

The road not yet taken: how law student information literacy standards address identified issues in legal research education and training

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The Road Not Yet Taken: How Law Student Information Literacy Standards Address Identified Issues in Legal Research Education and Training*

Dennis Kim-Prieto **

Legal research education has been slow to adopt information literacy as a framework, despite the demonstrated utility of this framework when applied to library instruction and assessment. This article defines law student information literacy (LSIL), analyzes how LSIL standards address existing and identified deficits in the current state of legal research education, and offers a copy of the draft LSIL standards. The recently approved AALL Law Student Research Competencies and Information Literacy Principles are appended to the article.

Why LSIL?	606
What Is Information Literacy?	607
What Are the LSIL Standards?	609
The MacCrate and Carnegie Reports	611
What Can Be Done with LSIL Standards?	615
Standardized Assessment	616
Measuring Research Performance by Institution	617
Conclusion	617
Appendix A: LSIL Standards	619
Appendix B: Law Student Research Competencies and Information Literacy Principles	627

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Why LSIL?

¶1 Library instruction has gone through numerous changes since Otis Hall Robinson's famous reply to Samuel Green's paper, "Personal Relations Between Librarians and Readers."¹ Green conceived of library reference service as a type of personalized instruction, and in his paper, he charged reference librarians to "give [patrons] as much assistance as they need, but try at the same time to teach them to rely upon themselves and become independent."² In his reply, Robinson opined that

a librarian should be much more than a keeper of books; he should be an educator. . . . No such librarian is fit for his place unless he holds himself to some degree responsible for the library education of his students. . . . It is his province to direct very much of their general reading; and especially in their investigation of subjects he should be their guide and friend. . . . [S]tudents get the most from me when they inquire about subjects that I know least about. They learn how to chase down a subject in a library. They get some facts, but especially *a method*. . . . All that is taught in college amounts to very little; but if we can send students out self-reliant in their investigations, we have accomplished very much.³

Although we may roll our eyes at the anachronistic use of male pronouns, there is much in Robinson's observation that applies to the students that we teach each day in our law libraries. Indeed, the practice of law has been particularly eager for graduates of law schools to be more "self-reliant in their investigations" for some time.

¶2 Most strikingly, the conversation between Green and Robinson indicates a vital scholarly debate about the role of instruction in libraries that had just begun to percolate, and has continued to brew ever since. As the scholarly "[l]iterature on bibliographic instruction has steadily grown since the 19th century," the very notion of bibliographic instruction has reflected the debates contained within this literature.⁴ Known throughout the century by a variety of labels, such as Big Six and BI (Bibliographic Instruction),⁵ information literacy (IL) is the current operative heuristic intended to address this ongoing debate, as it is identified by the American Library Association (ALA) through its Association of College and Research Libraries (ACRL).

¶3 In the ten years since ACRL's formal approval of the Information Literacy Competency Standards for Higher Education,⁶ a number of subject-specific inter-

1. Samuel S. Green, *Personal Relations Between Librarians and Readers*, 1 AM. LIBR. J. 74 (1876).

2. *Id.* at 80.

3. *Proceedings: First Session*, 1 AM. LIBR. J. 123-24 (1876) (comments of Otis H. Robinson).

4. See Mary F. Salony, *The History of Bibliographic Instruction: Changing Trends from Books to the Electronic World*, REFERENCE LIBR., no. 51/52, 1995, at 31, for a detailed history of bibliographic instruction.

5. See *id.* at 31; Kimmo Tuominen et al., *Information Literacy as a Sociotechnical Practice*, 75 LIBR. Q. 329, 331 (2005).

6. ASS'N OF COLL. & RESEARCH LIBRARIES, INFORMATION LITERACY COMPETENCY STANDARDS FOR HIGHER EDUCATION 5 (2000), available at <http://www.ala.org/ala/mgrps/divs/acrl/standards/standards.pdf> [hereinafter ACRL INFORMATION LITERACY STANDARDS]. The standards have been adapted by Australia, New Zealand, Scotland, and the United Kingdom, as well as by the International Federation of Library Associations (IFLA). *Information Literacy Around the Globe*, ASS'N OF COLL. & RESEARCH LIBRARIES, <http://www.ala.org/ala/mgrps/divs/acrl/issues/infolit/resources/global/globalil.cfm> (last visited July 29, 2011).

est groups within ALA have drafted and gained approval for a variety of subject-specific IL standards.⁷ However, law librarians have been relatively slow to adopt our own subject-specific IL standards, despite the singular nature of legal research and its impact on the practice of law. This article presents law student information literacy (LSIL) as a subject-specific iteration of the ACRL's IL initiatives, by first articulating our current understanding of IL and analyzing LSIL standards, then discussing deficits in research instruction identified in the MacCrate and Carnegie reports and how LSIL addresses these deficits within the context of future uses for LSIL, and appending the draft LSIL standards as they were first articulated. Finally, appendix B provides the Law Student Research Competencies and Information Literacy Principles. To understand exactly what LSIL is, however, we must first understand the core concept of IL.

What Is Information Literacy?

¶4 Information literacy is an assessment rubric designed by ACRL for measuring the information literacy skills of an individual.⁸ ACRL defines IL as “the set of skills needed to find, retrieve, analyze, and use information,”⁹ and articulated a set of standards for IL in 2000.¹⁰ There are five top-level standards that are structured according to a logical hierarchy: *know*, *access*, *evaluate*, *use*, and *ethical/legal*.¹¹ ACRL provides detailed explanations of these standards as follows:

1. *Know*: “The information literate student determines the nature and extent of the information needed.”
2. *Access*: “The information literate student accesses needed information effectively and efficiently.”
3. *Evaluate*: “The information literate student evaluates information and its sources critically and incorporates selected information into his or her knowledge base and value system.”
4. *Use*: “The information literate student, individually or as a member of a group, uses information effectively to accomplish a specific purpose.”
5. *Ethical/Legal*: “The information literate student understands many of the economic, legal, and social issues surrounding the use of information and accesses and uses information ethically and legally. This standard recognizes that students must be taught the social, economic and political issues surrounding information, specifically the ethical and legal uses of information and its technology.”¹²

7. *See Standards & Guidelines*, ASS'N OF COLL. & RESEARCH LIBRARIES, <http://www.ala.org/ala/mgrps/divs/acrl/standards/standardsguidelinestopic.cfm> (last visited July 29, 2011).

8. ACRL INFORMATION LITERACY STANDARDS, *supra* note 6.

9. *Introduction to Information Literacy*, ASS'N OF COLL. & RESEARCH LIBRARIES, <http://www.ala.org/ala/mgrps/divs/acrl/issues/infolit/overview/intro/index.cfm> (last visited July 28, 2011).

10. ACRL INFORMATION LITERACY STANDARDS, *supra* note 6.

11. “Each standard builds on and expands the previous one. In some cases . . . aspects of one standard are touched on briefly in others.” *The Standards: Step-by-Step*, ASS'N OF COLL. & RESEARCH LIBRARIES, <http://www.ala.org/ala/mgrps/divs/acrl/issues/infolit/standards/steps/index.cfm> (last visited July 28, 2011).

