AALL Law Student Research Competency Standards Task Force 2011
Annual Report

Background:
A self-formed group of AALL members, chaired by Dennis C. Kim-Prieto, drafted Law Student Information Literacy Standards and submitted the standards to the Executive Board for adoption in April 2010. The Board agreed that AALL should develop Law Student Research Competency Standards and directed the president to appoint a task force to develop and obtain approval of the standards. (Charge to the task force: http://www.aallnet.org/committee/res_stds.asp.)

Membership:
The Task Force members are Elizabeth G. Adelman, Beth DiFelice, Dennis C. Kim-Prieto, Linda-Jean Schneider, Kay Moller Todd, and Sally Wise, chair. Catherine Lemann served as the Board liaison and Celeste Smith as the staff liaison. The task force consisted of four members from law schools, two from law firms, and one court librarian.

Task Force Report:
This is the report of the task force. Dennis C. Kim-Prieto’s minority report follows the report.

Change From Standards to Principles:
The task force is presenting “principles” rather than “standards” to the Board because we determined, after much discussion, that the first step in the development of Law Student Research Competency Standards should be a presentation of general principles followed by the development of specific, detailed standards.

The task force also discussed using the phrase “information literacy” rather than “research competency” in the title of the principles but determined that the phrase “research competency” would resonate more with the legal community, which is our primary focus. We do note in the introduction that the foundation of the task force’s principles are the Information Literacy Competency Standards for Higher Education (2000), approved by the Association of College and Research Libraries (ACRL).

Activities:
The task force first met in July 2011 at the Annual Meeting in Denver and has continued meeting most Friday mornings since then. The committee held a two-week moderated discussion in November with more than 290 participants. We also put our near-final draft on a blog and requested comments. The final draft of the principles reflects the comments received.

The task force was asked to review academic and practice environments to determine if there was a need for standards, and to identify other efforts to create standards that were underway. We did so, and we determined that there is a need and that other efforts are underway.

We were also asked to determine how the Research Competency Standards might be used by the legal community. According to Deborah Epstein Henry in her 2010 book titled Law and ReOrder: Legal Industry Solutions for Restructure, Retention, Promotion & Work/Life Balance, law firms are beginning to use core competencies and core competency programs in their
compensation and evaluation programs. The Law Student Research Competency Principles would be extremely useful for those programs as well as for law firm planning and training.

Continuing legal education providers would also find them useful as they design programs. Bar admission committees should use them as they design ways to evaluate research skills of candidates. Law schools should also use them in their curriculum development and design efforts and the Section of Legal Education and Admissions to the Bar should use them in their discussion of learning outcomes.

**Recommendations:**

**Adoption of the Principles by the Executive Board:**
The task force recommends that the Executive Board adopt the Law Student Research Competency Principles.

**Method of Periodic Review:**
The task force recommends that the Executive Board charge a one-year task force with responsibility for drafting standards in line with the task force’s principles. We recommend that the task force be composed of two members from the Private Law Libraries – Special Interest Section and one member from the following special interest sections: Academic Law Libraries; Foreign, Comparative and International Law; Research Instruction & Patron Services; and State, Court & County Law Libraries. We also recommend that the appointments be made in consultation with the leadership of the special interest sections.

**Distribution and Marketing of the Principles:**
The task force recommends that the leadership of the following organizations be presented with the principles:

- American Bar Association
  - Leadership
  - Law Practice Management Section
  - Legal Education and Admissions to the Bar Section
  - General Practice, Solo, and Small Firms Division
  - Government and Public Sector Lawyers Division
  - Judicial Division
  - Law Student Division
  - Young Lawyers Division
  - Bar Services Division

- National Minority Bar Association
- State Bar Associations
- National Conference of Bar Examiners
- ACLEA - The Association for Continuing Legal Education
- Association of American Law Schools
  - Section of Law Libraries
  - Section of Legal Writing, Reasoning and Research
- SALT – Society of American Law Teachers
- ALWD – Association of Legal Writing Directors
- Association of College and Research Libraries
The task force also recommends a marketing strategy to introduce the principles to the membership and to provide them with a possible marketing strategy for their organization. We also recommend that a web page and a brochure be developed.

**Board Action:**
The Board adopted the principles, with the change of title to AALL Law Student Research Competencies and Information Literacy Principles. They are available on AALL’s website: [http://www.aallnet.org/main-menu/Advocacy/recommendedguidelines/Student-Research-Principles.pdf](http://www.aallnet.org/main-menu/Advocacy/recommendedguidelines/Student-Research-Principles.pdf).

