

# **IMMIGRATION LAW**

- 1) Re-useable white board, markers, eraser – if you want one (provided in the PICC).

## **TAKEAWAYS**

- Students will have thought about misconceptions of immigrants and the law, as well as why the United States has the immigration policy it does.
- Students will understand the basics of current immigration laws and the asylum process.

## **QUICK INTRO**

**(Time Check: 1 minutes)**

Tell the class: Your names, that you're law students from Stanford Law School, and you're there to teach a StreetLaw class.

- Remind the students about StreetLaw rules: don't talk about the specifics of your case, respect your classmates and your teachers.
- Mention: Today we are going to be discussing Immigration Law, which can be a sensitive topic for many people, so we need to be especially respectful of one another's views.

**ICEBREAKER: Immigration Pros and Cons**  
(Time Check: 5-10 minutes)

Exercise: Tell the students we're going to talk about immigration policy and what they think it should look like. You're going to divide the room in half, with one side being assigned to come up with reasons why immigration to this country should be easier (we should let almost everyone in), and the other side being assigned to come up with reasons why immigration should be harder (we should let almost no one in). Teachers can go help each group come up with a few reasons. This should just be a quick exercise.

**Before you split the class up**, tell them we're going to go through a few quick "myths" about immigration. Have the kids do thumbs up for "true" and thumbs down for "false," then give the correct answer.

**Statement: Undocumented (or "illegal") immigrants do not pay taxes.**

- Fact: All immigrants pay sales taxes when they buy things, and property taxes on their houses, or city taxes on their rentals. Also, most immigrants use fake Social Security numbers, which means that they pay payroll or income taxes. Undocumented immigrants pay about \$8.5 billion per year into Social Security and Medicare.

**Statement: Even if undocumented immigrants pay taxes, they still cost society more money than they contribute.**

- Fact: Undocumented immigrants can use some government services, like public schools, emergency room visits, and the Public Defender's Office. But they can't use a lot of other services, including welfare, public housing, college loans, and Medicaid. Since immigrants pay taxes, most people think that they put more money into the economy than they take out.

**Statement: Undocumented immigrants don't try learning how to speak English.**

- Fact: It is true that about half of undocumented Latinos don't speak very much English. However, 96% of them believe that teaching English to their kids is "very important," and almost 60% of English-teaching schools for adults have long waiting lists to get into classes.

**Statement: Immigrants do jobs Americans won't do.**

- Fact: Here, there is no true or false – it depends what kind of jobs we're talking about. There are certain kinds of jobs which immigrants are more likely to do than Americans: farmworkers, dressmakers, landscapers, hotel room cleaners. Those jobs probably would not be filled by Americans if there were fewer immigrants, at least not at current wages. Also, industries like nursing and computer programming have to hire immigrants, because there is a shortage of qualified Americans with the right skills. With other jobs, it's harder to predict whether Americans would take them if there were fewer immigrants.

**Statement: Undocumented immigrants could come to the US legally if they would just wait their turn to apply for legal status.**

- Fact: There are typically only four ways to come to the US legally – **1) Green cards from an employer**, mostly for skilled professionals like scientists, professors and international business people (only 5,000 unskilled worker visas are issued per year for construction workers, cleaning people, hotel staff etc.); **2) Family member visas** for certain relatives (spouses, parents, children, siblings) of legal residents, generally only issued after 5-16 years of residency; **3) “Diversity Visas”** for immigrants from certain countries with low US immigration (Mexico, China and India are excluded); and **4) Asylum** for people who have been victims of *persecution* in their home countries. Most people do not fit into these categories, so they either cannot come to the US legally, or would have to wait many years to be able to do so.

**Then break the class up** and ask them to come up with reasons immigration should be easier/harder. If the kids seem stumped, you can suggest some possibilities.

*Teaching tip:* Have the kids come up with stories of potential immigrants that we would or would not want coming to this country (a brilliant scientist, a notorious serial killer). Try and get them to anticipate the arguments the other side might make and come up with counter-arguments.

Possible reasons immigration should be easier:

- Immigrants can offer valuable skills and talents that can help this country.
- If people want to work hard, they should be allowed to come here.
- This country was originally founded by immigrants.
- Many famous Americans have been immigrants (Albert Einstein, Joseph Pulitzer, John Muir, Madeleine Albright).
- People who come from countries suffering war, violence, famine, etc. can improve their lives by coming to this country.
- Because recent immigrants are often willing to do jobs American citizens prefer not to do, they fill an important role in our economy.

