

**NSF Disposition of Comments Received in Response to the March 5th Federal Register Notice on Sexual Harassment**

Comment	NSF Response
<p>Reporting the placement of a PI or co-PI on administrative leave may have a chilling effect. NSF’s proposal would require institutions to report if the “awardee places the PI or any co-PI on administrative leave relating to a[n]... investigation of a violation of awardee codes of conduct, policies, regulations, or statutes relating to sexual harassment, other forms of harassment, or sexual assault.” As defined in the new reporting requirement, “administrative leave” captures a vast array of temporary actions which could be and frequently are preliminary to any findings or conclusions. These preliminary or interim measures are non-punitive and designed to protect all parties involved pending an outcome of an investigation. In addition, we believe a reporting requirement based on administrative leave action could chill the use of these important interim measures out of concern that NSF may create a record or take action against a PI or co-PI prematurely. As an alternative to the current recommendation, we recommend that NSF narrow this proposed reporting requirement. One option is that reporting be required only in situations where administrative leave has been imposed and the PI or co-PI has been found responsible but is appealing the adjudication, or when the terms of a pre-adjudication leave would affect performance under the grants. We also urge NSF to rely on existing approval processes in lieu of awardee institutions’ reporting of a PI or co-PI being placed on administrative leave. NSF already has approval procedures of substituting a PI or co-PI when a leave could impact performance. The NSF approval procedures for substituting a PI or co-PI when performance is impacted provides the agency with appropriate notice of this change. Adding an additional notification requirement pertaining to that same PI or co-PI whose performance is impacted by administrative leave as an interim measure during an investigation of reported harassment risks greater costs than benefits achieved, for the explanations noted above. For these reasons, we recommend that NSF strike the requirement that notification be given to the NSF upon implementation of an interim measure.</p>	<p>The applicable Grant General Conditions require that prior approval be obtained from NSF when the approved PI/PD is disengaged from the project for more than three months, or there is a 25 percent reduction in time devoted to the project. The Foundation does not believe that these prior approval requirements are sufficient to address the potential impact(s) to an NSF-funded project that may arise when a PI or co-PI is placed on administrative leave; nor do we believe that, in these circumstances, it is prudent to wait three months for such a request to be submitted.</p> <p>NSF's understanding is that one of the primary purposes of taking an action such as placing an individual on administrative leave is to ensure community safety. NSF is confident that universities and other entities, which are committed to safety, will continue to utilize these kinds of actions, when appropriate.</p>

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<p>Reporting requirement may have unintended consequences. The Federal Register notice states that NSF “may take unilateral action, as appropriate, to require... suspension or termination of the award, or a reduction in the award funding amount.” The mandatory reporting requirement, coupled with NSF’s proposal to take unilateral actions including “suspension or termination of the award, or a reduction in the award funding amount,” may have unintended consequences that could impact graduate students, research trainees, postdoctoral researchers, and other grant personnel. This could also have a chilling effect on the willingness of individuals to report harassment. If the report to the NSF forms the basis for an NSF decision, and is subject to the Freedom of Information Act (FOIA), a graduate student, research trainee, postdoctoral researcher, or other grant personnel may be legitimately concerned that the release of such a report could impact their future employment opportunities. A graduate student, research trainee, postdoctoral researcher, or other grant personnel would also need to weigh their decision to bring forth an allegation with the understanding that such a report may lead to the removal of funding that is being used to support the research grant. To mitigate these unintended consequences, we recommend revising the language of the new reporting requirement to emphasize the NSF process to substitute a PI or co-PI, rather than to suspend or terminate the award, and consider how it may protect identities of persons who bring forth such allegations. In addition, to help maintain privacy, NSF should not require institutions to submit identifying information of any individual other than the PI or co-PI, including any personally identifiable information of the individual(s) who made the complaint. We also strongly recommend that in such cases the NSF provide for streamlined authority to the awardee institution to make a provisional PI or co-PI substitution so that the grant work may move forward as the institution awaits NSF approval. Revising Chapter 8 of the NSF General Grant Conditions to specifically allow awardee institutions to provisionally replace the named PI with an alternate PI with appropriate scientific background would materially advance the shared goals of NSF and the grantee community in this area.</p>	<p>NSF recognizes the sensitivity of the information that may be contained in the notifications and will take appropriate steps to manage such information consistent with the Privacy Act, the Freedom of Information Act, and other applicable federal laws. Importantly, NSF makes it clear in the revised term and condition that names other than those of the relevant PI or co-PI are not required and must not be included.</p> <p>NSF will first engage the grantee to discuss options including, but not limited to, use of a substitute PI or co-PI. NSF anticipates that action to suspend/terminate the award will be necessary only if no other reasonable alternative is identified.</p>

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<p>Clarity needed on confidentiality of reported information and use of information. We are very concerned about the prospect that sensitive personnel information, not otherwise public, could become public under FOIA. We ask that NSF carefully examine this issue and modify Proposed Article X with clarifying language which sufficiently addresses these concerns. This will be particularly important if NSF chooses to maintain the reporting obligations in the current draft which will result in the provision of information arising from matters under investigation, some of which will, in the ordinary course, not lead to a subsequent report to NSF of a finding of a violation. NSF should make clear in the terms and conditions its commitment regarding the handling of reported information. For example, will it be shared with other agencies? Will it be subject to FOIA? Although we strongly recommend that NSF not mandate the reporting of interim measures, should the agency maintain that proposed requirement, it will be important to know how this information will be updated following an institutional finding of no responsibility or that the complaint cannot be sustained. Prior to implementation, NSF should be confident that its internal processes and protocols will fully address reasonable concerns. At the minimum, if a report is triggered before an investigation concludes and the investigation yields no "finding/determination," which would require the awardee to provide further information to NSF, the agency should clearly note that in any archived material pertaining to that report.</p>	<p>NSF recognizes the sensitivity of the information that may be contained in the notifications and will take appropriate steps to manage such information consistent with the Privacy Act, Freedom of Information Act (FOIA), and other applicable federal laws. NSF does not intend to share these award specific notifications with other federal agencies at this time and could only do so consistent with applicable Privacy Act routine uses. Importantly, NSF makes clear that only the identification of the PI or co-PI is required: Personally identifiable information regarding complainants or individuals other than the PI or co-PI must not be included.</p>
<p>The term "other forms of harassment" should conform to the definitions used by institutions. Proposed Article X says, "The awardee is required to notify NSF: (1) of any findings/determinations regarding the PI or any co-PI that demonstrate a violation of awardee codes of conduct, 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 leave 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." We presume the term "other forms of harassment," for the purposes of this reporting requirement, is intended to refer to institutional usage of that term. In implementation of this proposal, NSF should confirm this.</p>	<p>NSF has revised the term and condition to add a definitions section. NSF defines "other forms of harassment" as "Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders."</p>

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<p>Clarification needed on reportable action. We have additional questions per that same clause in Proposed Article X: “The awardee is required to notify NSF: (1) of any findings/determinations regarding the PI or any co-PI that demonstrate a violation of awardee codes of conduct, 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 leave 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.” We read this to mean that institutions must report (1) any finding by the institution that the PI or co-PI has violated the institution's own codes of conduct or policies barring harassment of employees or students; and (2) any final determination by a federal, state, or local agency charged with enforcing antidiscrimination laws that the PI or co-PI violated the law barring harassment of employees or students. To ensure accurate reporting, we ask you to confirm our interpretation is correct. If this is a correct interpretation, we suggest that NSF modify the language to make clear that awardees need only report findings of a violation of codes of conduct, policies, regulations, or statutes by amending the language to read as follows: “(1) of any findings/determinations that the PI or any co-PI violated the awardee’s codes of conduct or policies relating to sexual harassment, other forms of harassment, or sexual assault; and (2) any final determination by a federal, state, or local agency charged with enforcing anti-discrimination laws that the PI or any co-PI violated the law barring harassment of employees or students.”</p>	<p>NSF has revised the term and condition to add a definitions section. NSF defines finding/determination as “The final disposition of a matter involving sexual harassment or other form of harassment under organizational policies and processes, to include the exhaustion of permissible appeals exercised by the PI or co-PI, or a conviction of a sexual offense in a criminal court of law.”</p>
<p>Intersection with privacy regulations and state laws could pose conflicts. How will the new reporting requirements coincide with the Family Educational Rights and Privacy Act (FERPA) or other federal privacy regulations or state laws, which may prohibit sharing information on student and personnel matters outside of the institution? Will there be overlap or redundancy? Will there be conflicting legal obligations for institutions to parse? When the NSF reporting requirement conflicts with other privacy regulations or laws, how are recipients to make the determination about which legal obligation takes precedent?</p>	<p>NSF does not view the notification requirement as being in conflict with other federal privacy laws or regulations, such as FERPA. With regard to state laws and regulations, many state privacy laws contain language allowing for information disclosure to federal agencies, and if there were to be a conflict, conflict of laws doctrines would apply.</p>

