EOIR + Learn About EOIR](#)

2.5 DOL & HHS

- The Department of Labor (DOL) is in charge of workforce regulation and oversees labor certification
 - Employers must go through labor certification in order to hire workers from outside the U.S. to work within the U.S.
- The Department of Health and Human Services (HHS) oversees the living conditions in immigrant detention centers managed by ICE.
 - HHS also contains the Office of Refugee Resettlement, which works with refugees and unaccompanied minors within the U.S.

2.6 Comparing Law Sources

- No new content, just applying information from the lessons above.

2.7 Certificates of Citizenship

- Certificates of Citizenship can be applied for by those who are already citizens but need to be officially recognized as such.
- Two main groups apply for Certificates of Citizenship:
 - Those who were born in the United States (always eligible for Certificates of Citizenship, no matter the citizenship of parents)
 - Those who were born outside of the United States (complicated cases that consider many factors and are only sometimes eligible for Certificates of Citizenship)

References and Resources

- [Form N-600 \(Application for Certificate of Citizenship\)](#)