Possible reasons immigration should be harder:

- There is a high level of unemployment in this country, and immigrants may take jobs away from citizens.
- Too many immigrants coming at once may strain resources such as food, housing, and government services.
- Immigrants who do not speak English may not fit in to American society
- If immigration is very easy, it is hard for the government to stop people like criminals and drug traffickers from coming to this country.

**Bring the class back together** and have each side share a few of the reasons they came up with.

**LECTURE: Current Immigration Policies in This Country**  
**(Time Check: 15-20 minutes)**

**Introduction**

Tell the class we're going to discuss some of the current immigration policies in this country. First, we're going to talk about how difficult it is to cross the border and what can happen if a person gets caught. Then, we'll talk about two different ways people who came to this country illegally can obtain avoid being deported.

**Teacher's Note:** There's a lot of information to absorb here, so feel free to stop and quiz the students periodically (i.e. does anyone know what the maximum sentence is for the first time crossing the border illegally; or, true or false, deferred action means a person can become a citizen, etc.).

**Criminal Penalties/Crossing the Border**

Crossing the border: Each year, between 150-250 people die trying to cross the border from Mexico into the Arizona desert (where most immigrants initially try to cross).<sup>1</sup>

**Ask the class if they know what happens when people are caught trying to illegally cross the border.** They may say deportation or jail—tell them the answer is, now, both: immigrants are first jailed and then deported.

Even aside from the risk of death, if caught, immigrants can now face criminal charges. In the past, people caught illegally crossing the border were simply deported back to their home country.

But now, the Border Patrol often arrests and criminally charges illegal immigrants. The first time a person is caught crossing the border, they usually receive only “time served”; that is, they are in jail only for the couple days between being arrested and appearing in court, and then they're deported the next day. But the court can potentially charge them up to six months for their first time crossing the border<sup>2</sup>, and more importantly, they now have a criminal record.

**Write the maximum sentence for the first time caught crossing on the board**

Because they have a criminal record, the next time they're caught crossing the border, they will receive a much longer sentence, and the sentence will increase each time they're caught—the second time, they might only get a few weeks, then a few months the third time, and so on. Assuming they have no other crimes on their record besides illegal re-entry, they can receive up to two years, just for repeatedly crossing the border.<sup>3</sup> If they

<sup>1</sup> <http://www.nomoredeaths.org/Information/deaths.html>

<sup>2</sup> 8 U.S.C. § 1325

<sup>3</sup> 8 U.S.C. § 1326

have drug misdemeanors or felonies on their record, they can get up to ten years, and if they have aggravated felonies on their record, they can get up to twenty years.<sup>4</sup>

**Write the maximum sentences for repeat crossings with different types of criminal records on the board**

And after they serve all this time in American prisons, they will then be deported back to their home country.

**Deferred Action and work permits**

**Ask the class** if anyone has heard of the DREAM Act. If they have, call on them and ask them to explain it, and if not, feel free to do it yourself.

The DREAM Act is a legislative proposal *that has not yet been made into a law*.

Basically, it would be a way for people who came to this country illegally when they were young and have lived in this country for years and gone to school here to get permanent residency.

Unfortunately, although the proposal is still being debated in Congress, it has not yet been passed.

Then **ask the class** if they know anything about recent changes to immigration policy under President Obama.

President Obama recently announced a program called **Deferred Action for Childhood Arrivals** (write this on the board).

**Ask the class** if they know what “deferred” means, and explains it means “delayed.” Basically, if I apply for deferred action through this program, the government will “delay” taking any immigration action against me (like deporting me) for at least two years, and at the end of the two years, I can apply for renewal for another two years.<sup>5</sup> So for two or four years (depending on if I apply for a renewal), I don’t have to worry about getting deported, and I am allowed to legally live and work in this country.