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<p>Subrecipient reporting should be the subrecipient’s responsibility. We recommend that if a subrecipient has a reportable finding/determination, compliance with this reporting requirement should be the direct responsibility of the subrecipient. Due to privacy concerns, the primary award recipient should not have direct oversight obligation pertaining to the investigation or any findings/determinations by the subrecipient. The primary award recipient’s responsibility should be limited to passing through to the subrecipient the appropriate terms and conditions on the subrecipient document. We suggest that the subrecipient provide the subrecipient’s completed report to NSF within the designated timeframe via a secure portal to the government directly. The subrecipient should inform the prime through the available prior approval process of any changes that will directly impact the performance of the sub-award during the period of performance. Removal of subrecipient PI or co-PI shall be in accordance with the subrecipient institution’s policy and any laws or regulations.</p>	<p>The term and condition has been revised to require the Authorized Organizational Representative of the subawardee institution to notify NSF directly.</p>

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<p>Appeals process needed. NSF should provide for an appeals process for any determinations made with the new term and condition. This should also be coordinated with any institutional appeals process and is especially important as institutions often have complex multi-layered appeals processes. An NSF appeals process is particularly necessary in cases where an interim measure (e.g. administrative leave) is imposed and reported to NSF but where the PI or co-PI is ultimately found not responsible. The outcome of an appeals process, whether at NSF or the institution, should be shared between NSF and the institution.</p>	<p>NSF fully expects that the findings and determinations, and any appeals that result from such actions, will be conducted in accordance with organizations' policies and procedures. In fact, the term and condition has been revised to include a definition for the term "Finding/Determination" as follows: "The final disposition of a matter involving sexual harassment or other form of harassment under organizational policies and processes, to include the exhaustion of permissible appeals exercised by the PI or co-PI, or a conviction of a sexual offense in a criminal court of law." The term and condition also has been revised to specify what factors NSF will use to assess the notification. These factors include: a. The safety and security of personnel supported by the NSF award; b. The overall impact to the NSF-funded activity; c. The continued advancement of taxpayer-funded investments in science and scientists; and d. Whether the awardee has taken appropriate action(s) to ensure the continuity of science and that continued progress under the funded project can be made. The factors identified above will form the basis of NSF's decision regarding how to proceed. Per the revised term and condition, NSF will consult with awardees upon receipt and review of the notification.</p> <p>If, based on the factors identified above, NSF determines that it is appropriate to initiate use of a substitute PI on the award, and then at some future point the administrative leave or administrative action is lifted, or if the PI or co-PI is found not to have violated awardee policies, codes of conduct, statutes or regulations or executive orders relating to sexual harassment, the institution should work with NSF regarding reinstatement of the PI to the award. Given the deliberative process described above, NSF does not intend to develop an appeals process at this time.</p>

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<p>Awardee notification process to NSF needs clarification. There is an “and” between clause (1) “of any findings/determinations regarding the PI or co-PI that demonstrate a violation of awardee codes of conduct, 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 leave...” It does not appear that the intent of the NSF in this section is to require both that a PI or co-PI violate a code of conduct ... AND be placed on administrative leave related to a finding before the NSF is notified, because later in that section in two places related to reporting, the text shows with an “or.” This should be clarified in the final implementation.</p>	<p>The term and condition has been revised to make clear that either (1) or (2) triggers the notification requirement.</p>
<p>Submission of notification to NSF should be secure. The Federal Register notice indicates that notifications must be submitted by the Authorized Organization Representative via email to NSF’s Office of Diversity and Inclusion at: harassmentnotifications@nsf.gov. We recommend that the NSF consider submission of notifications via a secure web portal rather than through email.</p>	<p>NSF appreciates this suggestion and has developed an electronic, secure, complaint reporting mechanism to provide the notification information.</p>
<p>Sufficient time needed for grantees to offer a thoughtful plan to NSF. We support efforts to encourage swift reporting to NSF of findings or a determination of a violation relating to sexual harassment, other forms of harassment, or sexual assault. The proposed seven (7) business day reporting timeframe, however, may not allow institutions adequate time to name a new PI or create a “plan for continued oversight and implementation of the project during the administrative leave period of the reported PI or co-PI.” We recommend that the initial report not require such a plan and allow for institutions to submit such a plan within 30 days of the initial report.</p>	<p>Thank you for your thoughtful comment. Based on the feedback provided, NSF has revised the notification time frame from seven to ten business days. In addition, NSF has eliminated the requirement that the notification include a “plan for continued oversight and implementation of the project during the administrative leave period of the reported PI or co-PI.”</p>
<p>Clarification of applicability needed. The Federal Register notice contains implementation language stating that this new term and condition, (i.e. reporting requirement), will apply to “all new NSF awards and funding amendments to existing awards made on or after the effective date.” We presume NSF expects to receive notice whenever there is a finding or determination as described in Proposed Article X, occurring after the effective date of the applicable award or funding amendment. Clarification on this point would be helpful. In summary, we believe the proposed requirement is vague and risks leaving institutions unsure of when reporting is required, for the reasons addressed in this comment letter.</p>	<p>With issuance of the second Federal Register Notice, NSF has finalized the term and condition, which will be effective 30 days from the publication date. The new term and condition will be effective for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, this means that any finding/determination made on or after the start date of an award or funding amendment subject to the new term will invoke the new notification requirements.</p>

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<p>The new reporting requirement states that NSF grant recipient institutions must notify NSF of any “findings/determinations” that “demonstrate a violation of awardee codes of conduct, policies, regulations, or statutes relating to sexual harassment, other forms of harassment, or sexual assault.” The new reporting requirement does not distinguish between formal processes and informal corrective actions that may be taken without invoking the full procedural rights and protections that apply in a formal investigation. In our view, awardee institutions should be encouraged to use good faith efforts to communicate to NSF when a PI or co-PI should be removed from a grant following a final determination, pursuant to an institution’s processes. According to the Federal Register notice, “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.”</p>	<p>Thank you for your thoughtful comment. As set forth in the revised term and condition, awardee findings/determinations and placement of a PI or co-PI on administrative leave or the imposition of an administrative action must be conducted in accordance with organizational policies and processes. They must also be conducted in accordance with federal laws, regulations and executive orders. The term and condition also makes clear that an awardee may at any time propose a substitute investigator if it determines that the PI or co-PI may not be able to carry out the funded project or activity.</p>
<p>We strongly encourage NSF’s Office of Diversity and Inclusion and the newly formed cross-agency task force on sexual harassment to thoroughly review and consider the comments received from the higher education and scientific communities before taking any action to implement these new reporting requirements. We also encourage NSF to consider convening a small roundtable discussion with key stakeholders from the university and scientific communities to discuss the new reporting requirements before NSF implements the new requirements.</p>	<p>NSF greatly appreciates the thoughtful feedback that we have received in response to the publication of the proposed term and condition in the Federal Register. In response to your recommendation, the Foundation organized a roundtable/ listening session to hear the thoughts of community members on this issue.</p>
<p>AGU’s updated policy now defines harassment in science as scientific misconduct, and we encourage NSF to add similar language to their rule.</p>	<p>Thank you for your thoughtful comment.</p>
<p>AGU also believes NSF can provide positive influence towards a harassment-free scientific work climate by requiring specific trainings on bystander intervention and unconscious bias for all research teams funded through NSF—training that goes beyond what is currently required and would help initiate the culture change desperately needed.</p>	<p>Thank you for your thoughtful recommendation.</p>
<p>In addition, AGU believes the final rule would benefit from further clarification regarding the implementation of the policy. Specifically, the rule should incorporate explicit language clarifying what the agency means by a “finding /determination” by an awardee organization and what actions NSF will take in the event an investigation extends beyond a reasonable time, as determined by the agency.</p>	<p>Under the grant relationship, the awardee institution assumes legal and financial responsibility and accountability for the awarded funds and the performance of the grant. Awardees are expected to have legally compliant processes in place to uphold ethical, professional and legal standards of conduct within the institutional community. Accordingly, NSF relies on the awardee community to carry out its own investigations. Investigations, as noted in the term and condition, must comport with organizational processes and policies and must comply with Federal law. NSF has added a definitions section to the term and condition that includes a definition of "finding/determination."</p>

