

Practice Manual 2016-17

West Virginia University

CLINICAL LAW PROGRAM

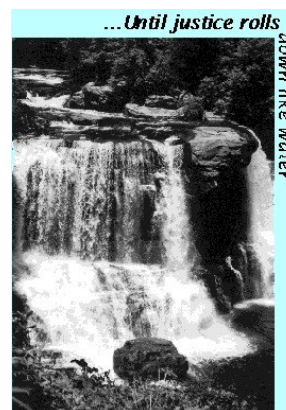


Table of Contents

I. INTRODUCTION	4
II. OFFICE POLICIES AND PROCEDURES	5
A. Student Teams	5
B. Assignment of Office Hours	6
C. Opening New Cases	7
D. Documenting Existing Cases	9
E. File organization	9
a. Initial Documents	10
1. Intake Forms	10
2. Contact information	10
3. Retainers	10
4. Conflicts check	11
b. Correspondence and Correspondence Index	11
c. Filed Pleadings or Communications with Governmental Agencies and Index	12
d. Factual Documentation	13
e. Legal Research	14
f. Memoranda	14
F. File Organization–Specialized	15
G. Closing Procedures	15
H. Transfer Procedures	17
I. Time Records, Notes, Client e-mail, Calendars & Computers	17
J. Client Confidentiality	19
K. Document Production	21

L. Mail	22
M. Photo copying	24
N. Client Funds	24
O. Expenses Incurred on Behalf of Clients	25
P. Telephones	26
Q. Clinic Calendars	27
R. Conflict File	28
S. Court and Agency Filings	28
T. Keys	29
III. GUIDELINES FOR CASE HANDLING	29
A. Supervision	29
B. Advice and Client communication	30
C. Caseload Responsibilities	31
IV. CLASS AND WRITING ASSIGNMENTS	32
A. Format of Classes	32
B. Writing Assignments	33
V. GRADING	33

I. INTRODUCTION

The West Virginia University Clinical Law Program is a two semester, fourteen credit course offered by the College of Law to third year students who are eligible to practice under the student practice rules of the State of West Virginia and are otherwise qualified to take the course. Clinic students represent clients under the supervision of faculty attorneys. Students receive academic credit based upon their satisfactory completion of both casework and classroom components of the course. For a further discussion of grading procedures see section V below.

The Clinic is a demanding course, commensurate with the credit assigned to it. Students are expected to devote an average of fifteen to twenty hours per week on case related work and, in addition, are expected to prepare for the Clinic class to the same extent that they would prepare for any other three hour class. Any student who does not believe that s/he can allocate sufficient time to discharge his or her Clinic responsibilities is encouraged to withdraw from the course before the school year commences.

During the 2016-2017 school year, the Clinical program staff will include, in addition to student-attorneys, the Clinic Director and Director of the General and Tax practice groups (Marjorie Anne McDiarmid), Deputy Clinic Director and Director of the Innocence Project practice group (Valena Beety), Director of the Immigration practice group (Robert Whitehill), Director of the Child/Family practice group (Suzanne Weise), and Director of the Veterans' practice group (Jennifer Davis-Oliva) supervising faculty (Nicole Annan, Michael Barill, Mary Roberta Brandt, Scott Curnutte, Susan McLaughlin, Melissa Giggenbach, Wiley Newbold, Molly Russell, and Kathleen Wilson) and Office Manager Lori Mobley and Office Assistant Angie Haught.

This Manual is intended to set out the procedures according to which the Clinic will operate during the 2016-2017 academic year, some guidelines relating to casework, the nature of seminar and writing assignments, and a statement of the features of student work which will be relevant to grading. It contains policies and procedures designed to insure competent and ethical practice.

II. OFFICE POLICIES AND PROCEDURES

Like all law offices, the Clinic operates according to defined procedures.

These procedures have been adopted to ensure that each Student-Attorney team will receive the best casework supervision and that each client will receive legal services of the highest quality. Strict adherence to these procedures will minimize the amount of time spent on clerical duties and the waste of time. Student-Attorneys are expected to become familiar with the Clinic office procedures prior to commencement of their casework and to follow them scrupulously throughout the course. Except where otherwise specified, the procedures outlined in this Manual apply to handling all Clinic cases.

Students should consult the Manual **BEFORE** asking supervisors or the Office Manager or Assistant to explain procedures.

A. Student Teams

All Student-Attorneys will work in teams of at least two members. Cases will be assigned not to individual students but to teams. While team members may allocate responsibility for cases between themselves, each

team member will be held responsible for all cases assigned to the team and will be expected to be fully knowledgeable about the status of every case at all times. Team members must be present together in the Clinic offices during the team's assigned office hours and team members together must meet on a regularly scheduled weekly basis with their faculty supervisor. Each student should be in constant contact with her/his team partner(s) so that case developments requiring immediate discussion or decision making may be handled promptly.

Except in the most unusual circumstances, team partners should consult with one another prior to consulting with their supervisor.

