



Testimony of
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Subcommittee on Research and Technology

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"A Review of Sexual Harassment and Misconduct in Science"

Good Morning Chairwoman Comstock, Ranking Member Lipinski, and members of the subcommittee. My name is Rhonda Davis and I am the Head of the National Science Foundation's (NSF) Office of Diversity and Inclusion (ODI). Thank you for the invitation to testify today on sexual harassment in science, and on the steps NSF is taking to ensure equitable and safe access, irrespective of gender or background, to research experiences in the STEM disciplines supported by our agency.

Established by the National Science Foundation Act of 1950 (Public Law 81-507), NSF is an independent Federal agency whose mission is “to promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense; and for other purposes.” With an annual budget of approximately \$7.5 billion, NSF’s unique mission is to support fundamental research across all fields of science, technology, engineering and mathematics (STEM) and all levels of STEM education. NSF funds reach all U.S. states and territories through grants to nearly 2,000 institutions of higher education (IHE) and other organizations. Each year, NSF receives more than 48,000 competitive proposals for funding and makes about 12,000 new funding awards. Investing in STEM research and education is essential to America’s prosperity, economic competitiveness, and quality of life. A vibrant scientific workforce and breakthrough discoveries enabled by NSF investments sustain, accelerate, and transform America’s globally preeminent innovation ecosystem. NSF is a respected steward of taxpayer dollars, operating with integrity, openness, and transparency.

As noted above, NSF makes the vast majority of its awards to institutions of higher education and other organizations such as non-profits. Only infrequently and through specialized programs, such as NSF's Postdoctoral Fellowship Programs, do NSF funds go directly to individuals. One of the strategic objectives in support of NSF's mission is to foster integration of research and education through the programs, projects, and activities that we support at NSF awardee organizations. These organizations recruit, train, and prepare a diverse STEM workforce to advance the frontiers of science and participate in the US technology-based economy. By supporting institutions, these awards touch thousands of researchers from faculty to post-doctoral fellows, graduate students, undergraduate students, and even K-12 students and teachers.

As the primary funding agency of fundamental science and engineering research in the United States, NSF recognizes that to enable scientists, engineers and students to work at the outermost frontiers of knowledge, the agency must be a role model for teamwork, fairness, and equity. 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. Investing in science, engineering, and education for the Nation's future necessitates a safe environment that fosters equal opportunity for all.

Two years ago, NSF joined with other leading U.S. scientific organizations to emphasize its strong commitment to preventing harassment and to eradicate gender-based discrimination in science, and issued a press statement¹ to reiterate our unwavering dedication to inclusive workplaces. Since then, NSF has significantly stepped up its efforts to help eliminate sexual harassment within the science and engineering community by taking a proactive approach to promote inclusive, diverse workspaces through new actions and ongoing programs; strengthening our Title IX compliance program; and practicing transparency in our guidelines and actions.

New Steps To Combat Sexual Harassment

On February 8, 2018, NSF reiterated the policy that sexual harassment and misconduct will not be tolerated, and announced new steps to help eliminate such transgressions from science and engineering. NSF issued an important notice² to Presidents of institutions of higher education and heads of other NSF awardee organizations detailing these new steps. Most importantly, NSF has proposed a new award term and condition that would make it clear that when an awardee organization finds that an NSF-funded investigator or co-investigator has committed sexual harassment, NSF expects to be notified of that finding so we can take decisive action, as is appropriate, using all the tools at our disposal. NSF employees also received a notice³ clarifying how sexual harassment complaints within the agency are to be reported and handled. The response to these announcements has been very positive with great support from our colleagues in institutions of higher education and awardees that operate our facilities.

