Using the AALL Principles and Standards for Legal Research Competencies in Law Schools and Law Firms

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The Principles

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.

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.
The Case for Competency
• Report of The Task Force on Law Schools and the Profession: Narrowing the Gap

• ABA

• Section of Legal Education and Admissions to the Bar

• Skill§ 3: Legal Research
   In order to identify legal issues and to research them thoroughly and efficiently, a lawyer should have:
   3.1 Knowledge of the Nature of Legal Rules and Institutions;
   3.2 Knowledge of and Ability to Use the Most Fundamental Tools of Legal Research;
   3.3 Understanding of the Process of Devising and Implementing a Coherent and Effective Research Design.
2007  Educating Lawyers - aka Carnegie Report

Educating Lawyers: Preparation for the Profession of Law
Carnegie Examines the Education of Lawyers and Calls for Change

January, 2007

The Carnegie Foundation for the Advancement of Teaching examines the way that law schools develop legal understanding and form professional identity in a new report, Educating Lawyers: Preparation for the Profession of Law. The authors call for rethinking the curriculum to better prepare graduates for the practice of law.

Over two academic semesters, a research team from the Foundation visited 16 law schools in the United States and Canada. The schools, many of which were among the more selective law schools, are both public and private, and were chosen to be geographically diverse, ranging from coast to coast and north to south. Although the team found law schools to be “impressive institutions,” able to impart a distinctive habit of “thinking like a lawyer” that forms the basis for their students’ development as legal professionals, they also found the need for innovation and improvement.

“The calling of legal education is a high one—to prepare future professionals with enough understanding, skill and judgment to support the vast and complicated system of the law needed to sustain the United States as a free society,” said William Sullivan, one of the report’s authors. “Unfortunately, despite some very fine teaching in law schools, often they fail to complement the focus on skill in legal analyses with effective support for developing ethical and practice skills.” The authors also say that law schools give only casual attention to teaching students how to use legal thinking in the complexity of actual law practice. And they found that in the first year of law school, students are often warned not to let their moral concerns or compassion for the people in the cases they discuss “cloud their legal analyses.”

“This warning does help students escape the grip of misconceptions about how the law works as they hone their analytic skills,” Sullivan said. “But when the misconceptions are not addressed directly, students have no way of learning when and how their moral concerns may be relevant to their work as lawyers and when these concerns could throw them off track.”

The authors reexamined “thinking like a lawyer”—the paramount educational construct currently in use—and the Socratic, case-dialogue instruction used in the first phase of every student’s legal education, and found problems in the creation of a “conformity in outlook and habits of thoughts among legal graduates.”

“The dramatic results of the first year of law school’s emphasis on well-honed skills of legal analysis should be matched by similar skill in serving clients and a solid ethical grounding,” the authors note. “If legal education were serious about such a goal, it would require a bolder, more integrated approach.”

In response, the authors call for law schools to offer an integrated, three-part curriculum: (1) the teaching of legal doctrine and analysis, which provides the basis for professional growth; (2) introduction to the several facets of practice included under the rubric of lawyering, leading to acting with responsibility for clients; and (3) exploration and assumption of the identity values and dispositions consonant with the fundamental purposes of the legal profession.
About the Authors.

Introduction.

1. Law School in the Preparation of Professionals.


3. Bridges to Practice: From "Thinking Like a Lawyer" to "Lawyering."

4. Professional Identity and Purpose.

5. Assessment and How to Make It Work.

Conclusion.

References.

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Carnegie Report reveals new challenges, fresh possibilities for law librarians

by Judith Welch Wegner

Law librarians around the country are attentive to both persistent and novel questions. Legal educators have recently begun to reexamine persistent questions about educational focus and strategy, based on new intellectual frameworks proposed by the Carnegie Foundation for the Advancement of Teaching in its 2007 study, Educating Lawyers: Preparation for the Profession of Law, otherwise known as the Carnegie Report.

