

Veterans' Legal Assistance Program  
Clinic  
Law 678; §001  
1-3 Credit Hours  
Mondays, 4:20-5:35, Room 164  
Syllabus – Fall 2021

**Professor:**

Martin D. Parsons  
Clinical Assistant Professor  
[martin.parsons@siu.edu](mailto:martin.parsons@siu.edu)  
Office: 618-453-8797  
Cell: 217-418-5032

**Course Description:**

Welcome to the Veterans' Legal Assistance Program ("VLAP") Clinic at SIU School of Law. The VLAP provides legal assistance to area veterans who cannot afford or do not have access to legal representation in the appeals of claims for compensation for service-connected disabilities; and petitions for the upgrade of other-than-honorable or bad conduct discharges for military members with post-traumatic stress disorder ("PTSD") or victims of military sexual trauma ("MSA"). The VLAP also assists with some civil legal matters. The VLAP is a member of the Illinois Armed Forces Legal Aid Network.

**Course Objectives:**

1. The student will become familiar with *Title 38, USC, Veterans*, and apply various sections in research, writing, and advocacy for veterans filing appeals in disability compensation claims before the Department of Veterans Affairs, and petitions for discharge upgrades.
2. The student will have the opportunity to represent veteran clients in appeals of disability compensation claims before various levels of the Department of Veterans Affairs and the Court of Appeals for Veterans Claims.
3. The student will expand his/her research and writing skills through a comprehensive memorandum covering the factual and legal issues presented in a disability claims appeal; coordinating the administrative forms to pursue the appeal; and outlining a course of action to succeed in the appeal.
4. The student will improve his or her ability to learn from face-to-face interaction with clients and gain experience in representing a client in a claims appeal.
5. The student will learn practical skills required for success in the practice of law.

## **Student Performance Evaluation:**

The Clinic is graded on a modified Satisfactory/Unsatisfactory scale (S, S+, S-, U). To complete the course for 3 academic credits, students must complete **140** class/clinic hours; and for 2 credits, **94** class/clinic hours.

*The American Bar Association standards for accrediting law schools contains a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), “a ‘credit hour’ is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.”*

We will spend one 75-minute block of time together each week, which equates to 1.5 classroom hours. The amount of assigned reading and out of class preparation should take you about 3 hours for each class session per week. The classroom portion accounts for one credit hour of work, or 47 hours.

*Additionally, depending on whether you are taking this course for two or three credits, you will need to spend additional time on “**clinic hours**.” If you are taking it for 3 credit hours you need to complete **94 clinic hours**. If you are taking it for 2 credit hours you need to complete **47 clinic hours**. That is an average of **3.4 hours** per week if you are taking the course for **two** credit hours, and an average of **6.7 hours** per week if you are taking it for **three** credit hours.*

*All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending a minimum of **7.7 hours per week** if you are taking it for **two credit hours** (75 minutes in class, 3 hours preparing for class, and average 3.4 clinic hours) on course-related work; or*

***11 hours per week** if you are taking it for **three credit hours** (75 minutes in class, 3 hours preparing for class, and average 6.7 clinic hours) on course-related work.*

**Clinic Hours.** Hours spent meeting with or talking to veterans about claims or potential claims; researching a potential client’s claim; reviewing and organizing a client’s records; researching a client’s claim; drafting briefs and memos; observing court proceedings; planning and preparing intake/clinic days; assisting at intake/clinic days; planning and preparing CLEs or other attorney training; and staffing the VLAP office all count toward your clinic hours. Other work may also be credited toward clinic hours with instructor approval.

Clinic hours will be tracked in .1 hour increments and documented in Clio. Students will email a weekly total of hours to the instructor via email. Hours are due at the end of each week.

## **Course Materials:**

*Veterans Benefit Manual, 2017-18 Edition (“VBM”)*

*Military Service and the Law, IICLE publications, 2018. (“MSL”)*

The VBM is available for reading in the VLAP office or on LexisNexis. MSL is available as a downloadable PDF through the law school library’s website and from the instructor.

## **Mandatory Course Assignments:**

1. Case work product: As assigned by the instructor.
2. Weekly class worksheets due each week prior to class.
3. B-weekly in-person or video meeting with instructor.
4. Client memo for assigned case(s).
5. Clinic Hours updated in Clio Activities weekly, and at the end of the course must total appropriate number of Clinic hours for registered credits. **3 credits = 94 Clinic hours; 2 credits = 47 Clinic hours. You will receive an Unsatisfactory grade or an Incomplete if you do not complete the required hours.**
6. Final brief/memo on status of assigned case(s).
7. Course reflections/critique/suggestions for improvement memo.