In most cases students are responsible for selecting their own partners. The composition of the teams will remain constant throughout the Fall semester. It may be possible to arrange new team groupings, if necessary, at the start of the Spring semester. No change in team arrangements will occur without the permission of the Director of the relevant practice group.

B. Assignment of Office Hours

Each Student-Attorney team must select three two-hour time slots during which the team must be physically present each week in the Clinic office. Students will sign in with the Office Manager or Assistant whenever they are working in the clinic and will note, in writing, if their work takes them out of the Clinic during office hours. If unusual circumstances require that any team member be absent from the office at a regularly scheduled time, that absence will be excused by the faculty supervisor only if the absent student has contacted, in advance of the absence, the relevant faculty supervisor and the Office Manager or Assistant and has advised those persons of an adequate and acceptable justification for not being present. Student Attorneys who must be absent from the Clinic during any regularly scheduled office hours are required to schedule make up time to compensate for any absence and to tell the Office Manager or Assistant of that time so

that she may advise clients and other callers of the student's availability. The three time slots assigned to Student-Attorneys will be spread over three different days--that is, each team will be present in the office during certain hours on three different days of the week--and at least one of those days must be either a Monday or a Friday. These hours will be scheduled between 8 a.m. and 6 p.m. One of the six weekly office hours will be given over to a meeting between the Student-Attorneys and their faculty supervisor.

Student-Attorneys must recognize that significant clinic work will be done outside of scheduled office hours. Remember that students are expected to devote an average of fifteen to twenty hours per week to case related work.

<p>All Clinic Forms referenced below are found on the Common portion of the “N” drive in a folder marked Clinic Forms.</p>
--

C. Opening New Cases

Throughout the Fall and Spring semesters, each student team will be assigned cases on which to work. Cases will be assigned by the Director of the relevant practice group after consultation with other Clinic faculty. Students may not accept cases given or “assigned” to them by anyone else without the approval of those supervisors.

Student-Attorneys will screen prospective clients to determine whether their cases are suitable for Clinic representation. In most of those cases, students and their supervisors will be able to make this judgment after conducting an interview with the applicant. (In Innocence Project cases, screening will involve more extensive fact investigation.) After the screening interview the

Student-Attorneys will confer with their supervisor to determine whether representation may be suitable.

At the screening interview the Student-Attorneys should obtain a signed retainer/request for service (see below in section II(E)(a)(3)). After the screening interview Student-Attorneys must perform a conflicts check. After the interview, execution of the Retainer request, and performing the conflicts check, Student-Attorneys must consult with their faculty supervisor about whether the case should be accepted. If the decision is made to take the case, notice must be given immediately to the client and to the Office Manager or Assistant. The student-attorneys and the supervisor will sign the Retainer Agreement and send a completed copy to the client. If the decision is made not to take the case, the reason for that decision is to be set forth on a Screening Form and that form submitted to the Clinic Director immediately. When approval of the rejection is obtained, the case is closed.

Normally, the screening interview should be performed and the Retainer or Screening Form submitted within two weeks after the case is assigned. If a prospective client cannot be reached within that period at the contact information provided, the case is to be closed. If for some reason the Student-Attorneys and supervisor believe that closure is inappropriate, they should

Screening Cases

1. Interview within two weeks
2. Check income
3. Signed Retainer/Request for service
4. Conflicts check
5. Confer with Supervisor
6. If yes, sign Retainer, notify client & staff
7. If no, notify client by letter, prepare Screening Form, submit to Supervisor, send to Director

prepare a memo to the Clinic Director setting forth the reason why the case should remain open.

D. Documenting Existing Cases

Paper records of all Clinic cases are maintained in file folders or notebooks located in the Clinic office. The case name appears on the folder or notebook as does a file number for Clinic record keeping. The Clinic's open case files are all located in alphabetical order on shelves located in the appropriate office. Students are responsible for seeing that all materials are firmly anchored in the case file and that, when not in use, all case files are on the shelves. Files or file documents are not to be left on desks or other areas of the Clinic when not in use. For reasons of confidentiality, stringent limits are placed on removal of the files from the Clinic office. See Section II(J) below. Student-Attorneys are also required to maintain an electronic case file for each opened case on *Clio*, as set forth in Section II(E) below.

Supervisors may review case file material at any time and will direct students as to the quality and sufficiency of that material. Certain closed and administrative files are maintained by the Office Manager and Assistant. Students are not to consult these files without express permission.

E. File organization

Files for potential clients being screened are maintained in small file folders. When a decision is made to accept a case, the file is to be transferred to an appropriate notebook. Each notebook will be divided into tabbed sections as set forth below. As noted below, key records are made on paper and in *Clio*, our on-line case management system. In order to ensure accuracy and efficiency, all Clinic files must be maintained uniformly in the following format:

a. Initial Documents

This section will contain intake forms, Retainers, expense logs (see below Section II(O)) and up-to-date client contact information.