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<p>AGU is concerned that the current rule, as written, does not address statute of limitations issues and whether or how the agency will take appropriate action on cases occurring or investigated prior to the finalization of this rule.</p>	<p>The new term and condition will be effective for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, this means that any finding/determination made on or after the start date of an award or funding amendment subject to the new term will invoke the new notification requirements. That does not preclude an awardee from applying its timeliness requirements for acceptance, investigation and adjudication of harassment complaints.</p>
<p>Finally, the proposed rule could benefit from language that clearly addresses what would happen to graduate students and other researchers supported by an NSF award if the agency decides to suspend, terminate, or otherwise alter an award or take action against a Principal Investigator (PI) or co-PI(s). While AGU supports the idea of NSF acting unilaterally to ensure a safe and productive environment for researchers, we recommend that NSF update the policy to require the agency to consult with awardee institutions before deciding to remove or substitute a Principal Investigator (PI) or co-PI(s) or suspend, terminate, or reduce an award. This consultation would be made with the expectation that the institution will consider the interests of impacted personnel and include these interests in their recommendations to NSF.</p>	<p>Per the revised term and condition, NSF will consult with awardees upon receipt and review of the notification. NSF appreciates that personnel other than the PI or co-PI are impacted by changes to grant operations. NSF has made clear that it will take into account the continued advancement of the research and the researchers in making any decision about grant operations.</p>
<p>Proposed Article X requires that an awardee notify NSF of any finding/determinations of violations of codes of conduct related to sexual harassment and assault and of any administrative leaves implemented during investigations of such violations. This requirement will create a situation where the awardee must choose between compliance with the reporting requirement and privacy laws in many states because the proposed Article mandates the identification of individuals. The NSF should consider the reporting of aggregate data on investigations and findings of sexual harassment or assault over time as an alternative.</p>	<p>NSF does not view the notification requirement as setting up a situation where the awardee must choose between complying with a federal requirement and state law. With regard to state laws and regulations, many state privacy laws contain language allowing for information disclosure to federal agencies, and if there were to be a conflict, conflict of laws doctrines would apply. Moreover, NSF has revised the term and condition to clarify that only the PI's/co-PI's identity must be provided and personally identifiable information about any complainants or individuals other than the PI or co-PI involved in the matter must not be included in the notification.</p>
<p>Without a common process at awardee institutions, variations in thresholds for investigations and findings will necessarily occur. The NSF should plan to normalize their process to ensure equity in its actions across institutions and to avoid de-incentivization of formal investigations.</p>	<p>Thank you for your thoughtful comment. NSF funds over 3,000 different organizations and as such we are fully cognizant of the fact that there will be variances in investigations and findings across these organizations. However, NSF expects awardees to fully comply with the term and condition as well as federal non-discrimination statutes, regulations, and executive orders.</p>
<p>Is NSF working with other federal agencies to create a standard set of procedures for compliance and response? ASBMB would like to point out that multiple separate and different policies and procedures will place an unnecessary burden on institutions.</p>	<p>Consistent with its authorities, NSF has developed a new award term and condition for its awards to help ensure a safe research environment. A safe research environment for grant personnel is, in NSF's view, essential to the continued progress of science and the fulfillment of our mission. NSF welcomes the opportunity to work with other science agencies in tackling difficult issues facing the scientific community such as sexual harassment.</p>

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<p>How will NSF implement this policy for trainees supported by the NSF GRF program, which are awards made to individuals? The proposed Article X should either include broader terms or add further classifications to ensure that it is clear that the policy relates to not only PIs/Co-PIs supported through research grants but also individuals supported through NSF graduate and postdoctoral fellowships, dissertation improvement grants and other funding opportunities.</p>	<p>NSF GRFP awards are made to the institution, not to the individual fellow. For those postdoctoral fellowship awards that are made to the individual fellow, we have not included an award term that requires self-reporting at this time. While these individuals are conducting research in the facilities of their host institution, they are subject to the institution's anti-harassment policies and procedures or code of conduct.</p>
<p>Proposed Article X does not address the transfer of an award from one institution to another. The NSF should require recipient institution to certify inquiry into previous investigations or findings of sexual harassment or assault for awards requesting transfer.</p>	<p>Thank you for your thoughtful comment. Information regarding award transfers is contained in the NSF Proposal &amp; Award Policies &amp; Procedures Guide (PAPPG), Chapter VII.B.2.f. We will take this into consideration in a future version of the PAPPG.</p>
<p>In order to ensure transparency, the NSF should identify actions it will take in response to the spectrum of behaviors under the umbrella of sexual harassment and assault. We recommend that the NSF post an action plan or standard operating procedure for responding to reported sexual harassment and assault.</p>	<p>Thank you for your thoughtful recommendation, which we will take into consideration.</p>
<p>The NSF should ensure the privacy of victims/survivors of sexual harassment or assault that have been identified through this reporting mechanism.</p>	<p>NSF makes clear in the term and condition that names other than those of the relevant PI or co-PI, such as those of victims or complainants, must not be included in the notification.</p>
<p>Is there a time frame after the completion of an NSF award after which reporting will not be required? We recommend that the NSF develop a reporting requirement that captures harassment misconduct and institutional actions that have occurred post-award and prior to receiving a new award.</p>	<p>The new term and condition would require grantees to report findings of harassment for as long as the PI or co-PI who was found to have violated a grantee's harassment policies is managing the grant. The term and condition does not limit the number of findings involving a PI or co-PI. Grantees would still be required to report findings involving any NSF-funded PI or co-PI as long as the PI or co-PI is still actively working on or managing an NSF grant. If the PI or co-PI no longer manages an NSF-grant, then the grantee would not be required to report any findings on this individual.</p>
<p>NSF should implement reporting mechanisms for individuals located at field sites or remote areas that may have difficulty accessing resources online or over the phone.</p>	<p>NSF will not tolerate sexual harassment at NSF, awardee organizations, field sites or anywhere science is done. People who create unsafe environments disrupt the entire scientific ecosystem, discouraging scientists -- particularly early career scientists -- from contributing, harming their careers and scientific progress. NSF encourages its awardee organizations to provide the necessary resources and infrastructure for reporting incidents of harassment. For example, field sites can implement such mechanisms as satellite phones or ship-to-shore radio, and can train personnel on their confidential use in reporting harassment. NSF also encourages designation of individuals on site who can serve as point persons for accepting harassment complaints and mitigating/resolving situations on at least an interim basis.</p>
<p>I fully support this change.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>

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<p>In some cases, NSF's proposed seven (7) business day timeframe to report a PI or Co-PI's placement on administrative leave may be untenable due to University-approved absences, unforeseen emergencies, or other reasonable explanations. To support UNI's effort to most successfully fulfill its reporting responsibilities to NSF, we respectfully request that NSF grant institutions the flexibility to determine an appropriate reporting timeframe for the placement of a PI or co-PI on administrative leave, assuring the University's good faith effort to provide such a report in a timely manner.</p>	<p>NSF has revised the term and condition to require notification within 10 business days. The term and condition will take effect 30 days after publication in the Federal Register.</p>
<p>NSF's proposed rule does not address the agency's intent for collecting reports of PIs or co-PI's who have been placed on administrative leave for violations of policy related to sexual harassment, sexual assault, or gender-based violence. If NSF intends to use such reports as a factor for any future funding decisions, for example, the agency may wish to consider the addition of reporting guidelines for any PI or co-PI who has successfully appealed an initial determination of responsibility.</p>	<p>NSF's intent for collecting reports of PIs or co-PIs who have been placed on administrative leave or have had an administrative action imposed for violations of policy related to sexual harassment, other forms of harassment, and sexual assault is to assess and address the ability of the PIs or co-PIs to perform or manage the work funded by active grants at the time of the grantee's findings in such cases. It is not NSF's intention to use this information in the selection of future awards or in the awarding of such grants to an institution. Those decisions will continue to be made in accordance with NSF's Merit Review process.</p>
<p>We also advocate, however, that NSF require anonymous exit questionnaires of PhD students and postdocs funded from their grants and awards that go directly to the NSF, and are then used in determining grant renewal or future award status. Critically, this mechanism bypasses the university, which has a clear conflict of interest in reporting transgressions. As discussed in a recent announcement that the Wellcome Trust in the UK will act in a similar manner to that proposed by the NSF, this move could incentivize universities "to settle complaints informally to hide problems."</p>	<p>Thank you for your thoughtful comment.</p>

