

COMMUNITY AND ENVIRONMENTAL JUSTICE CLINIC

Spring 2021

Welcome!

Welcome to the Willamette University College of Law Clinical Law Program. I am glad that you have decided to devote a significant amount of your time this semester to learning on the front lines of legal practice. My primary goal is to provide you with the support and supervision you need to be comfortable yet challenged with your community and environmental justice cases, while preparing you to be a practice-ready lawyer in any field. I hope to instill in you a strong sense of professionalism, standards of excellence, a deeper understanding of the unique environmental challenges facing certain communities, and an appreciation of the importance of reflection and balance in the practice of law. As we work together towards these goals, I encourage and invite your ideas, comments, and suggestions.

Contact Information

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Willamette University Land Acknowledgement

<https://willamette.edu/offices/native-american/land-acknowledgement/index.html>

We are gathered on the land of the Kalapuya, who today are represented by the Confederated Tribes of the Grand Ronde and the Confederated Tribes of Siletz Indians, whose relationship with this land continues to this day. We offer gratitude for the land itself, for those who have stewarded it for generations, and for the opportunity to study, learn, work, and be in community on this land. We acknowledge that our University's history, like many others, is fundamentally tied to the first colonial developments in the Willamette Valley. Finally, we respectfully acknowledge and honor past, present, and future Indigenous students of Willamette.

COVID-19 Statement

I know that these are unusual and challenging times. We should all monitor the university, local, state, and CDC guidance, and comply with required safety protocols, including, for example, wearing face coverings, maintaining social distancing, avoiding eating and drinking during class, and following heightened sanitizing practices. Please be patient and flexible with me as conditions may change throughout the semester.

NOTE: per the Willamette COVID Advisory Team, we will be conducting all clinic work remotely for the first two weeks of the semester (the university “quiet period”) See “Class Location” section, below.

Course Requirements and Keys to Success

You will be awarded 2-4 credits when you successfully complete this clinical course, based on the number of credits you indicated when you registered. You will be assigned a letter grade. Successful completion of your clinical course will require you to:

- 1) Provide competent and professional legal services to clients as assigned
- 2) Perform the appropriate number of hours of legal service for credits enrolled (52 hours per credit including class hours)
- 3) Abide by clinic policies, procedures and rules (**know and follow every aspect of the Clinic Manual**)
- 4) Properly maintain timesheets and case files
- 5) Attend and actively participate in class
- 6) Meet with your teammate and supervisor every week
- 7) Compile a portfolio of all of your clinic work product
- 8) Complete and be prepared to discuss all assigned readings before class
- 9) Complete all miscellaneous class and homework assignments
- 10) Draft a resume including an entry describing your clinic accomplishments

Learning Outcomes

This course strives to ensure the following learning outcomes for those who devote adequate time and energy to this course:

- Able to conduct client and/or witness interviews and counseling sessions with confidence
- Able to engage in factual investigation
- Able to engage in competent legal research, analysis, synthesis, and application of law to the legal matter

- Able to prepare a written legal advocacy piece of writing
- Able to prepare basic legal documents and client letters
- Able to resolve legal situations and problems using a variety of negotiation, mediation, counseling, and litigation methods
- Able to verbally articulate in a summary fashion the legal issues and challenges in legal matters, and ideas to overcome them
- Able to prepare a strategic plan for representation of a client
- Able to manage client files and information adequately
- Able to spot and resolve possible ethical issues
- Able to conduct oneself as a professional
- Able to work in teams
- Confident legal representation of a client

Grading Standards

In order to receive credit for this course, you must complete all of the course assignments at a satisfactory level; otherwise, you will not pass. This is a letter-graded course. The grade you receive will depend on the quality you demonstrate in the following areas:

Legal Work	50%
Professionalism	25%
Administration	12.5%
Seminar Work & Misc. Factors	12.5%

Please refer to the grading standards attachment for more specifics about grading and for a guide that you may use when completing your mid-semester reflection.

Logistics

Class Time: Tuesdays and Thursdays 9:40 – 10:40 a.m.*
Some classes—in particular, the simulation classes—will begin at 9:00 a.m. to ensure all students have time to fully engage with the activity and achieve learning objectives. See the class schedule for more details.

Class Location: All classes will be conducted in Carnegie 213 (large hearing room on ground floor) unless otherwise specified. To comply with university, local, state, and federal guidance

around in-person gatherings and COVID-19, we may need to adjust plans for in-person learning and conduct some or all classes remotely. Please try to remain patient and flexible as conditions for safe meetings change, and I will commit to keeping you all informed and as up-to-date as possible.