The Carnegie Foundation’s study of legal education is part of a larger venture that focused on “Preparation for the Professions” across a variety of fields. Educating Lawyers sought to examine teaching and learning based on site visits to 16 law schools (14 in the United States and two in Canada) with varying missions, primarily during spring semester 2000. The study also incorporated insights from companion studies of the academic preparation of clergy, engineers, nurses, doctors, PhDs, K-12 teachers, and undergraduates.

Based on this and other recent studies, such as Best Practices for Legal Education (www.cleaweb.org/resources/bp.html), law librarians have an opportunity to enhance their teaching and institutional contributions as part of a broad effort to improve legal education.
American Bar Association
Section of Legal Education and Admissions to the Bar

Outcome Measures
Report of Special Committee on Outcome Measures
COMMENTS
Clinical Legal Education Association
Council on Racial and Ethnic Justice
Society of American Law Teachers
Stuckey
Society of American Law School Teachers, February 2008

Report of the Outcome Measures Committee

Professor Catherine L. Carpenter
Professor Michael J. Davis
Jerome C. Hafter, Esq.
Dean Joseph D. Harbaugh
Professor Randy Hertz (Chairperson)
A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:

(b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;
Development of the Legal Research Standards
The Beginnings....
AALL – Research Instruction Caucus

CORE LEGAL RESEARCH COMPETENCIES:
A COMPREHEND OF SKILLS AND VALUES AS DEFINED IN THE
ABA’S MCCRANE REPORT

A REPORT BY THE AMERICAN ASSOCIATION OF LAW LIBRARIES’
RESEARCH INSTRUCTION CAUCUS

PREPARED BY THE SUBCOMMITTEE ON RESEARCH CERTIFICATION
EDITED BY ELLEN M. CAILIMAN

July 1997
REPORT OF THE AALL SPECIAL COMMITTEE ON FOSTERING LEGAL RESEARCH AS A SUBJECT SPECIALTY

October 2006

INTRODUCTION: This special committee was appointed for a one year term beginning July, 2005, to develop and promote the expertise of law librarians as legal research experts. We submitted a Final Report to the AALL Executive Board at the end of our term (attached as Appendix A) in which we made five proposals for the Executive Board to act on and were asked to continue our work for another four months in order to implement our proposals. The committee met at the AALL annual meeting in St. Louis, on July 16, 2006, and decided to fold two of our proposals into one (the web site and research blog) and to work on the implementation of four projects: (1) writing a regular column on teaching legal research for publication in The Spectrum, (2) proposing an institute on teaching legal research to be held before next summer’s AALL, which could serve as a model for additional institutes at the chapter level; (3) working with other AALL Special Interest Sections to develop a site on AALLnet pertaining to teaching legal research; and (4) working with other national organizations towards creation of a bar exam for testing legal research skills. A report on the progress made on these four projects follows.

SPECTRUM COLUMN ON TEACHING LEGAL RESEARCH: The committee’s proposal to write a regular column for The Spectrum on teaching legal research was approved by the new editor, Paul Isles, in August. This column will appear four times annually, with each of the four columns addressing the topic from a different perspective: academic librarians, private practitioners, state, court and county librarians and the legal publishing industry. A draft copy of the first column (to be published in the December issue) is attached to this report as Appendix B.

AALL INSTITUTE ON TEACHING LEGAL RESEARCH: In early August, the committee submitted a proposal for a half day institute on teaching legal research. A short description of this proposed institute follows:

This half-day workshop on teaching legal research to the new Millennials will help improve law librarians’ competencies as legal research instructors in their respective settings. This workshop will explore learning theories, emphasize teaching tips that work, and discuss proven best practices. The workshop will demonstrate how to teach the multiple types of lessons with which we work, will inform participants of resources to which they can turn for help, will encourage participants to share their expertise, and will offer the opportunity for wide ranging conversation. We live in a multi-tasking work place. Simultaneously emailing, IM’ing, telephoning, downloading and writing. We must combine this new style with the need to cover the traditional research methods. Attend the workshop and find out how to best fit your instruction to this new work flow.
The Boulder Statement on Legal Research Education

The Conference on Legal Information: Scholarship and Teaching was attended by legal research professionals who gathered at the University of Colorado Law School in Boulder, Colorado on June 21-22, 2009, to discuss legal information scholarship and instruction. The following Boulder Statement on Legal Research Education was developed at that Conference and reflects the consensus of the conference participants on the theoretical foundation of a signature pedagogy for legal research education.

