

Toward a Universal Understanding of the Value of Legal Research Education

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Caroline L. Osborne, [The State of Legal Research Education: A Survey of First-Year Legal Research Programs, or “Why Johnny and Jane Cannot Research”](#), 108 *Law Libr. J.* 403 (2016).

Learning the substantive law has always been the foundation of a legal education. As job prospects for attorneys tightened, a focus on practitioner skills began trending in legal education. There is an expectation that law schools will produce practice-ready attorneys. Despite this expectation, why are Johnny and Jane unable to research?

Professor [Caroline L. Osborne’s research findings](#) have confirmed what many legal educators surmise about the state of legal research education. Her findings demonstrate that legal research education is undervalued in law schools. “For those involved in legal education, the goal is to provide students with the tools they need to succeed” (P. 407.) In a carpenter’s arena, the value of the hammer is universally understood. The value of legal research as an essential tool of the legal trade, on the other hand, is not well understood in legal education. This lack of understanding persists, despite the MacCrate report and its ilk, codified ethical obligations of attorneys, and promulgated research competency standards. With this in mind, Professor Osborne presents each contributing factor to the devaluation of legal research education so that the reader is equipped to ponder solutions.

[The MacCrate Report](#) was published in 1992, and served as one of the first comprehensive assessments of necessary skills for attorneys and of the legal profession. It declares that legal research skills are fundamental: “It can hardly be doubted that the ability to do legal research is one of the skills that any competent legal practitioner must possess.” (P. 163.) Similarly, *Best Practices for Legal Education* acknowledges legal research as “essential.” (P. 58.)

The ethical obligations of attorneys further obligate Johnny and Jane. Model Rules of Professional Conduct, Rule 1.1, which has been adopted in whole or in part by all fifty states, holds the lawyer to a certain level of competence:

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Comment 2 to Model Rule 1.1 points out that competent representation requires a lawyer to possess “important legal skills” that are typical in all legal problems. Comment 8 further articulates the need to maintain competence, in part, by requiring technology competency, including those technology skills which are essential for performing research:

To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, . . .

Technology is a major factor in the devaluation of legal research education. It has enabled the creation of and easy access to massive amounts of information. It has also transformed how we perform research. While the ubiquity of information has made research *appear* easier, it has actually become a more sophisticated task. To further complicate the picture, Osborne points out that today’s students seem to lack the ability to evaluate information and to think

critically.

The ethical standards outlined above are bolstered by [Legal Research Competencies and Standards for Law Student Information Literacy](#), developed and approved by the American Association of Law Libraries in 2012. These standards were promulgated to inform best practices in legal education curricular design and to provide a baseline competency for attorneys in practice settings.

Notwithstanding the existence of these industry standards, Professor Osborne discusses contributing factors for the devaluation of legal research education in law school curricula. Her survey results show, for example, that only 16% of responding institutions have a stand-alone research classes as opposed to being integrated into the legal writing curriculum. She also points out that law school writing programs have been strengthened while the emphasis on research has lessened. Combined, these factors have had an unfortunate impact on legal research education. “[T]he cost of graduating fluent writers should not be the legal research curriculum.” (P. 404.)

Despite what the industry demands, Osborne opines that the current state of legal education—including pass/fail grading, fewer credits awarded compared with other 1L courses, integration with and diminished presence in the writing curriculum—sends the message to law students that legal research education is unimportant. Her thesis is backed up by the findings of a recent [BARBRI State of the Legal Field survey](#): “Faculty placed very little importance on research, with just 4 percent citing it as the most important skill for recent law school graduates” In our role as legal educators, “we fail to signal the importance of legal research in the practice of law.” (P. 409.)

In this article, Professor Osborne conveys a very important message to legal educators: we should consider ourselves on notice that our actions and our curricula demonstrate a decreased importance of legal research education to our students. As a result, Johnny and Jane are leaving law school without this fundamental tool despite the expectation that they graduate with both the substantive knowledge and the skills to be practice ready and to maintain or exceed industry standards.

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