1. Intake Forms

All cases are to include an intake form as the first item in the case file. Student-Attorneys are responsible for seeing that the intake form is completed with accurate client identifying information. The Student-Attorneys are to screen for eligibility and should consult their supervisors if the prospective client is over income.

2. Contact information

Each time Student-Attorneys confer with a client, they should review the client's contact information to insure that it is up to date and place any new information on the electronic contact form and in the paper file.

3. Retainers

Retainer agreements are found in the Clinic Forms on the Common "N." drive. Retainer agreements must be reviewed with potential clients and signed by them in duplicate at the initial interview. The scope of representation section at the beginning of the Retainer is to be completed before any case is accepted. Student-Attorneys are to pay careful attention to the scope of representation set forth in the Retainer. Student-Attorneys are to retain, but not sign, both copies until they have conferred with their supervisors about whether to take the case. When the decision to represent the client is made, the Student-Attorneys and the supervisor will execute the Retainer. A signed copy

of the Retainer document will be returned to the client and one will be placed in the Initial Documents section of the file.

4. Conflicts check

Each case file should contain a memo setting forth the results of the conflicts check performed at the outset of the case using the Clinic client database. All cases require a conflicts check. If any possible conflict emerges, Student-Attorneys must do the relevant research on any ethical issues posed and discuss this matter with their supervisors prior to agreeing to representation.

b. Correspondence and Correspondence Index

All letters and notes received and copies of similar documents either received or sent by the Clinic must be kept in the case file in this section.

The correspondence will be arranged in reverse chronological order with the most recent material on top. Paper copies of all outgoing correspondence are to be generated and placed in the file at the time that the correspondence is sent. Those copies should be signed and endorsed with the date that they were sent using the stamp available in the kitchen work room. The paper file must, at all times, reflect the actual state of activity in the case. At the same time, electronic copies of the correspondence are to be either scanned or attached in the electronic file on *Clio*.

A correspondence index will be filed on top of the paper correspondence. That index will list each piece of correspondence with a brief description of its content and a note of the date on which it was either sent or received.

Any e-mail correspondence is to be printed out and placed in this section. For instructions on e-mail correspondence with clients see section II(I) below.

c. Filed Pleadings or Communications with Governmental Agencies and Index

A single conforming copy of every court or official document which has been filed by the Clinic, received from opposing counsel or received from the Court or Agency must be kept in the pleading division of the case file. By conforming copy is meant a copy which is exactly like the one on file in the courthouse including signatures, dates and other notations. Each conforming copy should be annotated with the note identifying it as a conforming copy, indicating the date of filing or sending to an appropriate person and the name of the person making the entry. Use the stamp available in the kitchen work room for this purpose. Documents are to be arranged in reverse chronological order. Drafts are not to be placed in this section of the file. All drafts are to be placed in the memorandum section below. Only one conforming copy of each final document should be in this section of the file.

Electronic copies of any final document filed by the Clinic is to be attached to the Clio file. Any opposing pleading, court order, or any other court documents is to be scanned and linked into the electronic file.

On top of this section, in the paper file, should be an index which must be kept current at all times. The index should provide at a glance: a complete, chronological listing of all pleadings or filings made in the case, a notation of the date of filing or receipt of the item. A person examining this index should be able to determine immediately and easily the precise status of a litigated matter.

When communicating with the Court through an electronic filing system, copies of documents filed and received are to be attached to *Clio*. Printed copies of these documents are to be entered in the paper file here.

In non-litigation matters, this section of the file will be used for legally operative documents prepared for clients (contracts, bylaws, articles of incorporation, wills and the like). Those documents are to be indexed, stamped as conforming copies, and handled in the same manner as pleadings.

In Social Security cases, this section of the file should contain the disk provided by the Social Security Administration containing the client's record with that agency. It is generally not necessary to print out these files. Typically, notes can be made using the "pdf" notes functions.

d. Factual Documentation

All interview notes and all documents obtained either from the client or from third parties are to be stored in this section. Notes and other background documents may be punched and put in the notebook, but material which might constitute an exhibit in the case should not be punched. Rather, it should be inserted in an envelope which is in turn punched and put in the file. No marks or notes are to be made on any potential exhibit. When evidence becomes voluminous, additional record-keeping procedures will be instituted to catalogue it using CaseMap. Discuss this with your supervisor as needed.

<p>Do NOT make marks or notes on potential Exhibits. Protect them and file appropriately.</p>
--

Medical records or other evidence which have not yet been submitted to the relevant authority should be included in this section of the file.

e. Legal Research

All legal memos, copies of cases and other materials used in support of the legal action taken on behalf of a client are to be stored in this section. Do not make repeated copies of statutes or other materials. Only materials which are germane to the particular case should be included here.

f. Memoranda

Finally the paper case file should contain file memos relating all significant developments in a case. These memos will be arranged in reverse chronological order and will be suitably indexed. During the history of any case, the case file will contain at a minimum: an opening memo, transfer memos at each point when a case is transferred from one practitioner to another and a closing memo. Paper copies of all memos should be generated at the time the memo is prepared and placed in the case file. This section should also contain print outs of any of the electronic records for the case which the Supervisor directs be included in the file.

