**Veterans Clinic UF Law Training Manual**

**Helpful resources.**

**How to write a white paper.**

<https://en.wikipedia.org/wiki/White_paper>

<https://www.wikihow.com/Write-White-Papers#:~:text=A%20white%20paper%20is%20a%20one-to%20five-page%20document,It%E2%80%99s%20commonly%20used%20in%20government%20and%20corporate%20settings>.

Students have asked how to write a white paper, and I’m so glad that they did! Therefore, I found these helpful resources to help you get started. Remember, you are writing for a governmental office. Writing these white papers will prepare you for corporate in-house positions or governmental positions. You do not have to adhere to this guidance. You can write an objective memo with a purely legal question (usually the case, but not always) in the form you learned in law school. I teach Legal Writing, so reach out if you would like a reminder as to the recommended format for objective memoranda. I am happy to review and provide feedback on your chosen format. It is best to start with research to get your arms around the question and the answer. Then, you can choose formatting. For these judge advocate projects, generally, you are not persuading an audience as to a thesis. Rather, the requested papers are informative guides. Of course, questions can vary. Moreover, when you submit your white paper to the Navy, after my review and feedback, you should also provide electronic copies of helpful secondary sources as well as key primary sources. Plus, your white paper should have appropriate legal citation; you are writing to lawyers.

As to do-it-yourself guides, many legal aid offices issue such guides, so, with research, you can find examples online. For example, Jacksonville Area Legal Aid provides do-it-yourself guides to many common client problems.

<https://www.jaxlegalaid.org/covid/>

**Veterans Benefits Manual.** Always start your research by looking in the index of the Manual, and then read sections relevant to your case. For example, if your claim involves hearing loss, read the Manual section on hearing loss. If your claim involves presumptive service connection, read that section from the Manual. If your claim involves TDIU, read that section. Moreover, use the Manual for skills/procedural stuff. For example, if you are about to file a reply brief, read the Manual’s section on reply briefs as well as the relevant rule of procedure. The Manual will provide you citations to helpful primary sources, and then find those sources on Westlaw. Those sources will connect you to others. Begin identifying relevant primary sources by looking to the primary sources cited in the screening memo and in the Board decision. You can buy a physical copy of the Manual, and there is also a publication of all of the primary sources (rules of procedure for the Court, regulations concerning veterans benefits, relevant veterans’ statutes) in a separate book published by the NVLSP. You can find a free version of the Manual on Lexis at this website. Please note that there is also a chapter about discharge upgrades in the Manual.

<https://signin.lexisnexis.com/lnaccess/app/signin?back=https%3A%2F%2Fplus.lexis.com%3A443%2Ftoc%2F%3Fpdmfid%3D1530671%26crid%3D1e6de61d-2d6f-4ce6-ad34-55d9550bf403%26pdtocfullpath%3D%252Fshared%252Ftableofcontents%252Furn%253AcontentItem%253A5B7R-WCM1-F0HM-11PM-00000-00%26ecomp%3Dcywk%26earg%3Dsr0%26prid%3D59172d2d-2a8c-4b08-a7fa-6ac66ab710b3&aci=lp>

**The Veterans Consortium.** You will receive online training on appeals to the Court, discharge upgrades, and remands to the Board through the Consortium. I have sent you by email a helpful book for remands to the Board and discharge upgrades on the Consortium webpage. The Consortium has all sorts of helpful materials, including sample briefs, sample conference memoranda, motions, etc. Also, recently, I wrote an article with Colleen Miller and Danica from the Consortium, and I have sent to you that draft article; it concerns VA character of service and discharge upgrades, and it contains practice tips.

<https://www.vetsprobono.org/library/>

**National Law School Veterans Clinics Consortium**. This is the organization that put on the Boot Camp. Visit <https://nlsvcc.org/member-login/> to log in to find helpful materials. You will have to enter the username and the password. That information is as follows username: Corporate password: CorpNLS2019. You can find all of the PowerPoint materials as well as the recordings of the sessions from the Boot Camp as well as other helpful materials on the nlsvcc website.

**Montana Law Veterans’ CLE**. In the last few years, the University of Montana School of Law put on an awesome CLE about discharge upgrades and character of discharge matters. On the link below you will find helpful videos about discharge upgrades and character of discharge determination matters as well as the PowerPoint presentations corresponding to the video presentations. Also, you will find many of the relevant DOD policies for discharge upgrades and citations to all of the primary sources governing both discharge upgrades and character of discharge determination matters. <https://www.umt.edu/law/newsevents/events/vetclaims.php>

**Swords to Plowshares**. This awesome nonprofit organization supports veterans. On the website, you can find all kinds of helpful information. For example, you can find guidance on preparing a stressor statement for a PTSD claim, preparing an application for a character of discharge determination matter with VA, helping a doctor prepare a nexus opinion in support of a disability compensation claim or in support of a discharge upgrade, and all sorts of other materials. <https://www.swords-to-plowshares.org/>

**CCK Veterans Law Firm**. <https://cck-law.com/veterans-law-resource-center/> This law firm is one of the preeminent law firms serving veterans, and it provides helpful resources. You can find advice on assisting medical experts provide expert statements, preparing a PTSD stressor statement, and supporting a TDIU claim, for example.