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<p>"The requirement to report only upheld allegations is understandable, Chapman adds, but it risks missing researchers who resign before an investigation is completed. These people could be free to take up new positions and continue their bullying or harassing ways." The NSF should avoid simply assisting in "passing the trash". Graduate students have published a zine which includes this recommendation, including other actions required from the perspective of early career researchers. In addition, the NSF could require that the institution finish any investigation and submit the infraction to the NSF even if the Faculty resigns. This would reduce the ability to pass the trash. We also ask that the NSF respond to any recommendations to federal funders in the upcoming Impacts of Sexual Harassment in Academia report from the National Academies of Sciences, Engineering and Medicine.</p>	<p>Thank you for your thoughtful comment.</p>
<p>If possible, I think implementation should be done in a way that encourages institutions to come forward and report rather than hide investigations. It may help if personnel under investigation are replaced with other personnel from the same institution whenever possible.</p>	<p>Thank you for your thoughtful comment. Substitutions of a PI or co-PI must be made with other personnel from the awardee institution.</p>
<p>I fully support this update to the funding policy. Funding agencies (such as NSF) need to hold PIs accountable if they cannot conduct themselves professionally.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>While JHU shares the goals that underlie the Proposed Requirement, the specifics of what NSF has proposed may have unanticipated consequences for both those bringing forth allegations of harassment, and those who are accused. JHU joins in the comments submitted by the Council of Governmental Relations</p>	<p>Thank you for your thoughtful comment.</p>
<p>JHU strongly recommends that the NSF provide for streamlined authority to the grantee institution to make a PI substitution in cases where the institution has determined, under its own policies, that removal of the PI is warranted, without requiring NSF prior approval. The replacement PI could be subject to further review for scientific suitability by the NSF, after the change has been reported to the NSF. Revising Chapter 8 of the NSF Grant General Conditions to specifically allow grantee institutions to replace the named PI with an alternate PI with appropriate scientific background without seeking prior NSF approval when the institution has determined that the PI has violated institutional policy, would materially advance the shared goals of NSF and the grantee community in this area.</p>	<p>NSF has no plans to revise Article 8 of the NSF Grant General Conditions as it is derived from federal-wide requirements. A unilateral change in PI or co-PI by the institution would be inconsistent with the provisions of 2 CFR 200, which requires agency approval (non-waivable) of a change in PI.</p>
<p>Currently NSF is relying on findings of harassment from the awardee (e.g. University) against the PI. Will NSF evaluate the awardee codes of conduct, reporting procedures and investigation procedures to ensure that they are sufficiently strong? Some institutions have a poor track record of investigating claims of misconduct, and refuse to sanction individuals who are known by the community to be serial harassers.</p>	<p>Awardees are responsible for implementing organizational policies and procedures which comply with Federal law.</p>

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<p>The current policy only discusses infractions by the PI or co-PI. This policy should be applied to anyone funded by the grant, and anyone listed as an unfunded collaborator.</p>	<p>NSF has carefully considered the applicability of this new term and condition. The decision was made to apply the notification requirement only to PIs and co-PIs as part of the initial implementation. The PIs and co-PIs identified on an NSF award are in a position of trust. Unlike other project participants, these individuals are named in an NSF award and cannot be changed without prior NSF approval. The Foundation may assess at a later date whether the notification requirements specified in the term and condition should be expanded to include other personnel supported on an NSF award.</p>
<p>All students and postdocs funded by a grant must be protected from harm to their research or careers if a PI/co-PI is found to have violated codes of conduct.</p>	<p>NSF's Office of Diversity and Inclusion investigates complaints of retaliation. To file a complaint, contact (703) 292-8020 or ProgramComplaints@nsf.gov.</p>
<p>These reporting requirements should be applied to all currently active NSF grants, not only new grants.</p>	<p>In implementing this new term and condition NSF is following its longstanding policy that new award terms and conditions are not applied retroactively. Consistent application of this policy for over 40 years has served the research community well and has ensured that NSF awardees are fully aware of new award requirements prior to the application of any new terms and conditions.</p>
<p>Thank you for making sexual harassment in the workplace a priority. Reporting sexual harassment should be easy and without shame or fear of losing one's job.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>I recommend that NSF also guarantee that it will investigate complaints of professional or personal retaliation as a result of harassment allegations, given that the risk of retaliation is often a major barrier to victims lodging their complaints.</p>	<p>NSF's Office of Diversity and Inclusion investigates complaints of retaliation.</p>

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<p>I also recommend that NSF look into banning offenders, who were found to commit acts of harassment as part of earlier NSF-funded programs, from being able to apply for future grants for a certain period, and penalize institutions that continually harbor / protect / refuse to investigate offenders.</p>	<p>Thank you for your recommendation.</p>
<p>Arizona state law prohibits sharing information on personnel matters outside of the institution. The proposed rule may violate state law. During the course of an investigation, an employee may be placed on leave before a determination or finding is made. Reporting this information to an external party violates the employee's due process. Standards for the definition of "sexual harassment" may differ and imposing a definition outside of institutional policy undermines institutional decision-making and values.</p>	<p>With regard to state laws and regulations, many state privacy laws contain language allowing for information disclosure to federal agencies, and if there were to be a conflict, conflict of laws doctrines would apply.</p> <p>Questions regarding the applicability of specific state laws should be addressed to the institution/university counsel's office.</p>
<p>The proposed rule introduces variable/different treatment of personnel who have different funding sources. The proposed rule could mean that an institution makes a decision on the outcome of an investigation based on the potential loss of funding from the grant. The proposed rule could mean that institutions relax their own policies to avoid the proposed NSF award term.</p>	<p>The requirement to notify NSF when a PI or co-PI has been placed on administrative leave or has had an administrative action imposed relating to a finding or investigation of a violation of awardee policies, codes of conduct, regulations or statutes relating to sexual harassment, other forms of harassment, or sexual assault was never intended to eliminate due process from the investigatory process. An allegation is not a finding -- NSF expects the awardee to carry out investigations fairly in accordance with institutional policies and procedures and without regard to award funding matters.</p>

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<p>The Federal Register notice indicates that “all personnel supported by an NSF award must comport themselves in a responsible and accountable manner during the performance of award activities...” The proposed rule requires reporting for the PI or any co-PI, an expansion of requirements that already exist under the Research Terms &amp; Conditions. This language suggests that the scope of the proposed rule could be expanded to additional personnel types. Under the proposed rule, the Authorized Organization Representative (AOR) must submit the notification of administrative leave. AORs are typically in the sponsored programs office and should not have access to information related to investigation of employees. Assigning the AOR permission in FastLane to other institutional staff members will not solve this issue as all AORs will have access to submissions.</p>	<p>The applicable Grant General Conditions require that prior approval be obtained from NSF when the approved PI/PD is disengaged from the project for more than three months, or there is a 25 percent reduction in time devoted to the project. The Foundation does not believe that these prior approval requirements are sufficient to address the potential impact(s) to an NSF-funded project that may arise when a PI or co-PI is placed on administrative leave or is subject to administrative action; nor do we believe that, in these circumstances, it is prudent to wait three months for such a request to be submitted. With regard to the requirement that the notification must be submitted by the AOR, the Foundation firmly believes that the specific grant-related knowledge and expertise housed in the institution’s sponsored projects office (or equivalent) is essential to fully understanding the implications to an NSF-funded project that may result from placement of the PI/co-PI on administrative leave or the imposition of administrative action(s) on the PI/co-PI. While NSF fully understands that this may be a significant process change for many institutions, the Foundation nevertheless believes that it is an important one for purposes of the term and condition.</p> <p>NSF recognizes the sensitivity of the information that may be contained in the reports and the need to limit exposure of this information on grant management systems. NSF has developed an electronic, secure reporting mechanism by which the notifications will be routed directly to the Office of Diversity and Inclusion, which will limit access to only those NSF personnel with an express need to know.</p>

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<p>Funding portfolios change over time. An investigation in process at the time of implementation of the proposed rule may not have NSF-funded investigators involved unless they receive a new grant during the course of the investigation. Institutions will have to monitor reports for employees with allegations, multiple times throughout the period of an investigation to see if funding sources change. The University of Arizona will continue to comply with Research Terms &amp; Conditions requirements for a change in the PI/PD or disengagement from the project for more than three months or a 25% reduction in time devoted to the project. Our institutional policies for nondiscrimination and anti-harassment represent our values and our responsibility to create and maintain a safe environment. We are available for questions or additional discussion on the comments and recommendations included in this letter.</p>	<p>It is the institution's responsibility to develop appropriate internal policies and procedures to comply with the new NSF term and condition.</p>
<p>My one concern is that this clear condition might make institutions less likely to investigate claims of sexual harassment and assault for fear of losing federal funds. That's why I'd also like to indicate my support for an anonymous mechanism that allows the survivors and witnesses of sexual harassment and assault to report directly to the NSF. By providing this resource, which is important in its own right, NSF can also ensure that institutions are aware that additional avenues exist for the NSF to be made aware of allegations of sexual assault and harassment.</p>	<p>NSF has developed an electronic, secure, harassment and discrimination reporting mechanism which may include the ability to accept anonymous complaints.</p>
<p>To ensure that these guidelines are actually useful, there needs to be a direct path from the harassment victims to NSF rather than going through the often deeply problematic institutional reporting process. I would suggest NSF provide a means for direct reporting and allocate some resources to investigate claims instead of relying on institutional investigations (or to supplement those investigations as would be expected with due diligence). Beyond sexual harassment and assault, there are opportunities for an intersectional approach that addresses other types of harassment, including racial and socioeconomic. All kinds of harassment can keep people from achieving their highest potential in science and the goal of these NSF guidelines should be to root out all kinds of harassment by applying a clear set of guidelines and providing a clear signal that harassment will not be tolerated in any form.</p>	<p>Individuals have the option to report sexual harassment or retaliation by contacting NSF's Office of Diversity and Inclusion (ODI). Currently, complaints may be filed by contacting ODI at (703) 292-8020, or ProgramComplaints@nsf.gov. NSF is developing an electronic, secure, harassment and discrimination reporting process which may include the ability to accept anonymous reports of harassment.</p>
<p>As NSF moves forward to implement the new reporting requirements, we fully expect that they will be applied in a consistent manner; in accordance with institutional processes to address reported cases and in full compliance with applicable laws.</p>	<p>Thank you for your thoughtful comment.</p>

