Schulich School of Law, Dalhousie University

Schulich Law Scholars

Articles & Book Chapters   Faculty Scholarship

2016

SAILing through Law School: Assessing Legal Research Skills within the Information Literacy Framework
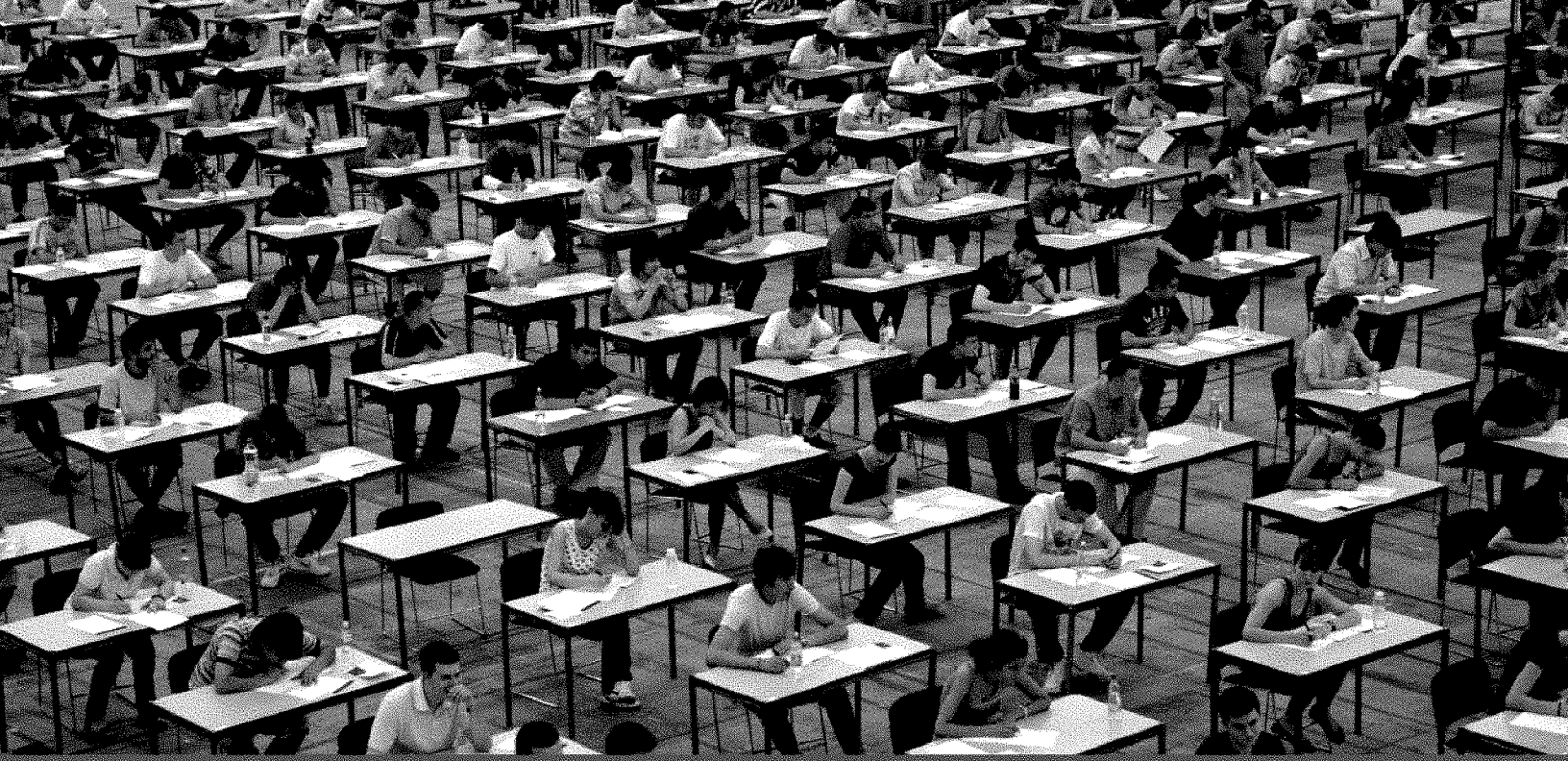
David H. Michels