The Statement is based on the model proposed by the Carnegie Foundation’s EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007). Generally referred to as the “Carnegie Report,” EDUCATING LAWYERS calls for a systemic revision of legal education. In particular, the Report advocates moving from the present signature legal pedagogy of the Socratic method to a manner of teaching that incorporates practical education with theoretical and doctrinal instruction and that emphasizes professional responsibility. The Report suggests that the most effective legal education occurs through three inter-related “apprenticeships” — practical; cognitive or intellectual; and identity and purpose — which, experienced together, encourage students to explore all aspects of a legal problem and allow for contemporaneous feedback.
Information Literacy Competency Standards for Higher Education

NOTE: While the Information Literacy Competency Standards for Higher Education are currently in force, during 2013-14, an ACRL task force is extensively revising them. Read more, and participate in an open forum during Fall 2014 or listen to recordings afterwards.

These standards were reviewed by the ACRL Standards Committee and approved by the Board of Directors of the Association of College and Research Libraries (ACRL) on January 18, 2000, at the Midwinter Meeting of the American Library Association in San Antonio, Texas. These standards were also endorsed by the American Association for Higher Education (October 1999) and the Council of Independent Colleges (February 2004). A PDF of this document is available.

Print copies may be purchased from the Association of College and Research Libraries for $25.00 for a package of 25, including standard postage. Expedited shipping is available for an additional charge. Orders (along with check or money order made payable to Association of College and Research Libraries) should be sent to:

Association of College and Research Libraries
Attn: Standards Fulfillment
50 East Huron Street
Chicago, IL 60611
Evolution – 2010 to 2013

- Principles
- Standards
- Competencies
- Law Student
- Legal Professional

NALP / ALI CLE 2013 Professional Development Institute • December 12 – 13, 2013
Principles and Standards for Legal Research Competency, approved by the AALL Executive Board July 11, 2013

Promoting the AALL Principles and Standards for Legal Research Competency Task Force Charges and Reports to the AALL Executive Board:

July, 2013 Promoting the AALL Legal Research Principles, Competencies and Standards for Law Student Information Literacy Task Force Report

July, 2012 Legal Research Competencies and Standards for Law Student Information Literacy

April, 2011 Law Student Research Competencies and Information Literacy Principles Report

March, 2011 Law Student Research Competency Standards Task Force Report

July, 2010 Law Student Research Competency Standards Task Force Charge
Principles And Standards For Legal Research Competency will provide value to the legal profession in these key ways:
Value to the Legal Profession

• **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.
Hierarchy of the PSLRC

Principles
Standards
Competencies
Hierarchy of the PSLRC

Principle 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.

Standards:
A. An information-literate legal professional understands and articulates the factors that determine the ethics and legality of information use in conformity with a lawyer's obligations to the court, the bar, and society.
B. An information-literate legal professional understands the laws, rules, and other legal authority that govern a lawyer's use of information in the course of practice.
C. An information-literate legal professional understands that research skills are among the set of professional skills that are continuously learned and re-learned throughout one's professional life.
Hierarchy of the PSLRC

Principle V.
Standard A.

Competencies:

1. Comprehends and complies with laws and organizational (firm, school, court) rules on access to information resources and storage and dissemination of information.