**How do I get deferred action status and a legal work permit?**

**First, I have to meet certain requirements (write on board):**

- Be under the age of 31
- Came to the U.S. illegally before I was 16
- Have lived in the U.S. for the last 5 years “continuously” (without leaving, except for short trips)

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<sup>4</sup> *Id.*

<sup>5</sup> All of the DACA info is from [www.ucis.gov](http://www.ucis.gov)

- Am currently in school, or have obtained my high school diploma or G.E.D.
- Have not been convicted of a felony, serious misdemeanor, or three or more misdemeanors (this may be discouraging to the class as many may not qualify, but remind them it could still be important for their family members or friends to know, if they want to apply)

**Second, I have to apply:**

- I need to collect proof of my identity, immigration status, that I came to the U.S. before I was 16, that I've been in school, etc.
- Then I fill out two forms and a worksheet, and have to pay \$465 and wait 90 days.
- After, I can legally work and live in this country without any fear of deportation, for at least two years, and possibly four.

**Tell the students** that there is one more way people can be allowed to stay in this country even though they came here illegally. It's called "asylum."

**Obtaining Asylum**

**Teacher's Note:** The below lecture is quite detailed. Feel free to simplify concepts for the class—there is no need to emphasize each and every detail (they're mostly there in case you want to use them). The important take-away points are the requirements for asylum (underlined below as three points) and the five categories of protected grounds (bottom of page).

**THE LAW OF ASYLUM**

**Tell the students:** We are going to focus today on **asylum**, one of the ways that an immigrant can come to the US legally.

**Write** "Asylum" on the whiteboard. **Ask** the students: What is asylum?

**Answer:** (write on board) – Legal immigration status because of a **1) well-founded fear of persecution** on account of **2) a protected ground**, which makes someone **3) unable or unwilling to avail himself of the protection of the state.**

***(1) Well-Founded Fear Of Persecution***

- **Ask:** what does *persecution* mean?  
Definition: to oppress or harass because of something
- **Ask:** What is a "**well-founded fear**?"  
e.g. Is a fear that I will be abducted by aliens well-founded? What about a fear that I will get beaten up in a gang-controlled neighborhood at night if I'm a member of a rival gang?  
Definition: Fear is well-founded if reasonable person in the asylee's circumstances would fear persecution (Courts have held that a 1 in 10 chance of persecution is sufficient).

**Tell the class:** Many people feel persecuted sometimes by their parents, bullies in their neighborhood or their older brothers, but that kind of persecution isn't enough to get asylum.

For asylum purposes, a person must also be persecuted:

**(2) Based On Protected Grounds**

○ **On the basis of 1 of 5 protected grounds:**

*Write on the board:*

- 1) Religion  
(e.g. Being a European Jew during the Holocaust)
- 2) National Origin
- 3) Race/Ethnicity  
(e.g. Kurdish people in Iraq)
- 4) Political Opinion  
(e.g. A journalist in China who writes bad things about the government and is thrown in jail.)
- 5) Membership in a Social Group  
(e.g. A gay person in a strict Muslim country.)

***State Protection Unavailable***

○ **Unable or unwilling to avail himself of the protection of the state.**

Ask: What does that mean? Why would the government not protect someone who was being persecuted?

e.g. Government is doing the persecuting; government is weak or unstable or corrupt; government doesn't have a legal system to prosecute wrongdoers.

**THE ASYLUM PROCESS**

Tell the class: If you think you should get asylum, you go through the **Asylum Process**:

1. Come to the US **ask for asylum** either by filing an application with the government (INS) (“*affirmative asylum*”) or during “removal” proceedings, which happens if you are caught here illegally and the government wants to send you to your home country (“*defensive asylum*”).

(*Note*: The majority of asylum applications are actually filed at US Embassies abroad, but we will focus on those filed once the immigrant has entered the U.S.).

**2. Interview with an “asylum officer”**

- It is up to an asylum officer to believe your claim and if he or she does not, then they have the discretion (or choice) to deny the asylum claim
3. If you are granted asylum, you **receive lawful permanent resident status** (“green card”).
- You are protected from returning to the country where you were being persecuted.
  - You get the right to work in the US and receive benefits, like Social Security and Medicare.

NOT US Citizenship – you have the right to apply for citizenship like any other green card holder after being in the US for 5 years.

**Conclusion**

**(Time check: 2 minutes)**

**Summarize the lesson:** Today, we talked about the pros and cons of different immigration policies and why the United States might choose to have the immigration policy it does. We also talked about current immigration policies in this country: the criminal penalties people can face for crossing the border, a way people can obtain permission to live and work in this country for 2-4 years, and asylum, a different way to obtain legal status.

**Ask the students if they have any questions.**

**Thank the students** for their participation and for listening to so much information!