12. *Id.*

¶5 These standards have been used in college and university libraries across North America for the purposes of assessment, curricular development, and programming. ACRL's standards have also served as the basis for Project SAILS, the Standardized Assessment of Information Literacy Skills.¹³ Furthermore, these standards have served as the framework for WASSAIL, an open source information literacy assessment instrument recently developed at the Augustana Campus Library of the University of Alberta.¹⁴ Since the development of the standards, IL has become ubiquitous within the library literature. Indeed, since the publication of Breivik and Gee's seminal study of information education in the academy,¹⁵ about 19,000 scholarly works have incorporated, analyzed, or otherwise referenced the term *information literacy*.¹⁶ While it is true that the term has not been commonly found in the legal and law library literatures, the general trend (especially since the ACRL standards were promulgated) has been toward an articulation of research skills as a set of the skills encompassed by the more holistic term *information literacy*, as figure 1, comparing the use of that term against *research skills* and *bibliographic instruction*, demonstrates.¹⁷

¶6 Outside of academic libraries, IL has reached the attention of accrediting bodies. For example, the Middle States Commission on Higher Education has incorporated IL into their accreditation standards for higher education institutions. Their standard 11 explicitly mentions IL as an "essential component of any educational program at the graduate or undergraduate levels."¹⁸ Additionally, several state initiatives have called for incorporation of IL standards into educational programming that requires certification.¹⁹ Given the breadth of academic, assess-

13. See *About Project SAILS*, PROJECT SAILS, <https://www.projectsails.org/AboutSAILS> (last visited Aug. 19, 2011), for more details on the development and rollout process of the Standardized Assessment of Information Literacy Skills. Project SAILS is currently used to assess IL at more than eighty different institutions of higher education in the United States and Canada. *Id.*

14. "WASSAIL is a database-driven, web-based application employing PHP, MySQL, and Javascript/AJAX technologies. It was created to manage question and response data from the Augustana Library's library instruction sessions, pre- and post-tests from credit bearing information literacy (IL) courses, and user surveys. It has now expanded beyond its original function and is being used to manage question and response data from a variety of settings." WASSAIL, UNIV. OF ALBERTA LIBRARIES, <http://www.library.ualberta.ca/augustana/infolit/wassail> (last visited July 28, 2011).

15. PATRICIA SENN BREIVIK & E. GORDON GEE, INFORMATION LITERACY: REVOLUTION IN THE LIBRARY (1989).

16. Google Scholar (scholar.google.com) was searched on July 28, 2011, for the phrase "information literacy" within quotation marks, within articles, and was limited to results after 1989.

17. The figure is taken from the Google Books Ngram viewer (ngrams.googlelabs.com), which quantitatively expresses the frequency of terms found within the Google Books corpus, and compares their frequency. As the graph makes clear, the frequency of the term *bibliographic instruction* appears to have peaked around 1985. The frequency of the term *research skills* appears to have peaked shortly after 2000, and the frequency of the term *information literacy* appears to be on an upward trend, albeit trending more slowly since shortly before 2005.

18. MIDDLE STATES COMM'N ON HIGHER EDUCATION, CHARACTERISTICS OF EXCELLENCE IN HIGHER EDUCATION 42 (2009), available at http://www.msche.org/publications/CHX06_Aug08REVMarch09.pdf. Standard 11 goes on to suggest that "evidence of information literacy [be] incorporated into the curriculum with syllabi, or other material appropriate to the mode of teaching and learning, describing expectations for students' demonstration of information literacy skills . . ." *Id.* at 46. IL is also referenced as a touchstone throughout Standards 12 and 13.

19. See, e.g., N.J. ADMIN. CODE 9A:1-1.9(k), mandating that any degree-granting institution in the state of New Jersey

shall have in place a plan that articulates how students will obtain information literacy skills as



Figure 1. Comparison of frequency of terms *information literacy*, *research skills*, and *bibliographic instruction* across the Google Books English-language corpus from 1940–2008.

ment, and regulatory material on this topic, there can be little doubt that IL will continue to shape library instruction, if not higher education as a whole, for years to come.

What Are the LSIL Standards?

¶7 The LSIL standards are a set of standards and performance indicators that are based on the ACRL standards discussed above, but tailored to fit the skills, tools, and work product that we train law students to acquire, use, and create.²⁰ They were drafted in 2009–2010 by members of the Joint Special Interest Section Committee on the Articulation of Law Student Information Literacy Standards.²¹ While the ACRL standards are a useful start, and critical to undergraduate education, the committee operated with the understanding that the particularized nature of legal research, with respect to content, research strategies, and tools, requires a subject-specific articulation of IL standards and competencies. Using the top-level ACRL standards as a framework, the committee began the work of articulating and honing LSIL standards and competencies in November 2009, in order to create standards for law student IL that could be used by member libraries of the American Association of Law Libraries (AALL) and legal research instructors. While the com-

they progress through the curriculum. The plan shall identify outcomes for information literacy skill development, and how those outcomes are measured and assessed. . . . An institution shall provide evidence of faculty and administrator involvement in the development, implementation and operationalization of the information literacy plan. The institution has the responsibility, through its library or through other appropriate means, to make the information literacy plan available to the learning community. Within three years of initial licensure, an institution shall document how students are achieving information literacy outcomes.

20. See appendix A, *infra*, for the complete text of the standards.

21. The Joint SIS Committee was chaired by the author. Molly Brownfield served as vice-chair. Academic Law Library (ALL-SIS) representatives on the committee were Kumar Jayasuriya and Laura Scott. The Foreign, Comparative, and International Law (FCIL-SIS) representatives were Mary Rumsey and Rachael Smith. Representatives from Private Law Libraries (PLL-SIS) were Jill L.K. Brooks and Susan van Beek. Representatives from Research, Instruction, and Patron Services (RIPS-SIS) were Thomas Mills and Karen Schneiderman.

mittee realized that our initial iteration of articulated LSIL standards would necessarily be limited to the subject area of U.S. law, the assumption was that these standards would need revision and reformulation, as both the tools of legal research and the practice of law itself also change.

¶8 Subsequently, AALL charged a Law Student Research Competency Standards Task Force with reviewing and applying LSIL standards to reflect the ever-changing landscape of practice.²² In March 2011, the executive board of AALL approved the Law Student Research Competencies and Information Literacy Principles articulated by this task force,²³ an initial step that will foster the developments that this article contemplates.

¶9 The shape of the LSIL standards mirrors the overall shape of the ACRL standards: *identify*, *access*, *evaluate*, *apply*, and *ethical & legal issues of use*. These top-level standards are detailed below:

1. *Identify*: The information-literate law student is able to identify the type and sources of information appropriate to the problem or issue at hand.
2. *Access*: The student knows how to access the appropriate information effectively and efficiently.
3. *Evaluate*: The student also evaluates the information and its sources critically, in order to properly incorporate the appropriate information into reliable work product.
4. *Apply*: The student applies the information effectively to resolve a specific issue or need.
5. *Ethical & Legal Issues of Use*: The student distinguishes between ethical uses and unethical uses of information and understands legal issues arising from information discovery, use, or application.