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<p>It is not enough to require grantee organizations to report findings of harassment and/or the placement of personnel on leave. As report after report documenting harassers' behavior has shown, the universities that employ prominent harassers have failed to deal with, or, more horrifyingly, even repeatedly covered up for and thus further enabled, these abusers. Harassers are nearly always repeat offenders, and their actions are often an open secret in their labs and around their departments. If the NSF is serious about responding to harassment by people it funds, it should require every person who is employed on its grants to answer an annual questionnaire about their experiences that cannot be accessed by other grant or university personnel. It should ensure that this is a safe and confidential reporting structure.</p>	<p>Thank you for your thoughtful recommendation.</p>
<p>NSF must establish and, most importantly, consistently stick to a set of comprehensive guidelines for responding to reports of harassment, whether those reports come from universities or grant personnel. It must furthermore make those guidelines public, and the results of any investigations or grant changes made as a result of reports/investigations must also be made public.</p>	<p>Thank you for your thoughtful recommendation.</p>
<p>As written, an institution is required to make a report both when there is (1) "any findings/ determinations regarding the PI or any co-PI that demonstrate a violation of awardee codes of conduct, policies, regulations or statutes relating to sexual harassment, or sexual assault; AND, (2) if the awardee places the PI, or any co-PI on administrative leave..." We would ask NSF to clarify whether a report only needs to be made when both prongs of the test are satisfied as other language in the proposed requirements indicates that reporting may be required if either of the conditions is met.</p>	<p>NSF has clarified this provision in the revised term and condition.</p>
<p>The scope of the first prong of the proposed reporting requirement is overly broad and may have unintended consequences. Because the term "other forms of harassment" is vague, we recommend that reporting be for conduct related to "sexual harassment, sexual assault, and other forms of unlawful harassment." This language would more clearly define the conduct to be reported and would provide clarity to grantees who would look to conduct that violates federal, state and municipal laws applicable to them. Likewise, the reference to "codes of conduct" should be eliminated as they are not grounded in law and vary widely from institution to institution. The second prong of the reporting requirement with respect to administrative leaves related to "investigations" of conduct should be eliminated. At certain institutions, such as NYU, a PI could conceivably be placed on administrative leave pending investigation; this type of leave is not punitive or disciplinary and is put in place before any findings have been made. Moreover, to the extent that a PI on administrative leave might impact performance under a grant, there is an existing prior approval process for replacing a PI or co-PI that can be relied upon. For Subawardee Reporting, in order to protect the confidentiality and private nature of the findings, we recommend that the AOR of the subawardee make the report to NSF. He or she would then notify the prime grantee that a Report has been filed and inform the prime AOR of any relevant action which then needs to be taken e.g., replacing the co-PI.</p>	<p>The terms "sexual harassment" and "other forms of harassment" have been defined in the revised term and condition.</p> <p>With respect to your comment regarding placement of the PI or co-PI on administrative leave, the applicable Grant General Conditions require that prior approval be obtained from NSF when the approved PI/PD is disengaged from the project for more than three months, or there is a 25 percent reduction in time devoted to the project. The Foundation does not believe that these prior approval requirements are sufficient to address the potential impact(s) to an NSF-funded project that may arise when a PI or co- PI is placed on administrative leave or is subject to administrative action; nor do we believe that, in these circumstances, it is prudent to wait three months for such a request to be submitted.</p> <p>The term and condition has been revised to provide that a subawardee should report directly to NSF.</p>

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<p>The seven day reporting timeframe “from the date of the finding/determination or the awardee’s placement of the PI or co-PI on administrative leave” does not take into account the fact that institutions may have a bifurcated process for determining violations and sanctions. For instance, at some institutions, were a PI to be placed on leave, it would almost certainly take more than a week from the point of a determination for resulting action to be imposed or addressed. We recommend that, when necessary, the Reporting be two-stage: first to report a finding/determination and then to notify NSF the agreed-upon action. In any case, the timeframe should be changed to 30 days at a minimum.</p>	<p>Based on comments received, NSF is changing the reporting time frame from seven to ten business days. NSF understands that institutions have different processes in place to handle these matters. The revised term and condition now defines Finding/Determination as “The final disposition of a matter involving sexual harassment or other form of harassment under organizational policies and processes, to include the exhaustion of permissible appeals exercised by the PI or co-PI, or a conviction of a sexual offense in a criminal court of law.”</p>
<p>The Federal Register notice contains implementation language stating that this new term and condition, i.e. Reporting Requirement, will apply to “all new NSF awards and funding amendments to existing awards made on or after the effective date.” We interpret this statement to mean that NSF expects to receive notice after the effective date of the applicable award or funding amendment.</p>	<p>The new term and condition will be effective for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, this means that any finding/determination made or imposition of administrative leave/action on or after the start date of an award or funding amendment subject to the new term will invoke the new notification requirements.</p>
<p>Relatedness to Award. The Proposed Article X states that Principal Investigators (“PIs”) and Co-Investigators (“Co-Is”) “must comport themselves in a responsible and accountable manner during the performance of award activities” and then states an obligation for institutional reports in the event of certain findings/actions. Id. (emphasis added). The University requests that Article X be amended to clarify whether NSF intends for institutions to report findings/actions with respect to PIs and Co-Is “identified on an NSF award” even if the allegation is unrelated to any award activity.</p>	<p>Yes, NSF has clarified that awardees must report any findings/determinations, placement on administrative leave, or the imposition of an administrative action regarding any NSF-funded PI or co-PI who has violated or is accused of violating the awardee's harassment policies or code of conduct or has committed or is accused of committing sexual assault, in any instance while an NSF PI, or co-PI, irrespective of whether or not the finding/determination or administrative leave/action relates to an NSF award activity.</p>
<p>The University agrees that timely reporting is important. The proposed seven-day timeframe may be infeasible in many cases, however, given that a report would entail the need to “make appropriate arrangements to ensure the safety of other award personnel and the continued progress of the funded project.” Id. at 9343. The University therefore recommends thirty calendar days instead. That timeframe is also more consistent with the timeframe used for reporting disengagement of key personnel on a given award.</p>	<p>Based on comments received, NSF is changing the reporting time frame from seven to ten business days. In addition, NSF is eliminating the requirement that the notification include a “plan for continued oversight and implementation of the project during the administrative leave period of the reported PI or co-PI.”</p>
<p>Administrative Leave. Placement on administrative leave pending investigation should not trigger the obligation to report and should be removed from the Proposed Article X. Administrative leave pending investigation is most often not a punitive sanction; rather, institutions will often place individuals on administrative leave based solely on the severity of the allegations at issue. If institutions are required to identify such individuals to NSF, a future determination that the allegations are unfounded will not suffice to restore their reputations. Moreover, to the extent that placement on leave might affect grant progress, institutions already are required to report disengagement of key personnel to NSF, and can do so without inflicting reputational harm; should the allegations ultimately lead to a finding of violation, institutions would then, under the Proposed Article X, report that finding to NSF. Thus, NSF’s interests in promoting safe and equitable research environments would still be met in either case.</p>	<p>The information requested in a notification is for use by NSF to assess the safety of grant personnel and potential impacts to the project for which the PI or co-PI is responsible, and will be distributed only to those NSF personnel with an express need to know. The applicable Grant General Conditions require that prior approval be obtained from NSF when the approved PI or co-PI is disengaged from the project for more than three months, or there is a 25 percent reduction in time devoted to the project. The Foundation does not believe that these prior approval requirements are sufficient to address the potential impact(s) to an NSF-funded project that may arise when a PI or co-PI is placed on administrative leave or is subject to an administrative action; nor do we believe that, in these circumstances, it is prudent to wait three months for such a request to be submitted.</p>

