

OCUFA Statement on allegations of research misconduct at Queen's University and HEQCO

In recent weeks, the research practices of the Higher Education Quality Council of Ontario (HEQCO) have come under scrutiny by the media and members of Ontario's higher education stakeholder community. On April 10, 2012, Jennifer Massey and Sean Field, both PhD candidates at Queen's University, wrote a letter to Harvey Weingarten, President and CEO of HEQCO. In it, they allege that staff at Queen's University made significant changes to a HEQCO-funded report they co-authored (*Student Services at Queen's University: An Evaluation of the Supported Learning Groups Pilot Program*), without their knowledge or consent. HEQCO subsequently published the changed research, constituting what Massey and Field describe as a "serious breach of academic and intellectual integrity." This allegation was subsequently reported in the Canadian Press and appeared in several Ontario newspapers.

On behalf of our members, the Ontario Confederation of University Faculty Associations (OCUFA) has investigated these allegations carefully. As the representative of Ontario's professors and academic librarians, we believe research ethics and academic freedom are of fundamental importance. This holds true no matter where the research is being conducted – a university, a think tank, or a government agency.

As a result of our investigation, we believe the following facts to be correct:

1. The research contract in question was between HEQCO and Queen's University. Massey was the principal investigator, and Sean Field and Jeff Burrow were also engaged as authors on the project.
2. Significant changes were made to the "Conclusions and Implications" section of the final report submitted by Massey, Field, and Burrow by Chris Conway, Director of Institutional Research and Planning at Queen's University.
3. None of the principal authors were aware of, or had consented to, the changes.
4. In a letter dated April 10, 2012, HEQCO claims that the project was overdue and the principal authors had become uncommunicative, and that Conway's edits were needed to complete the project. The authors disputed this account in a letter dated April 11, 2012.¹
5. As the original contract was with Queen's University, and not the authors, the changes made to the document did not constitute a contractual breach on the part of HEQCO or Queen's University.

While we do not believe that HEQCO or Queen's University violated the terms of the HEQCO research contract, this situation has revealed several issues of concern with HEQCO's research process. Researchers should be aware of these issues before deciding to conduct research for HEQCO.

¹ All correspondence related to this case can be found at <http://cfsontario.ca/en/section/192>

1. The importance of understanding the HEQCO Research Contract

HEQCO is an agency of the Government of Ontario. As specified in the *Higher Education Quality Council of Ontario Act (2005)*, the function of HEQCO is to develop and make recommendations to the Minister of Training, Colleges, and Universities on “all aspects of the postsecondary education sector, including improving the quality of education provided in the sector, access to post-secondary education, and accountability of post-secondary educational institutions.” While HEQCO describes itself as an ‘arm’s-length’ agency, it is important to recognize that the Council is directly accountable to the Government of Ontario and has an explicit mandate to provide policy advice to the Minister of Training, Colleges, and Universities. As such, it is not a think tank or an independent research institute – it is a crown agency. The term ‘arm’s-length’ appears nowhere in HEQCO’s authorizing Act, and the Government of Ontario can alter the composition and mandate of the Council at any time.

The HEQCO research contract further clarifies the relationship between HEQCO and the Government of Ontario. Given the provisions contained within the contract, HEQCO operates as a research and policy contractor for the provincial government, soliciting research from experts and practitioners in the higher education field. The research contract is thus very different from those used by granting councils, independent think tanks, or academic publishers. Rather, the HEQCO contract is properly seen as a *consulting* contract. This is clear from the intellectual property provisions, notably:

(11:3) The Council shall be the sole owner of the Deliverables. The Contractor irrevocably assigns to and in favour of the Council and the Council accepts every right, title, and interest in and to the Deliverables, immediately following the creation thereof, for all time and, subject to sub-section 11.10 the Contractor irrevocably waives in favor of the Council all rights of integrity and other moral rights to the Deliverables, immediately following the creation thereof, for all time. All Deliverables and copyrights therein remain the exclusive property of the Higher Education Quality Council of Ontario.

(11:10) For the purposes of the Copyright Act, the Contractor acknowledges that the Deliverables produced by the Contractor in connection with this Agreement have been or will be prepared by or under the direction and control of the Council and moral rights are waived in favour of the Council.

We believe these provisions, and the entire contract, contain fairly standard Government of Ontario consulting language. The complete waiver of moral rights to the completed work required in the HEQCO contract is unusual in academic research, but common in consulting contracts.

This is not to denigrate consultancy research, or to suggest that the work completed for HEQCO is necessarily inferior due to the nature of the contracts under which the research is conducted. Rather, we wish to warn our members that **working with HEQCO requires the researcher to surrender all ownership of, and moral rights to, the final product.** Many researchers may be comfortable with these provisions, and wish to proceed. However, it is vital that every researcher is aware the intellectual property requirements before signing the HEQCO contract.

2. The confusing disclaimer

The HEQCO contract also requires researchers to allow the following disclaimer to appear on the completed project:

Funding for this research was provided by the Higher Education Quality Council of Ontario. The opinions, findings, conclusions, and recommendations expressed are those of the authors and do not necessarily reflect the views of the Higher Education Quality Council of Ontario.

In the case of Massey, Field, and Burrow, the conclusions were manifestly *not* those of the authors, at least not those listed on the publication. As such, it was a false statement and should have been removed prior to publication.