The notes section on *Clio* should contain the day to day record of the work on the case. The notes should be substantive. Do not say “spoke with client”, rather say “spoke with client who reported that her ex-spouse is continuing to harass her; advised her to keep a log of attempted contacts and not to pick up the phone”. These notes are invaluable to document your work on cases and to remind you of the progress of events in a matter. They also enable your supervisor to track your work on the case. Finally, in cases which are transferred, they are the most important record of the progress of a case.

Keep substantive, contemporaneous notes on the case in *Clio*.

F. File Organization–Specialized

Various practice groups may have additional needs for record retention. In addition to the sections set forth above, the Director of the

- File Organization**
1. Initial documents
 2. Pleadings
 3. Facts (including Exhibits)
 4. Research
 5. Memos

practice group may direct the inclusion of other sections in the file.

G. Closing Procedures

At the time a case is closed the responsible team will prepare a narrative closing memo detailing the reasons for closure and confirming that no work remains to be done in the case. In making this determination, the Student-Attorneys should compare the scope of work defined in the Retainer Agreement with the current status of the case. If the client has been given instructions concerning their legal situation, the content of those instructions should be included in the closing memo. A closing letter will be sent to the client stating in unambiguous language that their case is closed. That letter should set forth the scope of representation defined in the Retainer and explain how that work has been accomplished. Finally, the letter should advise them of how to obtain legal assistance on other matters should they

arise. That letter is to be sent together with a client satisfaction survey and a request for expense payment (see discussion in Section II(O).)

Student-Attorneys should confer with their supervisors to determine which, if any, documents should be sent to the client at the point that the case is closed. Any documents sent should be accompanied by a cover letter detailing the materials being delivered. Photo copies of such documents will normally be retained in the file, but voluminous transcripts normally do not need to be copied.

In an effort to limit storage requirements, the Student-Attorneys are to go through the legal research section of the file and remove all copies of statutes and cases which did not figure directly in the case. Copies removed are to be recycled; a shredder is available in the kitchen area.

The entire file will then be given to the faculty supervisor involved and his/her permission will be sought to close the matter. It is to be accompanied by the Closing Forms. (These forms include the Case Closure form and the Case Analysis form both of which are found on the "N" drive.) After the supervisor has signed off on the case, the entire file and the Closing Forms will be given to the Clinic Director for approval. When the file is delivered to the Director, the following items are to be attached to the front of that file: Retainer, narrative closing memo, closing letter to the client, Case Closing form, and Case Analysis form. The Director will advise when closure is approved. The file will then be given to the Office Manager or Assistant for close out.

Files should be closed as soon as the legal work in the case is complete.

Case Closure

1. As soon as the legal work is completed.
2. Provide the entire file
3. Closing letter to client
4. Closing narrative memo
5. Case Closing form
6. Case Analysis form
7. All to Director

H. Transfer Procedures

As the end of the Spring term approaches, all cases that are ready for closure should be prepared as set forth above. For all remaining cases, Student-Attorneys must prepare transfer memos using the format

Transfer memos require form and narrative.

provided in the Clinic Forms on the “N” drive. All transfer memos must be received by the date set by the faculty. The transfer memos inform those who come after you about the status, history and basic facts of the case.

I. Time Records, Notes, Client e-mail, Calendars & Computers

A time record is to be maintained contemporaneously in each case using the *Clio* case management program. This log should contain records of all time expended on the case. Student-attorneys are responsible for documenting in *Clio* the time they spend on cases.

Activities are to be classified into appropriate categories using the codes set forth in the program.

All entries in *Clio* should be made at the time that activity occurs. Billing reports are prepared monthly by the Office Manager on the first business day of each month to document activity on cases. Students will be held responsible to insuring that their records are current at the time that each report is prepared.

As discussed above in section II(E)(4)(f), the notes section of *Clio* should be used to note all activity in the file. It is important that it be maintained in a timely, complete and accurate manner.

Do not communicate with clients using your private email. If a client wants to receive communications by email, you should set up a *Clio Connect* message center for them. Directions on how to do this are available on the *Clio* website. An example letter to the client about the message center is found on the “N” drive. This option is not available for clients in prison. In federal institutions, *Corrlinks* is an email service available for clients. However, emails on this service are monitored by prison authorities. Never include client confidential information in a *Corrlinks* email. All e-mails of any substance must be approved in advance by your supervisor, linked to *Clio*, and printed for the file.

Up-to-date Event entries on all open cases will be prepared by each team using the *Clio* firm calendar. After any event is scheduled which requires follow-up action by Student-Attorneys, an Event entry is to be made. Some key examples are: notice of hearing, receipt of pleadings for opposing party, order by the judge to perform some action or direction by Supervisor to perform some action. Student-Attorneys are responsible for keeping the case calendar current in *Clio* with important upcoming dates. All client calendar entries are to be made on the “firm” calendar, not the calendar of the individual staff member making the entry.