Follow this and additional works at: https://digitalcommons.schulichlaw.dal.ca/scholarly_works

Part of the Information Literacy Commons, Law Librarianship Commons, and the Legal Writing and Research Commons

IIII SAILing through Law School: Assessing Legal Research Skills within the Information Literacy Framework**

By David H. Michels**

Abstract

In this study I ask the question: Can standardized information literacy tests help assess and benchmark the learning of information skills by Canadian law students? This study replicates an earlier study that found that a standardized test of information literacy competencies, SAILS, was not an effective measure of law student information literacy levels. By applying the same test under similar conditions to another group of law students, I found that while the test did not measure legal research competencies, it was effective in measuring basic information literacy skills in law students with often surprising results. I argue that legal research training programs cannot assume students have achieved competency in information literacy skills.

Dans cette étude, je pose la question suivante: est-ce que les tests normalisés utilisés pour la maîtrise de l'information peuvent aider à évaluer et à étalonner l'apprentissage de la maîtrise de l'information par les étudiants canadiens en droit? Cette étude reproduit une étude antérieure qui a révélé qu'un test normalisé de compétences en maîtrise de l'information, SAILS, n'avait pas été une mesure efficace pour évaluer les niveaux d'apprentissage de la maîtrise

de l'information des étudiants en droit. En appliquant le même test dans des conditions similaires à un autre groupe d'étudiants en droit, j'ai trouvé que, bien que le test n'a pas mesuré les compétences en recherche juridique, qu'il a été efficace dans la mesure des compétences informationnelles de base des étudiants en droit avec des résultats souvent surprenants. Je soutiens que les programmes de formation en recherche juridique ne peuvent présumer que les étudiants ont atteint une certaine compétence au niveau de la maîtrise de l'information.

Introduction

The Federation of Law Societies in the *Final Report of the Task Force on The Common Law Degree* has identified the ability to conduct Legal Research as an essential competency for the practice of law in Canada.[1] Candidates for licensure must demonstrate they are able to:

a. identify legal issues,
b. select sources and methods and conduct legal research relevant to Canadian law,

c. use techniques of legal reasoning and argument, such as case analysis and statutory interpretation, to analyze legal issues,

d. identify, interpret and apply results of research, and

e. effectively communicate the results of research.[2]

Although important to students' development as lawyers, legal research skills are in fact contextualized forms of broader information literacy skills; a set of abilities which require individuals to "recognize when information is needed and have the ability to locate, evaluate, and use effectively the needed information."[3] These skills are seen as essential to life and work, a belief that has led to the development of ACRL's Information Literacy (IL) competency standards[4] which define areas of competence in information literacy. Since the introduction of these standards, academic libraries have attempted to develop the means to effectively assess competence in these areas on a large scale. This has led to the creation of a variety of paper and online testing platforms, most notably the Standardized Assessment of Information Literacy Skills (SAILS)[5] and the Madison IL Assessment.[6]

Both tests include a series of questions that gauge students' performance against these ACRL standards. The SAILS test groups the ACRL outcomes and objectives into eight skill sets: Developing a Research Strategy, Selecting Finding Tools, Searching, Using Finding Tool Features, Retrieving Sources, Evaluating Sources, Documenting Sources, and Understanding Economic, Legal, and Social Issues. Not all ACRL IL outcomes are considered by these skill sets, as some are not considered appropriately measured in this manner. These tests have been criticized for their American bias, and the use of quantitative measures, but large scale quantitative assessments have been demonstrated to be an effective means to assess IL skills of university students on a large scale in Canadian contexts.[7] I have selected the SAILS test for this study because it has been widely applied across North American undergraduate and graduate university programs, has had scholarly critique in the literature,[8] has a significant support community, and is more affordable than other comparable platforms.

