

# Legal review says universities not subject to Data Quality Act

The Data Quality Act, which establishes quality standards for information disseminated by the government, applies only to federal agencies and not to the academic research community, according to legal analysis commissioned by the American Council on Education.

ACE requested the analysis from the Washington law firm McKenna, Long and Aldridge after the Center for Regulatory Effectiveness sent a letter to the academic research community last month that implied that universities must comply with the law's mandates.

"Universities that submit information to federal agencies have no express or implied obligations under the DQA to ensure that such information meets DQA standards," states McKenna's legal analysis.

"To the extent CRE merely intended to say that it would be in the self-interest of universities to make sure that information they submit to federal agencies meets DQA standards, thus enhancing the likelihood that federal agencies will publish the information, we concur with that view," the law firm states.

Further, the analysis says statements in the CRE letter, by CRE adviser Jim Tozzi, falsely create the impression that DQA imposes statutory obligations on

universities when they are submitting research results and scientific data to the government. "Third parties that submit information to a federal agency do not have any DQA obligations," the firm's letter maintains.

"If a university's goal is to have information published or used by federal agencies, it must ensure that such information passes muster under the DQA standards for federally disseminated information," the analysis adds. "We agree that a university may wish to advise its faculty and administrative staff of the new standards, as CRE suggests. But the thrust of such advice would not be that the university has DQA obligations with which it must 'comply,' but rather that adhering to DQA standards would enhance the likelihood of federal agencies disseminating or publishing a university submission."

Tozzi, somewhat surprisingly, concurred with the analysis. "The CRE position is that the universities can write whatever they want, the government will examine it but cannot use it in a rulemaking unless it meets the data quality standards," he stated. "If universities want their research to be used by the government, they will have to comply with the Data Quality Act, but that doesn't mean there is a legal obligation to do so."