Most student teams will prepare their written work using the Clinic computers and they are encouraged to do so. Each student team will be assigned to a computer. Client electronic files are stored on the “N” drive under clinical law/secure/relevant practice group. To promote retrieval of these files, the following file naming convention will be used by all Clinic staff:

Each client will have a file folder named with the client's last name and their file number. Thus, if your client's file number were “394” and their last name is Smith, the file folder related to that client would be named “Smith394”. Within the folder each file name should begin with the date on which the file is created in YYYYMMDD format and should contain as full a description of the document as possible. For example, not “letter to client” but “20120306 letter to client Jones concerning settlement offer.”

All final documents not prepared in *Clio* should be linked to *Clio* to provide a complete electronic record of activity in the case. In addition, a copy of the narrative closing memo is to be pasted electronically into the notes section for the case in *Clio*.

<p>You may need a <i>Clio</i> record in Court. Make sure they are current.</p>
--

J. Client Confidentiality

The names of Clinic clients are confidential and the facts of their cases are both privileged and confidential. Client cases are not to be discussed with other law students, friends or any other persons not covered by these requirements of confidentiality. Clients’ cases are not to be discussed with anyone in any setting which is not private.

Normally, you will be able to discuss cases with your fellow Clinic students and all faculty supervisors. From time to time issues which arise in client cases may be discussed with other members of the faculty for purposes of obtaining guidance on legal research. You should check with your supervisor before discussing a case with another faculty member. Normally cases will be discussed in the Clinic office, appropriate meeting rooms and in the private offices of faculty.

Because of the need to maintain confidentiality, no non-clinic student or third parties, other than clients, should be invited into the Clinic. Visitors will be asked to identify themselves to the Office Manager or Assistant and you will be advised of their presence. You will then take them outside the Clinic for any further interaction. Students conducting research on Clinic cases in the Library should guard against violating confidentiality. Any Flash drives used to prepare client materials should be different from those used for your other work. In order to preserve confidentiality, client files are only to be removed from the Clinic to take them to Court, client meetings, meetings with supervising faculty or with the express permission of the supervisor. If items are needed from a file for some other purpose, they may be copied, but attention should be paid to keeping these records protected. Unneeded copies of client related materials will only be recycled if they are shredded.

All personal computers, tablets or smart phones which are used in client work must be password protected. If you use a machine with any third party, such as a home computer, the client files must not be stored on the hard disk of that machine.

<p>Password protect all devices used for client work.</p>
--

Fax and e-mail communications with clients should include this confidentiality notice:

The information contained in this e-mail/fax transmission (including any attachments thereto) may be privileged and/or confidential and is intended solely for the use of the persons or entities named in the "To:" area above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, reproduction, forwarding, printing, uploading, downloading, or action of any kind (other than deletion of the same) based on any of the information contained in this e-mail or fax transmission is strictly prohibited. If you have received this e-mail or fax transmission in error, please notify the Clinical Law Program at West Virginia University College of Law by telephone at (304) 293-7249 and immediately delete and otherwise destroy any and all originals or copies (in whatever form) of this e-mail or fax transmission. Thank you.

Student-Attorneys can download a *Clio* app to your cell phone or other device. This is convenient because it allows you to access files when you are away from the office. However, if you use the *Clio* app, be sure to log out and exit the program when you are finished. Do not leave the *Clio* app running in the background on your device.

K. Document Production

The computers, printer and other equipment of the Office Manager and Assistant are located on their desks and in the surrounding work area. Student-Attorneys are not to use any of that equipment without specific permission and are not permitted to use the computers for any reason.

Student-Attorneys may use the fax machine, scanner and printer in the kitchen work area and the other computers and printers located in the Clinic office.

No letter or court document is to be printed on stationary until it has been approved for sending by a faculty supervisor.

Student-Attorneys are responsible for getting draft material to their supervising attorneys in sufficient time to allow correction and redrafting before the material is due. Material may be transmitted to faculty through use of Clinic mailboxes, hand delivery, mail, email or facsimile depending on the location of the faculty member, the urgency of the deadline, and the directions of the supervisor. All material provided to faculty must be legible. Long materials should be provided in electronic draft form to permit easy editing.

Student-Attorneys should make arrangements with faculty members for handling materials requiring the supervisor's signature, such as pleadings. No supervisor will sign a document on behalf of another supervisor without the express consent of that person.

Student-Attorneys should also make arrangements between themselves as to the circumstances, if any, in which one student has authority to sign on behalf of the other.

L. Mail

Each student team has a mailbox located in the Clinic office and both Student-Attorneys should check that box every day. Correspondence from clients, memos from Clinic faculty and other messages may be left in these boxes. Student-Attorneys should check their partner's messages as well as their own to ensure that no information of relevance to the team is neglected. These boxes are to be cleared out on a daily basis.