Background

Although there has been considerable interest in the teaching of legal research skills,[9] Lewis and Michels[10] in 2009 noted the lack of research on IL skills in law school contexts. There has been renewed interest in using IL paradigms for legal instruction in the U.S.[11] but little research in Canada. This author is unaware of any comprehensive attempts to undertake standardized assessment of IL skills by a Canadian law school. At the time of this study, no Canadian law school had employed the SAILS test. The School of Law at Rutgers in the United States did use the SAILS test to measure the IL skills of their law students. Kim-Prieto and Brownfield, Law Librarians at Rutgers Law School, conducted a study in 2009[12] that determined that SAILS was ineffective in measuring law student IL. However, this test has been applied successfully in other disciplinary contexts, and there is no reason why it should not work in a legal context.[13] The Rutgers' study concluded that since there were few changes recorded over a three-year testing period, despite a rigorous legal research program, the test had failed to effectively measure IL in the student population. I contend that the test used by Kim-Prieter and Brownfield may have correctly measured a lack of IL skills development in the Rutgers' law students. Development of subject specific skills does not necessarily correlate to an increase in broader information literacy competencies. Consequently, it is conceivable that students could have developed advanced legal research skills, specifically facility with research tools such as Lexis or Westlaw, without grappling with issues such as copyright, information ethics, etc. Without a detailed assessment of the curriculum used at Rutgers during this period, it is not possible to determine which IL skills were actually taught, and how these were assessed. There is a need to replicate the Rutgers study results, and verify or refute these conclusions.

The Dalhousie Context

Dalhousie University libraries do not use standardized tests to measure the effectiveness of IL instruction nor does the Sir James Dunn Law Library, which is part of the Schulich School of Law. Law librarians are engaged in regular instruction that

---

[2] *Ibid* at 7.

[3] American Library Association, Presidential Committee on Information Literacy, *Final Report* (Chicago: American Library Association, 1989.), online: <www.ala.org/ala/mgrps/divs/acrl/publications/whitepapers/presidential.cfm>.

[4] Association of College and Research Libraries, *Information Literacy Competency Standards for Higher Education* (2000), online: <www.ala.org/ala/mgrps/divs/acrl/standards/standards.pdf>.

[5] Institute of Museum and Library Studies, Kent State University, *Standardized Assessment of Information Literacy Skills*, online: <https://www.projectsails.org>.

[6] Center for Assessment and Research Studies (CARS) at James Madison University, *Information Literacy Assessment*, online: <www.madisonassessment.com/assessment-testing/information-literacytest/>.

[7] See Brian Detlor, Lorne Booker, Heidi Julien & Alexander Serenko, "The Effects of Information Literacy Instruction on Business Students" (*Proceedings of the 2010 Annual Conference of the Canadian Association for Information Science, Concordia University, Montreal, 2010*), online: www.cais-acsi.ca/ojs/index.php/cais/article/view/352/92.

[8] See Joseph A Salem & Carolyn J Radcliff, "Using the SAILS Test to Assess Information Literacy." *Building Effective, Sustainable, Practical Assessment: Proceedings of the Second Library Assessment Conference (Charlottesville: 2006),* 131-137; Brian Lym et al, "Assessing the assessment: how institutions administered, interpreted, and used SAILS." (2010) 38:1 Reference Services Review 168-186; Juliet Rumble & Nancy Noe, "Project SAILS: launching Information Literacy Assessment Across University Waters." (2009) 26:4 Technical Services Quarterly 287-298.

[9] See e.g. Nancy McCormack, John Papadopoulos, and Catherine Cotter, *The Practical Guide to Canadian Legal Research,* 4th ed. (Toronto: Carswell, 2015) and Maureen Fitzgerald, *Legal Problem Solving: Reasoning, Research and Writing,* 5th ed. (Markham: LexisNexis Canada, 2010).

[10] David Michels & Mark Lewis, "The Changing Shape of Legal Information" (2009) 34:2 *Canadian Law Library Review* 59.

[11] Ellie Margolis & Kristen Murray, "Teaching Research Using an Information Paradigm", *22 Perspectives: Teaching Legal Res. & Writing 1* (2014), Temple University Legal Studies Research Paper No. 2014-29.

[12] Dennis Kim-Prieto & Mary Brownfield, "What we learned from our SAILS: Using Law Students as Human Subjects and Measuring Law Student Information Literacy" (Conference Presentation delivered at AALL 2009 Annual Meeting, 28 July 2009). The full presentation from the presentation has been obtained from the authors, and I retain a copy.