While the resemblance to the framework of the top-level ACRL standards should be apparent, one key distinction between ACRL's standards and the LSIL standards is that the latter are explicitly tied to the problem-solving work at the heart of legal analysis and research. This pragmatic approach is reinforced in the competencies and performance indicators that explicate each LSIL standard.

¶10 By means of example, LSIL Standard I recognizes law student information literacy through the student's ability "to identify the type and sources of information appropriate to the problem or issue at hand." The standard lists the following behaviors as indicative of such ability: naming the jurisdiction(s) able to exert authority over the issue at hand; articulating the legislative, regulatory, and judicial

22. AALL charged the Law Student Research Competency Standards Task Force with reviewing the LSIL Standards to recommend whether or not AALL should adopt them, and if so, to revise and present them to the board for adoption. The Law Student Research Competency Standards Task Force was chaired by Sally Wise and included the following law librarians: Elizabeth Adelman, Beth DiFelice, Linda-Jean Schneider, Kay Moller Todd, and the author. See *Law Student Research Competency Standards Task Force*, AM. ASS'N OF LAW LIBRARIES, http://www.aallnet.org/committee/res_stds.asp (last visited July 29, 2011). Appendix B, *infra*, contains the principles drafted by the task force.

23. AM. ASS'N OF LAW LIBRARIES, SUMMER MEETING BOARD BOOK 3645 (July 21–22, 2011), available at <http://www.aallnet.org/main-menu/Leadership-Governance/executiveboard/meetings/boardbooks/2011/20110721.pdf> (available to AALL members only).

processes; and explaining the hierarchical relationships among statutes, regulations, and judicial opinions. Each standard includes a set of behaviors indicating a student's mastery of the material that the standard measures. But the clearest measure of the utility of these standards becomes apparent when we examine the gaps in legal research education that have already been noted in the literature.

The MacCrate and Carnegie Reports

¶11 One aspect of legal practice that has not changed, perhaps even since the time of Blackstone, is the perception that new practitioners lack critical skills in legal research. In 2003, Paul Callister observed that “[e]ven before Westlaw and LexisNexis made ‘free’ passwords (at least from the student’s point of view) and unlimited online access available to virtually all law students, complaints about attorney and student research skills as well as legal research instruction were common themes in the literature”²⁴ However, the multitude of complaints is not limited to the realm of legal research education and training; the bar, judiciary, and professoriate have bemoaned numerous aspects of legal education. The most significant examples in recent literature are commonly known as the MacCrate Report, published in 1992,²⁵ and the Carnegie Report, which followed more than a decade later.²⁶

¶12 We may see the depth of the MacCrate Report’s influence on legal research instruction most strikingly in its attempt to answer the oft-quoted question, “what skills, what attitudes, what character traits, what qualities of mind are required of lawyers?”²⁷ Duncan Alford has provided a concise and accurate summary of what the MacCrate Report said and did:

The MacCrate Report emphasized the need, identified by practitioners, for additional skills training in law school and explored the role law schools should play in producing practitioners. The report identified ten “fundamental lawyering skills.” Among them were legal research and factual investigation. The report noted that legal research is “in essence a process of problem solving.” The MacCrate Report praised the “invaluable contribution” of clinics to legal education and noted favorably the funding provided by the Ford Foundation through the Council on Legal Education for Professional Responsibility (CLEPR) to support clinical legal education. The MacCrate Report also recommended that skills faculty should be permanent, full-time teachers within the legal academy.²⁸

24. Paul Douglas Callister, *Beyond Training: Law Librarianship’s Quest for the Pedagogy of Legal Research Education*, 95 LAW LIBR. J. 7, 9, 2003 LAW LIBR. J. 1, ¶ 6 (footnote omitted). Callister goes on to list several comments on the inadequacy of research skills among new practitioners from the bar, the judiciary, the professoriate, and from law librarians, some dating back to 1902.

25. AM. BAR ASS’N, SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992).

26. WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007).

27. Robert MacCrate, *The Last Word on a New Beginning*, in THE MACCRATE REPORT: BUILDING THE EDUCATIONAL CONTINUUM 145 (1994) (quoting Justice Rosalie Wahl).

28. Duncan Alford, *The Development of the Skills Curriculum in Law Schools: Lessons for Directors of Academic Law Libraries*, 28 LEGAL REFERENCE SERVICES Q. 301, 305 (2009) (footnotes omitted).

These recommendations were taken seriously by law schools, resulting in real changes to curricula. As Barbara Bintliff has noted, the MacCrate Report catalyzed enormous changes in legal writing and clinical courses, “the programs through which most fundamental lawyering skills are taught.”²⁹

¶13 The heart of the recommendations that the MacCrate Report puts forward is found in the second part of the report, titled “A Vision of the Skills and Values New Lawyers Should Acquire.” Within this section, the report first formulates “A Statement of Skills and Values,” in chapter 4, and subsequently presents the aspirational “Statement of Fundamental Lawyering Skills and Professional Values,” in chapter 5. The report summarizes its emphasis on legal research: “In order to conduct legal research effectively, a lawyer should have a working knowledge of the nature of legal rules and legal institutions, the fundamental tools of legal research, and the process of devising and implementing a coherent and effective research design”³⁰ The report goes on to analyze legal research skills with respect to the following components, providing specific examples that demonstrate the concepts embedded within these skills: “Knowledge of the nature of legal rules and institutions; . . . knowledge of and ability to use the most fundamental tools of legal research; . . . [and] understanding of the process of devising and implementing a coherent and effective research design.”³¹

¶14 Such analysis demonstrates the MacCrate Report’s emphasis on legal research as a fundamental skill; as noted in the report, “the ability to do legal research is one of the skills that any competent legal practitioner must possess.”³² It is also worth noting that the structure of the analysis MacCrate applied to legal research skills proved to be very influential in the drafting of the LSIL standards—perhaps as influential as ACRL’s standards. Indeed, the skills identified in the MacCrate Report are represented quite strongly throughout the standards.

¶15 We see this influence clearly when we juxtapose the MacCrate Statement on Legal Research with the LSIL standards themselves. Section 3.3 of the MacCrate statement sets forth the need for lawyerly “Understanding of the Process of Devising and Implementing a Coherent and Effective Research Design,” while LSIL Standards III and IV require that students demonstrate IL, first by critically evaluating “the information and its sources, in order to properly incorporate the appropriate information into reliable work product,” and then by applying “information effectively to resolve a specific issue or need.” However, each document’s subpoints and performance indicators express concern with very similar skills and tasks in

29. Barbara Bintliff, *Legal Research: MacCrate’s “Fundamental Lawyering Skill” Missing in Action*, 28 LEGAL REFERENCE SERVICES Q. 1, 1 (2009) (noting that, in the post-MacCrate landscape, “mock trial and moot court competitions increased, providing additional outlets for the application of client skills and multiple writing opportunities; as often as not, clinical or writing faculty supervised these competitions. Law schools reallocated resources and invested significant funds in improving their offerings in these areas. For the most part, these programs taught the fundamental lawyering skills identified in the MacCrate Report; legal education and law graduates are the better for it.”).

