How Lawyers and Law Students Conduct Legal Research

By:

Robert Linz
University of Colorado Law Library
Colorado Association of Law Libraries
Boulder, Colorado

Andrea L. Hamilton
Davis Graham & Stubbs LLP
Denver, Colorado

Anne Lucke
U.S. Courts Library, 10th Circuit
Denver, Colorado

Susan Nevelow Mart
William A. Wise Law Library – University of Colorado Law School
Boulder, Colorado

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Robert Linz  
University of Colorado Law Library  
Boulder, CO

Robert M. Linz is the Associate Director & Head of Public Services at the University of Colorado School of Law William A. Wise Law Library. In this role, he teaches legal research and provides reference services to library users, among other duties. He has worked in a variety of librarian, technologist, and management roles at academic libraries and the Colorado Supreme Court library since becoming a law librarian in 1996. He is the author of Colorado Legal Research published by Carolina Academic Press. He holds an M.L.I.S. from Florida State University and a J.D. from the University of Florida and is a member of the Florida Bar.

Andrea L. Hamilton  
Davis Graham & Stubbs LLP  
Denver, CO

Andrea currently serves as a Research Librarian at the law firm of Davis Graham & Stubbs LLP, prior to which she served in the role of Senior Research Librarian at another large corporate law firm, Faegre & Benson LLP (now Faegre Baker Daniels LLP). She also worked as a Research Analyst at the Library Research Service and as a Circulation Clerk at the Denver Public Library. Andrea received a Master of Library Information Science degree from the University of Denver and an Executive Project Management Certificate from Regis University. She is the lead editor of a quarterly column featured in The Colorado Lawyer called the Legal Research Corner" and is a frequent author and speaker on legal research topics. Andrea is also involve in the Colorado Association of Law Libraries and the Special Libraries Association.

Anne Lucke  
U.S. Courts Library, 10th Circuit  
Denver, CO

Anne serves as an Assistant Librarian for the U.S. Courts Library, 10th Circuit, prior to which she worked at the law firm of Holland & Hart LLP as a Reference Librarian. Before beginning her work in the field of library science, Anne worked in the nonprofit sector, first as a Fellow at El Pomar Foundation and then as a Development Associate at the University of Colorado Foundation. Anne received her Master of Public Policy degree from Rutgers University and her Master of Library Science degree from Indiana University Bloomington. She is involved in the Colorado Association of Law Libraries and the Special Libraries Association.
Susan Nevelow Mart joined the Colorado Law faculty in July 2011 as an associate professor and director of the William A. Wise Law Library. Her scholarly and teaching interests center on legal informatics. She has written and presented nationally and locally on legal information policy, national security and libraries, access to information, computer information retrieval systems, and legal research pedagogy. She teaches Advanced Legal Research and Analysis.

Professor Mart has been active in library associations and library education. She is the Vice-Chair/Chair Elect of the American Association of Law Libraries Government Relations Committee, and she is active in advocating on information policy issues on behalf of libraries and the public. Professor Mart is a member of the American Association of Law Libraries Task Force on Law Student Research Competencies, and the chair of the Association’s Academic Law Libraries Task Force on Identifying Skills & Knowledge for Legal Practice.

Before joining Colorado Law, Professor Mart served as the Faculty Services Librarian and adjunct professor of law at the University of California, Hastings College of the Law. Prior to her work at Hastings, Professor Mart practiced law for seventeen years. Her law practice in Northern California Alameda County focused on construction litigation, complex real estate transactions, partnership and corporate dissolution, and fiduciary abuse of elders. She has been a certified specialist in airport construction law; a speaker on risk allocation and contract negotiation in business contracts; a speaker on mechanic’s liens and stop notices; and a Continuing Legal Education teacher on patients' rights advocacy.

Professor Mart holds an M.L. I.S. from San Jose State University, a J.D. from Berkeley Law School at the University of California at Berkeley, and a B.A. from the University of California at Santa Cruz.
Law Student Research Competency Standards Task Force

**CHARGE:** To review the Law Student Research Competency Standards submitted to the Executive Board in April 2010, to recommend whether or not AALL should adopt Law Student Research Competency Standards, and if so, to revise the draft standards and present them to the Board for adoption. The issue of what legal analysis and research skills law graduates should have has been discussed by many groups within the legal community, was the subject of the recent ALI/ABA and Association for Continuing Legal Education Summit, and is a frequent discussion topic in the law library community.

A self-formed group of AALL members created a draft of Law Student Information Literacy Standards. The Standards were submitted to the Executive Board for adoption in April 2010.

There was general agreement among the Board that it would be appropriate for AALL to develop Law Student Research Competency Standards and the President was asked to appoint a Task Force to reach a successful resolution in the development and approval of standards. The Standards might address, among other items, how to analyze a research problem, selection of appropriate resources, research methods, evaluation of the sources and information retrieved, and application of the results to the problem.

Law Student Research Competency Standards might be used in law schools curriculum discussions. They may be used in law firms as part of training programs. Research Competency Standards might also be used by bar admission committees to evaluate research skills of applicants and by the ABA to meet the learning outcomes in proposed standard 302.