**The website for the US Court of Appeals for Veterans Claims**. You can find all sorts of super helpful material on this website. First, you can find the rules of procedure for the Court. Those rules tell you all of the specifics about preparing briefs, filing motions, deadlines, etc. Also, by entering the veteran appeal number or the last name of the veteran or claimant whom you are representing, you can do a docket search. By doing docket searches in all of our cases, you can also find sample initial briefs, reply briefs, opposition briefs, motions, and other materials. Also, you can watch live and recorded oral arguments. <Http://www.uscourts.cavc.gov/>

**VA website**. When you are searching for scientific materials relevant to the health conditions your clients experience or concerning the exposures your clients endured (such as noxious air during Desert Storm), consider visiting VA’s webpage and searching for VA’s own scientific studies. <https://www.research.va.gov/services/csrd/> Also, when you are filling out forms for your clients, such as initial claim forms for disability compensation, VA powers of attorney, or supplemental claims forms, visit the VA website. <https://www.va.gov/disability/how-to-file-claim/> Plus, when you are working with medical experts, you can visit the VA webpage to find DBQs. <https://www.benefits.va.gov/compensation/dbq_disabilityexams.asp> Moreover, the VA telephonic helpline has proven quite helpful information to student clinicians. Representatives will not talk with you about an individual veteran’s case but will give you general guidance. Representatives are trained. Representatives will talk about the specifics of a client’s case with the attorney of record, but that is always your professor. <https://benefits.va.gov/benefits/offices.asp#:~:text=Veterans%20can%20continue%20to%20get%20information%20about%20benefits,%26%20Information%20System%20%28IRIS%29%20or%20telephone%20at%201-800-827-1000>.

**General Items:**

Types of cases:

* Discharge upgrade (DoD)
* Character of discharge determination (VA)
* Appeals to CAVC
* Remand to Board/initial claim to RSO
* JAG research
* Amicus briefs for the US Court of Appeals for the Federal Circuit
* Comments to proposed VA regulations and proposed legislation

Required hours: 270 (count everything!) Fill out timecards every week and send them to me by 5:00 PM on Sunday evening of the week.

* Appeals to USCAVC- can recover attorney fees; potentially discharge upgrades as well
* Very clearly log hours on CLIO (before clio use word doc); keep a backup record on word
  + Name of person
  + Specific about activity (review record? Incl. pg. #)
* Count everything – time spent researching background info, time preparing for client interview, time reviewing the RBA, everything in connection with case.

**How to Approach Case – appeals to the Court.**

* **Veterans Benefits Manual** Ch. 14.5
* First: review RBA for completeness & legibility
  + This is the search for all of the important info: read Board decision and other VA decisional documents and look for all of the VA decisions and evidence cited therein.
  + Make sure it’s all there!
* Begin reading/researching/writing conference memo
  + Strict formatting requirements; consult the Court rules of procedure.
* Rule 33 Settlement Conference
* If remand not granted, write full appellate brief. Look to sample conference memoranda relevant to the issues implicated in your case and look to sample initial briefs relevant to the issues presented in your case.

**UF Veterans and Servicemembers Legal Clinic Electronic Files and Email Policy**

**1. Types of cases**. We have the following types of cases: (1) appeals to the U.S. Court of Appeals for Veterans Claims (“Court”), (2) matters (remands & appeals) before the Board of Veterans’ Appeals (“Board”), (3) matters before the VA Regional Offices (“RO”), (4) character of discharge determination matters with VA (“COD”), (5) discharge upgrades with DOD (“Discharge Upgrade”), (6) portions of amicus briefs before the US Court of Appeals for the Federal Circuit, (7) commentary to proposed VA rules and proposed legislation, and (8) research for the Navy Judge Advocate (“JAG”).

2. **Students maintain electronic client files**. In this clinic, students learn how to keep organized electronic files, and students learn about Clio, one case management software system. Therefore, this policy informs students how to ensure emails are saved in the appropriate electronic file and ensure that the important case documents are uploaded into our electronic files. This policy incorporates by reference Clio training videos and other materials available online concerning such technical issues as instructions on uploading documents into electronic files and ensuring emails are saved to the appropriate electronic file.

3. **How to label and retain emails concerning client matters**.

