



**National Tertiary
Education Union**

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National Tertiary Education Union (NTEU)

Higher Education Standards Panel

Call for Comment No. 2.

Draft Standards for Research, Research Training and Learning Outcomes (Research)

Higher Education Standards Panel Executive

Email: info@HEstandards.gov.au

Dear Panel Executive

The National Tertiary Education Union (NTEU) represents the professional and industrial interests of some 27,000 staff working at Australian universities. The formulation of the higher education standards will impact upon the nature the work of our members as well as potentially impact on their rights and responsibilities. Therefore, it is important that our members' views and concerns are taken seriously and we welcome the opportunity to comment on the following draft standards:

- Research
- Research Training, and
- Learning Outcomes (Research Training)

Threshold and Non-Threshold Standards

Before commenting on the draft standards outlined above specifically, it should be noted that the NTEU is not entirely comfortable with the Panel's conclusion that the distinction between 'threshold' and 'non-threshold' standards is unhelpful and that the Panel has taken it upon itself to propose that what were originally identified as 'non-threshold standards' are in effect being incorporated into expanded set of 'threshold' standards.

The intention in creating TEQSA was to establish a 'light touch' regulator, with minimal interference in the operation of well-established institutions like Australia's universities. However, there are increasing concerns that the rhetoric of light touch regulation will not be matched by the reality. Universities are critical of high compliance costs. Others, including the NTEU, are concerned that TEQSA's regulatory risk assessment process is unable or unwilling to distinguish between different types of providers such as public universities with long and proud records of service to their communities and new private specialist providers.

We are concerned that TEQSA is having great difficulty reconciling the principles of competitive neutrality with that of regulatory necessity or risk proportionality.

Expanding the 'threshold' standards to incorporate research and research training lessens the possibility of TEQSA ever being able to operate as a light touch regulator operating under the principles of regulatory risk. Expanding the thresholds standards is in reality adding to the check list of items TEQSA will need to 'tick-off'. Such an approach is antithetical to the concept of institutional autonomy, which is critical to preserve the fundamental nature of our universities.

Draft Research Standard

As noted above, NTEU is extremely concerned that the TEQSA standards should not interfere or impinge upon the institutional autonomy of our universities and other self-accrediting higher education institutions. One area of particular concern for the NTEU is the extent to which TEQSA's standards might directly or indirectly interfere with nature of the employment relationship between a university (or any other provider) and their employees. These relationships are governed by other legislation and instruments including enterprise bargaining agreements (EBA).

Therefore, NTEU would caution that it would be foolish in the extreme for the Panel to include standards that might directly interfere with the employment relationship and thus have unforeseen circumstances and possible legal consequences.

Under these circumstances NTEU would strongly advocate that:

- any references to The Australian references to the ***Australian Code of Conduct for the Responsible Conduct of Research*** be limited to Part A only,
- any reference to 'research active' be entirely removed from the standards.

Code of Conduct

The reference points for both the Research and Research Training draft standards include the ***Australian Code of Conduct for the Responsible Conduct of Research (the Code)***. NTEU recommends that references to the Code should be limited to Part A only.

Part B of the code deals with the framework and process for dealing with any breaches of the Code. In case of an employee, the process for dealing with a breach of the code (research misconduct) is regulated by that employee's conditions of employment. The policies and procedures for dealing with employment matters are rightfully and legally the province of industrial instruments including relevant EBA.

To the extent that there are, or might be, inconsistencies between ***the Code*** and an EBA, the EBA will prevail. While NTEU understands that the reference points do not form part of the standards *per se*, we would argue that it is better to avoid any confusion or misunderstanding by making it clear that the reference point is limited to Part A of the Code.

Research active staff

Point 4 of the draft Research standard reads:

4. *The concept of 'research active' staff is defined and complied with in the implementation of research policy and procedures.*

NTEU advises in the strongest possible terms that any reference to the concept of 'research active' and/or its relationship to research policy and procedures be excluded from any draft standards whether they be 'non-threshold' or 'threshold' standards. Unlike some of the other draft standards, there is no apparent reason to think that a provider having a definition of "research active staff" would in any way shape or form or have any effect in itself upon quality of research conducted.

Moreover, the concept and definition of 'research active' impinges on the nature of the employment relationship, at a number of levels including an individual staff member's:

- position classification being as research-only, research and teaching or teaching-only;
- probation and/or promotion assessment processes or outcomes;
- performance appraisal and any following actions; and
- work load allocations.

At Australian universities all of these are matters governed by clauses within various EBAs. While NTEU is no doubt that the inclusion of 'research active' will be supported by university management, NTEU would caution that TEQSA ensure its standards should not become a tool for university management to use in future dealing with its staff including the negotiation of future EBAs. It would be extremely embarrassing for Panel and TEQSA as well the government if any of the standards were to suffer the same fate as the 'journal rankings' in the original Excellence in Research Australia (ERA) exercise. As you may recall the then Minister, Senator Kim Carr, was forced to abandon the journal ranking because they were manipulated and gamed inappropriately by university management.

In addition to the very obvious and potentially highly problematic conflicts the inclusion of 'research active' might create in relation to an individual university's employment relations, there are a number of other reasons why the reference to 'research active' must be excluded.

Firstly, it goes to a level of detail or specificity that is inconsistent with the scope of the standards. It is not clear how having a definition of 'research active' active staff is critical for an institution to conduct research or research training. Indeed it would be entirely paradoxical to suggest that a university could be producing research without having research active staff. The research standard should be concerned with the production of research and its quality and not how those conducting that research are classified.

Secondly, there is no agreement of what research active means. The definitions of 'research active' currently used by different universities vary enormously. Therefore, without an agreed common definition it is impossible to describe this as a 'standard', and it certainly not capable of being codified. If the standard simply wants the institution to define what it understands is meant by 'research active' NTEU questions how this would impact on the

nature, scope or quality of research undertaken. That is, as a standard, this is totally meaningless and as meaningless as asking provides to have definitions and policies related to things like 'managerial effectiveness'.

Thirdly, this standard clearly goes beyond TEQSA's 'light touch' regulatory regime. If the panel continues down the path of specifying detailed standards such as requiring definitions of individual staff classifications, then the standards will quickly be reduced to a long check list of items for TEQSA to tick off against. It is also inconsistent with the principles of regulatory necessity and proportional risk which underpin TEQSA's operations.

Academic freedom

From NTEU's perspective there is one glaring omission from draft research and research training standards, which is that they fail to make any mention of academic freedom. Therefore, NTEU is strongly recommending that an additional dot point be added under item 1 of the Research draft standards, namely:

- g) freedom of inquiry.

For further information please contact:

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Thank you

Jeannie Rea

National President

8 July 2013