## **Microsoft Teams Usage:**

We will use a MS Teams for discussion boards, reading materials, messaging, and assignments. For the easiest access and optimal experience, you should download the Teams app to your computer and/or phone.

## **Class attendance:**

VLAP students are expected to attend all classes and complete all course work during the semester.

Attendance will be taken at each class period. You will be allowed two (2) absences. If you have more than two (2) absences, you may be withdrawn from the class. The in-class lectures are designed to summarize reading or research topics for the week. Completion of the reading assignments and weekly worksheets **prior** to class is required to understand the lecture and participate in the classroom discussions.

## **Schedule and assignments:**

Schedule a half-hour meeting with me every other week to discuss your cases. I will assign you to odd or even weeks. The link to my calendar is:

<https://calendly.com/martin-paisleyguy/30min>

Monitor Teams chat and your email for current events and news that may change your reading assignments or affect the material we cover that week.

*All reading assignments should be completed before class date, in preparation for class discussion. Any additional reading will be assigned, and the syllabus updated, as necessary. We **may deviate** from this syllabus with assignments taken from current events, new cases, or to accommodate guest speakers, scheduling conflicts, etc. Although I try to adhere to the schedule, we may occasionally jump ahead or fall behind. In such case, we will begin the next class where we left off, unless told otherwise.*

**Class 1, August 16****Intro to VLAP**

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Read: VBM, 2.1-2.3 (Who is a Veteran?)

Topics: Who is a Veteran?

Overview of the VLAP.

Syllabus review and discuss Clinic hour requirements.

Overview of Clio practice management software.

Intake and phone procedures.

Calendar and scheduling process.

Virtual tour and discussion of VLAP offices.

Discuss first case assignment.

**Class 2, August 23****Introduction to Veterans Advocacy**

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Read: 1. VBM – 17.1, 17.5, 17.8, 16.1, 16.2, 16.3, 18.1, 18.2, 18.3  
2. TN, pp 3-12 (Instructor provided.)

**\*Complete class topic worksheet.\***

Topics: Overview of the Department of Veterans Affairs

Veterans Benefits

Legal effect of regulations, GC opinions, Manual 21-1MR

United States Department of Veterans Affairs (VA): administrative review levels

Filing an Initial Claim

Segmented Lanes/Fully Developed Claims

Regional Office Decision

Notice of Disagreement (NOD)

Statement of the Case (SOC)

Appeals to the Board of Veterans Appeals (BVA)

Appeals to the Court of Appeals for Veterans Claims (CAVC)

**Class 3, August 30****The Basics of Service Connection**

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Read: VBM – Ch. 3.1-3.3 (p.55-104)

**\*Complete class topic worksheet.\***

Topics/Cases: Three Requirements to Establish Service Connection

*Rose v. West*, 11 Vet. App. 169 (1998)

In-Service Injury or Disease

*Buchanan v. Nicholson*, 451 F.3d 1331 (2006)

Relaxed Standard for Combat Veterans

38 USC 1154

*Stone v. Nicholson*, 480 F.3d 1111 (2007)

The Presumption of Soundness

38 USCS 1111

38 CFR 3.304

*Wagner v. Principi*, 370 F.3d 1089 (2004)

The Line of Duty Presumption

38 USC 105

*Thomas v. Nicholson*, 423 F.3d 1279 (2005)

**Class 4, September 6      Military Cultural Competency (No in-person class.)**

Read: Military Service and the Law (IICLE®, 2009, Supp. 2013) (Instructor provided.)  
Military Cultural Competence video by instructor. (Instructor provided.)  
Online PsychArmor Videos. (Instructor will provide links and info.)

**\*Complete class topic worksheet.\***

Topics:            Military branch overview.  
                      Officer vs. enlisted.  
                      Military law overview.  
                      Boot camp.  
                      Life in the military.  
                      Transition to civilian life

**Class 5, September 13                      Adjudication of Claims**

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Read: VBM – 12.1, 12.2, 12.3, 12.4, 12.10, 12.11, 13.1, 13.2

**\*Complete class topic worksheet.\***

Topics/Cases: Filing a Claim  
                                  *Rodriguez v. West*, 189 F.3d 1351 (1999)  
                                  Rating Decision  
                                  Appealing an Initial Decision  
                                  *Gallegos v. Principi*, 283 F.3d 1309  
                                  Statement of the Case  
                                  Formal Appeal to the Board of Veterans Appeals (BVA)  
                                  Appealing a BVA Decision to Court of Appeals for Veterans Claims (CAVC)  
                                  *Graves v. Principi*, 294 F.3d 1350