¹ The National Science Foundation (NSF) will not tolerate harassment at grantee institutions

https://www.nsf.gov/news/news_summ.jsp?cntn_id=137466

² Important Notice No. 144: Harassment https://www.nsf.gov/publications/pub_summ.jsp?ods_key=in144

³ ODI Bulletin No. 18-01, Sexual Harassment Reporting <https://www.nsf.gov/od/odi/docs/odi1801.pdf>

Specifically, the important notice to the field addressed the following:

- **New Award Requirements:** NSF has developed a new award term and condition that will require awardee organizations to report findings of sexual harassment, or any other kind of harassment regarding a PI or co/PI or any other grant personnel. The award term and condition also will require the grantee to report the placement of the PI or co-PI on administrative leave relating to a harassment finding or investigation. This term and condition will make it clear that NSF may take unilateral action as necessary to protect the safety of all grant personnel, to include suspending or terminating an award or requiring the grantee to replace or remove personnel. NSF will solicit feedback on this new award term and condition through the Federal Register process within the next several weeks.

Due to the importance of this issue, NSF is making this change a priority and fast-tracking this process. The new award term and condition will go into effect after completion of the Federal Register process, which includes providing 60 days for public comment. Once that process is complete, all new awards and funding amendments on existing awards will include the new term and condition and all awardees must adhere to that term and condition. The policy will not be retroactive and will not apply to expired awards.

- **Harassment-Free Research Workplaces:** NSF expects all awardee organizations to establish and maintain clear and unambiguous standards of behavior to ensure harassment-free workplaces wherever science is conducted, including notification pathways for all personnel, including students, on the primary and supplemental awards. This expectation includes activities at all research facilities and field sites and during conferences and workshops. All such settings should have accessible and evident means for reporting violations and awardee organizations should exercise due diligence with timely investigations of allegations and corrective actions. NSF recently instituted a cross-agency special task force to examine and collect promising practices for clear and unambiguous model codes of conduct. When finalized, these codes of conduct will be placed in one location on the NSF website for easy access.
- **Enhanced Web Resources:** ODI is tasked with seeking to ensure that NSF-funded programs and projects are free of discrimination. ODI recently launched a dedicated web portal to consolidate policies and procedures, promising practices, and frequently asked questions relating to sexual and other forms of harassment with the intent of making it easier for the research community and the public to access information. This portal is where NSF will continue to add content related to ending harassment. To access the portal, please visit NSF.gov/harassment.

NSF is working to make certain that awardee organizations respond promptly and appropriately to instances of harassment. A community effort is essential to eliminate sexual and other harassment in science and to build scientific workspaces where people can learn, grow and thrive.

One long-standing way NSF has focused on the prevention of harassment has been by working closely with awardee organizations to support inclusive, diverse and safe workplaces. To further address the issue, NSF has funded a National Academies of Sciences, Engineering, and Medicine study⁴ on the prevalence and impact of sexual harassment in science, engineering, and medical departments and programs. When completed, this study will form a foundation for further consideration of our policies while providing important information to science and engineering institutions and organizations. NSF also recently made an award⁵ to a group of geoscientists to partner with professional societies to develop best practices and training workshops for safer, more productive STEM education and research workplaces. This award was made through NSF's ADVANCE program, our longstanding effort to foster gender equity in science and engineering through a focus on the identification and elimination of organizational barriers that impede the full participation and advancement of all women faculty in academic institutions.

Title IX and the Complaint Process

NSF adheres to Title IX of the Education Amendments of 1972, which states that Federal agencies awarding grants to educational institutions or program activities are obligated to take steps to ensure that such institutions do not discriminate based on gender. Title IX also requires schools to take steps to prevent and remedy two forms of sex-based harassment: sexual harassment (including sexual violence) and gender-based harassment. If an institution is suspected of not complying with Title IX, NSF and its federal partners may conduct a review of the institution.

NSF follows federal guidelines, and every institution of higher education that receives federal dollars from NSF must certify compliance with Title IX. Under these guidelines, institutions' Title IX coordinators are responsible for handling Title IX complaints and allegations. NSF must ensure through its compliance activities that individual cases are not indicative of larger cultural issues within these institutions. This means working with the institutions, which takes time.

NSF may be contacted about potential Title IX issues both formally and informally. The appropriate action varies with the nature of the contact and issue. When NSF receives a formal Title IX complaint, the complaint is evaluated to determine whether an NSF-funded program is involved. If an NSF-funded award is involved in the complaint, NSF may accept it for investigation. For Title IX complaints not involving NSF-funded awards, to ensure that the proper Federal agency will investigate the complaint, NSF may forward the complaint to the U.S. Department of Education and/or consult with the institutions who may be funding personnel or activities involved in the complaint. Title IX requires Federal agencies to first provide the awardee with an opportunity to take corrective action. If the awardee refuses to take corrective action, agencies can take steps to revoke all of the enforcing agency's Federal funds from the awardee as a tool to compel compliance.

