



The State Bar of California

2023 LEGAL SPECIALIST EXAMINATION Preparation Packet

Examination Date: October 24, 2023

Legal Specialization Area:
IMMIGRATION & NATIONALITY LAW

This packet contains key information you will need to prepare for the 2023 Legal Specialist Examination:

- Examination Action Plan
- Exam specifications listing topics that may be tested
- Free sample essay questions (multiple-choice questions are not released)

For full details, please visit [Exam Information](#).

2023 LEGAL SPECIALIST EXAMINATION ACTION PLAN

A. Start Today:

1. **Register** for the Legal Specialist Examination today in the [Admissions Applicant Portal \(Applicant Portal\)](#). Registration closes on **September 15**.
2. **Review** this packet for an overview and visit [Becoming a Certified Specialist](#) for eligibility requirements, current exam information, and other important dates and deadlines.

B. Know the Exam:

1. **Format:** The Legal Specialist Examination is a single-day exam that consists of eight short essay questions and 75 multiple-choice questions and tests whether an attorney has a proficient understanding of the key laws, rules, and procedures applicable to that area of law.
2. **Exam topics:** See enclosed exam specifications.
3. **Exam practice:** See enclosed sample essay questions. No sample answers are available for the essay questions, and no multiple-choice questions are released for practice.
4. **Ensure that your laptop is ready before exam day:** Applicants should take the two mock exams on the laptop that they will use on exam day **prior** to exam day.
5. **Other certification requirements:** Review the other task, education, and experience requirements in the post-exam application for initial certification. You may have already met many of the requirements, or you can continue to meet them through January 31, 2027.

C. Prepare for Exam Day

1. **Applicants must login into the exam by the posted password release time of 8:00 a.m.** so that you have enough time to verify your identification and start your laptop.
2. **Items allowed in the exam room:**
Please review the [exam bulletin](#) for a list of items that are allowed in the exam room before the exam.

While most applicants will not be allowed to bring reference books into the exam room, those taking the exams in the following four specialty areas have the option to bring in one of the following code books if they wish to do so (annotated or unannotated version):

- **Bankruptcy Law:** Bankruptcy Code and Rules
- **Estate Planning, Trust & Probate Law:** California Probate Code

- **Immigration & Nationality Law:** Immigration & Nationality Act only (NOT regulations)
- **Taxation Law:** Internal Revenue Code only (NOT regulations)

IMMIGRATION & NATIONALITY LAW

Examination Specifications

Purpose of the Exam: The Immigration & Nationality Law Legal Specialist Examination consists of a combination of essay and multiple-choice questions. It is designed to verify the applicant's knowledge of and proficiency in the usual legal procedures and substantive law that should be common to specialists in the field as represented by the skills listed below. We recognize that these skills are interrelated, which may require that you apply several skills in responding to a single exam question. Also, the order of the skills does not reflect their relative importance, nor does the skill sequence represent an implied order of their application in practice.

Your answers to the exam questions should reflect your ability to identify and resolve issues, apply immigration & nationality law to the facts given, and show knowledge and understanding of the pertinent principles and theories of law, their relationship to each other, and their qualifications and limitations. Of primary importance for the essay questions will be the quality of your analysis and explanation.

Knowledge of the following fundamental lawyering skills may be assessed:

Subject Area 1: Professional Responsibility	Subject Area 2: Immigrant and Non-immigrant Eligibility issues
1.1 Duties to clients	2.1 Family-based immigrant visa categories
1.2 Duties to opposing counsel, administrative agencies, and courts	2.2 Employment-based (EB 1-5) immigrant visa categories
1.3 Attorney's fees and fee agreements	2.3 Labor certifications
1.4 Conflicts of interest	2.4 H-1B visas/status and Labor Condition Applications (LCAs)
	2.5 L-1 visas/status
	2.6 Other nonimmigrant categories, including B, E, F, J, K, O, R, S, T, TN, and U
	2.7 Visa Waiver Program
	2.8 Rules of chargeability
	2.9 Priority Dates
	2.10 Criminal activity (INA 212(a)(2))
	2.11 Misrepresentation (INA 212(a)(6)(C))
	2.12 Unlawful presence (INA 212(a)(9))
	2.13 Other inadmissibility grounds
	2.14 Waivers of inadmissibility (212(h), 212(i), 212(a)(9)(B)(v), 212(e), 212(d))
	2.15 Marriage fraud (including 204(c))
	2.16 Adjustment of status (INA 245(a), (c), (k), and (i))
	2.17 Conditional Permanent Resident status
	2.18 Violence Against Women Act
	2.19 Child Status Protection Act
	2.20 Employer compliance (INA 274A)
	2.21 Parole-in-place