****Per recent guidance from the Willamette COVID Advisory Team, the College of Law will conduct the first two weeks of instruction remotely. Please ensure that you have access reliable internet and a quiet location in which you could discuss confidential client information. If you are concerned about your ability to access either reliable internet or a quiet location, please contact me as soon as possible.****

Faculty Office Hours: T: 11am-12pm, #109 Oregon Civic Justice Center
****Subject to revision once team meetings are scheduled.**

I maintain an “open door” policy and encourage you to drop in for a meeting any time my door is open and I’m not otherwise engaged. I am also available to meet with you at a pre-arranged time that works with your schedule, and welcome “walking meetings” or other meetings that allow us to get outside and move around. These meetings are in addition to my weekly meetings with each student team.

Text: **There is no textbook for this class.** Class readings will be compiled into handouts posted on WISE or another course website. I will strive to post readings at least 10 days ahead of the class for which they are assigned; please contact me if you do not see a posted reading or have trouble accessing the reading online.

Class Requirements

Class Attendance: You are performing as a professional colleague in this course and are expected to fulfill all of your professional responsibilities at a level of excellence, including attending class. That being said, because you are a professional, I trust your judgment in deciding whether you might need to miss a class due to conflicting obligations. If you miss class, you are responsible for knowing everything that took place that day. Moreover, anyone who misses more than 25% of class is ineligible for

credit pursuant to the law school's academic regulations. Please note that your class attendance may be one of the factors that I consider in determining your grade, so if you must miss class, **I strongly recommend that you let me know why beforehand.** ****Please take note of the seminar sessions marked with "NO CLASS" on the syllabus; I will also be flexible with you about rescheduling your weekly team meetings that occur on or near these dates.****

Hours Requirement: You are required to complete at least 52 hours of clinic-related work per unit of academic credit during the course of the semester, including 26 hours of class time. You are required to record all of your time on timesheets, rounding up to the nearest .25 hours, and "billing" for everything you do (except non-substantive emails). We sometimes seek attorney's fees, and if they are not properly documented, we will not receive payment.

For example, if you are enrolled for three credits, your breakdown of hours would be approximately:

Class Hours Required:	26 hours
Legal Work:	113 hours
Misc.:	<u>17 hours</u>
	156 hours

For a three-credit semester, this amounts to a commitment of 9 hours per week plus class time. Because of the nature of legal matters, some weeks will be busier than others, so be prepared with your schedule to manage these fluctuations. However, use these guidelines to make sure that you do not get too far behind on your "billables" and jeopardize course credit.

Please note that our cases are actual legal matters. Thus, we cannot simply conclude them once you reach your minimum hours requirement. You may be required to exceed the minimum hours to bring your case or transaction to conclusion or to a position where it can be responsibly transitioned. I will work with you to transition you off of your cases as quickly as possible after you reach your minimum hours requirement if you request. However, it is your professional responsibility to ensure that your client is not harmed by the transition or conclusion in any way. Your client's interests must come first, and you should be prepared for the possibility that your legal work might exceed the minimum hours required this semester.

Case and File Management: Each student team will be assigned an average of 1-2 legal matters to manage during the course of the semester. The students will be responsible for all aspects of the management of those matters including:

- 1) client meetings
- 2) court appearances
- 3) development and execution of reasonable legal strategy
- 4) communications with client, opposing counsel, court, witnesses, etc.
- 5) discovery and investigation
- 6) calculating and calendaring all dates
- 7) managing and maintaining the files
- 8) conducting legal research
- 9) drafting documents

Weekly meetings with Supervising Professor: You and your teammates are required to meet with your supervising professor (me) at least one hour per week. My preference is to set recurring meeting times for each student team at the same time every week. Although you may miss class occasionally, you are not allowed to miss any of your weekly meetings with your team and me. If you do, you may lose credit for the entire course. To ensure that these required meetings occur every week, I will consider advance requests to reschedule meetings that conflict with other obligations, and will consider requests to hold a meeting remotely if necessary. If you wish to request a change to your weekly meeting time or format, you must make your request to me at least 24-hours in advance.

For each weekly meeting, you must:

- 1) prepare a written agenda
- 2) be prepared to present complete and up to date legal files of each legal matter including extensive notations from all of your work on the matter that week

Moreover, you are also required to address the following in either your weekly meetings or in supplemental meetings with your supervising professor:

- 1) review substantive and extensive case management memos for each of your cases;
- 2) participate in a mid-semester reflection by February 25; and
- 3) complete and submit your team's transition memo(s) by the end of the semester.