30. AM. BAR ASS’N, *supra* note 25, at 157. Note the similarity between this language and the definitional phrase associated with the ACRL’s iteration of information literacy: “the ability to find, retrieve, analyze, and use information.” *Introduction to Information Literacy*, *supra* note 9.

31. AM. BAR ASS’N, *supra* note 25, at 157–60.

32. *Id.* at 163.

language that is also strikingly similar. For comparison, the MacCrate Report emphasizes that

A lawyer should be familiar with the skills and concepts involved in:

....

(c) Evaluating the various search strategies and settling upon a research design which should take into account:

(i) The degree of thoroughness of research that would be necessary in order to adequately resolve the legal issues . . . ;

(ii) The degree of thoroughness that is necessary in the light of the uses to which the research will be put . . . ;

(iii) An estimation of the amount of time that will be necessary to conduct research of the desired degree of thoroughness;

(iv) An assessment of the feasibility of conducting research . . . ;

....

(vi) Strategies for double-checking the accuracy of the research³³

¶16 Although the statement seems to bear a slightly different focus than the LSIL standards, the competency indicators that underlie these standards yield a very similar outcome. Students may show their mastery of LSIL Standards III and IV through behaviors described under the performance indicators quoted below:

III.2.a. Evaluating the accuracy, authority, objectivity, currency, and coverage of legal and nonlegal information and information sources.

III.2.b. Describing the different purposes and relative strengths and weaknesses of different kinds of sources. . . .

III.4.a. Verifying factual claims with information from knowledgeable authorities.

III.5.a. Determining if original information need has been satisfied or if additional information is needed.

IV.4.a. Reflecting on the successes or failures of prior strategies for integrating new information into the analysis.

IV.4.b. Recognizing when specific questions within a larger research problem have not been answered with the information compiled.

IV.4.c. Recognizing when the ultimate questions presented have not been fully answered through the research already obtained.

IV.4.d. Recognizing when sufficient research has been done to adequately address the legal issue or information need.

Despite the difference in precise topical foci between the MacCrate Report and the LSIL standards listed above, behaviors that demonstrate mastery of the material in both of these resources are quite similar: each requires that the law student or lawyer bring a methodical plan and a recursive approach to legal research.

¶17 Furthermore, while the MacCrate skills are a useful benchmark, they do not offer particular competencies to assess performance. Rather, the report links these skills to generalized descriptions of research sources, regardless of particular areas of practice. Moreover, the MacCrate skills are not tied to any other research instruction rubric, which complicates the development of assessment tools that might be based exclusively on its skills list. The MacCrate Report presents a useful start, but it merely points to gaps, without providing any means of bridging the gaps between the reality of and our aspirations for law student legal research proficiency. As noted

33. *Id.* at 160–62.

above, the report indicates deficits that many law students present in class and in the workplace, but merely provides a framework, rather than the mechanism, to remedy these deficits. The LSIL standards, with their structure and their performance indicators, can provide such a mechanism.

¶18 Unlike the MacCrate Report, the Carnegie Report did not devote separate attention to legal research or legal research training. Rather, the Carnegie model emphasizes a holistic approach to legal education that will apprentice law students into the community of legal practice. In particular, the report proposes three apprenticeship types: the cognitive apprenticeship, the expert practice apprenticeship, and the apprenticeship of identity and purpose.³⁴ Of these three types, the Carnegie Report discusses the cognitive apprenticeship most thoroughly. And while law librarians might find a place for all three types of apprenticeships when training law library students, it does seem that the domain of the cognitive apprenticeship most aptly fits the legal research training that is our classroom expertise. Yet the authors of the report are careful not to allow these types to remain individuated:

[An] adequate and properly formative legal education requires a better balance among the cognitive, practical, and ethical-social apprenticeships. To achieve this balance, legal educators will have to . . . [carefully rethink] both the existing curriculum and the pedagogies that law schools employ to produce a more coherent and integrated initiation into a life in the law.³⁵

¶19 This language strongly echoes the descriptions of IL as a general practice that are offered in the literature. Tuominen et al. note that “[a]s IL skills do not evolve in a vacuum, content is needed for these skills to occur and thus IL should be contextualized within the structures and modes of thought of particular disciplines.”³⁶ In short, while the Carnegie Report does not explicitly address legal research or even contemplate IL, the report reads as if it is recommending an IL-supported approach toward a holistic program of legal training and apprenticeship that immerses students fully in the context and the community of legal practice.

¶20 Still, the Carnegie Report has exerted a powerful influence across the world of legal research education, and like the MacCrate Report, it has generated manifold responses in print and within law schools. Taken together, both of these reports stand for the proposition that our system of legal education and professional development has been underserving law students for generations now, and in some cases, catastrophically.³⁷ Focusing instructional efforts on a set of lawyering skills and professional values, as the MacCrate Report recommends, can provide the framework to address this proposition.³⁸ The LSIL standards, likewise, are ready to serve as one element within this framework.

34. SULLIVAN ET AL., *supra* note 26, at 28.

35. *Id.* at 147.

36. Tuominen et al., *supra* note 5, at 334.

37. See ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION 16–18 (2007).

38. See AM. BAR ASS'N, *supra* note 25, at 330–32.

What Can Be Done with LSIL Standards?

¶21 The LSIL standards provide a baseline articulation of the set of behaviors associated with competency in legal research. This articulation is valuable in and of itself as a statement of the skills that the legal research professoriate aspires to inculcate in our students. But it is also valuable because it provides us with a baseline set of skills that may be evaluated. The articulation or selection of standards is an essential step in evaluation, for it is these standards that provide evaluators with skills that may be measured. To this end, the LSIL standards represent the beginning of a methodical approach to evaluating legal research competency.

¶22 This approach may well take place within the curricular context. As law schools have been revising curricula in response to the Carnegie Report, standards that enumerate and analyze the research skills that law students should have acquired by the time they graduate can be used to benchmark elements of a given curriculum, and can also be revised to reflect changes that result from improvements in student performance. Furthermore, an analytic focus on research skills, grounded in a common set of standards, makes a comprehensive approach toward including research skills in doctrinal and clinical classes much more accessible. As Bintliff has noted,

[L]aw librarians, through responsive services tailored to faculty needs, have so successfully insulated law faculty from the realities of today's research environment that the faculty are not making their curricular decisions based on actual knowledge of how research has changed since their years in law school and how it is currently conducted in law firms. For at least the last fifteen years, academic law libraries have emphasized "faculty services," dedicating personnel to providing expert research services to faculty on demand and assisting and supervising faculty research assistants to enable them to do the same. Many law faculty members no longer know how to perform the research themselves and have lost sight of the importance of being able to research in both legal education and the daily practice of law. The end result is that law schools have decreased their emphasis on legal research instruction, neglecting this critical component of legal education.³⁹

¶23 Bintliff cogently demonstrates how academic law librarians have been able to use their research skills to yield less research capacity from one of the communities that relies on them the most: law faculty. By reengaging with research training and scholarship, and away from merely providing research services and materials, we also return to a position within the academy that emphasizes another of our skills—instructional expertise.⁴⁰ Redirecting our focus toward this instructional expertise would not only reintroduce the acquisition of research skills into the curriculum, it would also provide the doctrinal and clinical faculty with a summary of what research skills entail, and how they can identify students who present these skills.