[13] Personal correspondence with Dr. Heidi Julien, Expert in Information Literacy in Canadian Higher Education, School of Library and Information Science, University of Buffalo (July 2010).

includes information literacy skills training as well as subject specific training. The course was taught as a combination of large group lecture and small group tutorials. The curriculum covered basic library skills, legal reasoning, fundamentals of legislation and caselaw searching, database use, legal writing and citation. The effectiveness of IL instruction is measured indirectly through assignments in courses such as LAWS 1004x *Legal Research and Writing* or anecdotally through student and faculty feedback. In light of the importance of IL skills, we were concerned that we were not comprehensively assessing these competencies.

Methodology

Test Design

After a review of the literature we selected the SAILS Cohort Test for this benchmarking study as noted above. The SAILS Cohort Test measures information literacy knowledge of groups (cohorts) of students by using multiple answers questions. Results are reported by class standing and by major. Comparisons with the entire SAILS benchmark are also offered. The measurement model used by SAILS is item response theory (IRT), specifically the one-parameter Rasch model. IRT calculates scores based on a combination of item difficulty and student performance. The process begins with merging data from all institutions into a benchmark file. Student responses to the items on the test are then used to determine the difficulty level of each item. Once that determination is made, student responses are analyzed to determine an average score for each group (or cohort). Scores in the report are placed on a scale that ranges from 0 to 1000.

Data Collection

The study plan was to use the SAILS test as a modified pre and post-test to measure changes in law students' information skills over the course of their law school program. The first test was to be administered to third year students in March 2011 prior to their graduation. The second test was to be administered to first year law students at the beginning of their *Legal Research and Writing* course in September 2011. Delays in receiving ethics approval for the study required us to delay the 3rd year test until April 2012. We began with the 1st year test in September 2011. The limited classroom time did not permit us to have the students complete the test in class although I had time in class to explain the test, answer questions, and invite students to complete the test outside of class time. Students were provided with the principal investigator's contact information and information regarding ethics approval. As an added incentive I would enter the names of students who participated into a draw for one of two $100.00 photocopy cards. The 3rd year students were invited through their student council class representative. A letter was provided with an explanation of the test and contact information for the principal instructor. In recognition of their participation I made a donation to the graduating class gift. Twenty-one first year students participated in the study, and twenty-nine 3rd year students. One student indicated that they were in the graduate program but as the tests codes

were only assigned to 3rd year students I assumed that this was an error and these results were kept. The participation levels were comparable to the Rutgers study but far below our collection goal of 200 students, the optimal collecting numbers for the SAILS test.

Students were directed to the SAILS website and entered the individual test code provided. Students would complete the test in forty-five minutes. When the testing period closed we coded the data and generated a comparison report with other similar student bodies. Specific test answers were analyzed to determine the key areas that would be normally covered in the subject specific research training, and areas normally not addressed in the curriculum, though essential for information literacy competencies.

Research Ethics

The study was reviewed and approved through the Schulich School of Law Associate Dean of Research and the Dalhousie University's Social Science and Humanities Research Ethics Board and given one-year approval. The testing was conducted anonymously using assigned codes. The data held by SAILS and processed on their servers is completely anonymous. Although data from the tests was entered into the SAILS database, the testing design does not allow for external groups to access the testing scores of the Schulich School of Law. I included generalized data as part of my research reporting. There were no direct risks to participants, and participation was voluntary though encouraged through classes. Prior to the publication of this study, all participating students have graduated.

Findings and Discussion

There were insufficient law school results in the SAILS databank to compare Schulich with other law schools. When I reviewed the participant index I located only one other law school, Rutgers, cited above. The comparator group used by SAILS to develop the benchmarks was doctoral/professional schools. The first two questions were demographic questions added by the investigators. These questions explored the students' own skills perceptions and prior training.