**Class 6, September 20                      Client Counseling and Interviewing**

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Read: Required: *Client Science: Advice for Lawyers on Initial Client Interviews* (Article)  
Optional: *Interviewing and Counseling Clients in a Legal Setting* (Article)

**\*Complete class topic worksheet.\***

Topics: Observation, memory, facts, and evidence.  
          Client interviewing as problem solving.  
          Purposes in interviewing clients.  
          Interviewing dynamics.  
          Organizing the interview.  
          Preparing for the interview.  
          Beginning the interview.  
          Information gathering.  
          Ascertaining the client's goals.  
          Considering a strategy during the interview.  
          Closing the interview.  
          Questions. (What to ask about. Organizing and formulating questions.)  
          Special problems in client interviewing.

**Class 7, September 27****VA's Duties to Claimants**

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Read: VBM – 12.5 (906-926)

**\*Complete class topic worksheet.\***

Topics/Cases: Duty to Assist  
38 USC 5103A – VCAA  
38 CFR 3.103  
Duty to Develop Veteran's Claim  
Benefit of the Doubt Rule  
*Henderson v. Shinseki*, 131 S. Ct. 1197 (2011)  
*Epps v. Gover*, 126 F.3d 1464 (1997) superseded by *Bernklau*  
*Bernklau v. Principi*, 291 F.3d 795 (2002)

**Class 8, October 4****Establishing Nexus for Service Connection**

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Read: Required: VBM Ch. 3.4 (p.105-133)  
Optional: VBM Ch. 3.4 (p.134-152)

**\*Complete class topic worksheet.\***

Topics/Cases: Evidence of a Qualifying Present Disability  
*Palczewski v. Nicholson*, 21 Vet. App. 174 (2006)  
*Sanchez-Benitez v. West*, 13 Vet. App. 282 (1999)  
Direct Service Connection  
*Lyles v. Shinseki*, 2012 U.S. App. Vet. Claims LEXIS 2437 (2012)  
*Mattern v. West*, 12 Vet. App. 222 (1999)  
Aggravation  
*Cotant v. Principi*, 17 Vet. App. 116 (2003)  
Secondary Service Connection  
*Jones v. West*, 12 Vet. App. 383 (1999)  
Presumptive Service Connection  
(Optional) *Haas v. Peake*, 525 F.3d 1168 (2006)  
*Nehmer v. Dept of Veteran Affairs*, 494 F.3d 846 (2007)  
*Procopio v. Wilkie*, 913 F.3d 1371 (2019)  
Section 1151 Claims - 38 USCS 1151

**Class 9, October 11****Introduction to Post Traumatic Stress Disorder**

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Read: VBM 3.6 (p.170-200)  
Handout – What is PTSD?  
Assigned essays. Each student will read an assigned essay and present a 3-5 minute summary of the essay and a personal reaction to the essay.

**\*Complete class topic worksheet.\***

Review of PTSD related cases and service-connection applicability to VA Claims.  
*Pentecost v. Principi*, 16 Vet. App. 124 (2002)  
*Sizemore v. Principi*, 18 Vet. App. 264 (2004)  
*Moran v. Principi*, 17 Vet. App. 149 (2003)

**Class 10, October 18****Discharge Upgrades**

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Read: VBN – Ch. 21 (p. 1687-1707)  
Veterans Discharge Upgrade Manual & Supplement by Conn. Veterans Legal Center  
Recorded video.

**\*Complete class topic worksheet.\***

**Class 11, October 25****Disability Evaluations, Increases, & TDIU**

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Read: VBM 5.1 (p. 299-323), 5.5 (p. 379-393), 5.8-5.9 (p. 423-431)

**\*Complete class topic worksheet.\***

Topics/Cases: Rating Schedule  
*Mauerhan v. Principi*, 16 Vet. App. 436 (2002)  
38 CFR 4.25  
Rule Against Pyramiding  
*Amberman v. Shinseki*, 570 F.3d 1377 (2009)  
Analogous Ratings  
*Green v. West*, 11 Vet. App. 472 (1998)  
Requirements for TDIU  
38 CFR 4.16  
*Faust v. West*, 13 Vet. App. 342 (2000)

**Class 12, November 1****Court of Appeals for Veterans Claims**

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Read: VBM 15.1; 15.2.1 to 15.2.3; 15.4 (Approx. 29 pages total)

**\*Complete class topic worksheet.\***

Students will watch an assigned CAVC case. Prior to reading the Court's decision the student will write a short paper about which side should prevail and why. Upon completion of the first part of the paper, the student will read the decision and add a second part to the paper about the actual decision and whether they were correct in their analysis or not. If so, were there arguments they missed or did they get it all? If not, what did they miss in their analysis? In addition, the student will discuss any other observations about the process generally or specifically. The completed paper should be 2-3 pages long and will be "graded" for proper punctuation, grammar, and word usage.