The procedures for handling mail are as follows:

- 1) The Office Manager or the Assistant receives Clinic mail at approximately 10:00 am daily. She opens and reviews all mail and places a stamp on it indicating the date of its receipt.
- 2) The Office Manager or the Assistant delivers the mail to the Student-Attorney's mailboxes.
- 3) Mail prepared after 8:00 am and sent through the University mail system will not go out until the next day. All mail sent through the University system must be marked as "First Class" and bear the number of the Clinic postal account. It is put in the tray in the Office Manager's and Assistant's work area. If the Office Manager or the Assistant is not present at 4:30 pm and there is mail in the outgoing box, any Student-Attorney present in the Clinic should take the mail and deposit it in the University mail box.
- 4) Given the delays in the University mail system, it will occasionally be necessary for Student-Attorneys to place items directly in the U.S. Mail. Stamps and a scale may be obtained from the Office Manager or Assistant for this purpose and Student-Attorneys are responsible for posting the correspondence.
- 5) Incoming mail sometimes ends up in student mailboxes in the student lounge by mistake, clinic students should check that mailbox frequently
- 6) Whenever mail needs to be sent by a means other than first class (e.g., registered, certified, return receipt requested, express mail, etc.) Student-Attorneys should discuss such delivery with and obtain the permission of their faculty supervisor. The least costly method consistent with the requirements of the case should be selected.

Student-Attorneys are responsible for insuring that the steps necessary to arrange for such delivery are taken. All registered or insured mail should be delivered directly to the U.S. Post Office. We can send Certified Mail through the University system. Consult with the Office Manager or Assistant for materials.

If material is to be sent via courier, such as UPS, the Officer Manager or Assistant will prepare the necessary documents. They need the name, address, and telephone number of the recipient by 3:00 pm or earlier on the day that the material is to be sent.

M. Photo copying

Clinic Student-Attorneys handle the photo copying of Clinic case materials. You will be assigned a pass code to use the copier. The machine in the Clinic Office is to be used for Clinic business only unless permission is obtained from the Director.

N. Client Funds

State accounting procedures do not permit the Clinic to maintain a client trust account. Therefore, NO funds payable to third parties are to be accepted from clients and NO funds payable to clients are to be accepted from third parties. In the event that a client owes money to third parties, for example filing fees owed to the clerk, a check or money order made out to the third party in the exact amount of the fee may be accepted from the client and delivered promptly to the third party. In the event that problems arise in following these rules, those problems are to be discussed immediately with the appropriate supervisor.

O. Expenses Incurred on Behalf of Clients

All third party expenses of representation should ordinarily be borne by the client or waived through *in forma pauperis* proceedings. Occasionally this is not possible. If a Student-Attorney makes payments for such expenses from her/his own funds, it is his/her responsibility to obtain a receipt fully documenting the payment. This receipt is to be presented immediately to the Office Manager for payment and is to be logged by the Student-Attorney on the client expense form in the Initial Documents section of the file.

Any expense over \$50 is to be cleared, in advance, with your supervisor and the Director. In the event that Student-Attorneys arrange for billing of such expenses, most commonly in the case of copies of medical records, the third party vendor should be advised to submit an original invoice which includes the vendor name, address, federal ID number and telephone number. All vendors must be registered with the State of West Virginia in order to be paid. The Office Manager or Assistant will handle payment of these invoices. These expenses are also to be logged by the Student-Attorney on the client expense sheet. West Virginia statutes permit waiver of medical records fees in Social Security cases. Consult the statute before agreeing to pay for medical records.

At the time for case closing, a request will be made to the client for reimbursement of these expenses.

In so far as possible, Student-Attorneys will attempt to secure services free for our clients. The Clinic has some very limited funds available with which to purchase expert services for clients. Such expenditures will only be made with the agreement of the Director and will require an explicit promise from the client to repay the money advanced. Student-Attorneys should exhaust every other means of obtaining such services for clients before seeking an expenditure from these funds.

P. Telephones

The Clinic office has several telephone lines for voice communications. For all incoming calls the main number, (304) 293-7249 or the toll-free, long distance number (866) 964-7249, are to be given. The other Clinic phones are to be used to place outgoing calls. Only the 7249 numbers are to be given to persons outside the Clinic. The toll free number should be given to any person who would otherwise have to pay long distance charges to reach the Clinic.

The Office Manager or Assistant will generally answer incoming calls and will either direct the calls to relevant Clinic staff or will leave telephone messages if those staff are not available. When the Office Manager and Assistant are away from their desks, calls will go to voice mail and will be reviewed promptly. Persons seeking representation are added to the Clinic waiting list.

Occasionally, the Clinic will receive a call from a university student seeking the Office of Student Legal Services. Such callers should be referred to that office.

<p>Student-Attorneys must never give any advice to a caller over the telephone without having prior approval of their supervisor.</p>

Outgoing long distance calls require Student-Attorneys to obtain a special long distance billing number from the Office Manager or Assistant. Long distance calls are to be confined to Clinic business only.

