

Syracuse College of Law
Veterans Law
Fall Semester 2018
Yelena Duterte, yduterte@law.syr.edu, 707-290-8535 (cell)

Tentative Syllabus: We may deviate from the tentative syllabus with assignments taken from current events, new cases, to accommodate guest speakers, scheduling reason, etc. Although we will try to stick to the schedule, we may occasionally jump ahead or fall behind. In such case, we will begin the next class where we left off.

Grading:

Written Assignments 75%

1. Commenting on Regulation (10%) – **Due September 19th**
2. Board Brief or Decision (30%) – **Due October 17th**
3. Brief to Court of Appeals for Veterans Claims (35%) – **Due November 7th**

Oral Advocacy 15%

1. Board Argument (5%)
2. Court Argument (10%)

Class Participation 10%

Students can expect written feedback on written assignments and oral advocacy. Regular and punctual attendance during scheduled class time is required to earn academic credit and to satisfy residency requirements.

This is a three-credit course. Pursuant to ABA Standard 310, that means that in addition to the time you spend in class and prep time, you are expected to spend at least an additional six hours per week on course related work.

Learning Outcomes:

Learning about the Department of Veterans Affairs and its many functions; learning the substantive area of the U.S. veterans law; understanding the administrative functions of an agency, including drafting regulations and overturning regulations; and learning the basic procedural rules at the Department of Veterans Affairs.

- A. Students will apply principles of statutory interpretation to construe statutes and regulations;
- B. Students will understand the differences between statutes and regulations and how to overturn a regulation;
- C. Students will, when analyzing legal problems, identify relevant issues, apply relevant law, and anticipate contrary arguments;
- D. Students will listen actively, be respectful in their professional interactions, and collaborate when appropriate;
- E. Students will learn how to draft or rewrite regulations
- F. Students will explain legal issues understandably orally and in writing;

- G. Students will, when advocating, communicate persuasively;
- H. Students will write legal documents that are accurate and well-organized, follow accepted rules of grammar and citation, and use appropriate tone;
- I. Students will efficiently find governing law and relevant secondary sources;
- J. Students will identify relevant facts, ascertain methods for discovering those facts, and evaluate the facts obtained; and
- K. Students will recognize differing perspectives in resolving legal issues.

All reading assignments should be completed before class date, in preparation for class discussion. Additional readings may be assigned, and the syllabus updated as necessary.

- **Reading for First Class**
 - o Federal Benefits for Veterans (2017) – on blackboard

Class 1: Overview of Department of Veterans Affairs August 22, 2018, 3-530pm

- Readings for Next Class
 - o Administrative Procedures Act – 5 USC §551 - §559
 - o Chapter 2 of Understanding Administrative Law

Class 2: Administrative Procedures Act August 29, 2018, 3-530pm

- Readings for Next Class
 - o H.R.2288 - Veterans Appeals Improvement and Modernization Act of 2017
 - o Chapter 7 of Understanding Administrative Law
 - o Assign Regulation for Commenting (Due September 19)

Class 3: What Are Regulations September 5, 2018, 3-530pm

- How and Why Do Regulations Exist
- What is the Process to Create Regulations
- Practical Exercise: Interpret This
- Readings/Assignments for Next Class
 - o HR 1627 – Camp Lejeune Legislation
 - o Proposed and Final Camp Lejeune Rules and Comments

Class 4: Case Study – Camp Lejeune Regulation September 12, 2018, 3-530pm

- Readings/Assignments for Next Class
 - o Draft a Comment on Current Proposed VA Regulation (Due September 19)

Class 5: Applying the VA Law September 19, 2018, 3-530pm

- **Comment Due on Proposed VA Regulation**
- Where/How to Find Regulations
- Which Statutes and Regulations Apply?

- In Class Exercises
- Assignments for Next Class
 - o Board Assignment Handed Out (Sides Assigned)
 - Oral Presentation due October 3rd
 - Brief or Decision due October 17th
 - o Chapter 13, Veterans Benefits Manual

Class 6: Crafting a Narrative

September 26, 2018, 3-530pm

- Guest Speaker – TBD
- Board Procedure and Presentation of Your Case

Class 7: Present Your Case

October 3, 2018, 3-530pm

Class 8: Present Your Case

October 10, 2018, 3-530pm

- Assignments for Next Class
 - o Deference: When the Court Must Yield to the Government’s Interpretation
 - o *Chevron, U.S.A., Inc. v. NRDC, Inc.*, 467 U.S. 837 (1984).
 - o *Auer v. Robbins*, 519 U.S. 452 (1997).
 - o *DAV v. Sec'y of Veterans Affairs*, 859 F.3d 1072 (2017).
 - o *Brown v. Gardner*, 513 US 115 (1994).
 - o *Staab v. McDonald*, 28 Vet. App. 50

Class 9: How to Overturn Regulations

October 17, 2018, 3-530pm

- **Brief/Decision Due for Board Hearing**
- Discussion of Chevron and Progeny of Cases
- Assignments for Next Class
 - o Readings – Nehmer cases
 - o Handout Final Assignments: CAVC Case
 - Assign Sides (VA, Veteran)
 - Brief Due Nov 7
 - Oral Arguments Nov 14 & 28

Class 10: Case Study – Agent Orange

October 24, 2018, 3-530pm

- Guest Speaker - NVLSP
- Discuss Nehmer and its progeny
- Readings for Next Class
 - o Veterans Benefits Manual 15.3
 - o Veterans Benefits Manual 14.5

Class 11: Review of Court of Appeals for Veterans Claims

October 31, 2018, 3-530pm

- Discuss assignment – brief and argument
 - o Court Procedure and Presentation of Your Case

- Standard of Review - Deference
- Court Rules

Class 12: Settlement and Rule 33

November 7, 2018, 3-530pm

- Rule 33 Conference
- **CAVC Briefs Due**

Class 13: Oral Arguments

November 14, 2018, 3-530pm

Class 14: Oral Arguments

November 28, 2018, 3-530pm

Students with disabilities contact the contact Office of Disability Services or Zack Kelley, Assistant Dean of Student Affairs.

Recording is allowed in class, if it will assist you in your learning. Use the internet during class is permitted, if this will assist you in your learning.