Subject Area 3: Processing and Procedures 3.1 Consular processing, including waivers 3.2 Arriving aliens and reentry doctrine 3.3 Affidavits of support 3.4 Reentry permits and abandonment of LPR status 3.5 Bond eligibility, jurisdiction, redeterminations, and conditions 3.6 Application to apply for admission after removal (I-212) 3.7 Burden of proof	Subject Area 4: Removal and Relief 4.1 Criminal grounds of removability 4.2 Other grounds of removability 4.3 Mandatory Detention 4.4 Voluntary Departure 4.5 INA § 237(a)(1)(H) waiver 4.6 Cancellation of Removal 4.7 Asylum 4.8 Withholding and Deferral of Removal (C.A.T.) 4.9 NACARA 4.10 212(c) 4.11 Expedited removal (INA 235(b) and 238) 4.12 Executive actions and prosecutorial discretion 4.13 Reinstatement of removal orders 4.14 Temporary Protected Status
Subject Area 5: Motions and Review 5.1 <i>In absentia</i> hearings and orders 5.2 Motions to reopen/reconsider/remand/terminate in removal proceedings 5.3 Other agency actions 5.4 Administrative Appeals (BIA, AAO, BALCA) 5.5 Judicial deference to administrative actions and orders (<i>Chevron</i> and <i>Brand X</i>) 5.6 Federal court jurisdiction 5.7 Federal District Court actions 5.8 Federal Court of Appeals review	Subject Area 6: Naturalization and Citizenship 6.1 Good moral character 6.2 Residence and physical presence 6.3 Naturalization procedure (including administrative and court review) 6.4 Acquisition of citizenship (current law only) 6.5 Child Citizenship Act and pre-CCA derivative naturalization

IMMIGRATION & NATIONALITY LAW
Sample Essay Questions

Below are actual questions from past examinations. These questions were designed to be read and answered within 45 minutes, though current examination questions are designed to be read and answered in 30 minutes.

Sample Legal Specialist Examination Question #1

Applicant, a native and citizen of Country A, is presently lawfully in the U.S. under valid H-1B visa status. Applicant first entered the U.S. in August 1993, with an F-1 visa issued by the American Embassy in Country A. He graduated from University in June 1997 with a bachelor's degree in aerospace engineering. He was granted a one-year period of practical training upon graduation. His H-1B visa petition was approved in June 1998 to work as a procurement engineer for S.A. Enterprises, Inc., a U.S. company engaged in exporting aircraft and related items. Shortly after his I-129 was approved, Applicant traveled to a U.S. Consulate in Country B and was issued an H-1B visa valid for three years. He was granted an extension of his H-1B status in May 2001 valid until June 2004. Again, Applicant went to a U.S. Consulate in Country B to apply for another H-1B visa, which was issued for another three years.

Company filed an application for alien labor certification on behalf of Applicant with the California Employment Development Department on April 30, 2001. It is still pending. Company is owned by Applicant's Uncle. Uncle closed Company last month and returned to Country A due to an F.B.I. investigation of his activities.

Applicant has been offered employment as a design engineer by New Company which manufactures airplane parts. New Company is willing to petition for his new H-1B and his permanent residence.

- A. When can Applicant begin working for New Company? Discuss.**
- B. Applicant would like to travel next month to Country C. Does he need to apply for another visa and, if so, can he apply in Country B again? Discuss.**
- C. Is Applicant eligible for another extension of his H-1B status if his labor certification is not approved by the H-1B expiration date? Discuss.**
- D. When the labor certification is approved, what are the next steps to take to obtain permanent residency? Discuss.**

END OF QUESTION

Sample Legal Specialist Examination Essay Question #2

Applicant, a native and citizen of Country X, came to the U.S. with his parents on February 21, 1986 with a Border Crossing Card, when he was 15 years old. On May 9, 1987, he was arrested with two of his friends for shoplifting. Because his LPR parents were afraid that he would be deported for this crime, and because they felt that distance from bad influence would prevent more serious incidents, Applicant was sent back to Country X two weeks later in the care of his grandfather. On October 11, 1987, he returned to the U.S. accompanied by his uncle, who traveled by car and stated to the DHS inspectors at the port of entry that both he and Applicant were "U.S. citizens."