**Emails within the clinic (i.e. to your professor, clinical staff, or your fellow students).** In most of your emails concerning client work, you will communicate with your colleagues in the clinic or with your supervising attorney. These emails can be automatically saved to the client electronic file by blind copying the file as Heather Flynn instructs in the clinical training video. You can also look up how to do this online. **It is helpful for these internal emails to be stored in our electronic files, but it is not necessary.**

**Emails concerning client work sent to and received from outside of the clinic.** Sometimes, you will send emails to and receive emails from the client, opposing counsel, or some other person outside of our clinic. **It is crucial that these emails are uploaded in the client electronic file.** Therefore, blind copy these emails pursuant to Ms. Flynn’s instructions. Also, cc your professor on these emails that you send to people outside of the clinic. Finally, **please ensure that any email sent to or received from a person outside of the clinic is uploaded into the electronic client file.**

**Labeling emails concerning client matters**. Label client matter emails as follows: **client initials, type of case, subject of email, date, attorney work product.**

Therefore, the following is a sample subject line for an email. **“JD/COD/Attached Draft Lay Statement/June 11, 2020/Attorney Work Product.”**

**4. How to label and retain key documents in your cases.**

**Overarching advice on labeling documents**.

For final documents submitted to the decision-maker, label the document as follows: “client initials, type of case, type of document, “final submission,” date of submission.” For example, for a conference memo submitted for George Jones for an appeal to the Court, “GJ/conference memo/final submission/August 25, 2020.”

You may, **but you do not need to**, maintain in electronic client files copies of working drafts, primary sources uncovered in research, scientific studies uncovered in research, or guidance memos provided by your professor or our mentor.

If you maintain drafts, please date the drafts to clarify to future students that these drafts were not the versions filed with the relevant decision-maker. **Label drafts** as follows: **“client initials, type of case, type of document, date of draft, “draft”.”** Therefore, an example could be as follows: “JD Appeal to Court Conference memorandum August 25, 2020 draft.”

Label such items as cases, statutes, scientific studies, or other information gathered for a client matter so that future student clinicians can determine from the label the nature of the document. For example, for a scientific study concerning Gulf War illness for George Jones’s case for disability compensation before the Board, label “client initials, type of case, type of document.” This would be “GJ Remand to Board Scientific Study on Gulf War Illness.”

**a. Documents you need to save: Cases to the U**.**S. Court of Appeals for Veterans Claims.** For these cases, you must save in the Clio case file: (1) the Consortium’s executed representation agreement, (2) our executed representation agreement, (3) the final version of the Conference Memo submitted to the General Counsel’s Office of VA and Central Legal Staff of the Court, including the RBA excerpts sent to OGC of VA and the Central Legal Staff of the Court and any other documents attached to the Conference Memo submission to VA OGC and the Central Legal Staff of the Court, (3) any of our client’s final, submitted motions filed with the Court, including the Joint Motion for Remand, (4) final decisions issued by the Court (including only the remand order or the decision in the case after briefing), (5) the letter to the client closing out the case, (6) any of our final briefs filed with the Court (Initial Brief & Reply Brief), (7) VA’s final brief filed with the Court (Opposition Brief), (8) the final attorney’s fees brief and exhibits that were filed with the Court, and (9) emails outside of the clinic such as to VA, the Central Legal Staff of the Court, and the client (see above for guidance).

When we receive the case, Heather will file on Clio the: (1) screening memo from the Consortium, (2) the Board decision, and (3) the RBA.

**b. Documents you need to save: Remands or Appeals to the Board of Veterans’ Appeals**

For these cases, please save on to the Clio client file: (1) the executed Consortium representation agreement, (2) the clinic’s executed representation agreement, (3) the RBA (it should probably already be saved if the case is a remand from a case we worked as an appeal to the Court), (4) the final, submitted brief to the Board and evidence of its submission to the Board, (5) all final, submitted exhibits sent to the Board and evidence of their submission to the Board, (6) the final, submitted VA POA, (7) all of our correspondence to the Board, (8) the 90 day letter and all correspondence from the Board, (9) any email correspondence concerning the case to someone outside of the clinic, (10) all medical records requested and received, including documents evidencing the request and the receipt, (11) all final, executed lay statements, (12) all final, executed expert statements, including any correspondence and exhibits provided to the expert or from the expert, and (13) the letter closing the case. Basically, we must save in the electronic file everything we send to the Board and everything we receive from the Board, and we must save all of the evidence we collect, such as the client’s medical records, even if we do not end up submitting the evidence to the Board.