The Task Force is asked to:
- Review the academic and practice environment that suggests the need for Law Student Research competency Standards
- Determine if other efforts to create standards are underway
- Determine how Research Competency Standards might be used by the legal community
- Review the Law Student Research Competency Standards submitted to the Executive Board
- Recommend whether or not AALL should proceed to adopt Law Student Research Competency Standards as an AALL policy
- If the Standards are recommended for adoption as a policy, the Task Force will review and revise the Standards and submit to the Executive Board
- If the Standards are not recommended for adoption as a policy, the Task Force will provide an explanation of that decision
- If the Standards are recommended for adoption, the Task Force will recommend a method for periodic review of the standards
- If the Standards are recommended for adoption, the Task Force will recommend how the Standards might be distributed and publicized to the ABA, AALS, and the wider legal community

The Committee shall prepare a report for the Fall 2010 Executive Board meeting.

**SIZE:** The Task Force shall consist of a Chair and five members who will serve until December 2010. A staff liaison will be appointed.

**RELATIONSHIP TO OTHER COMMITTEES/STRUCTURES:** The draft Standards were reviewed by a number of SISs. The Task Force may solicit comments from the SISs or other groups as warranted.
Law Student Research Competency 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] See bottom of document.

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 body is 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 law firm 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. Highly competent research skills, effective problem solving skills, and critical thinking skills are also keys to success in both the law firm practice 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 standards should include the development of a detailed list of required skills to reflect the needs of the legal employers of the 21st 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 providers;

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 hierarchical relationships between the three branches of government and the legislation, regulations, and case law they yield. They should distinguish between official and unofficial sources of law and should place issues in context.

- Law students should know how to effectively utilize secondary sources. They should distinguish between primary and secondary sources of law. They should identify and utilize 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 utilizing 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. They should draft research plans and timelines that include identifying the most cost-efficient sources, appropriately utilizing 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. If appropriate and available, law students should confirm the validity of their results by consulting prior work product. They should also when necessary seek out knowledgeable individuals in the local legal research community for guidance, as permissible by ethical obligations.

• Law students should document research strategies. They should record all pertinent information, such as resources and methods utilized, 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 non-legal 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.

• 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 at hand.

• 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 non-legal materials by courts and 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 apply the results of research to a legal analysis that communicates effectively.** Law students should apply principles of relevance and priority to the authority cited, taking care to choose a format and style that is appropriate for the audience and that best supports 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 have an understanding of the ethics of information use and be able to distinguish between ethical uses and unethical uses of information. A successful researcher should understand the legal issues that arise from information discovery, use, and application.**

- **Law students should have a mastery of information ethics and should be able to articulate the factors that determine whether the 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 to understand they should understand and comply with license and subscription agreements, among other items.

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[1] The foundation of the Task Force’s principles are the *Information Literacy Competency Standards for Higher Education (2000)* approved by the Association of College of Research Libraries (ACRL) and 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. 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 of the American Bar Association administers the law school accreditation process. The Section is discussing student learning outcomes in proposed Standard 302
The American Association of Law Libraries seeks to define the profession of law librarianship and its value to the legal field, today and in the future, by identifying, verifying, and actively promoting competencies of law librarianship. Competencies are the knowledge, skills, abilities, and personal characteristics that help distinguish superior performance. These competencies may be acquired through higher education such as library and information science graduate programs, through continuing education, and through experience.

The first section, "Core Competencies", includes those that apply to all law librarians, and will be acquired early in one's career. The subsequent sections are related to specific areas of practice. Some law librarians (for example, solo librarians or librarians in smaller institutions) may have multiple responsibilities and need to be proficient in more than one of the "Specialized Competencies." Other law librarians may specialize in just one area or in a subset of one area.

Individual librarians may use the AALL Competencies for coordinating their continuing education as they identify areas for professional growth. Employers may use the Competencies to make hiring, evaluation and promotion decisions, and to make recommendations for professional development. The American Association of Law Libraries uses the Competencies as a framework within which to structure professional development programs. This framework provides guidance to ensure that the programs offered will assist law librarians in attaining and maintaining the skills or knowledge necessary for their current and future work.

1 Core Competencies

Core Competencies apply to all law librarians.

1.1 Demonstrates excellent service to users and evidences a strong commitment to continual service improvement by participating in regular training and by collecting, evaluating, and responding to user satisfaction data.

1.2 Recognizes and addresses the diverse nature of the library's users and community.

1.3 Understands, supports, and contributes positively to the evolution of the culture and context of the library and its parent institutions.

1.4 Demonstrates knowledge of the legal system and the legal profession.

1.5 Understands the social, political, economic, and technological context in which the legal system exists.

1.6 Demonstrates knowledge of library and information science theory and the creation, organization, and delivery of information within its technological context.

1.7 Adheres to the Ethical Principles of the American Association of Law Libraries and supports the shared values of librarianship.

1.8 Exhibits leadership skills including critical thinking, risk taking, creativity, negotiation, collaboration, and change management.