Applicant adjusted status on August 5, 1991. On April 28, 1994, he was arrested for possession with intent to sell cocaine, a controlled substance, in violation of the California Health and Safety Code. He pled guilty and was convicted of the offense on March 1, 1996; he was sentenced to three years in state prison and three years' probation.

On September 10, 2001, Applicant left the U.S. for 10 days to attend his grandfather's funeral in Country X. On his way back to the United States, he realized that he didn't have his green card with him. To the inspector at port of entry, he stated that he misplaced his green card. A routine identification check verified that Applicant was indeed an LPR but uncovered his record of arrest and conviction for the controlled substance violation. The immigration officer took Applicant into custody as an "arriving alien" and made no recommendation for bail.

- A. What procedural steps should be taken to attempt to obtain Applicant's release from DHS custody? Why is he considered an "arriving alien" if DHS knows that he is a green card holder? What factors will be considered in making the custody determination? Discuss.**
- B. In removal proceedings, does Applicant meet the statutory requirements for cancellation? Discuss.**
- C. Is Applicant eligible for any other form of relief from removal? Discuss. Does the fact that, at the time of his plea for the controlled substance violation, Applicant was a permanent resident for less than five years determine eligibility for the relief? Discuss.**

END OF QUESTION

Sample Legal Specialist Examination Essay Question #3

Applicant, a native and citizen of Country X, was admitted to the U.S. as a visitor for pleasure in 1979. He adjusted status in February 1987 based upon his marriage to a U.S. citizen.

A criminal complaint was filed against Applicant alleging one count of committing a lewd act upon a child (his 12-year old step-daughter) in violation of California Penal Code §288(a). Applicant entered a plea of guilty on November 4, 1992, and was sentenced to state prison for a period of six years; the sentence was suspended under the terms and conditions that he serve one year in county jail and probation for a period of five years.

During his probation, Applicant and his family (his wife, mother-in-law, three children and step-daughter) underwent extensive family therapy. The family reconciled and are living happily together in the family home that Applicant and his wife bought when they married. Applicant is active in his church and his neighborhood watch organization. He has organized the annual Christmas block party for the past five years. His two next door neighbors are aware of the conviction but are still his friends. Upon release from prison, Applicant returned to the job he held prior to his conviction. The company was so satisfied with his performance that they eventually promoted Applicant to Senior Accountant in charge of the company's bookkeeping department.

Applicant was arrested at his naturalization interview last week and was issued a Notice to Appear for Removal proceedings. The NTA charges him subject to removal as an alien convicted of an aggravated felony under §101(a)(43)(A) of the Immigration and Nationality Act.

- A. Can Applicant be released on bond? Discuss.**
- B. Does Applicant have any method of avoiding removal from the United States? Discuss.**

END OF QUESTION

Sample Legal Specialist Examination Essay Question #4

Applicant, a native of Country X, was employed in H-1B status as a pediatrician for Employer, a medical group in St. Paul, Minnesota. In 2002, Employer applied for a labor certification for Applicant, which was approved early in 2003. The prevailing wage in the application was \$120,000. On April 1, 2003, Employer submitted an immigrant visa petition (form I-140) on behalf of Applicant. Simultaneously, he applied for adjustment of status (form I-485). Both of these applications were filed with the Nebraska Service Center. Applicant's Wife and his children, Son 1, age 20, and Son 2, age 17, reside in Country X.

On August 1, 2003, Applicant terminated his employment and took a job as a pediatrician in Bakersfield, California. In 2004, his net income rose to \$200,000.

The CIS approved the visa petition on November 1, 2003. However, upset about Applicant's plans to move, Employer wrote a letter to the CIS on December 1, 2003 withdrawing its visa petition on his behalf.

On March 1, 2005, the Nebraska Service Center mailed a Request for Evidence to Applicant requesting copies of his last two pay checks and his income tax returns for 2003 and 2004.

- A. Does Applicant's change of employment and/or the withdrawal of the visa petition submitted on his behalf render him ineligible to adjust his status? Discuss.**
- B. If Applicant adjusts his status, can Wife and Son 2 obtain immigrant visas to follow to join him? Discuss.**
- C. Is Son 1 eligible to follow-to-join his father in the U.S.? If not, is there any other possible method for him to immigrate based upon these facts? Discuss.**

END OF QUESTION