Excellent	8	15.7%
Good	36	70.6%
Fair	7	13.7%
Poor	0	0%
Not Reported	0	0%

Table 1: How would you assess your own general research skills? (N=51

Never	14	27.5
1-2 sessions	27	52.9
3-4 sessions	7	13.7
5 or more sessions	3	5.9
Not Reported	0	0

Table 2: In your previous degree did you participate in any library research workshops? (N=51)

Law students generally viewed their research skills as good to excellent. Studies on students' self-perception and information literacy have often demonstrated an inflated self-assessment of skills levels, and have raised questions about the accuracy of self-perceptions.[14] Students also reported having little (1-2 sessions) or no library research training in their previous degree. Students were asked to indicate the discipline of their prior degree but due to the way the question was worded many students entered their current discipline: law. I had hoped to gain additional insight into the impact of learning prior to law school.

The remainder of the questions assessed SAILS skill sets. The results by the SAILS skill sets found the median scores for Schulich students to be higher than the Institution-type: Doctorate benchmark for all of the skills sets measured:

> Developing a Research Strategy
> Selecting Finding Tools
> Searching
> Using Finding Tool Features
> Retrieving Sources
> Evaluating Sources
> Documenting Sources
> Understanding Economic, Legal, and Social Issues

When the skills sets were ordered in terms of performance from best to worst (best being the farthest above the mean benchmark for both Institution Type: Doctoral and All Institutions) the list was:

SAILS Skill Sets	Schulich School of Law	Institution type: Doctorate	All Institutions
Developing a Research Strategy	590 +/- 14	502 +/- 1	499 +/- 0
Selecting Finding Tools	629 +/- 19	507 +/- 1	503 +/-1
Searching	617 +/- 14	487 +/- 1	483 +/-0
Using Finding Tool Features	685 +/- 17	532 +/- 1	531 +/-1
Retrieving Sources	694 +/- 18	519 +/- 1	518 +/- 1
Evaluating Sources	636 +/- 16	478 +/- 1	476 +/- 0
Documenting Sources	669 +/- 18	487 +/- 1	473 +/- 1
Understanding Economic, Legal and Social Issues	631 +/- 17	471 +/- 1	464 +/-0

Table 4: Data Table Showing Overall Scores Across All SAILS Skill Sets

The datasets for the two Schulich student groups' data was then separated and the resulting benchmarks were compared. When the two Schulich groups (1L and 3L) average benchmarks were compared for each skill set the following results were found:

SAILS Skill Sets	Schulich Overall	Schulich Year 1	OOSchulich Yea
Developing a Research Strategy	590 +/- 14	582 +/- 22	600 +/- 18
Selecting Finding Tools	629 +/- 19	683 +/- 31	590 +/- 16
Searching	617 +/- 14	601 +/- 19	627 +/- 20
Using Finding Tool Features	685 +/- 17	665 +/- 28	700 +/- 21
Retrieving Sources	694 +/- 18	704 +/- 28	696 +/- 23
Evaluating Sources	636 +/- 16	607 +/- 1	668 +/- 0
Documenting Sources	669 +/- 18	645 +/- 30	686 +/- 24
Understanding Economic, Legal and Social Issues	631 +/- 17	657 +26	607 +/- 22

Table 5: Data Table for Skills Sets by Class

Best	Documenting Sources
	Retrieving Sources
	Undersanding Economic, Legal and Social Issues
	Evaluating Sources
	Using Finding Tool Features
	Searching
	Selecting Finding Tools
Worst	Developing a Research Strategy

Table 3: Best to Worst Skill Sets

The Schulich LRW curriculum at that time stressed proper citation using the *Canadian Guide to Uniform Legal Citation*[15], with this skill assessed in several assignments. It is therefore not surprising that students ranked highly on this skill. Conversely, the curriculum focused very narrowly on legal research platforms such as Westlaw Canada and LexisNexis Quicklaw, and natural language searching. Students may not have had significant exposure to a wide range of finding tools accounting for the low scores in "selecting research tools." The data table below presents the median scores for

3L students were found to have higher scores than 1L students in five of eight categories: Developing a Research Strategy (+8, 1.4%), Searching (+26, 4.3%), Using Finding Tool Features (+35, 5.3%), Evaluating Sources (+61, 10.0%), and Documenting Sources (+39, 6.0%). Unexpectedly, 3L students scored lower in three categories than 1L students: Selecting Finding Tools (-93, 14.0%), Retrieving Sources (-8, 1.1%) and Understanding Economic, Legal and Social