¶24 Finally, LSIL can also be used within the overall context of administrative and educational efficiency within individual universities. Because LSIL derives

39. Bintliff, *supra* note 29, at 3.

40. See Carol A. Parker, *The Need for Faculty Status and Uniform Tenure Requirements for Law Librarians*, 103 LAW LIBR. J. 7, 15–16, 2011 LAW LIBR. J. 1, ¶ 20 (discussing why law librarians might need to emphasize their academic and instructional contributions).

from ACRL's work in IL, adopting LSIL standards can provide law libraries access to the overall trend toward IL.⁴¹ Adopting LSIL standards allows law libraries to frame their curricular development in terms that dovetail with existing library curricula and programming. This not only allows institutions to tackle the perennial problems of IL across the curriculum and differentiated levels of higher education, it also enables a comprehensive approach to training researchers.

Standardized Assessment

¶25 The National Council of Bar Examiners (NCBE) has articulated plans to develop a component measuring legal research skills to be added to the Multistate Bar Exam.⁴² However, one of "the most challenging aspects of including legal research on the bar exam [is] defining minimal competency and determining how that competency will be measured."⁴³ To this end, it is worth noting that "a statement of the specific assumptions about the legal research environment and the legal research knowledge and competencies that would be evaluated on the bar exam does not yet exist."⁴⁴ While the MacCrate Report offers a brief but compelling discussion of the importance of legal research, and although AALL has offered a lengthy and highly detailed compendium of legal research skills based on the MacCrate Report,⁴⁵ the observation about the lack of a statement of legal research knowledge and competencies that might be testable is still true.

¶26 It is critical that law librarians articulate our own LSIL standards independently of NCBE, so that we might offer responsible contributions to the development of NCBE's assessment tool. After all, without foundational knowledge of the types of legal authority and how each type is generated, law students cannot begin to research legal issues effectively. NCBE is responding precisely to this particular gap, and AALL should also contribute significantly toward the resolution of these issues. LSIL standards are a foundational step toward such a contribution. LSIL standards also provide a statement of legal research knowledge and competencies that can support an examination constructed according to item response theory

41. Among all U.S. academic libraries, 46.3% have either defined IL or defined the information-literate student. Among all Carnegie-classified "Doctoral/Research" libraries, 50.9% have defined IL, and 38.9% have incorporated IL into their institution's mission. Looking at Carnegie-classified "Master's I & II" libraries, 60.7% have defined IL, and 38.8% have incorporated IL into their institution's mission. U.S. DEP'T OF EDUC., *ACADEMIC LIBRARIES 2008: FIRST LOOK* 16 tbl.13 (2009), available at <http://nces.ed.gov/pubs2010/2010348.pdf>.

42. See Steven M. Barkan et al., *Testing for Research Competency on the Bar Exam: The Next Steps*, 28 *LEGAL REFERENCE SERVICES Q.* 281, 281 (2009) (describing the inclusion of a legal research test on the bar exam as "an idea whose time has come"). See also Steven M. Barkan, *Should Legal Research Be Included on the Bar Exam? An Exploration of the Question*, 99 *LAW LIBR. J.* 403, 2007 *LAW LIBR. J.* 23 (contemplating the inclusion of a legal research component on the multistate bar exam); Erica Moeser, "Legal Research Questions on the Bar Exam: Preparing Our Students," presentation at the Annual Meeting of the Am. Ass'n of Law Libraries, Washington, D.C., July 26, 2009 (notes on file with author).

43. Barkan et al., *supra* note 42, at 284.

44. *Id.* at 289 n.4.

45. Research Instruction Caucus, Am. Ass'n of Law Libraries, *Core Legal Research Competencies: A Compendium of Skills and Values as Defined in the ABA's MacCrate Report* (Ellen M. Callinan ed., 1997), available at <http://www.aallnet.org/sis/ripssis/PDFs/core.pdf>.

(IRT). Tests constructed according to IRT rely on mathematical models that link performance on a particular test item with the characteristics that the test measures. Although this concept dates back to the 1940s, it has been the dominant mode of constructing tools that measure and evaluate performance only within the past forty years, due to advances in mathematical modeling that have been facilitated by increased access to computing power.⁴⁶ Since IRT is currently the dominant mode of constructing assessment measures, any assessment of legal research skills will necessarily start from such a statement of standardized legal research knowledge and competencies.

Measuring Research Performance by Institution

¶27 LSIL standards are also essential to the creation of a library-focused assessment tool sufficient to provide meaningful data as a complement to NCBE's legal research exam. LSIL standards will provide a set of baseline competencies that each legal research program can use as a curricular foundation. Moreover, an LSIL assessment tool would allow the profession to identify best practices among research curricula, which would in turn help the profession hone its reflective, critical dialogue on research education and training.

¶28 To be sure, the prospect of measuring student research aptitude by institution is daunting to many. The current system of ranking by *U.S. News & World Report* is famously problematic,⁴⁷ and it is not likely that law schools will be eager to adopt another ranking system that might add to these controversies. But bar passage information is available and is used as a ranking criterion; law librarians must not ignore the opportunity to have an effect on a critical input into student research skills that will inevitably affect these rankings.

Conclusion

¶29 From the perspective that hindsight offers, it seems that by paying only scant attention to the concept of IL, law librarians may have overlooked a very useful model for research aptitude, precisely when we are in particular need of such models. Indeed, as law schools seek to attract more students, curricular trends toward practical skills instruction will also increase, and LSIL standards can provide a useful touchstone for the legal research instruction that is at the core of the legal skills curricula. As a conceptual model, LSIL provides a common framework for legal research inquiry and instruction, as well as access to the current scholarship in library instruction for law librarians. In short, LSIL not only addresses curricular

46. See Fritz Drasgow & Charles L. Hulin, *Item Response Theory*, in 1 HANDBOOK OF INDUSTRIAL AND ORGANIZATIONAL PSYCHOLOGY 577, 627–30 (Marvin D. Dunnette & Leetta M. Hough eds., 2d ed. 1990).

47. The issues surrounding law school rankings are myriad and complex and beyond the scope of this article. See, e.g., Jeffrey Evans Stake, *The Interplay Between Law School Rankings, Reputations, and Resource Allocation: Ways Rankings Mislead*, 81 IND. L.J. 229 (2006); Katherine Mangan, *Law Schools Disdain Rankings but Dare Not Ignore Them, Authors Say*, CHRON. HIGHER EDUC. (Feb. 3, 2009), <http://chronicle.com/article/Law-Schools-Disdain-Rankings/1496/>, for a small sample of responses to law school rankings.

and scholarly concerns in legal research education, it also provides new fields for assessment.