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<p>Relevant Awardee Policies. Various federal laws (such as Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act as amended by the Violence Against Women Reauthorization Act of 2013), as well as state laws in the applicable jurisdiction, require institutions to take steps to promote a safe and equitable learning and working environment. Institutions, like U-M, have therefore adopted policies and procedures, consistent with their legal obligations, to review and respond to allegations of discrimination or discriminatory harassment. Institutions should be expressly granted discretion to determine which of their policies are relevant under Proposed Article X, and then, by reference to those institutional policies, what constitutes “sexual harassment,” “other forms of harassment,” and “sexual assault,” as well as what constitutes a determination of “violation” of those policies. Similarly, institutions should have comparable discretion in determining which of its policies are relevant to assessing fulfillment of NSF’s expectation of “full compliance” with respect to “other personnel.” In addition and/or in the alternative, NSF should explicitly define and limit “other harassment,” as used in Proposed Article X, to misconduct related to protected class status (such as race/ethnicity, national origin, and the like).</p>	<p>NSF expects that institutions will follow all applicable laws, regulations and executive orders with respect to how their anti-harassment policies or codes of conduct apply to allegations and findings of harassment. However, NSF can at any time assess and examine each situation, and the institution's practices more broadly in this regard, to determine their compliance with terms and conditions of the grant and Federal civil rights laws tied to the receipt of Federal grants. NSF has defined the term "other forms of harassment" to read "Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations or executive orders."</p>
<p>Statutes. Although, as noted above, institutions are informed by law in adopting policies and procedures to address discrimination and harassment in their university communities, institutions do not themselves decide whether a violation of law/statute has occurred. The criminal process is separate, and rightly so. Thus, U-M recommends that Proposed Article X be revised to provide that a statutory violation would trigger a reporting obligation only if the institution becomes aware that a PI or co-PI was convicted of a relevant statutory offense (involving sexual harassment, other form of harassment, or sexual assault).</p>	<p>It is the institution's responsibility to develop appropriate internal policies and procedures to comply with the NSF term and condition.</p>
<p>Subawardee Notifications. Proposed Article X would require a subawardee to notify the awardee of a relevant finding/determination, but does not make clear that the subawardee would not be penalized should the awardee fail to provide the requisite notice to NSF. It is also not specified to whom at the awardee the subaward recipient should report, or whether the reporting timeline would be separate for each party (that is, that the subawardee has the full timeframe to report a finding/determination to the awardee, who then has the full timeframe to submit that report to NSF). Most significantly, however, reporting to the awardee could raise the same reputational concerns noted above should NSF continue to require reporting of placement on administrative leave; again, reporting PI/Co-I disengagement to the awardee would suffice in promoting grant progress without raising such concerns. Accordingly, the University recommends that Proposed Article X be revised to require subawardees to either (1) report both to NSF and the awardee, provided that placement on administrative leave is removed as a reporting trigger, or (2) report only to NSF, if NSF continues to require institutions to report with respect to administrative leaves.</p>	<p>NSF has revised the term and condition to require direct reporting from the Authorized Organizational Representative of the subawardee institution.</p>

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<p>Harmonization. Should other federal agencies undertake efforts similar to NSF’s and likewise adopt reporting requirements with respect to harassment and assault, U-M urges harmonization of those reporting requirements across those federal agencies. This would promote efficiency in institutional compliance and, thus, foster safe and equitable research environments.</p>	<p>Consistent with its authorities, NSF has developed a new award term and condition for its awards to help ensure a safe research environment. A safe research environment for grant personnel is, in NSF’s view, essential to the continued progress of science and the fulfillment of our mission. NSF welcomes the opportunity to work with other science agencies in tackling difficult issues facing the scientific community such as sexual harassment.</p>
<p>We concur with the underlying purpose of the proposed National Science Foundation (NSF) reporting requirement, and we would welcome greater clarity and precision so that this proposed NSF reporting requirement does not work at cross purposes with our existing policies or inadvertently create gaps, inconsistencies, and confusion in implementing these policies. We suggest that NSF more precisely define the scope of the activities to be reported. For example, should the report be limited to alleged sexual harassment occurring only during the performance of the NSF award, or should the University report any alleged sexual harassment even where the harassment occurs outside the scope of the NSF award, such as during the course of the PI’s classroom instruction duties. We note, also, that NSF would require a report on “other forms of harassment”, not just sexual harassment. Could NSF confirm whether these “other forms” include, for example, harassment based on race, religion, disability, or age? We also suggest that the timing of the report be clarified. In our system, a determination of misconduct is not the final action taken. This determination generally initiates a grievance process, as set forth in our existing collective bargaining agreements that includes tiers of internal administrative review and possible external judicial challenge. Until a final conclusion resulting in suspension or discharge, the University regards the grievance process as a confidential personnel matter. The University seeks clarification that a report to NSF would not be made until the conclusion of this due process, and a final determination of harassment.</p>	<p>Notification is required of any findings/determinations regarding an NSF funded PI or co-PI that demonstrate a violation of awardee policies or codes of conduct, statutes or regulations relating to sexual harassment, other forms of harassment, or sexual assault; and/or if the awardee places the NSF funded PI or co-PI on administrative leave or imposes an administrative action on the PI or co-PI relating to a finding or investigation of a violation of awardee policies or codes of conduct, statutes or regulations relating to sexual harassment, other forms of harassment, or sexual assault. This notification requirement applies even if the actions of the PI or co-PI leading to any such findings/determinations, administrative leave or imposition of administrative actions occurred outside the scope of the NSF award as long as the finding/determination or administrative leave/action occurs during the period of an active NSF award, to which the term and condition applies.</p> <p>NSF defines “Other forms of harassment” as “Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders.”</p> <p>NSF understands that institutions have different processes in place to handle these matters. The proposed term and condition now defines Finding/Determination as “the final disposition of a matter consistent with organizational policies and processes, to include the exhaustion of permissible appeals exercised by the PI or co-PI, or a conviction of a sexual offense in a criminal court of law. ”</p>

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Comment	NSF Response
<p>Finally, we ask that NSF clarify the procedures it intends to follow to choose among and impose unilateral remedies based on reported sexual harassment. These NSF remedies may include unilateral replacement of the PI, or a suspension, reduction, or termination of the award. Prior to a decision to impose a unilateral remedy, we would like to be notified and be provided an opportunity to address and cure the underlying circumstances. These notice and cure opportunities will proactively help the University reach the goal we hold in common with the NSF—a safe, productive research and education environment for current and future scientists and engineers.</p>	<p>The term and condition has been revised to clarify that NSF will, if necessary, assert its programmatic responsibility to initiate the substitution or removal of the PI or any co-PI, reduce the award funding amount, or where neither of those previous options is available or adequate, to suspend or terminate the award after consideration of the four factors set forth in the term and condition and after consultation with the awardee. NSF recognizes the importance of maintaining the continuity of the awards and fostering the work of lab personnel and others associated with the awards who are not at fault for the PI or co-PI's behavior. NSF considers this a priority and will make every attempt to mitigate against disruption of the award through substitution of a PI or co-PI where appropriate.</p>
<p>The APS recommends that NSF clarify what actions may be taken against a grantee institution should that happen. To avoid confusion, NSF should also specify which institutional officials are responsible for conveying information about harassment investigations involving funded investigators.</p>	<p>The revised term and condition specifies that NSF may take action, if necessary, to protect the safety of all awardee personnel to include requiring the substitution or removal of a PI, or any co-PI, reduction in the funding amount, or suspension or termination of an award. NSF expects that institutions will take appropriate action to ensure the safety of awardee personnel and that NSF would take action only after consultation with the awardee and only if no other reasonable alternative was available and adequate.</p> <p>It is the institution's responsibility to determine which institutional officials are responsible for conveying information about harassment investigations involving funded investigators. In accordance with the award term and condition, however, required notifications must be submitted by the Authorized Organizational Representative.</p>
<p>The APS recommends that NSF consider ways to support scientists who report harassment to mitigate damage to their careers. APS recommends that there be mechanisms in place to allow for possible reinstatement of award should the institutional investigation conclude that a PI did not engage in wrongdoing.</p>	<p>Individuals who report harassment and believe they are being retaliated against may file a complaint with NSF. NSF expects grantees to manage the process of what NSF defines as "administrative leave/administrative action" and would expect the awardee to work with NSF to restore PIs and co-PIs to duties that involve the NSF award, if appropriate.</p>