Clinic Portfolio: You are required to create and maintain a portfolio for all of your clinic work throughout the semester. You must bring your portfolio to your mid-semester and exit interviews with your supervising professor. The portfolio should include the following items as soon as they are completed:

- Timesheets (always complete and up to date)
- Agendas for all weekly meetings
- Your goals and values worksheet
- Your mid-term reflection
- Your final evaluation
- Your resume (once completed)
- Class notes
- A section for each case with copies of all work product (letters, pleadings, strategy memos, research memos, etc.) that you drafted (properly redacted to protect client confidentiality)
- A copy of your case rounds presentation (once completed)
- Your clinic evaluation
- Your partner evaluation
- Any resources you deem useful

Case Rounds Presentation: You and your team will make one presentation to the class using a visual aid such as PowerPoint during the semester. Your presentation should provide an overview of the legal matter(s) you are working on in the clinic, and include the issues you are encountering in the representation. There will be an extensive question and answer period with your classmates and faculty. You will have approximately 50 minutes total for both your presentation and the question and answer period.

I will provide additional guidance about case rounds that details this component of the clinical experience.

Class Schedule

Please remember that we are operating a law firm with actual cases and real clients. Thus, the immediate demands of our cases may necessitate changes to our class plans, so please be prepared to be flexible.

DATE	READING + PRE-CLASS ASSIGNMENT(S)	SKILL FOCUS + DISCUSSION QUESTIONS
January 11 (T) **Online**	Reading: Syllabus + Clinical Programs Manual; announcements on WISE	Clinic jumping off point! This class will introduce you to your clinic classmates and to some of the skills we will work to develop during your time in clinic.
January 13 (Th)	Assignment: complete and submit Student Information Sheet to WISE by 9:00 a.m. on Thurs., Jan. 13	NO CLASS **Individual and team meetings online as needed
January 18 (T) **Online**	Reading: Handout #1	Environmental Law in the United States - overview. What is “environmental law,” and where does it come from? To set the stage for our semester, we will take a high-level look at the origins and sources of environmental law in the United States.
January 20 (Th) **Online**	Reading: Handout #2	Environmental Justice I. What is the relationship between “environmental law” and “environmental justice?” This class will explore the history of the environmental justice movement and will survey some of the legal tools available to address inequalities that result from, or are exacerbated by, environmental regulation.
January 25 (T)	Reading: Handout #3	Attorney-Client Relationship. This class will cover the roles of both attorneys and clients in the attorney-client relationship. We will discuss scenarios you may encounter in the clinic or your future careers, and think about how the values you identified in the last class might help guide resolution of those scenarios.
January 27 (Th)	Reading: Handout #4 Assignment: please complete the “Marisela V.” exercise	Client Interviewing I – fundamentals. What are the goals of an initial client interview? What

	before class, and come to class prepared to discuss your answers.	techniques are available to an attorney when meeting with a client? When might a particular technique be most effective in reaching the attorney's goals? Consider these questions as you complete today's reading and complete the "Marisela V." exercise.
February 1 (T)* 9:00 a.m. start	Assignment: come prepared to conduct a 10 to 15-minute interview of a potential client by using lessons from our class discussions and readings.	Client Interviewing II – simulations (first round). You will apply concepts and skills from the readings and class discussions to conduct a simulated interview.
February 3 (Th)* 9:00 a.m. start	Assignment: come prepared to conduct a 10 to 15-minute interview of a potential client by using lessons from our class discussions and readings.	Client Interviewing II – simulations (second round). You will apply concepts and skills from the readings and class discussions to conduct a simulated interview.
February 8 (T)	Reading: Handout #5	Administrative agencies I – commenting and record-building. The primary way for the public to engage in an agency's rulemaking process is by commenting on proposals or draft documents. What are the hallmarks of effective comments? How can you use the commenting process to achieve your client's goals by either influencing the agency decision or preparing for eventual litigation? How do you, as a lawyer, grapple with the often technical and detailed nature of the process you are commenting on? What is the "administrative record," why does it matter, and how can you ensure that it contains what you need?
February 10 (Th)	Reading: Handout #6	Administrative agencies II – judicial review of agency actions. Many environmental lawsuits challenge agency actions that a plaintiff considers unlawful. What is the standard by which agency