¶30 Of late, law schools are facing increased pressure for accountability and educational reform from states, from students, and from law faculty as well as the legal profession; the time is right for methodical evaluation of how students perform against a standard set of research skills. The first step in such evaluation is the formal adoption of the LSIL standards by the professional associations representing the legal academy, which would not only result in the addition of critical baseline standards for measuring student legal research aptitude, but also open up a new area of scholarship addressing the acquisition of legal research skills.

¶31 However, the suggestions presented here are but inchoate ideas following on from developments in the larger world of academic librarianship; the ultimate use and value of LSIL standards cannot be known until we choose to adopt and implement them. Now that the Law Student Research Competencies and Information Literacy Principles have been approved by AALL, the gateway ahead of us has been merely opened. There is still much work to be done, and the road to fully assessing LSIL among law students, recent graduates, and new associates remains at our feet, ready for us to race along it to the end.

Appendix A

Draft LSIL Standards

Standard I: Identify the type and sources of information appropriate to the problem or issue at hand.

What the student needs to do:

1. Identify whether the issue at hand requires application of statute, case law, regulation, or other relevant information.

Examples of behaviors that indicate mastery:

- a. Identifying research strategies appropriate to analyzing the problem at hand.
 - b. Naming the jurisdiction that controls the issue at hand. Knowing whether the issue is governed by judicial, administrative, constitutional, or statutory authority (or some combination thereof).
 - c. Articulating the processes of legislation, regulation, constitutions, and case law, including the theories that underlie the authority of each process.
 - d. Distinguishing between official case reporters and commercially published case reporters; and between official statutory codes or compilations and commercially published statutory codes or compilations. Describing contents normally found in case and statutory annotations.
 - e. Explaining the hierarchical relationships between statutory authority, regulatory authority, and judicial opinions. Articulating how case law, constitutions, statutes, regulations, or other legal authority will address the problem the student is facing.
 - f. Identifying the secondary sources that aid in finding the information relevant to analyzing the issue at hand.
2. Determine which research tools are most appropriate for the problem at hand.

Examples of behaviors that indicate mastery:

- a. Finding authoritative sources for legal authority: knowing how and when to refer to constitutions, knowing to find cases in reporters or case law databases, statutes in statutory compilations, and regulations in administrative codes.
 - b. Distinguishing between official and unofficial publications for each type of legal authority, and describing the advantages of each type of publication.
3. Consider the costs and benefits of acquiring the needed information.

Examples of behaviors that indicate mastery:

- a. Demonstrating a basic familiarity with the costs of online or computer-assisted legal research.
- b. Starting a research task with the most cost-efficient source; determining cost efficiency by balancing the cost of print or online service against its ease of use.

- c. Drafting a realistic overall plan and time line for acquiring the needed information, analyzing the problem, and applying new resources or analysis as needed.

Commentary on Standard I

Standard I requires that the student determine whether analysis of the problem presented requires applying constitutional authority, statutory authority, regulatory authority, common-law authority, scholarship, or some combination of the above. Such determination requires deciding if legislative history, regulatory history, or judicial posture will be useful in analyzing the issue at hand. The student who masters Competency 1 above will be familiar with recognized secondary sources of legal information, such as the *American Law Reports*, legal encyclopedias such as *Corpus Juris Secundum* and *American Jurisprudence*, practice guides, form books, and subject-specific hornbooks and treatises.

The student who masters Competency 2 above should be familiar with the differences between resources that cover overlapping information. For example, this student should be able to explain how the contents of the Federal & State Cases, Combined database in LexisNexis differ from LexisNexis's Federal Court Cases, Combined database and the State Court Cases, Combined database.

Standard II: Access the appropriate information effectively and efficiently.

What the student needs to do:

1. Select the most appropriate sources for accessing and obtaining the needed information.

Examples of behaviors that indicate mastery:

- a. Identifying and selecting databases, library catalogs, print resources, and other sources most appropriate to the information need.
 - b. Distinguishing between the different types of information-gathering strategies, such as using tables of contents, indices, and digests, as well as a variety of processes for using query-driven database searches. Understanding how to use search engines appropriately and effectively.
 - c. Seeking out knowledgeable individuals in the library, law school, and community as part of the research plan, mindful of the ethical obligations as articulated in Standard V, *infra*.
2. Construct, implement, and refine well-designed search strategies that use a variety of methods to find information.

Examples of behaviors that indicate mastery:

- a. Demonstrating knowledge of cost-effective research by appropriately using print resources and open access web search engines to supplement results from legal and other subject-specific databases.
- b. Using terms of art and other appropriate legal terminology when asking research questions or constructing search queries, and recognizing the dif-

ferent effects of using keywords, synonyms, and vocabulary from the database's own particular list of subject keyword terms.

- c. Creating and using effective search strategies in multiple legal sources using advanced search features; refining searches as needed later in the process to obtain additional or missing information.
 - d. Updating results through citators such as Shepard's, KeyCite, and other supplemental materials, as part of the research plan.
 - e. Reflecting upon initial choices and strategies for sources of information as ongoing research reveals more about the problem at hand, and revising these choices as necessary.
3. Keep track of information and its sources.

Examples of behaviors that indicate mastery:

- a. Producing accurate citations and reference lists using professionally and jurisdictionally appropriate documentation style.
- b. Systematically recording all pertinent information for future reference. Understanding knowledge management systems (KMS) and using them appropriately.
- c. Documenting sources and search strategies by, for example, taking notes on content and bibliographic information in order to cite the source appropriately.

Commentary on Standard II

The student who masters Competency 1 above will know how to use jurisdiction- and discipline-specific publications and databases such as state or federal practice guides, Westlaw, LexisNexis, HeinOnline, Thomas, GPO Access, FDsys, and PACER; will know how to find state and local bar sites; federal, state, and local library catalogs; city, county, and zoning codes; as well as jurisdictionally or topically relevant legal research guides; may also know how to use subject-specific databases such those found through the Securities & Exchange Commission, CorporateCounsel.net, Property Finder, and Accounting Standards.

"Advanced search features" may include the ability to use Boolean operators, truncation, and proximity searches, as well as natural language search functionality. The student who masters Competency 2 above will be familiar with the differences between these search capabilities and will know when to use each type of search.

Competency 3a above contemplates citation formats such as those found in *The Bluebook: A Uniform System of Citation*, the *ALWD Citation Manual*, or the citation guidelines particular to local rules adopted in federal and state courts as containing "professionally and jurisdictionally appropriate documentation style." Students will demonstrate mastery of this competency by knowing which citation format to adopt when preparing work product.

Knowledge Management Systems, or KMSs, are increasingly common in law schools and legal clinics, as well as firms, and are marketed under names and marks such as CaseMap, West KM, Amicus Attorney, Needles, and Abacus Law, *inter alia*. Students who master Competency 3b above need not know the details of the various KMSs used at large, but they should know how to use the KMS they find in their office or clinic.