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<p>While I applaud NSF's initiative, I fear that, while well-intentioned, it does not yet have in place the power to collect information and beyond that, enforce these policies. There are two areas that I feel must be addressed in order for these policies to take hold: 1) Much of the harassment that occurs in science, from sexual to otherwise, is dismissed as "part of the system" or normal. NSF must provide a clear and descriptive list of behaviors that constitute as harassment and that it considers inappropriate. It must require this list to be disseminated at all of its funded centers of research.</p>	<p>Thank you for your thoughtful comment.</p>
<p>To address the issue of transparency and fear of reporting, the NSF must take into account that conflicts of interest are present in both trainees reporting (who fear that loss of funding or retaliation from aggressors will ruin their own careers) as well in the university (who protect their powerful researchers are sources of big grant dollars). Anonymous exit interviews and surveys from all workers on a grant upon leaving a lab that go straight to the NSF and bypass oversight by the university can allow the NSF to collect powerful data on the prevalence of harassment behaviors as well as hold researchers accountable upon submission for grant renewals or new grants, while bypassing these two issues.</p>	<p>Thank you for your suggestion regarding anonymous surveys and exit interviews. We will take this suggestion into consideration.</p>

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<p>I'd like to indicate my support for the new condition on NSF awards that award organizations need to report findings/determinations of sexual harassment, other forms of harassment, or sexual assault, regarding an NSF funded PI, or any co-PI. This is an important step to hold both institutions and individuals guilty of harassment or assault accountable. Sexual harassment and assault are likely to contribute to the decision of some women to leave science, technology, engineering and math fields (STEM). Therefore, ensuring the safety of all who participate in STEM is an important prerequisite to ensure that a diverse and wide array of voices contribute to the development of knowledge, technology and innovation in our country. I believe this award condition is an important step to accomplishing this. My one concern is that this clear condition might make institutions less likely to investigate claims of sexual harassment and assault for fear of losing federal funds. That's why I'd also like to indicate my support for an anonymous mechanism that allows the survivors and witnesses of sexual harassment and assault to report directly to the NSF. By providing this resource, which is important in its own right, NSF can also ensure that institutions are aware that additional avenues exist for the NSF to be made aware of allegations of sexual assault and harassment.</p>	<p>Thank you for your thoughtful comment. NSF is developing an electronic, secure, harassment and discrimination reporting mechanism, which may include the ability to accept anonymous reports of harassment</p>

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<p>The policy put forth requires all universities to inform NSF of pending investigations and the outcome of those investigations for all awardee PIs, co-PIs or personnel identified on an NSF award or supported by an NSF award. We ask NSF to expand this to explicitly include all people directly contributing to the award activities, including subawardees, subcontracts, students and trainees. For example, often staff may contribute to research activities directly and may be co-authors on publications but not receive salary support from an award, and they should be covered by this policy. We also recommend this policy be expanded to 1) include all <u>current NSF awardees</u>, not just all new NSF awards and funding amendments to existing awards made on or after the effective date and 2) also consider <u>findings and determinations prior</u> to the effective date of the terms and conditions. We are not proposing that the same actions necessarily be taken for past behaviors than for current violations, but this is especially important because many harassers are serial harassers who may have been endangering trainees and other scientists for decades at multiple institutions <sup>(2)(3)</sup>.</p>	<p>NSF has carefully considered the applicability issue. The decision was made to apply the notification requirements to only PIs and co-PIs as part of the initial implementation of the term and condition. The PIs and co-PIs identified on an NSF award are in a position of trust. Unlike other project participants, these individuals are named in an NSF award and cannot be changed without prior NSF approval. The Foundation may assess at a later date whether the notification requirements specified in the term and condition should be expanded to include other personnel supported on an NSF award.</p> <p>With regard to the recommendations that the term and condition be applied to all current awardees, and, any findings and determinations made prior to the effective date, in implementing this new term NSF is following its longstanding policy that new award terms are not applied retroactively. Consistent application of this policy over many decades has served the research community well and has ensured that NSF awardees are fully aware of award requirements prior to the acceptance of new terms.</p>
<p>This policy should also clearly state an <u>anti-retaliation policy</u> to prevent backlash from reporting, which is a real threat and deterrent to individuals reporting harassment to their institutions in the first place. This should include mechanisms for the confidential submission to NSF of names of potential reviewers who should be disqualified from reviewing individual proposals and making funding decisions because of harassment and other misconduct.</p>	<p>Thank you for your considered comments. PIs and co-PIs already can submit a list of individuals they do not want NSF to use as reviewers of their proposal.</p>

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Comment	NSF Response
<p>Given that much of the harassment and hostile conduct that this policy is trying to deter result from power imbalances in our research and educational institutions, and as a safeguard for protecting trainees whose ability to conduct their research as well as their livelihoods may be threatened by the policy proposed, we request that NSF seriously consider increasing the number of independent graduate and postdoctoral or trainee grant opportunities and number of awardees as well as develop new funding mechanisms that would disassociate trainee support from the control of potentially abusive PIs.</p>	<p>NSF currently has a number of special programs for postdoctoral fellows where funding is provided directly to the individual. These awards were specifically designed to provide greater flexibility and portability to the postdoctoral fellow. With regard to NSF research awards that include funding support for undergraduates, graduate students and postdoctoral research fellows, the Foundation's perspective is that separate funding to undergraduates, graduate students and postdoctoral fellows raises a number of concerns and such separate funding does not recognize the value of the training and mentoring that is provided by the PI and co-PIs under these awards.</p>
<p><b>Reporting:</b> What happens if an incident is reported and the institution decides not to investigate the allegation despite the incident endangering individuals? Recent publicized scandals at U.S. universities show that institutions often fail to adequately address real allegations, with disastrous consequences. What is the difference between a pending investigation versus a finalized one? What if someone reports behavior to a scientific society rather than to their university? If the incident occurs at a conference, it is more likely that it will be reported to the society, not the institution. Many scientific societies have recently revised their codes of ethics to address bullying, harassment and discrimination and have their own independent investigative processes <sup>(4)</sup> that do not rely on the institution of employment. What information is the university compelled to turn over to NSF (e.g., the outcome of the investigation and/or evidence used in the decision)? These clarifications of the necessary reporting process are critical, especially given that most incidents of harassment and bullying go unreported in large part due to lack of clarity about university procedures and guidelines, especially when incidents occur off campus in field environments <sup>(5)(6)</sup>. In another recently publicized case, an independent investigation concluded that a faculty member had behaved in hostile ways towards others but that these did not violate the written code of conduct of that specific institution (but would have violated the code of conduct of many other institutions). How does the proposed policy deal with non-disclosure agreements?</p>	<p>In response to your questions, the institution is required to conduct investigations in compliance with federal laws, including having appropriate policies and processes in place. NSF has modified the term and condition to provide a definition of finding/determination. Complainants should continue to utilize all reporting avenues. NSF has clarified the notification requirements and has specified the information that must be provided. Institutions must not violate the terms and conditions of their NSF award.</p>

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<p><b>Investigations and processes:</b> To address the problems outlined above, NSF should create a process for investigating allegations reported to NSF. Relatedly, NSF should outline potential sanctions for violations of this policy as well as the process for assigning sanctions to particular cases and an appeals process.</p>	<p>Individuals have the option to report sexual harassment or retaliation by contacting NSF’s Office of Diversity and Inclusion (ODI). Currently, reports can be made by contacting ODI at (703) 292-8020, or ProgramComplaints@nsf.gov. NSF is developing an electronic, secure, harassment and discrimination reporting process which may include the ability to accept anonymous reports of harassment.</p> <p>Institutions receiving federal grants are required to have processes and policies that comply with federal law, including an appropriate process to investigate allegations. Awardees are required to comply with award terms and conditions, and are subject to audit by the NSF Office of Inspector General for compliance.</p>

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<p><b>Protections for students and postdoctoral scholars:</b> If a PI or other member of the awardee team is found responsible and removed from the grant it is imperative that there are protections for those who are working for that PI. Specifically, funding for fellowship, tuition, and stipends/salaries for students and postdoctoral scholars needs to be protected so that the bullying and/or harassing behavior cannot continue via financial coercion. This is critical so that the offender also cannot use the funding mechanism as a means of retaliation. Without these protections, bullying and harassment can go on for years. Furthermore, we propose the requirement of a <b>Safety Management Plan (SMP)</b> to proposal submissions to all NSF programs. The SMP would be inclusive of all applicable laboratory (chemical, radiation, re: exposure) and field (equipment, weather, hazardous conditions, etc.) safety as well scientific misconduct (bullying, harassment, data integrity) processes and procedures. This would include documenting university and/or field station reporting guidelines to prevent and respond to harassment and bullying as well as a mentoring plan for how the PIs will communicate this information to the trainees and staff on the project. We also propose that NSF require <b>ethics training</b> of all PIs, co-PIs and senior personnel, not just graduate students and postdocs, and that all ethics training include adequate discussion of power relations among advisors and trainees and implicit bias and anti-harassment training. Specific trainings should be outlined in the SMP plans and include applicable bystander intervention or other anti-harassment trainings. The reporting requirement policy should be clearly visible during the proposal preparation and submission process. PIs should be asked to check a box that they have read and understand NSF’s policy on harassment and misconduct as well as this reporting policy before a proposal is allowed to be submitted and then again before an award is made.</p>	<p>Thank you for your thoughtful comment.</p>
<p>Finally, we hope that NSF develops policies that prevent institutions from <u>not</u> conducting investigations of harassment and other abuses and misconduct so that they do not have to report to NSF. Addressing protections for trainees who are funded via NSF awards or whose research depends on access to resources supported by NSF is also fundamental to prevent the unintended and adverse consequence of suppressing reports of harassment because people are afraid they will lose their support or ability to complete their degrees.</p>	<p>Institutions that receive NSF grants are required to have fair and equitable grievance/complaint procedures, that may include rendering determinations to parties as to why a complaint is not accepted for investigation. Individuals have the option to file a complaint of sexual harassment or retaliation by contacting NSF’s Office of Diversity and Inclusion (ODI). Currently, complaints may be filed by contacting ODI at (703) 292-8020, or ProgramComplaints@nsf.gov. NSF is developing an electronic, secure, harassment and discrimination complaint process which may include the ability to accept anonymous complaints.</p>