		actions are judged? We will discuss key cases governing judicial review of agency actions, and will brainstorm strategies you might use to give your clients the best chance of succeeding in an APA lawsuit.
February 15 (T)	Assignment: student team(s) will present an issue for case rounds.	Case Rounds. *date may change based on case needs*
February 17 (Th)	NONE	NO CLASS
February 22 (T)	Reading: Handout #7	Initiating the Case – theory, narrative, and complaint drafting. No matter how complicated the facts or law of your case, it is critical for lawyers to control and frame the overall narrative. This class will focus on building a theory of the case with an eye toward storytelling. We will examine sample complaints and critique how well they present a compelling theory of the case.
February 24 (Th)	Reading: Handout #8	Developing the Facts I – written discovery. What is discovery? What are the tools that become available to attorneys to obtain information after the case has been initiated? Our class discussion will focus on the practical aspects of conducting formal discovery that will get you the information you need without confusion or delay.
March 1 (T)	Reading: Handout #9	Developing the Facts II – depositions. How does an attorney prepare to take a deposition? When during the litigation should a deposition be taken? What techniques can be used to ensure that relevant information is gathered in an efficient and complete manner? What should an attorney do to prepare a witness to be deposed? How and when should

		objections be made during a deposition?
March 3 (Th)	Assignment: student team(s) will present an issue for case rounds.	Case Rounds. *date may change based on case needs*
March 8 (T)	Reading: Handout #10	Witness Examination I – direct examination. Questioning your witnesses at trial requires mastery of the facts you wish the witness to establish, but also requires skills in crafting questions and an understanding of how to make your witness the star. We will focus on direct examination techniques first, then turn to cross-examination.
March 10 (Th)	Reading: Handout #11	Witness Examination II – cross examination. Cross-examination is often dramatized for film and television, but in reality, attorneys risk doing more harm than good if they have not planned a strategy for cross-examination in advance. How should an attorney prepare for a targeted, effective cross-examination?
March 15 (T)* 9:00 a.m. start	Assignment: prepare to conduct direct and cross examination of a witness by using lessons from our class discussions and readings. You will conduct your examination during class, and your classmates and I will provide feedback.	Witness Examination III – simulations (first group). You will apply concepts and skills from the readings and class discussions to conduct a simulated direct and cross-examination.
March 17 (Th)* 9:00 a.m. start	Assignment: prepare to conduct direct and cross examination of a witness by using lessons from our class discussions and readings. You will conduct your examination during class, and your classmates and I will provide feedback.	Witness Examination IV – simulations (second group). You will apply concepts and skills from the readings and class discussions to conduct a simulated direct and cross-examination.
March 22 (T)	NONE	NO CLASS – SPRING BREAK

March 24 (Th)	NONE	NO CLASS – SPRING BREAK
March 29 (T)	Reading: Handout #12	Court Procedure I. While law school emphasizes case law as a primary source of law, practicing attorneys—particularly in environmental law—work extensively with statutes, rules, and procedures.
March 31 (Th)	Reading: Handout #13	Working with Experts. Scientists, engineers, health professionals, and other technical experts—including citizen scientists—often provide data or expert opinions essential for environmental litigation. This class will highlight some unique elements of working with experts.
April 5 (T)	Assignment: student team(s) will present an issue for case rounds.	Case Rounds. *date may change based on case needs*
April 7 (Th)* 9:00 a.m. start	Reading: Handout #14 Assignment: prepare to conduct a simulated settlement negotiation using lessons from class discussions and readings. You will be provided with additional information prior to the simulation exercise. You will conduct your negotiation during class, and I will provide feedback.	Settlement Negotiations. What are some of the major issues to think through before beginning settlement negotiations? How can you obtain the best outcome for your client? This class will introduce some ethical and strategic considerations related to settlement in civil cases. You will apply concepts and skills from the readings and class discussions to conduct a simulated settlement negotiation.
April 12 (T)	Reading: Handout #15	Environmental Justice II. We will bookend our early conversation about environmental justice with a discussion of current environmental justice matters in the Pacific Northwest and nationwide.
April 14 (Th)	Reading: Handout #16	Careers in Environmental Law & Justice. Where can you work and what can you do with an interest in environmental law and justice? We will discuss some common career paths for environmental lawyers, as

		well as unconventional ways you may merge an interest in environmental law and justice with your legal expertise.
TBD: End-of-semester gathering	NONE	Reflections. We will reflect on our time together in the CEJC, including lessons learned, most challenging and rewarding parts of the year, biggest surprises, and other topics.