**Class 13, November 8****Effective Dates**

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Read: Required: VBM 8.1- 8.6 (612-653)  
Optional: VBM 8.1- 8.6 (654-674)

**\*Complete class topic worksheet.\***

Topics/Cases: General Rule  
*Butler v. Shinseki*, 603 F.3d 922 (2010)  
*Ellington v. Peake*, 541 F.3d 1364 (2008)  
Staged Ratings  
*Meeks v. West*, 216 F.3d 1363 (2000)

Clear and Unmistakable Error  
38 USC 5109A  
38 USC 7111  
*Cook v. Principi*, 318 F.3d 1334 (2002)  
Reopened Claims  
*Sears v. Principi*, 349 F.3d 1326 (2003)

**Class 14, November 15      Non-Service Connected Pension & Survivor Benefits**

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Read: VBM 6.1 (457-461), 6.4 (493-499), 7.1-7.3.2 (511- 557)

**\*Complete class topic worksheet.\***

Topics/Cases: Disability Pension  
*Grantham v. Brown*, 8 Vet. App. 228 (1995)  
Access to Medical Benefits  
38 CFR 17.36  
Accrued Benefits/Substitution  
38 USC 5121  
38 USC 5121A  
VA General Counsel Precedent 8-00  
Dependency & Indemnity Compensation  
*Tarver v. Shinseki*, 557 F.3d 1371 (Fed. Cir. 2009)  
*Barela v. Shinseki*, 584 F.3d 1379 (2009)  
Death Pension

**Policies**

**Independent Work; Ban on Collaboration.** *You are allowed to discuss assignments with any other student, but you are not allowed to rely on any written materials from another student. If you fail to comply with this requirement for independent work, you can be found in violation of the Honor Code, which can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of any violation. When in doubt, ask your professor.*

**Notice of Recording.** *Primarily to assist our students with disabilities or other health issues, SIU School of Law routinely records all classes at the law school. Audio and video recording of classes by students themselves (as opposed to recording by the IT Department) is prohibited. It is an Honor Code violation to create or distribute such recordings when the instructor has prohibited either action (Honor Code I.E.I.g). If you require an accommodation to record this course yourself, please work with Associate Dean Buys to request the appropriate accommodation.*

**EMERGENCY PROCEDURES:** *We ask that you become familiar with **Emergency Preparedness @ SIU**. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness @ SIU website, and through text and email alerts. To register for alerts, visit: <http://emergency.siu.edu/>.*



**Disability Policy.** *SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval please contact DSS immediately at 618-453-5738 or [disabilityservices.siu.edu](mailto:disabilityservices.siu.edu). You may request accommodations at any time, but timely requests help to insure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreements for each course to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations. Accommodation [request](#) and [renewal](#) forms can be found here: <https://law.siu.edu/academics/>.*

**Saluki Cares.** *The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or [siucares@siu.edu](mailto:siucares@siu.edu), or <http://salukicare.siu.edu/index.html>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is [judiray@siu.edu](mailto:judiray@siu.edu), and her phone number is 618-453-3135.*

**COVID-19.** *SIUC's policy on face masks and social distancing is consistent with the guidance from the Centers for Disease Control and Prevention and the Illinois Department of Public Health. For up-to-date information, students, faculty, and staff should visit SIUC's COVID website (<https://siu.edu/coronavirus>), which includes the Saluki Safety Plan. People can also send email to [pandemicinfor@siu.edu](mailto:pandemicinfor@siu.edu).*

UPDATED: 8-3-2021

# Syllabus Attachment

Fall 2021

CARBONDALE

MISSION STATEMENT FOR SOUTHERN ILLINOIS UNIVERSITY CARBONDALE

SIUC embraces a unique tradition of access and opportunity, inclusive excellence, innovation in research and creativity, and outstanding teaching focused on nurturing student success. As a nationally ranked public research university and regional economic catalyst, we create and exchange knowledge to shape future leaders, improve our communities, and transform lives.