Standard III: Critically evaluate the information and its sources, in order to properly incorporate the appropriate information into reliable work product.

What the student needs to do:

1. Identify and summarize the main elements of the gathered research work product, and synthesize these elements to construct new concepts applicable to resolving the problem at hand.

Examples of behaviors that indicate mastery:

- a. Describing the differences between and the relative importance of rules, holdings, and dicta in court decisions.
 - b. Distinguishing between binding and persuasive authority.
 - c. Distinguishing otherwise binding cases from the facts at hand.
 - d. Comparing the research work product with and applying it to the problem or issue at hand.
2. Apply appropriate criteria for evaluating both the information and its source.

Examples of behaviors that indicate mastery:

- a. Evaluating the accuracy, authority, objectivity, currency, and coverage of legal and nonlegal information and information sources.
 - b. Describing the different purposes and relative strengths and weaknesses of different kinds of sources. Explaining the differences among types of primary sources, such as statutes, cases, and regulations; or among types of secondary sources, such as Restatements, treatises, hornbooks, and nutshells.
 - c. Articulating the relationships between print and electronic sources. Demonstrating awareness of the availability of complete or incomplete versions of some sources, e.g., by acknowledging the availability of tabular or graphic material from some vendor-supplied cases or law review articles. Describing the added value and limitations of print and electronic sources.
3. Compare new knowledge with prior knowledge to determine value added, contradictions, or other unique characteristics of the information and take steps to reconcile differences.

Examples of behaviors that indicate mastery:

- a. Recognizing and addressing contrary authority; incorporating into analysis a case that may stand for a proposition at odds with the argument at hand without completely contradicting the argument.
 - b. Incorporating factually dissimilar yet legally relevant cases by drawing parallels to the facts at hand.
 - c. Synthesizing recent decisions into an existing line of case-law doctrine.
4. Validate understanding and interpretation of the information through discourse with other individuals, subject-area experts, or practitioners.

Examples of behaviors that indicate mastery:

- a. Verifying factual claims with information from knowledgeable authorities.
 - b. Participating actively and responsibly in live or virtual discussions.
 - c. Seeking expert opinion through discussions with law professors or consultations with law librarians.
5. Determine whether the initial queries should be revised.

Examples of behaviors that indicate mastery:

- a. Determining if original information need has been satisfied or if additional information is needed.
- b. Reviewing research strategies and incorporating additional concepts as necessary.
- c. After reviewing initial information retrieval sources and strategies used, expanding or narrowing the initial query to include or exclude terms or methods as needed; e.g., using a “Key Number” or “Topic Search” in place of a “Terms & Connectors” or “Natural Language” search which may have excluded relevant results that relied upon slightly different terms of art.

Commentary on Standard III

Students who master Competencies 2 and 5 above should understand that the online “Key Number,” “Topic Search,” or other indexical systems for electronic sources generally reflect the same organizational strategies as each system’s corresponding print sources. Students who find print versions of particular materials easier to use than their electronic counterparts (or vice versa) should be able to describe why.

Students who master these competencies will also know (and be able to describe) the advantages and limitations of annotated statutory compilations and official statutory compilations. Information-literate law students will incorporate this understanding into their approach to research accordingly.

Students who master Competency 4 above should be able to constructively engage in a variety of discussion formats, including academic and professional colloquia, continuing education seminars, and electronic communications designed to encourage discourse on the topic. Responsible participation in such fora is a key measure of a student’s mastery and application of this particular competency.

Standard IV: Apply information effectively to resolve a specific issue or need.*What the student needs to do:*

1. Apply legal information and research results to the planning, creation, and revision of an argument, brief, or analysis.

Examples of behaviors that indicate mastery:

- a. Describing the binding authority of legal information relevant to the legal question at hand and as applied to the specific issue or need.

- b. Articulating the hierarchy of legal authority and incorporating this articulation into analysis of the question at hand.
 - c. Determining when legal information from other jurisdictions is relevant as persuasive authority in resolving the question at hand.
 - d. Identifying secondary sources that are persuasive authority to resolve the question at hand, and determining if a treatise is a well-known authority on a topic.
2. Seek background information to help understand the legal issue at hand.

Examples of behaviors that indicate mastery:

- a. Determining background information to help answer a legal issue or need; using records of constitutional conventions, legislative histories, congressional reports, administrative histories, or trial or appellate briefs from cases on point with the issue at hand.
 - b. Using background or historical information about given legal authority when relevant to analyzing the issue at hand.
3. Apply information from disciplines other than the law, when appropriate, to the planning, creation, and revision of an argument, brief, or analysis.

Examples of behaviors that indicate mastery:

- a. Identifying scholarship from other disciplines relevant to resolving a specific issue.
 - b. Demonstrating understanding of how courts or other legal decision makers have applied materials from other disciplines in the past, and determining when material from these disciplines might be persuasive in resolving a particular issue.
4. Know when to conduct more research to better resolve a specific issue or need.

Examples of behaviors that indicate mastery:

- a. Reflecting on the successes or failures of prior strategies for integrating new information into the analysis.
 - b. Recognizing when specific questions within a larger research problem have not been answered with the information compiled.
 - c. Recognizing when the ultimate questions presented have not been fully answered through the research already obtained.
 - d. Recognizing when sufficient research has been done to adequately address the legal issue or information need.
5. Communicate the argument, brief, or analysis effectively to others.

Examples of behaviors that indicate mastery:

- a. Organizing and integrating content, quotations, and paraphrasing in a manner that supports the purposes and format of the argument, brief, or analysis.

- b. Choosing a communication medium, format, and style that best supports the purposes of the argument, brief, or analysis for the intended audience and integrating charts, maps, or photos into this document or presentation for maximally persuasive effect, when appropriate.
- c. Citing authority in the chosen medium according to Standard II, Competency 3, *supra*.

Commentary on Standard IV

Students who master Competency 1 above should know that statutory authority has more binding weight than regulatory authority; they should also be aware that authorizing statutes limit the weight of a regulation and that the regulation may be unenforceable if it exceeds the agency's statutory authority. Similarly, students mastering this competency should also know that courts or administrative agencies can designate certain decisions as "nonbinding," and should be able to incorporate sources so designated into their analyses. In short, mastering this competency requires mastering the distinctions at the core of Standard III, Competency 1, and subsequently applying the hierarchical order of binding legal authority to these distinctions.

Students who master Competency 2 above should be able to determine if the history behind a given legal authority can help analyze the issue at hand. In particular, the student should be able to identify when legislative histories, litigation briefs, or administrative histories can bring relevant information to bear upon the issue at hand. For example, students should understand that federal regulations published in the *Federal Register* include background information about why the agency created the regulations and how the agency responded to the public comments submitted during the rule-making process. They should be able to find and use legislative history when analyzing statutory authority, litigation documents when analyzing case law, and most significantly, they should be able to synthesize the relevant research strategies above when analyzing an issue that incorporates a combination of statutory authority, regulatory authority, and case law.