2. Understands intellectual property issues such as licensing, copyright, and fair use of copyrighted material.

3. Accurately articulates privacy, confidentiality, security, diligence, and other ethical issues related to research and practice in accordance with the Model Rules of Professional Conduct, the Model Code of Professional Responsibility, or the prevailing local law governing legal ethics.
Legal Research Competency Website

http://www.aallnet.org/legalresearchcompetency.
Legal Research Competency

The American Association of Law Libraries asserts that the *Principles and Standards for Legal Research Competency* are applicable and desirable across the legal profession and beyond the law school experience. AALL invites librarians, law schools, law firms, continuing legal education providers, and relevant organizations in the legal profession 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. This section offers opportunities to read about legal research competency, to share assessment examples and best practices.

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.
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Outreach

- For law firms
- For law schools
- For courts
- For bar examiners

What's New

- Legal Research Principles
- Using the AALL Principles and Standards for Legal Research Competencies in Law Schools and Law Firms
- Out of the Shadows: What Legal Research Instruction Reveals About Incorporating Skills Throughout the Curriculum

Action Center

- Share Your Ideas
- Connect
- Read
- Learn
Implementation phase

Applying & using the Principles, Standards & Competencies
## PSLRC in law schools

<table>
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<th>Pedagogy</th>
<th>Mentoring</th>
<th>Sharing</th>
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Embed research into academic curriculum
Legal research education

The Boulder Statement on Legal Research Education:
Signature Pedagogy Statement

Surface Structure
We teach an intellectual process for the application of methods for legal research by:

1) Using a range of teaching methodologies and a mix of realistic problem types;
2) Showing the relationship of legal structure to legal tools and evaluating the appropriate use of those tools;
3) Inculcating the practice of iterative research strategies; and
4) Providing regular assessment.

Deep Structure
The surface structure above enables students to master analytic and metacognitive approaches to:

1) Find and evaluate sources in the context of the legal questions;
2) Determine legal context, access authority, and understand how what is found relates to the legal question; and
3) Synthesize knowledge of the legal resources and institutional structures to implement research design, and evaluate and communicate the results.

Tacit Structure
The surface structure models values, attitudes and norms of ethical professional behavior, including:
Legal research education

Out of the Shadows: What Legal Research Instruction Reveals About Incorporating Skills Throughout the Curriculum

Barbara Glesner Fines
University of Missouri at Kansas City - School of Law
2012

Journal of Dispute Resolution, Spring 2013

Abstract:
In examining the challenges of bringing any skills instruction out of the shadows of the curriculum, reformers may find a telling example in the efforts to incorporate instruction of legal research into the curriculum. Legal research skills have long been recognized as foundational to legal practice. Yet attorneys and law firm librarians consistently evaluate law students and new lawyers as deficient in legal research skills. A careful examination of why law schools have been unable to improve this assessment of their graduates’ skills can provide insights in thinking about the integration of other skills education into the curriculum. The article first examines the politics of curricular reform. Part Two of the article discusses attitudes that can hinder the development of skills instruction starting with a general skepticism about skills instruction. Part Three of the article posits that approaches to curricular reform that are grounded in collaboration and focused on assessment of student learning can raise the profile and importance of a particular skill. Thus, this article describes such an approach to integrating skills instruction into the curriculum through the analysis of outcomes and the development of assessment devices. Last, the article explores the ways in which assessment leads to curricular change and prioritization, as results of assessments drive improvements in both teaching and learning. It concludes that data on student learning gained from assessment activities can focus conversations about whether and how to improve student competence on a given learning outcome. It is only through these shared conversations and ownership of skills learning that the demands for improved student preparation can be met.
PSLRC in instruction & assessment

**Instruction**
- Discussion
- Written assignments
- Best practice skills
- Provocative questions

**Assessment**
- Bar exam questions
- Performance evaluations
- Self-assessment questionnaire
Best practice skills

Principle III, Standard A.