More generally, the disclaimer suggests that HEQCO has little control over the final product, and that the authors are responsible for the completed research. As noted above, this is flatly contradicted by the terms of the contract which assigns ownership, copyright, and moral rights for all research deliverables to HEQCO. Given the language in the contract, the disclaimer is misleading as to the nature of HEQCO research. It creates the impression that the research commissioned by HEQCO is disinterested academic research, rather than research conducted by a contractor hired by a government agency.

OCUFA believes that this ambiguity is harmful, and mischaracterizes the relationship between HEQCO, its contract researchers, and completed research. We recommend that the disclaimer be substantially revised or removed entirely from future HEQCO research publications.

3. Protecting academic freedom at institutions that work with HEQCO

The terms of the HEQCO research contract puts serious constraints on the academic freedom of those who undertake HEQCO-funded research. If these constraints are accepted by the researcher with full knowledge of their implications, then this is a question of personal choice. However, **if a university signs a research contract with HEQCO, and then sub-contracts the work to researchers within their institution, then care must be taken to ensure that these researchers understand the terms and conditions of the HEQCO contract.** This is particularly true for students and early-career academics.

With this in mind, OCUFA believes **Queen's University did not sufficiently protect the academic freedom of Jennifer Massey, Sean Field, and Jeff Burrow.** As graduate students, they were less experienced in dealing with contracts, and from subsequent events it appears they misunderstood their rights and responsibilities as sub-contractors, and may have been unaware of the provision requiring them to waive moral rights to their work.

4. Violation of research ethics

While we do not believe that HEQCO or Queen's University violated its contractual obligations, it does appear that a serious breach of research ethics occurred in the case of Massey, Field, and Burrow. **OCUFA believes that changing the conclusions of a research paper without the knowledge or consent of its authors, and then publishing that work under the authors' names, is unethical practice, and steps should be taken to ensure it does not happen again.**

We believe Queen's University to be primarily responsible for this lapse. When communication became difficult between the principal authors and HEQCO, HEQCO President Harvey Weingarten presented Vice-Provost Ann Tierney with the choice of abandoning the project or assigning it to other Queen's staff for completion. Chris Conway was given the project, and made the changes required by HEQCO to ensure a 'publication-ready' report. Queen's administration should have made every effort to inform Massey, Field, and Burrow of the changes, and seek their consent. At the time of this writing, Massey and Field have alleged that this did not occur, and neither Queen's nor HEQCO have provided any evidence to the contrary.

Absent authorial consent to the proposed changes, and in a situation where communication between the authors and Queen's/HEQCO had apparently ceased, there were at least five options available to senior staff at Queen's, presented here in descending order of desirability:

- Draw upon mediation services available at Queen's University in order to re-establish contact and develop some form of agreement on the proposed changes;
- Re-write the report in such a way as to make clear the sections that had been written by Massey, Field, and Burrow, and which sections had been changed;
- Cancel the project;
- Remove the author's names from the project and proceed with publication; or
- Publish the altered paper under the authors' names without their consent.

Regrettably, it appears that the least desirable option for all parties was chosen. There has been some suggestion that HEQCO has offered, post-publication, to remove the authors' names from the report. This is an unsatisfactory remedy, as the paper has been live on the HEQCO website for some time. More to the point, the majority of the published paper remains the work of Massey and Field, and they should receive fair recognition for their contributions.

Given that a variety of more desirable options were available, and without any evidence that efforts were made to pursue these options, **OCUFA has no choice but to conclude that a serious breach of research ethics occurred at Queen's University. The severity of the case requires that the breach be fully investigated by the institution.** As a university, Queen's is obliged to observe certain standards of research practice. These standards should not be overridden due to the requirements of a particular kind of contract, and senior staff should be expected to adhere to them fully.

HEQCO is not blameless in this situation. Ethical propriety requires that the Council be sure that authors listed on its research publications have been treated fairly and that they endorse the work that bears their names. In his April 10, 2012 letter, Harvey Weingarten seems fully aware that the final report was delivered by Chris Conway, not the original authors of the paper. This should have been taken as an indication that the listed authors did not approve of the submitted document. **If HEQCO could not independently verify that the authors endorsed the final paper, then they should not have published it under their names.** Expedience should not be allowed to trump ethical research practices, as appears to be the case here.

5. Uncertainty about HEQCO research practices

The revelation that HEQCO published research that contained unapproved changes damages the research credibility of the Council. Arguing that no wrongdoing occurred because there was no contractual breach misses the point. It is wrong to change someone's work without his or her permission, and even more wrong to publish that changed work under his or her name. We are now left with a series of unsettling questions: has this occurred to other HEQCO research reports? What is the motivation behind the changes? How sure are we about the reliability of research published by HEQCO?

No agency that purports to conduct research can operate effectively with these questions unanswered, particularly if they are charged with providing advice on urgent questions of public policy. As such, **OCUFA recommends that the Government of Ontario conduct an independent review of HEQCO's research procedures.** Again, this is not to suggest that HEQCO necessarily has improper or flawed procedures. The Massey and Field issue may well prove an isolated incident, and that HEQCO otherwise adheres to high standards of research quality and ethical integrity. But until the review is complete, OCUFA and its members will struggle with lingering questions over the reliability of HEQCO's research conclusions. Transparency and accountability are the best ways to ensure confidence in HEQCO's research program.

Until such time that a research review is completed, OCUFA advises its members to exercise caution when working with HEQCO, particularly if they are working as sub-contractors within an institutional project.