Students who master Competency 4 above should know when to stop researching a topic as a matter of efficiency when a memo or other document on the topic can provide an answer to the issue at hand, or when further research will not help analyze the issue at hand because all relevant information has been incorporated into existing analysis.

Standard V: Distinguish between ethical uses and unethical uses of information, and understand legal issues arising from information discovery, use, or application.

What the student needs to do:

1. Articulate the factors that determine the ethics of information use, as well as the legality of information use, in order to use information in conformity with a lawyer's obligations to the court, the bar, and society.

Examples of behaviors that indicate mastery:

- a. Comprehending and complying with laws and organizational (firm, school, court) rules on access to information resources and storage and dissemination of information.
 - b. Demonstrating an understanding of intellectual property, copyright, and fair use of copyrighted material.
 - c. Articulating 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.
2. Apply laws, rules, and other legal authority governing a lawyer's use of information in the course of practice.

Examples of behaviors that indicate mastery:

- a. Using citation of sources to respect authors' intellectual property rights and accurately indicating where the words and ideas of others have been used.
- b. Comprehending and complying with license and subscription agreements.

No commentary on Standard V

Appendix B

Law Student Research Competencies and Information Literacy Principles*

Introduction

The Law Student Research Competency Standards Task Force of the American Association of Law Libraries (hereinafter Task Force) presents this paradigm of general research competency principles to foster the development of different models and eventually best practices.¹

There is a growing body of literature and a lively discussion among members of the legal academy and the practicing bar about the research competency skills of law school graduates. This dialogue among stakeholders is essential to forge change. In our discussions, we determined that continuing communication and collaboration between law schools, legal employers, and the law school accrediting body² are fundamental to any efforts to address and improve the research skills of law students.

To this end, law 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.

The Task Force is confident that this paradigm of general research competency principles will engage more stakeholders in the dialogue about the need to establish benchmarks in this area. These benchmarks should include the development of a detailed list of required skills to reflect the needs of the legal employers of the twenty-first century.

We offer our five Law Student Research Competency Principles for consideration, and for use in the following discussions:

- law school curriculum development and design;
- law firm planning, training, and articulation of core competencies;
- bar admission committee evaluation of research skills of applicants;
- continuing legal education program development;
- law school accreditation standards review.³

* Drafted by the AALL Law Student Research Competency Standards Task Force; approved by the AALL Executive Board, March 2011.

1. The foundation of the task force's principles are the *Information Literacy Competency Standards for Higher Education*, endorsed both by the American Association for Higher Education and the Council of Independent Colleges. Information literacy as defined by ACRL is the set of skills needed to find, retrieve, analyze, and use information. See <http://www.ala.org/ala/mgrps/divs/acrl/issues/infolit/overview/intro/index.cfm>. A significant body of literature on information literacy has developed over the years.

2. The Section on Legal Education and Admissions to the Bar of the American Bar Association administers the law school accreditation process.

3. The Section on Legal Education and Admissions to the Bar is discussing student learning outcomes in proposed Standard 202.

Principle I: A successful researcher should possess fundamental research skills.

- **Law students should have an understanding of the complexities of the legal system.** They should know the processes and the interrelationships between the three branches of government and the legislation, regulations, and case law they produce. They should distinguish between official and unofficial sources of law and should place issues in context.
- **Law students should know how to effectively use secondary sources.** They should distinguish between primary and secondary sources of law. They should identify and use secondary sources for background information, to gain familiarity with terms of art, and to put primary sources in context.
- **Law students should have an awareness of the cost of research.** They should understand the costs associated with research using all formats. Further, they should identify where cost and efficiency intersect in the selection of format.

Principle II: A successful researcher should implement effective, efficient research strategies.

- **Law students should select appropriate sources for obtaining required information.** Based on the authority governing the issue, law students should determine which research tools are best suited to analyze the issue, and then they should validate the completeness and appropriateness of the selected sources.
- **Law students should construct and implement efficient, cost-effective search strategies.** Law students should first break the problem down into its components and determine an approach to each of them. They should draft research plans and time lines that include identifying the most cost-efficient sources, appropriately using available resources to perform the research, and using supplemental materials to validate and update results.
- **Law students should confirm and validate research results, incorporating existing work product and expertise.** Law students should confirm the validity of their results by consulting prior work product, when appropriate and available. They should also seek out knowledgeable legal researchers for guidance, when necessary, considering ethical obligations.
- **Law students should document research strategies.** They should record all pertinent information, such as resources and methods used, for future reference. They should produce accurate citations and reference lists using appropriate documentation style.

Principle III: A successful researcher should critically evaluate legal and nonlegal information and information sources.

- **Law students should critically evaluate the validity and credibility of information sources.** They should know the different purposes and the relative strengths and weaknesses of different types and formats of information sources. They should be able to translate skills used for familiar

information sources in order to master new information resources.

- **Law students should critically evaluate retrieved information.** They should distinguish between binding and persuasive authority and distinguish otherwise binding authority from the facts at hand. They should recognize and address contrary authority and incorporate factually dissimilar yet legally relevant authority by drawing parallels to the facts.
- **Law students should synthesize the results of their research to construct new concepts applicable to resolving the problem at hand.** They should draw analogies between their situation and other areas of the law, when appropriate.

Principle IV: A successful researcher should apply information effectively to resolve a specific issue or need.

- **Law students should understand the context for the legal issue under analysis.** They should research background or historical information, such as legislative or administrative histories, where that context can inform the analysis. They should apply scholarship from other disciplines, consistent with the use made of nonlegal materials by courts and other decision makers in the past.
- **Law students should modify the initial research strategy as suggested by preliminary results.** They should incorporate additional concepts when implicated by preliminary results, and expand or narrow research queries when they retrieve unanticipated results due to the coverage of research tools or the operation of search engines.
- **Law students should determine when research has provided sufficient background to explain or support a conclusion.** They should ensure that all questions posed are answered. They should identify unresolved issues and incorporate as appropriate analogous background where research did not clearly resolve the issue posed.
- **Law students should use the results of their research to formulate their legal analysis and to prepare their work product.** Law students should apply principles of relevance and priority to the authority cited, taking care to choose a format and style that are appropriate for the audience and that best support their analysis. They should organize and integrate the results of research into a persuasive document. They should also cite authority consistent with locally accepted rules, ensuring that cited references can be located by the reader.

Principle V: A successful researcher should be able to distinguish between ethical and unethical uses of information and understand the legal issues arising from discovery, use, and application of information.

- **Law students should have a mastery of information ethics and should be able to articulate the factors that determine whether an information use is ethical.** They should understand that the analysis of information ethics includes determining the lawyer's ethical obligations to the court,

the bar, and society. They should also understand the organization's (firm, school, court, corporation) rules on access, storage, and dissemination of information.

- **Law students should apply laws, rules, and other legal authority that govern a lawyer's use of information in the course of practice.** They should understand the principles of intellectual property, copyright, and fair use. They should also use source citations properly, to accurately indicate where the words and ideas of others have been found, and they should understand and comply with license and subscription agreements and other limitations.