

Veterans Legal Assistance Program Clinic
Law 678; §001
1-3 Credit Hours
Wednesdays, 10:30-11:45, Room 103
Syllabus – Fall 2022

Professor:

Dale J. Aschemann
Assistant Professor of Practice
dale.aschemann@siu.edu
Office: 618-453-8797
Cell: 618-534-1764

Course Description:

Welcome to the Veterans Legal Assistance Program (“VLAP”) Clinic at SIU School of Law. 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. VLAP also assists in submitting petitions for the upgrade of other-than-honorable or bad conduct discharges for military members with post-traumatic stress disorder or victims of military sexual trauma. In special circumstances, VLAP may assist with some civil legal matters not involving litigation. VLAP is a member of the Illinois Armed Forces Legal Aid Network (IL-AFLAN).

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 and petitions for discharge upgrades.
2. The student will have the opportunity to assist veteran clients in appeals of disability compensation claims before various levels of the Department of Veterans Affairs.
3. The student will expand research and writing skills by drafting comprehensive memoranda 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 the 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 participate in “round table” discussions concerning classmate case assignments.
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 **127.5** class/clinic hours; and for 2 credits, **85** class/clinic hours.

We will spend one 75-minute block of time (1.25 hours) together each week. The amount of assigned reading and out-of-class preparation satisfy the ABA standard for one credit hour.

*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 2 credit hours you need to complete **42.5 clinic hour (slightly over 3 hours per weeks)**. If you are taking it for 3 credit hours you need to complete **85 clinic hours (slightly over 6 hours per week)**.*

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 increments of .1 hour and documented in Clio. Students will email a weekly total of hours to the instructor via email **by noon each Monday** for the preceding week.

Course Materials:

Veterans Benefit Manual, 2017-18 Edition (“VBM”) (Hard copy or online.)

The VBM is available for reading in the VLAP office or on LexisNexis.

Mandatory Course Assignments:

1. Case work product: As assigned by the instructor.
2. Weekly in-person meeting with instructor.
3. Client memo for assigned case(s).
4. Clinic Hours updated in Clio Activities weekly, and at the end of the course must total the number of Clinic hours for registered credits. ***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.

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 (apart from week 1) **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 am flexible when these meetings occur and I will work with your schedule as necessary.

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 24**Intro to VLAP**

Topics: 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.

Tour and discussion of VLAP offices.

Discuss first case assignment.

Class 2, August 31 **Who Is a Veteran**

Read: Read: VBM, 2.1-2.2.4; 2.3 (Who is a Veteran?)

Topics: Other Considerations for eligibility

Class 3, September 7**Introduction to Veterans Advocacy – VA Procedure**

Read: 1. VBM – 17.1, 17.5, 17.8, 16.1, 16.2, 16.3, 18.1, 18.2, 18.3

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 4, September 14 **The Basics of Service Connection**

Read: VBM – Ch. 3.1-3.3

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 5, September 21 **Adjudication of Claims**

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

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 28

Client Counseling and Interviewing

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

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, October 5

VA's Duties to Claimants

Read: VBM – 12.5

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 12

Establishing Nexus for Service Connection

Read: Required: VBM Ch. 3.4

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)

Class 9, October 19

Introduction to Post Traumatic Stress Disorder

Read: VBM 3.6
Handout – What is PTSD?

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 26

Discharge Upgrades

Read: VBN – Ch. 21
Veterans Discharge Upgrade Manual & Supplement by Conn. Veterans Legal Center
Recorded video.

Class 11, November 2

Disability Evaluations, Increases, & TDIU

Read: VBM 5.1, 5.5, 5.8-5.9

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 9

Court of Appeals for Veterans Claims

Read: VBM 15.1; 15.2.1 to 15.2.3; 15.4

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 16 Effective Dates

Read: Required: VBM 8.1- 8.6
Optional: VBM 8.1- 8.6

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 30 Case Round-Table and Wrap Up

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.1.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. You may request accommodations at any time, but timely requests help to ensure 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.

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) 453-2461, or siucares@siu.edu, <https://salukicare.siu.edu/>. Assistant Dean Judi Ray is available at the School of Law to help students access university resources. Please email her at judiray@siu.edu, or call 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.

UPDATED: 8-23-2022

STUDENT CERTIFICATION

I have read the syllabus for the fall 2022 semester of LAW 678, Veteran' Legal Assistance Program Clinic.

I understand the number of hours required to complete the clinic component of the course. To complete the clinic component for the course, I must complete _____ **clinic** hours. These hours are in addition to preparation for, and attendance of, the classroom component.

I understand the requirement for independent work as listed on page 7 of the syllabus. This includes the use of notes or other work product of another student for any work turned in for credit, graded or ungraded.

Date

Print Name

Signature

Syllabus Attachment

Fall 2022

MISSION STATEMENT FOR SOUTHERN ILLINOIS UNIVERSITY CARBONDALE

SIU 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:	08/22/2022
Last day to add full-term course (without Dean's signature):	08/28/2022
Last day to withdraw from the University with a full refund:	09/02/2022
Last day to drop a full-term course for a credit/refund:	09/04/2022
Last day to drop a full-term course (W grade, no refund):	10/30/2022
Final examinations:	12/12-16/2022

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 09/05/2022
Election Day 11/08/2022
Veterans Day 11/11/2022
Thanksgiving Break 11/19-11/27/2022

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: <http://diversity.siu.edu>. Additional [informational flyer](#).

DISABILITY SUPPORT SERVICES

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 <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, 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: Call (618) 453-2461, email 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 (siu.edu/coronavirus), which includes the Saluki Safety Plan. People can also send an email to 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 SIU visit: <http://registrar.siu.edu/students/withdrawal.php>.

SIU's EARLY WARNING INTERVENTION PROGRAM (EWIP)

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

EMERGENCY PROCEDURES

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

CATALOGS

catalog.siu.edu
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: <https://advisement.siu.edu/>

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

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