⁴*Sexual Harassment in the Scientific and Technical Workforce And its Effects on the Careers of Scientists, Engineers, and Medical Professionals*

https://nsf.gov/awardsearch/showAward?AWD_ID=1644492&HistoricalAwards=false

⁵*ADVANCE Partnership: From the Classroom to the Field: Improving the Workplace in the Geosciences*

https://www.nsf.gov/awardsearch/showAward?AWD_ID=1725879

For many years NSF referred Title IX complaints to the Department of Education's (ED) Office for Civil Rights (OCR) under a delegation agreement between ED and NSF. However, NSF was recently informed by OCR that the delegation agreement does not apply to Title IX complaints. As a result, NSF has initiated additional protocols to bolster its Title IX Compliance program to include Title IX complaint activity. NSF has significantly strengthened its compliance program by increasing staff and improving oversight. Staffing in ODI, which handles NSF's Title IX compliance program, has been increased to focus more effectively on implementation of best practices and proactive approaches to institutions' Title IX compliance. This includes the hiring of an Equal Opportunity Compliance Program Manager. NSF now conducts Title IX compliance reviews of at least two NSF-funded organizations each year, and makes reports of Title IX compliance reviews publicly available. NSF has already conducted one Title IX compliance review this year and has at least one more planned. These on-site reviews are selected based on several factors such as known Title IX compliance issues, amount of NSF funding provided to the university, and others. These reviews are comprised of students, faculty and staff interviews; review of records and statistics; and site inspections of academic departments that receive NSF awards.

NSF has also enhanced its training program for internal staff to include in-person training, written publications, and video presentations. The training provides guidance for any employee who may be notified of a Title IX matter. Training is provided to all new employees during the onboarding process on Title IX and sexual harassment. Program Officers receive training on sexual harassment during the Merit Review Process training.

With the current spate of incidents of sexual harassment and assault at universities, NSF acknowledges that more needs to be done. NSF program participants deserve nothing less than learning and research environments free of sexual harassment and sexual assault. NSF is looking to other procedural and policy avenues that will hold PIs, and awardee organizations, accountable in an expeditious and fair manner. In tandem with the Title IX regulatory approach to ensuring awardee compliance, NSF is also using Federal-wide administrative requirements to ensure that awardees are fulfilling their award conditions. If award conditions cannot be met, then the organization may propose that a substitute PI be named and NSF can accept or reject the proposed change. If an awardee adjudicates a sexual harassment case in a way that results in the investigator being unable to fulfill the terms and conditions of his/her award, NSF will act to minimize the impact of such a decision by the awardee on others supported by the project, including students and postdocs. NSF policies are meant to ensure that the actions of one do not negatively affect the careers of all. It is vitally important that we do not punish innocent award participants because of the actions of one person

In summary, NSF will continue to provide training on Title IX and sexual harassment prevention, and regularly conduct Title IX compliance reviews of awardee organizations and the academic research departments funded by NSF. NSF may terminate funding to any institution found to be in noncompliance with Title IX regulations and that does not voluntarily come into compliance.

Conclusion

NSF is committed to doing everything within our power to help eliminate sexual harassment in science and engineering. NSF accounts for approximately 27 percent of the total Federal budget for basic research conducted at U.S. colleges and universities and has been vital to many discoveries that impact our daily lives and drive the economy. However, we cannot and will not succeed in our mission if we do not eliminate unsafe research environments that upset the whole balance of the science ecosystem, harm our scientists, and impede the very progress of science itself. With the support of this committee, educational and research institutions, the community, and outside experts, NSF will continue to work to eradicate sexual harassment in scientific research and learning environments and to eliminate barriers to gender equity in education and research experiences.

Thank you for the opportunity to testify today and for your continued support of NSF. I will be pleased to answer any questions.