**Minority Report: Submitted by Dennis Kim-Prieto**
There is much to commend in the task force’s submitted report and in the work that we have accomplished over the past year. In particular, the task force’s shift towards articulating “principles” is a positive re-framing of the original Law Student Information Literacy (LSIL) Standards and one that will allow the Association (and the profession) to begin to engage in a conversation about what our students should learn and how our students actually learn legal research in the law school curriculum.

I join the task force in encouraging the Executive Board to adopt the recommendations in the report as well as the principles themselves, but I also urge the Executive Board to reconsider the critical issue of framing and presenting these standards without Information Literacy (IL).

Allowing the concept of IL to remain at the heart of these standards not only brings instructional law librarianship into the wider community of IL librarians and their scholarship but it also allows us to more easily apply and adopt theories and techniques of IL-focused instruction into our own legal research curricula. To this end, I have appended an alternate draft introduction to the principles that more fully and more accurately appropriates and acknowledges the role of IL in this entire project.

By reframing the principles as “Law Student Research Competency Principles” rather than “Law Student Information Literacy Principles,” the task force has removed substantive benefits from the document and has inadvertently undermined the progress that law librarians have made in this area for the past two years. Most significantly, by removing “Information Literacy” from this work, the task force ends up eliminating the contributions from library science at the heart of this endeavor.

IL has been consistently demonstrated to be a measurable quality; the Association of Research Libraries (in conjunction with Kent State University) has sponsored a web-based IL assessment that has been administered at over 200 separate institutions of higher education, and has assessed more than 35,000 students in the past 5 years (See “About Project SAILS: History,” available online at https://www.projectsails.org/sails/history.php?page=aboutSAILS [last viewed 10 March 2011].)

As the National Conference of Bar Examiners moves steadily toward assessing research skills on the Multi-State Bar Examination, it is imperative that we develop an independent means of
assessing law student information literacy in order to assess not only our students’ learning, but also to assess the effectiveness of legal research curricula and instruction. (Many have commented the NCBE’s plans to assess law student research skills. This endeavor is discussed in greater detail on p.16 of How Law Student Information Literacy (LSIL) Standards Address Deficits Identified by the MacCrate Report and the Carnegie Report, and What They Mean for Legal Research Education & Training, available on SSRN at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1678146.)

Information Literacy is a cornerstone of library instruction. More than 30 years after E. Gordon Gee’s seminal work, Information Literacy: Revolution in the Library, countless colleges, universities, local school boards, and state departments of education have adopted IL as a framework for assessing (and ultimately measuring) student research skill and performance.

However, IL encompasses a larger set of skills than research tasks. IL is also a framework for approaching research (and scholarship) that asks the student to bring a critical and recursive awareness to the research process. Rather than simply moving through a checklist of tasks, the information-literate student assesses steps within the research process. This key distinction between “research competency” and “information literacy” doesn’t merely leave the student a better researcher, but it also leaves the student better prepared to master new and unfamiliar tasks in research (and drafting), which ultimately leaves the student better prepared to excel in the practice of law. It is worth noting that several comments to the blog that the task force sponsored also share this view and also urge the re-incorporation of IL into this project.

Perhaps the most vivid demonstration of IL may be found in The Universe of Thinkable Thoughts Versus the Facts of Empirical Research, by Joseph Custer. 102:2 LAW LIB.J. 251 (2010). Although the article does not address IL, it does present a distinction between research that relies upon the Descriptive Word Index in the West Digest System and research that relies upon topical analysis. The paper presents survey results that show that practitioners prefer using the Index over mere topical analysis, and the paper itself demonstrates how the context provided by the Index allows for a more complete and contextualized understanding of the material being researched.

It is the very context that the Index provides that strikes me as the clearest description of the distinction between research competency and information literacy; this work contrasts the accounts of some competent researchers who do not know how to find the most effective research tools (or even understand why one tool may be more effective than another for differing research tasks) with those who do. The information-literate law student (and lawyer) is able to demonstrate both of these abilities: finding the most effective research tools, and explaining why one tool may be more effective than another in a given research task. IL, in short, directly addresses the gap that Custer identifies.

The task force would replace “information literacy” with “research competencies” because they believe that the latter phrase would “resonate most with the legal community.” While this belief is grounded in commonly accepted principles of marketing, it fails to appreciate the influence that IL has already exacted on accreditation agencies, governments, and upon the business community. Certainly, those law librarians who are local to their firm, court, bar, or school must
be the ones who best fit these principles to their local audience and community. To this end, I share the task force’s recommendation for developing and suggesting marketing strategies to these librarians. However, the centrality of IL to these very principles is far too important to be omitted. Taking IL out of this body of work not only removes it (and the instructional law librarians who will rely on it) from the extant body of IL scholarship but it also removes the expertise of instructional law librarians from the conversation that these principles seek to inspire. I strongly urge the Executive Board to adopt these principles as Law Student Information Literacy Principles.

Sally Wise
Chair