Competencies:
1. Consistently applies criteria to evaluate the reliability of information, including but not limited to
   a. Authority,
   b. Credibility;
   c. Currency; and
   d. Authenticity
2. Understands that these criteria are relevant for both print and online, and legal and non-legal, sources.
Provocative questions

- Cost-Benefit analysis (III.B.1-3.)
- Ethical discovery & use of information (Principle V.)
- Disclosure of contradictory authority (III.C.3.)
PSLRC in instruction & assessment

**Instruction**
- Discussion
- Written assignments
- Best practice skills
- Provocative questions

**Assessment**
- Self-assessment
- Bar exam questions
- Performance evaluations
Self-assessment

Analyzes and identifies the most effective secondary sources for researching a legal issue or problem, recognizing that the relevance of sources will...

Knows the relative costs of choosing to search one database over another and is aware of free and low cost alternative sources.

[Pie chart for self-assessment question]

[Pie chart for self-assessment question]
Law student self-assessment

Recognizes when sufficient research has been done to adequately address the legal issue or information need.

- Yes
- No

Distinguishes between federal, state and local systems of government and understands their unique roles in the U.S. legal system.

- Yes
- No
Law student self-assessment

Understands and distinguishes between different types of primary law sources and the weight, reliability and binding or persuasive...

Uses citation of sources to respect authors’ intellectual property rights and accurately indicate where the words and ideas of others have been used.
Research questions on the Bar Exam!

THE TESTING COLUMN
QUALITY CONTROL FOR DEVELOPING AND GRADING WRITTEN BAR EXAM COMPONENTS

by Susan M. Case, Ph.D.

In the May 2010 issue of the Bar Examiner, I discussed the concept of best practices and outlined the following 10 best practices in testing for submission to the bar. These cover three main categories:

A. Best practices for exam development:

1. Each exam component must have a stated purpose.

2. Each exam component must be developed using professional standards of test development and with strictest adherence to security.

3. Grading criteria must reflect the exam purpose, and the grading process must adhere to professional standards.

4. Each exam question must be reviewed and protected to ensure the quality of the test development and grading criteria.

B. Best practices for test administration:

5. Test administration policies and exams

6. Test administration monitoring and exam

7. Test administration monitoring and exam

8. Test administration practices must ensure that examinees cannot take test material or information out of the testing room.

9. Grading practices must follow professional standards, with emphasis on grader training, calibration, grading consistency, and monitoring.

10. Scores must be equated, scaled, and weighted to ensure appropriate score meaning.

Because of the continuing questions from jurisdictions, I have devoted this column to addressing issues related to exam development, as well as issues related to grading individual essays and combining scores. For example, the

EXAM DEVELOPMENT

Each Exam Component Must Have a Purpose Statement

Every high-stakes examination such as the bar examination must have a written purpose statement that explicitly states what skill and knowledge set each component is designed to assess. For example,
### Bar exam questions

- Characteristics of primary law
- Characteristics of secondary legal information
- Primary legal sources
- Secondary legal sources
- Relative weight of authority
- Statutory construction
- Citation verification
- Application of ethics rules to research
- Documenting research strategies
- Efficiency and cost
- Evaluation of sources
Lawyer performance evaluation

AALL’s Principles & Standards for Legal Research Competency

A built-in matrix for creating a research performance evaluation tool!
Lawyer performance evaluation

Does the associate consider costs to the client and the firm when completing research assignments?

(Principle III, Standard B.)

Is the associate able to resolve all questions posed and provide sufficient support for conclusions reached?

(Principle IV, Standard C.)
Brainstorming
Questions for small groups

**1st Question**
How would you envision an organization (law school, law firm, court, corporate entity, etc.) using the PSLRC?

**2nd Question**
What are some possible ways to raise awareness of the PSLRC and how they can be applied within different organizations?
Going Forward...
Your needs

What support can we offer to YOU?
Your feedback

• May we contact you directly?

• AALL Legal Research Competency webpage at http://www.aallnet.org/main-menu/Advocacy/legalresearchcompetency
  • Share Your ideas
  • Connect
  • Learn
  • Outreach pages
Legal Research Competency

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