[14] Catherine Hodgens, Marguerite C Sendall, & Lynn Evans, "Post Graduate health promotion students assess their information literacy" (2012) 40:3 Reference Services Review, 408-422. Catherine Hodgens, Marguerite C Sendall, & Lynn Evans, "Post Graduate health promotion students assess their information literacy" (2012) 40:3 Reference Services Review, 408-422.
[15] McGill Law Journal, *Canadian Guide to Uniform Legal Citation*, 7th ed (Toronto: Carswell, 2010).

Issues (-50, 7.6%). Understanding Economic, Legal and Social Issues stood out as the most puzzling result as these students would have completed coursework in property, ethics, and professional responsibility.

I finally compared our student benchmarks for 1L and 3L students with the respective median benchmarks of Rutgers Law School. Score medians were in the same ranges for both Rutgers and Schulich. This does strengthen the reliability of the data collected.

Skills Sets	RU 1L	RU 3L	RU Difference	Sch 1L	Sch 3L	Sch Difference
Research Strategy	643 ±31	643 ±35	0	528 ±14	600 ±18	18
Finding Tools	629 ±56	643 ±45	14	683 ±31	590 ±16	-93
Searching	628 ±36	631 ±35	3	601 ±19	627 ±20	26
Finding Tool Features	683 ±57	715 ±63	32	665 ±28	700 ±21	35
Retrieving Sources	667 ±67	674 ±61	7	704 ±28	696 ±23	-8
Evaluating Sources	641 ±29	667 ±35	26	607 ±22	668 ±21	61
Documenting Sources	662 ±37	674 ±39	12	645 ±30	686 ±24	41
Econ., Leg., Soc. Issues	625 ±32	624 ±29	-1	657 ±26	607 ±22	-51

Table 6: Data Table for All Skills Sets for 1L and 3L students at Rutgers and Schulich.

Differences between the benchmark scores for 1L and 3L students ranged from 0%-5% for each skill set at Rutgers. Differences between benchmark scores for 1L and 3L students ranged from 1%-15% at Schulich. Rutgers student benchmarks did not contain the same anomalous drops between 1L and 3L as were seen at Schulich, but neither did they demonstrate any significant skill development over time.

Conclusion

I was able to replicate the Rutgers study results with similar sample sizes and found similar results. I found only marginal improvement in IL skills in many skills sets between 1st and 3rd year Schulich students, and recorded in three cases declines in IL skills between first and third year. Not being able to administer the study in class time resulted in a significantly smaller number of completed surveys, and may have impacted the reliability of answers as students could potentially collaborate. The sample sizes for both classes were small, and as students self-selected for participation in the study I cannot assume they were a representative sample. Although the study raises interesting questions, fuller sampling will need to be conducted before the results can be generalized. There are obviously differences between the instruction received by the two classes of law students including changes to the curriculum and the instructors. Ideally this study would track the same class for three years of the program. However, the changes in the overall curriculum were not considered significant.

It was significant that my results mirrored those of the Rutgers study. I believe that the tests did accurately measure law student IL skills, and that they correctly reported poor IL skill development over the course of the law degree. I theorize that legal research training programs used in Canadian and U.S. law schools focus narrowly on law sources and lawyering skills, without a wider focus on information literacy skills. I argue these tests correctly identified shortcomings in legal research instruction, and these results challenge us to rethink how we equip our graduates for both practice and for life-long learning. The Schulich School of Law has since implemented a new curriculum for LRW that is hoped will better address general as well as practice-specific information skills. This curriculum emphasizes hands-on skills development and addresses, for example, some of the ethical and economic issues of legal research such as research cost and the impact of tool selection on research results. In addition students in many research-intensive courses now participate in personalized research planning meetings. These meetings focus on the development of research strategies and appropriate tool selection. These initiatives have been positive steps toward building IL competencies as well as legal research skills.

Deadlines / Dates de tombée