



7555-01-P

NATIONAL SCIENCE FOUNDATION

**Reporting Requirements Regarding Findings of Sexual Harassment,
Other Forms of Harassment, or Sexual Assault**

AGENCY: National Science Foundation (NSF).

ACTION: Request for public comment on new reporting requirement for sexual harassment, other forms of harassment, or sexual assault.

SUMMARY: The National Science Foundation (NSF) is soliciting public comment on the agency's proposed implementation of the new reporting requirements specified in NSF Important Notice No. 144, dated February 8, 2018.

The National Science Foundation (NSF) does not tolerate sexual harassment, or any kind of harassment, within the agency, at awardee organizations, field sites, or anywhere NSF-funded science and education are conducted. The 2,000 U.S. institutions of higher education and other organizations that receive NSF funds are responsible for fully investigating complaints and for complying with federal non-discrimination law. NSF has taken steps to help ensure research environments are free from sexual harassment. Additionally, NSF is bolstering our policies, guidelines and communications so that organizations funded by NSF clearly understand expectations and requirements.

NSF is working to make certain that recipients of grants and cooperative agreements respond promptly and appropriately to instances of sexual harassment, other forms of harassment, or sexual assault. A community effort is essential to eliminate sexual and other forms of harassment in science and to build scientific workspaces where people can learn, grow and thrive.

DATES: Comments must be received by **[INSERT DATE 60 DAYS FROM PUBLICATION]** .

ADDRESSES: Comments should be addressed to Suzanne H. Plimpton, Reports Clearance Officer, Office of the General Counsel, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA, 22314, e-mail splimpto@nsf.gov; telephone: (703) 292-7556; FAX (703) 292-9240. We encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date. Please include "*Reporting Requirement Regarding Findings of Sexual Harassment, other Forms of Harassment, or Sexual Assault*" in the subject line of the email message; please also include the full body of your comments in the text of the message and as an attachment. Include your name, title, organization, postal address, telephone number, and e-mail address in your message.

FOR FURTHER INFORMATION CONTACT: For any questions, comments or concerns regarding sexual or other forms of harassment, please contact the Office of Diversity and Inclusion (ODI), National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA, 22314, e-mail:harassmentnotifications@nsf.gov; telephone (703) 292-8020; FAX: (703) 292-9482.

SUPPLEMENTARY INFORMATION: As the primary funding agency of fundamental science and engineering research in the United States, NSF is committed to promoting safe, productive research and education environments for current and future scientists and engineers. We consider the Principal investigator (PI) and any co-PI(s) identified on an NSF award to be in positions of trust. The PI, any co-PI(s) and all personnel supported by an NSF award must comport themselves in a responsible and accountable manner during the performance of award activities whether at the awardee institution, on-line, or conducted outside the organization, such as at field sites or facilities, or during conferences and workshops.

NSF has developed a new proposed term and condition that will require awardee organizations to report findings/determinations of sexual harassment, other forms of harassment, or sexual assault, regarding an NSF funded PI, or any co-PI. The term and condition also will require the awardee

to notify NSF if it places the PI or any co-PI on administrative leave relating to a harassment finding or investigation. This term and condition also will make it clear that NSF may take unilateral action as necessary to protect the safety of all awardee personnel, to include requiring the substitution or removal of a PI, or any co-PI, suspension or termination of an award, or a reduction in the funding amount. NSF is soliciting public comment on this new proposed term and condition, including the information required to be reported by the awardee, the full text of which is provided below:

Proposed Article X:

The Principal investigator (PI), and any co-PI(s) identified on an NSF award are in a position of trust. These individuals must comport themselves in a responsible and accountable manner during the performance of award activities whether at the awardee institution, on-line, or conducted outside the organization, such as at field sites, facilities, or conferences/workshops. The awardee is required to notify NSF:

- 1) of any findings/determinations regarding the PI or any co-PI¹ that demonstrate a violation of awardee codes of conduct,

¹ If a co-PI is affiliated with a sub-awardee organization, the sub-awardee must provide the requisite information to the awardee, which will then transmit it to NSF as instructed above.

policies, regulations or statutes relating to sexual harassment, other forms of harassment, or sexual assault; and 2) if the awardee places the PI, or any co-PI on administrative leave² relating to a finding or investigation of a violation of awardee codes of conduct, policies, regulations or statutes relating to sexual harassment, other forms of harassment, or sexual assault.³ Such notification must be submitted by the Authorized Organization Representative via email to NSF's Office of Diversity and Inclusion at: harassmentnotifications@nsf.gov within seven business days from the date of the finding/determination or the awardee's placement of the PI or co-PI on administrative leave. Each notification must include the following information:

- NSF Award Number
- Name of PI/or co-PI being reported:
- Type of Report: Select
 - o Finding/Determination that the reported individual has been found to have violated awardee codes of conduct, policies, regulations or statutes relating to sexual

² For purposes of this term and condition, "administrative leave" includes any administrative action by the awardee that could impact the PI's or any co-PI's ability to fulfill their responsibilities on the award.

³ Awardee findings/determinations and placement on administrative leave during investigation must have been conducted in accordance with organizational processes and policies that are consistent with federal law and regulation. See, e.g., NSF Research Terms and Conditions, Appendix C.

harassment, or other form of harassment, or sexual assault; or

- o Placement by the awardee of the reported individual on administrative leave relating to a finding or investigation of a violation of awardee codes of conduct, policies, regulations or statutes relating to sexual harassment, or other form of harassment, or sexual assault.
- Description of the finding/determination and action taken, if any.
- Reason(s) for, and conditions of, placement of the PI or any co-PI on administrative leave.
- Plan for continued oversight and implementation of the project during the administrative leave period of the reported PI or co-PI.

The awardee may at any time propose a substitute investigator if it determines the PI or any co-PI may not be able to carry out the project or activity and/or abide by award terms and conditions.

Other personnel supported by an NSF award must likewise remain in full compliance with awardee codes of conduct,

policies, regulations and statutes relating to sexual harassment, other forms of harassment, or sexual assault. With regard to any personnel not in compliance, the awardee must make appropriate arrangements to ensure the safety of other award personnel and the continued progress of the funded project.

Taking into account the seriousness of the violation(s) and the importance of maintaining the safety of personnel supported by an NSF award, the Foundation may take unilateral action, as appropriate, to require the substitution or removal of the PI or any co-PI, suspension or termination of the award, or a reduction in the award funding amount.

End of Proposed Article X

IMPLEMENTATION: Upon receipt and resolution of all comments, it is NSF's intention to implement the new term through revision of the NSF Agency Specific Requirements to the Research Terms and Conditions, the Grant General Conditions, and the Cooperative Agreement - Financial and Administrative Terms and Conditions. The new term and condition will be applied to all new NSF awards and funding amendments to existing awards made on or after the effective date. This new reporting requirement will apply to all findings/determinations that occur on or after the effective date of the terms and conditions. With regard to notification

of placement on administrative leave, the awardee must notify NSF within seven business days from the date the awardee determines that placement on administrative leave is necessary.

NSF also plans to incorporate the new award term into the next issuance of the *NSF Proposal and Award Policies and Procedures Guide*, as well as to implement an electronic notification capability in Research.gov.

Dated: February 28, 2018.

Suzanne H. Plimpton,
Reports Clearance Officer,
National Science Foundation.

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