The Clinic accepts long-distance collect calls from clients or prospective clients. This option should only be shared with clients or prospective clients

who are in prison. We will not accept the call unless arrangements have been made in advance and notice given to the Office Manager or Assistant.

Q. Clinic Calendars

The Clinic uses three different calendaring systems to maintain control of the Student-Attorneys' case responsibilities. All Student-Attorneys must comply carefully with the requirements of all three in order to insure that clients receive timely and competent service. Those systems are: the Court/Agency wall calendar maintained by Student/Attorneys in each practice group, the Appointment calendar/room reservation system maintained by the Office Manager and Assistant, and the computerized calendar system maintained by the Student/Attorneys in *Clio*.

Located in each Clinic office is a large Court/Agency wall calendar which is essential to the Clinic's docket control. This calendar is used to record all hearing dates pertinent to Clinic cases. Each Student-Attorney team is responsible for entering of the Court/Agency Calendar information relating to any hearing scheduled on that team's cases. The entry of information should be made as soon as the hearing date is known. The entry should appear in the following form:

3:00 pm Able v. Able, final trial, FLJ Minor, Smith/Jones, Mon Co
Family

It should contain: 1) the time of the hearing, 2) name of case, 3) nature of hearing, 4) judge's last name, 5) Student-Attorneys and 6) court.

In addition to entering information on the Court/Agency wall Calendar, students must immediately advise their faculty supervisor and insure that the supervisor enters the date on her/his personal calendar. Such hearing dates are also to be entered into *Clio* using the "firm" calendar.

If a hearing is missed because students failed to follow these procedures, those students will fail Clinic.

There is a separate calendar for clients' appointment dates and times. This calendar identifies the time, date and place of the client interviews. This calendar is located next to the Clinic mailboxes and doubles as a reservation system for the Clinic conference rooms. It is used by Clinic staff to advise clients of the time of their interviews.

Entries into the electronic calendar system are to be made in *Clio*. Court appearances, filing dates, interviews and other deadlines are to be entered into this system. All entries are to be made on the “firm” calendar so that they can be reviewed by all faculty.

R. Conflict File

Clio also serves as the Clinic conflict file. Student-Attorneys are required to check this program to determine whether any new case represents a conflict of interest. This conflict check must be documented in the initial documents section of the file. See section II(E)(a)(4) above.

S. Court and Agency Filings

No material is to be filed with a court, an administrative agency, or any other decision maker without the advance approval of the faculty supervisor.

Sometimes court or administrative personnel will suggest that additional forms be filed which have not been approved by the supervisor. Student-Attorneys do not have authority to make such filings. If this situation occurs, those Student-Attorneys should call their supervisor for instructions.

T. Keys

Each Clinic student will be issued a key to the back door of the clinic office. This key is for the exclusive use of that Student-Attorney. This key for the Clinic office must be returned at the end of the school year.

III. GUIDELINES FOR CASE HANDLING

A. Supervision

At the start of the Fall semester, each student team will be assigned a faculty supervisor who will closely follow all Student-Attorney case work. In order to maximize the quality of case supervision, Student-Attorneys will be expected to collaborate with their supervisors according to the guidelines set forth below. Students must consult fully with their advisors before giving any legal advice and before taking any significant action in any case.

Student-Attorneys are required to comply with the Rules of Professional Conduct and with the Student Practice Rules of the West Virginia Supreme Court. Student-Attorneys are required to read and to become familiar with these rules prior to the commencement of their case work in the Fall semester.

Student-Attorneys must meet with their faculty supervisors each week, at regularly scheduled times, to review and discuss case developments and other issues. Student partners should discuss with one another, prior to case review meetings, the issues to be addressed for that week. Student-Attorneys should bring all client files with them to case review meetings and should

submit to their advisor at least one day prior to the meeting legal memos, photo copies of case and other material on which they have relied in order to allow the advisor sufficient time to prepare for meaningful discussion. Student-Attorneys should also insure that all *Clio* entries are up to date in advance of each supervisor meeting. Supervisors may have instructions for their teams on additional materials which should be brought to the meeting.

Student-Attorneys are responsible to locate and consult with faculty supervisors outside their regularly scheduled meeting times whenever urgent matters arise in a case. Student-Attorneys should consult with and be guided by the direction of another advisor only when they have found it impossible to contact their own advisor.

Student-Attorneys must submit to advisors, prior to final printing, all written material intended to be sent out of the Clinic. Student-Attorneys should allow ample time for redrafting based upon the advisor's recommendations. Supervisors will also review any other material generated in the case.

Student-Attorneys should schedule with their advisors times for role playing well in advance of any important event in any case.

B. Advice and Client communication

Student-Attorneys should complete detailed factual investigation and thorough legal research before deciding to recommend any course of action to a client. Student-Attorneys should discuss with their advisors any recommendations which they will make to clients. Student-Attorneys must never give advice to another team's client or to a non-client caller to the Clinic. Student-Attorneys must never otherwise assume responsibility for another team's case.

