

PRINCIPLES AND STANDARDS FOR LEGAL RESEARCH COMPETENCY

INTRODUCTION

The importance of research competency is widely acknowledged in disciplines within and beyond the legal community, as supported by academic research findings and studies documenting essential skills for the twenty-first century workplace.¹ This literature shows notable evidence of lagging skills in many research-intensive areas, including the field of law. In its call for a systematic revision of legal education, the Carnegie Foundation's 2007 report, *Educating Lawyers*,² advocated for the incorporation of practical instruction which was echoed by practitioners demanding minimum competencies in pragmatic abilities.³ A year later, the *Carnegie Report* findings were reinforced by a report of the American Bar Association Section of Legal Education and Admissions to the Bar recommending "a more overt reliance on outcomes measures" in law school accreditation standards.⁴

The American Association of Law Libraries (AALL) has developed a set of principles and standards for legal research competency, drawn from information professionals' deep involvement in legal research within academe, law firms, the courts, government agencies, and other related settings, as well as the literature of the legal profession indicating that research competency directly impacts professional efficiency and effectiveness.⁵

THE PRINCIPLES FOR LEGAL RESEARCH COMPETENCY

The principles advanced by the American Association of Law Libraries are:

- I. A successful legal researcher possesses foundational knowledge of the legal system and legal information sources.
- II. A successful legal researcher gathers information through effective and efficient research strategies.
- III. A successful legal researcher critically evaluates information.

¹ In fact, the foundation for these *Principles* stems from the *Information Literacy Competency Standards for Higher Education (2000)*, approved by the Association of College and Research Libraries (ACRL) and endorsed both by the American Association for Higher Education and the Council of Independent Colleges, as well as the significant body of literature on information literacy that has developed over the years. <http://www.ala.org/ala/mgrps/divs/acrl/issues/infolit/overview/intro/index.cfm>.

² WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PRACTICE OF LAW (2007)* (hereinafter, Carnegie Report).

³ See A.B.A. SEC. OF LEGAL EDUC. & ADMISSIONS TO THE BAR, REPORT OF THE OUTCOME MEASURES COMMITTEE 13-15 (July 27, 2008), available at http://www.albanylaw.edu/media/user/celt/outcome_measures_final_report.pdf.

⁴ *Id.* at 1.

⁵ See AALL Legal Research Competency section at <http://www.aallnet.org/legalresearchcompetency> for additional information targeted to specific constituent groups (such as practicing attorneys, legal educators, bar examiners and admission regulators, national and state bar associations, educational accrediting authorities, libraries and library associations, *et.al.*), along with documents and reports chronicling the development of the AALL *Principles and Standards for Legal Research Competency* and supporting research discussing information literacy and legal research skills.

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- IV. A successful legal researcher applies information effectively to resolve a specific issue or need.
- V. A successful legal researcher distinguishes between ethical and unethical uses of information, and understands the legal issues associated with the discovery, use, or application of information.

LEGAL RESEARCH DEFICITS

In a 2007 survey, law firm partners indicated a general dissatisfaction with new associates' legal research skills, an evaluation shared by academic and law firm librarians who identified an erosion of the same skills.⁶ A recent article offers a review of the legal research literature that catalogs unsatisfactory assessments of legal research skills by legal employers, educators, librarians, externship field supervisors, and even U.S. Supreme Court Chief Justice Roberts.⁷ At a moment in time when expansive legal information is widely available, especially to organizations and businesses that pay for access, evidence demonstrates very clearly that legal professionals often lack fundamental research skills. The issue is complicated, involving many aspects of quality and efficiency of research. Complaints include, for example, an inability to find relevant material, inefficient online search strategies, failure to hone in on the basic facts or concepts of a research problem, and limited skill in evaluating the validity and authority of sources.⁸

Analytical skills and other research competencies become even more essential given the proliferation of online legal information, multiple systems through which to access it, and the high cost of mistakes. As long ago as 1986, but still relevant today, Bob Berring noted that "[f]ree-text searching ... deprives the researcher of context."⁹ When a legal researcher is deficient in the mechanics of online searching or in the ability to evaluate the utility, reliability, and relevance of a source, the resultant recommendations will be flawed.

THE BENEFIT AND THE CHALLENGE

The standards articulated here provide a concrete framework for the assessment of competency that can be applied at any point on the continuum of a legal professional's career and in any specific field within the legal profession. Whether an organization evaluates law students, recent graduates, practicing attorneys, paralegals, or any one of a number of other professionals, the legal research competencies identify a set of skills that are essential and measurable.¹⁰

⁶ Anne Ellis, *Attorney and Student Research Skills: Ideal vs. Reality*, THOMSON WEST TOWN HALL MEETING AT AALL, RESEARCH SKILLS FOR LAWYERS AND LAW STUDENTS (2007) at 6, 16.

⁷ Yasmin Sokkar Harker, "Information Is Cheap, but Meaning Is Expensive": Building Analytical Skill into Legal Research Instruction, 105 LAW LIBR. J. 79 (2013) at ¶2, ¶11.

⁸ *Id.* at ¶2-24.

⁹ *Id.* at ¶12 quoting Robert C. Berring, *Full-Text Databases and Legal Research: Backing into the Future*, 1 HIGH TECH. L.J. 27, 54 (1986). Robert Berring is the Walter Perry Johnson Professor of Law at the University of California Berkeley School of Law. He joined Berkeley in 1982 as a professor and director of the law library. From 1986 to 1989 he held a joint appointment as dean of the School of Library and Information Studies. Berring also served as interim dean of the law school from January 2003 to June 2004. He stepped down as director of the library in 2005.

¹⁰ See, *supra*, AALL Legal Research Competency section, <http://www.aallnet.org/legalresearchcompetency>.

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It is the hope of the American Association of Law Libraries that the *Principles And Standards For Legal Research Competency* will provide value to the legal profession in these key ways:

- To foster best practices in law school curriculum development and design;
- To inform law firm planning, training, and articulation of core competencies;
- To encourage bar admission committee evaluation of applicants' research skills;
- To inspire continuing education program development; and,
- To impact law school accreditation standards review.

In all environments, competency in legal research reaps benefits for the parent organization and for the clients or users of legal services. As an earlier AALL report explained,

[L]aw school programs should reflect the realities of the legal field. In particular, an understanding of the many varied legal practice business models is vital. In today's environment, law firm success hinges on billable time, effective time management, effective communication, effective peer collaboration, and cost recovery. Similarly, efficient research habits in governmental and nonprofit settings ultimately benefit those employees and the public. Highly competent research skills, effective problem solving skills, and critical thinking skills are keys to success in all areas of legal practices of today and the future.¹¹

The legal professional acquires an understanding of these factors and develops legal research skills while in law school, but that awareness and those competencies require a lifelong commitment to skills acquisition and reinforcement in order to serve one's clients and organizations effectively and efficiently throughout one's career.

The American Association of Law Libraries asserts that the principles named here are applicable and desirable across the legal profession and beyond the law school experience. AALL invites law schools, law firms, continuing legal education providers, and professional organizations to engage in the implementation of these *Principles and Standards* in meaningful ways that will result in more competent, effective, and efficient legal research, thus impacting the bottom line and service positively.

The challenge to each entity within the legal profession – including law schools, CLE providers, bar examiners, paralegal and law office administrator associations, law firms, and others – is to embrace legal research competency as a necessary skill and to incorporate these standards and competencies into its own performance measures.

¹¹ Report, AALL Law Student Research Competency Standards Task Force for the AALL Executive Board Meeting, March 29-31, 2011, 2.