

Veterans' Legal Assistance Program  
Clinic  
Law 678; §201  
1-3 Credit Hours  
Tuesdays, 3:00-5:00, Distance Learning  
Syllabus Summer 2020

**Professor:**

Martin D. Parsons,  
Clinical Assistant Professor

**Email:** [martin.parsons@siu.edu](mailto:martin.parsons@siu.edu)

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.

**Course Objectives:**

1. The student will become familiar with *Title 38, USC, Veterans*, and will 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.

## **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 **120-minute** block of time together each week, which equates to **2 classroom hours**. The amount of assigned reading and out of class preparation should take you about **4 hours** for each class session per week.*

*Additionally, depending on whether you are taking this course for two or three credits, you will need to spend additional time on “clinic hours.” You will need to average **6 hours** per week if you are taking the course for **two** credit hours, and average an additional **12 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 **12 hours per week** if you are taking it for **two** credit hours (**120 minutes in class, 4 hours preparing for class, and average 6 extern hours**) on course-related work; or*

***18 hours per week** if you are taking it for **three** credit hours (**120 minutes in class, 4 hours preparing for class, and average 12 extern 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.

## **Required Course Materials:**

*Veterans Benefit Manual, 2017-2018 Edition. (“VBM”)*

*Military Service and the Law, IICLE publications, 2009 with 2013 update. (“MSL”)*

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

### **Microsoft Teams Usage:**

We will use a MS Teams for discussion boards, reading materials, and assignments. All classes will “meet” within Teams and utilize its meeting and video capabilities.

### **Mandatory Course Assignments:**

1. Case work product: As assigned by the instructor.
2. Military/Veteran writing/presentation assignment. (Provided during first week.)
3. Client memo for assigned cases.
4. 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** Extern hours; **2 credits = 48** Extern hours. ***You will receive an Unsatisfactory grade if you do not complete the required hours.***
5. Final brief/memo on status of assigned case(s).
6. Course self-reflection/critique/suggestions for improvement memo.

### **Class attendance:**

VLAP students are expected to attend all classes, participate in group clinics, participate in online discussions, and complete all course work during the semester.

Attendance will be taken at each class period. You will be allowed one (1) absence. If you have more than one (1) absence, you will be withdrawn from the class. Signing the attendance sheet certifies that you have read the assigned material thoroughly enough to discuss it in class or use the knowledge in application to a case under discussion. The in-class lectures are designed to summarize reading or research topics for the week. Completion of the assignments **prior** to class is required in order to understand the lecture and participate in the classroom discussions. If you are unprepared, do not sign the attendance sheet.

### **Schedule and assignments:**

Watch Teams and emails 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 we will 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, June 9**

## **Introduction to Veterans Advocacy**

---

Read: VBM – 2.1, 2.2, 2.3, 17.1, 17.5, 17.8, 16.1, 16.2, 16.3, 18.1-18.3

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

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.

Who is a Veteran?

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).

Appeals to the Federal Circuit.

**NOTE: See Class 4 / June 30 for assignment topics.** Choose topic and get approval **prior** to Class 2. Students may **not** present on the same topic. Begin researching and drafting. Presentation given during Class 4. Five to eight-minute presentation utilizing some form of teaching aid. Write three to five-page paper on topic, due prior to Class 5.

## **Class 2, June 16**

## **Adjudication of Claims & The Basics of Service Connection**

---

### **Adjudication of Claims**

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

## The Basics of Service Connection

Read: VBM – Ch. 3.1-3.3

**\*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 3, June 23      Establishing Nexus for Service Connection & Effective Dates**

### Establishing Nexus for Service Connection

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)  
Direct Service Connection  
*Lyles v. Shinseki*, 2012 U.S. App. Vet. Claims LEXIS 2437 (2012)  
Aggravation  
*Contant 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)  
Section 1151 Claims  
38 USCS 1151

### Effective Dates

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 4, June 30** **Military/Veteran Topic Student Presentations**

---

Five to eight-minute presentation utilizing some form of teaching aid given during this class period.  
Written assignment due prior to next class period. Utilize any feedback or ideas from the presentation in your paper.

**Suggested Topics:**

1. LGBTQ Soldiers.
2. Woman in the Combat Arms.
3. Women and the draft.
4. Sexual assault in the military.
5. Deployment of National Guard and Reserve to war zones.
6. Economic impact of military service on employers of National Guard and Reserve members.
7. Military service and deployment's impact on families.
8. Family members – the forgotten casualties of war.
9. The military bond – A help or a hindrance to reintegration with civilian society.
10. UCMJ – Commander's tool to maintain good order and discipline, or shield to play favorites.

---

**Class 5, July 7** **Client Counseling and Interviewing**

---

**NOTE: Military/Veteran writing assignment due *prior* to this class period.**

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 6, July 14 Introduction to Post Traumatic Stress Disorder & Discharge Upgrades**

**Intro to Post Traumatic Stress Disorder**

Read: VBM 3.6 (p.170-200)

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)

**Discharge Upgrades**

Read: VBM – Ch. 21 (p. 1687-1707)

Veterans Discharge Upgrade Manual by Conn. Veterans Legal Center

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

**Class 7, July 21 Disability Evaluations, Increases, and TDIU & VA's Duties to Claimants**

**Disability Evaluations, Increases, and TDIU**

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. Brown*, 11 Vet. App. 472 (1998)

Requirements for TDIU

38 CFR 4.16

*Faust v. West*, 13 Vet. App. 342 (2000)

## VA's Duties to Claimants

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, July 28 Non-Service Connected Pension & Survivor Benefits & Other Material**

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

### **Additional Out of Class Assignment Military Cultural Competency**

Read: Military Service and the Law (IICLE®, 2009, Supp. 2013) (Instructor provided.)  
Military Cultural Competence online course narrative. (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



## **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.*

### **Emergencies Procedure:**

*Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at [www.bert.siu.edu](http://www.bert.siu.edu), Department of Safety's website [www.dps.siu.edu](http://www.dps.siu.edu) (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.*

*Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. **It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency.** The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.*

### **Disability Policy:**

*Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. <http://disabilityservices.siu.edu/>. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement 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) 453-5714, or [siucares@siu.edu](mailto:siucares@siu.edu), <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.*