Student-Attorneys should maintain full, open and continuous communication with their clients. They should send clients copies of all correspondence and

pleadings and should inform clients concerning any action taken by the team, by the adversary or by any tribunal. Normally each client should receive some communication at least once in any two week period. If Student-Attorneys are having difficulty reaching clients by telephone, appropriate letters should be prepared and cleared with their supervisors. Student-Attorneys should use e-mail through *Clio Connect* (see Section II(I) above) to communicate with their clients only with the client's express permission. Substantive advice is not to be given by email without permission of the supervisor.

Student-Attorneys should return all telephone calls within 24 hours of their receipt and should respond to correspondence promptly.

Student-Attorneys should contact prospective clients by letter or telephone as soon as a case is assigned and should schedule initial interviews with clients as soon as possible. Student-Attorneys should, with the prospective client's permission, electronically record such interviews. Equipment for this purpose is maintained by the Office Manager or Assistant. Student-Attorneys are responsible for reserving space for client interviews. The Clinic library and the interview rooms can be reserved through the Office Manager or Assistant (see above in Section II(Q)).

C. Caseload Responsibilities

Student-Attorneys will be assigned cases by the faculty which will make a conscientious effort to allocate a reasonable and varied case load. The number of cases assigned to student teams may vary with the legal complexity of those cases. If Student-Attorneys find themselves having difficulty handling the work load assigned, either because of its volume or because of other features of the cases, they should confer with their faculty supervisor about the problem immediately. If Student-Attorneys find that

the work assigned is not keeping them busy, they should confer with their faculty supervisor.

Student-Attorneys are expected to follow the procedures laid out in this Manual. They are also be adhere to the directions of their Supervisors.

Student-Attorneys will be responsible for their clients throughout the entire school year until graduation. This responsibility will include examination periods, Thanksgiving, Christmas and Spring vacation periods, and the time between Spring finals and graduation.

IV. CLASS AND WRITING ASSIGNMENTS

Besides handling cases conscientiously and efficiently, Clinic students are expected to participate actively in class and to complete written and other assignments each semester.

A. Format of Classes

Consistent with the operation of the Clinic as a medium sized law office, a portion of each class will be conducted as a firm meeting to discuss issues of general interest. In addition, classes will cover the substantive law in areas in which we practice, lawyering skills and issues of ethics and client representation. Reading of assigned texts and other preparation will be required prior to each class.

A syllabus will be distributed at the beginning of each semester. Space will be left in the syllabus for “pop up” classes. Any student or group of students may suggest a class topic which would be helpful in their clinic work.

Attendance at class is mandatory and will be excused only under compelling circumstances and with prior notice to the Clinic Director. Do not schedule

client matters in conflict with class unless emergency circumstances require such action.

B. Writing Assignments

General writing assignments will be made during the year.

V. GRADING

The grading of Student-Attorneys will be done jointly by the Director of the relevant practice group and other members of the faculty. A written evaluation will be given to each student at the end of the Fall semester and a final, letter grade covering both semesters will be assigned at the end of the second semester. Students will receive a numerical grade in each category below at the end of the first semester as an indicator of their progress in the clinic.

Some students find it disconcerting not to have a final letter grade assigned prior to the end of the year or to have a grade be dependent upon daily performance throughout the year rather than on a final exam. If this method of grading will cause serious unhappiness, students are advised not to take the Clinic course.

The factors considered in grading are multiple. They will include the following criteria:

- 1) COMPLIANCE WITH OFFICE PROCEDURES--following procedures outlined in the Practice Manual and instructions given by supervisors.
- 2) DEPENDABILITY--promptness, diligence and initiative in responding to partners, clients, supervisors, other Student-Attorneys and the Office Manager.

- 3) INTERPERSONAL RELATIONS--effective work with partner, clients, the Office Manager and Assistant, supervisors and other Student-Attorneys.
- 4) PRODUCTIVITY--quality and volume of work. The assessment of productivity will include review of:
 - fact investigation
 - legal analysis
 - case planning
 - execution of the case plan
 - quality of legal research
 - quality of writing and drafting
 - relations with clients
 - relations with other members of the bar
 - preparation
 - oral advocacy skills
 - accuracy and neatness
 - maintenance of case files (paper and electronic)
- 5) PROFESSIONAL RESPONSIBILITY--awareness and analysis of ethical issues arising out of cases, compliance with the Rules of Professional Responsibility, maintenance of confidentiality, punctuality in doing work, proper handling of client funds.
- 6) CASE REVIEW MEETINGS--effective use of weekly case team meetings with supervisor.
- 7) CLASS PARTICIPATION--attendance at class, preparation of assigned reading and problems, contribution to general learning.
- 8) WRITING ASSIGNMENTS--clarity and utility of writing; promptness of completion.

At the beginning of the school year, students will conduct their own private evaluation of their practice skills. At the end of the school year, students will be asked to evaluate their progress on these criteria.