## IMPORTANT DATES

Semester Classes Begin:	08/16/2021
Last day to add full-term course (without Dean's signature):	08/22/2021
Last day to withdraw from the University with a full refund:	08/27/2021
Last day to drop a full-term course for a credit/refund:	08/29/2021
Last day to drop a full-term course (W grade, no refund):	10/24/2021
Final examinations:	12/06–12/10/2021

Note: Please verify the above dates with the Registrar calendar and find more detailed information on deadlines at <http://registrar.siu.edu/calendars>. For add/drop dates that apply to shorter-than-full-term courses, please look at the Schedule of Classes search results at <http://registrar.siu.edu/schedclass/index.php>

## FALL SEMESTER HOLIDAYS

Labor Day 09/06/2021  
Veterans Day 11/11/2021  
Thanksgiving Break 11/20-11/28/2021

## DIVERSITY

Southern Illinois University Carbondale's goal is to provide a welcoming campus where all of our students, faculty and staff can study and work in a respectful, positive environment free from racism and intimidation. For more information visit: <https://diversity.siu.edu>. Additional informational flyer: [https://diversity.siu.edu/common/documents/help\\_contacts.pdf](https://diversity.siu.edu/common/documents/help_contacts.pdf).

## DISABILITY SUPPORT SERVICES

SIUC Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval please contact DSS immediately at (618) 453-5738 or <https://disabilityservices.siu.edu>. You may request accommodations at any time, but timely requests help to insure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty.

## MILITARY COMMUNITY

There are complexities of being a member of the military community and also a student, and military and veteran related developments can complicate academic life. If you are a member of the military community and in need of accommodations please visit Veterans Services at <http://veterans.siu.edu/>.

## STUDENT MULTICULTURAL RESOURCE CENTER

The Student Multicultural Resource Center serves as a catalyst for inclusion, diversity and innovation. As the Center continues its work, we are here to ensure that you think, grow and succeed. We encourage you to stop by the Center, located in the Student Services Building Room 140, to see the resources available and discover ways you can get involved on the campus. Visit us at <https://smrc.siu.edu/>.

## SALUKI CARES

The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress-physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIUC will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For information on Saluki Cares: Call (618) 453-2461, email [siucares@siu.edu](mailto:siucares@siu.edu), or <http://salukicare.siu.edu/>.

## SAFETY AWARENESS FACTS AND EDUCATION

Title IX makes it clear that violence and harassment based on sex and gender is a Civil Rights offense subject to the same kinds of accountability and the same kinds of support applied to offenses against other protected categories such as race, national origin, etc. If you or someone you know has been harassed or assaulted, you can find the appropriate resources here: <http://safe.siu.edu>

## COVID-19

SIUC's policy on face masks and social distancing is consistent with the guidance from the Centers for Disease Control and Prevention and the Illinois Department of Public Health. For up-to-date information, students, faculty, and staff should visit SIUC's COVID website (<https://siu.edu/coronavirus>), which includes the Saluki Safety Plan. People can also send email to [pandemicinfo@siu.edu](mailto:pandemicinfo@siu.edu).

## WITHDRAWAL POLICY ~ Undergraduate only

Students who officially register for a session must officially withdraw from that registration in a timely manner to avoid being charged as well as receiving a failing grade for those classes. An official withdrawal must be initiated by the student, or on behalf of the student through the academic unit, and be processed by the Registrar's office. For the proper procedures to follow when dropping courses and when withdrawing from SIUC visit: <http://registrar.siu.edu/students/withdrawal.php>

## SIUC's EARLY WARNING INTERVENTION PROGRAM (EWIP)

Students enrolled in courses participating in SIUC's Early Warning Intervention Program might be contacted by University staff during a semester. More information can be found at the University Core Curriculum's Overview webpage: <http://corecurriculum.siu.edu/program-overview/>.

## EMERGENCY PROCEDURES

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## CATALOGS

[catalog.siu.edu](http://catalog.siu.edu)  
[gradcatalog.siu.edu](http://gradcatalog.siu.edu)

Graduate policies often vary from Undergraduate policies. To view the applicable policies for graduate students, please refer to the graduate catalog.

## CENTER FOR LEARNING AND SUPPORT SERVICES

Tutoring: <http://tutoring.siu.edu/>  
Math Labs: <http://math.siu.edu/courses/course-help.php>

WRITING CENTER: <http://write.siu.edu/>

## PLAGIARISM

See the Student Conduct Code: <http://srr.siu.edu/student-conduct-code/>

## INCOMPLETE POLICY~ Undergraduate only

<http://registrar.siu.edu/grades/incomplete.php>

REPEAT POLICY: <http://registrar.siu.edu/students/repeatclasses.php>

MORRIS LIBRARY HOURS: <http://libguides.lib.siu.edu/hours>

ADVISEMENT: <http://advisement.siu.edu/>

SIUC ONLINE: <https://online.siu.edu/>

Need additional help with an issue? Visit SALUKI SOLUTION FINDER at <http://solutionfinder.siu.edu/>