1.9 Demonstrates commitment to working with others to achieve common goals.

1.10 Acts within the organization to implement the principles of information management.
1.11 Exhibits an understanding of the importance of a multidisciplinary and cross-functional approach to programs and projects within the organization.

1.12 Shares knowledge and expertise with users and colleagues.

1.13 Displays excellent communication skills and is able to promote the library and advocate for its needs.

1.14 Communicates effectively with publishers and other information providers to advance the interests of the library.

1.15 Recognizes the value of professional networking and actively participates in professional associations and online communities.

1.16 Actively pursues personal and professional growth through continuing education.

Specialized Competencies
Specialized Competencies relate to specific areas of practice.

2 Library Management
2.1 Engages in a continual process of long-range planning.

2.2 Manages all financial resources, including planning and implementing budgets.

2.3 Selects, supervises, and evaluates library personnel, and provides for their training and development.

2.4 Understands the principles of project management and organizes people and resources to accomplish complex tasks.

2.5 Determines and articulates the applicable criteria for delivery of library services, and measures and evaluates the quality of those services.

2.6 Ensures the optimal use of library facilities to accommodate the evolving needs of users and staff.

2.7 Provides leadership, including negotiation and collaboration with relevant members of the organization, to ensure that the library is vital to the parent organization.

2.8 Maintains an understanding of trends, developments, new tools, and emerging technologies in publishing and the information industry.

2.9 Tracks, anticipates, and influences changes in policy and legislation that impact the library and the profession.

2.10 Promotes and markets the library's services and collections in ways consistent with the needs and mission of the organization.

3 Reference, Research, and Client Services
3.1 Provides skilled and customized reference services, including specialized subject services on legal and non-legal topics.

3.2 Evaluates the quality, authenticity, accuracy, and cost of information resources in a variety of formats best suited to the user's needs, and conveys the importance of these to the user.

3.3 Assists users with legal research using information resources in a variety of formats best suited to the user's needs.
3.4 Consistent with applicable codes assists non-lawyers in accessing the law.

3.5 Aggregates content from a variety of sources and synthesizes information to create customized products for users.

3.6 Creates research and bibliographic tools on legal and related topics in a variety of media.

3.7 Monitors trends in specific areas of the law.

3.8 Monitors and participates in trends in library resource sharing.

4 Information Technology
4.1 Understands the practical application of creating, accessing, and managing information including databases, integrated library systems, client-server applications, hardware, software, web applications, mobile applications, networks, and electronic information resources.

4.2 Evaluates the need for new and emerging technologies and implements required changes.

4.3 Conducts long-range planning and policy formulation for technology services and training needs.

4.4 Evaluates, purchases, implements, and tests software and hardware necessary for accessing electronic information.

4.5 Assists and educates users and colleagues in the use of the library's information systems, both internal and external.

4.6 Diagnoses and resolves library hardware, software, local area network, website and Internet connectivity problems.

4.7 Develops, creates, and maintains the library's online presence.

4.8 Determines technology training needs of users through observation, discussion, and the use of needs assessment tools, and provides training to meet those needs.

4.9 Understands the importance of information technology standards and prefers standards-compliant information technologies.

5 Collection Development
5.1 Creates collection development policies intended to meet the needs of users and to the overall mission of the parent organization.

5.2 Makes selection decisions in consideration of all relevant factors, including the library’s collection development policy, differences among formats, costs of purchase, upkeep, licensing, and copyright.

5.3 Evaluates information resources in all formats, integrates them to meet the needs of users, and discards or archives them as appropriate.

5.4 Understands the acquisition and management of a diverse collection of legal and non-legal resources. Understands the principles of copyright, licensing, purchasing, and accounting, and creates procedures respecting these issues consistent with the procedures of the parent organization.

5.5 Applies appropriate preservation practices to the library's collection.
6 Cataloging
6.1 Ensures the optimal arrangement of and access to the library's resources to meet the needs of users.

6.2 Improves the power and scope of library services through resource sharing.

6.3 Selects and implements an appropriate level of descriptive cataloging, classification, and subject analysis to meet the needs of the institution and the nature of its legal materials.

6.4 Creates, selects, and manages catalog records according to national standards and accepted practices.

6.5 Selects, implements, and continually improves an integrated library system appropriate to the needs of the institution's users.

7 Teaching
7.1 Determines the educational needs of users through observation, discussion, and needs assessment tools.

7.2 Effectively teaches library users and colleagues with differing needs and technological skill levels.

7.3 Knows and applies the principles of adult learning.

7.4 Designs curricula and teaches to meet the educational needs of users, and evaluates the educational process for effectiveness.

7.5 Educates users in cost-effective and efficient methods of legal research.

7.6 Provides training and guidance on the organization and use of legal resources in various formats.

7.7 Trains users in commercial research databases, coordinating with vendors where appropriate.

7.8 Promotes the effective use of new resources and technologies for the retrieval of information.

7.9 Prepares and packages materials such as bibliographies, pathfinders, training scripts, podcasts, webinars and handouts.