**c. Documents you need to save: Discharge upgrades**

For these cases, please save on to the Clio client file: (1) the executed Consortium representation agreement as well as our executed representation agreement, (2) all documents received from the Consortium (usually including the service records, including service treatment records, and other materials, and usually Ms. Flynn does this when we receive the case), (3) the final, submitted brief and all of the exhibits submitted to the DRB or Board of Corrections of Military Records (the decision-maker), (4) all final, executed, submitted lay statements, (5) all final, executed, submitted expert statements, including any correspondence, including exhibits, to and from the expert, (6) emails received from and sent to people outside of the clinic, (7) any correspondence from the decision-maker (e.g. DRB), (8) medical records and other records requested and received, even if portions are not included in the application to the DRB, including correspondence to and from the medical facility or other organization made in our efforts to collect the documents, and (9) our letter closing out the case. Essentially, we must save in the electronic client file everything we send to the decision-maker (e.g. DRB), and we must save everything we gather that we do not submit to the decision-maker (e.g. medical records we do not submit), including documents sent to us by the relevant decision-maker.

**d. Documents you need to save: VA Character of Discharge matters.**

For these cases, please save on to the Clio client file: (1) our executed representation agreement, (2) all documents received from the Consortium (usually including the service records, including service treatment records, and other materials, and usually Ms. Flynn does this when we receive the case), (3) the final, submitted brief and all of the exhibits submitted to VA, (4) all final, executed, submitted lay statements, (5) all final, executed, submitted expert statements, including any correspondence, including exhibits, to and from the expert, (6) emails received and sent to individuals outside of the clinic, (7) any correspondence from VA, (8) medical records and other records requested and received, even if portions are not included in the application to VA, including correspondence to and from the medical facility or other organization made in our efforts to collect the documents, (9) any executed claims forms and supporting documentation sent to VA, including the executed VA POA, and (10) our signed letter closing out the case. Essentially, we must save in the electronic client file everything we send to VA and to the client, and we must save everything we receive that we do not submit to VA (e.g. medical records we do not submit), including documents sent to us by VA.

MEMORANDUM FOR RECORD

TO: Student Clinicians

FROM: Professor Clausen

RE: Guidance for initial review of the RBA

Review the Veterans benefits Manual, entitled “Reviewing VA Claims File.”

Please follow the following guidance.

(1) Calendar the deadline for your dispute to the RBA. Share that deadline with your team and the professor.

(2) Submit your document log to the professor at least one week before the deadline. Calendar that professor submission deadline. Share that deadline with your team and with the professor.

(3) Review the RBA to determine whether there are any missing pages (i.e. page numbers – any missing?).

(4) Review the Board’s decision and list all of the evidence it cites as well as all of the adjudicative actions it mentions. Make a list of these items. You will be searching for these items with the goal of ensuring that they are all in the RBA and with noting the page number on which they begin and conclude.

(5) According to Rule 10 (A), the RBA must include “a list of any record matter that cannot be duplicated.” Notably, this might include x-rays or other such material that could not be included in the RBA. (This may be implicated but probably will not.)

(6) If you need more time to review the RBA, notify the professor who will contact the VA General Counsel and request consent to a Motion for Extension of Time to review the RBA. Authority for this extension comes from Rule 26(B).

(7) In addition to listing all of the evidence and adjudicative actions referred to in the Board’s decision, list all of the evidence and adjudicative actions referred to in the Statement of the Case and Supplemental Statement of the Case which you will find in the RBA. In these documents, there is an itemized list – this makes it easy.

(8) The RBA should be divided, equally in the order in which the names of the team are listed on the case assignments, between the members of the team. One method designates one of the student clinicians to list all of the evidence and adjudicative actions referred to in the Board decision and the Statement of the Case and Supplemental Statement of the Case. The team should ensure that all of these items are in the RBA. The team should record in the document log the page number for the beginning and the end of each piece of evidence and adjudicative decision referenced in the Board decision, the Statement of the Case and the Supplemental Statement of the Case. Please note that in some instances there may be two Statements of the Case, and there may or may not be a Supplemental Statement of the Case. This all depends on the case. During the review of the entire RBA, the team will undoubtedly uncover other documents, and the team should date, name, and note the beginning and end page of these documents as well in the document log.

(9) With your portion of the RBA, without reading every word, search for each of the items listed in this list of evidence and adjudicative actions mentioned in the Board decision and Statement of the Case and Supplemental Statement of the Case. When you find the document, confirm the date, confirm that every page is in the document, and confirm that it is for this veteran.

(10) After you have done this for your portion, you can make a comprehensive document log for your portion of the RBA, listing date, page number of beginning of document and end of document, and title for each document found. If the document is a doctor’s note, you can indicate the doctor’s name.

(11) Another method allows each student to list each document, in chronological order, in that student’s portion of the RBA. Then, one or more members of the team should create a list of all of the evidence and adjudicative actions from the Board decision, the Statement of the Case, the Supplemental Statement of the Case and ensure that each of these documents is in the RBA and record the page numbers.

Please let me know if you have questions.