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Comment	NSF Response
<p>As a former undergraduate researcher, I feel that conversation about sexual harassment is suppressed in lab environments. Because much of the work is independent and not as team-oriented as other jobs, it can create an environment with lack of communication about these subjects. In addition to creating more reinforced policies, labs should ensure to have time for employees to have conversations and team meetings about these topics.</p>	<p>Thank you for your comment. NSF expects all awardees to encourage collaborative and frequent communication among grant personnel to ensure that there is a clear understanding of the standards and expectations for the conduct of the grant, as well as accountability for personnel who cannot meet these expectations and standards.</p>
<p>I am writing to express my support for "Reporting Requirements Regarding Findings of Sexual Harassment, Other Forms of Harassment, or Sexual Assault." Requiring that institutions report to the NSF in this manner is a common-sense step that I hope more funders will also undertake.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>Driving people away from research careers by creating and perpetuating toxic environments is incredibly damaging to the progress of science. These are good first steps to reducing sexual harassment in research labs. I hope the NSF will follow through on stringent enforcement of the new rules.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>I write in support of the steps that the National Science Foundation is taking to enhance safety in research and educational environments. In particular, I agree with the following proposals: (1) to require grantee organizations (awardees) to report findings of sexual harassment by PIs or co-PIs, (2) to require awardees to maintain harassment-free environments for research and education, and (3) to consolidate agency-related materials on information related to sexual and other forms of harassment. Harassment degrades the environment for effective science and limits opportunities, particularly for women and members of underrepresented groups. I applaud NSF for taking these steps.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>

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Comment

NSF Response

While I support this requirement in theory, I wonder if there can be instances of abuse, where PIs are erroneously accused of sexual harassment at their institution, and then doubly penalized by a red mark on their name at NSF. If the violation is such that the investigator has to be removed from the award, or the award has to be decreased or cancelled, it would be good to specify whether or not the investigator would be banned from applying for NSF funding in the future. Is this a one-time action, or is it a red flag that stays with the investigator for all his/her career?

The removal of a PI or co-PI from an NSF award does not automatically mean the individual is banned from submitting future proposals to NSF for funding. Such a restriction would require the individual to be formally suspended or debarred. Suspensions and debarments are made based on a recommendation from NSF's Office of Inspector General (OIG), following an OIG investigation, and must comport with 2 CFR 180.

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Comment	NSF Response
<p>It is absolutely shameful that in 2018, women in science still face an uphill battle not only in the labs where they train, but in the greater university community as well as their chosen fields of research. It should absolutely be required that institutes, universities and even professional associations report instances of harassment and assault, sexual or otherwise to the NSF as well as all other funding agencies including private organizations. I have witnessed first hand harassment both in the academic and conference settings and although I have not been on the receiving end, it is to say the least unsettling. Knowing that the likelihood of anything being done if you speak up nil, keeps many silent. I have seen far to many women, young women ask themselves if they did something to provoke their harassment, even more worrying is that they instantly fear for their careers. This is NOT ACCEPTABLE. Let me repeat NOT ACCEPTABLE!!!!. No one, male or female, should have fear for the future of their career for speaking up about sexual harassment. The slaps on the wrists are not working. As we have seen, universities and institutes are not willing to call out those who are bringing in large amounts of grant monies from various funding sources. Therefore, it must be the funding sources that take the lead through sanctions such as pulling all grant funding for any PI that is found guilty of harassment and furthermore limiting the access of the university to further funding if they refuse to acknowledge or appropriately discipline serial harassers. It should be mandatory that all investigators supply appropriate records indicating attendance to harassment training courses provided at the institutions' expense to apply for funding. This should be updated yearly with the submission of investigators, harassment training should be provided along with ethics training to all personnel listed on funding applications. This ensures that all have at least had initial training and subsequent retraining. Unless such drastic measures are taken, women in science will still face harassment in the workplace and conferences. Enough is enough. Time is up.</p>	<p>Thank you for your thoughtful recommendation.</p>

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Comment	NSF Response
<p>I believe the implementation of the proposed reporting requirements specified in the NSF Important Notice No. 144 to be essential to reducing gender gap disparities in STEM, fostering collaboration in the research environments, and advancing academic and scientific achievement. From my personal experience of harassment by a previous mentor in a university research lab, I found my mental health and motivation to pursue a future in research to have been negatively affected. The person who was supposedly there to offer me guidance and mentorship, instead embedded in me seeds of trepidation, self-doubt and anxiety. His deliberate disparagement created an environment that I strongly feel was detrimental to my growth as a scientist, and reenforced my feelings of being inadequate, of being an imposter. I believe there is a great need for the scientific community to acknowledge that sexual harassment and assault is a pressing and pervasive issue in and outside of laboratories. The lack of recognition of this issue has only enabled it to persist, and allowed a long-established injustice to be sustained. Please heed the cry of the many whose voices have long been ignored and deemed unfounded, and allow for them and those after them to have the chance that they so deserve.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>Do not allow abusers to undermine your great work of quickening scientific advancement and fostering a strong scientific community. You have the power to enact changes that will protect our scientists from abusers. These policies will make it easier for people at every level to intervene. If you want to enact change, then make it easy for people to act. Giving administrators at research institutes any additional incentive to remove abusers from power will make it happen more and more often. Peers will be more likely to notice and act to protect the abused. What is now grudgingly, cringingly, or naively permitted will eventually be erased from our community. Even a small change can have a large effect. This is no small change.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>

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**Comment**

**NSF Response**

Thank you for taking the time to focus on sexual harassment. The relationship between mentor and trainee is crucial in research and training, and is poisoned by sexual harassment. Gender discrimination and sexual harassment maintain the current disparities in science, where despite similar trainee numbers and interest in academic careers, men far outnumber women in faculty ranks. Consequences for sexual harassment, especially repeat behavior, will make academia a better place for all scientists. It should be our goal to encourage scientific contributions from everyone, and sexual harassment makes science an undesirable career for some groups. I applaud the NSF for taking the lead on this. Lastly, since sexual harassment reporters often face retribution, I encourage anonymous reporting.

Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.

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<p>I want to thank the National Science Foundation for both taking this issue seriously, and working to craft a policy that will provide accountability to both awardees and their institutions. I believe that the proposed changes will help institutions take the issue more seriously than they currently do, and thereby help prevent future situations from ever arising. It will also help remove offenders from positions in which they would continue to do harm. This is laudable. I do have one concern regarding the trainees of those researchers whose NSF funding is removed via this procedure. Some of them (including victims of the original harassment) will become unintended secondary victims. By losing financial support for their ongoing research, this would severely jeopardize their training and progress towards degree. The new reporting requirement does not state that this would necessarily happen, but it is a real possibility. Furthermore, this possibility provides a disincentive for a vulnerable student to make a formal report to either the NSF or their institution. Having procedures in place that would, for instance, allow a PhD student to complete their research under alternative mentorship by a different PI would go a long way towards mediating this concern. Finally, I would like to recognized that while "other forms of harassment" are included in the policy, it would be good to explicitly include other federally protected classes such as race.</p>	<p>NSF will consult with awardees following receipt and review of the notification, and will fully explore all reasonable actions and solutions identified, taking into consideration the following factors: the safety and security of personnel working under the award; the overall impact to the NSF-funded activity; the continued advancement of taxpayer-funded investments in science and scientists; and whether the awardee has taken appropriate action(s) to ensure the continuity of science and that continued progress under the funded project can be made. Our expectation is that in most cases the awardee will be able to take action that will enable it to continue the work under the award while protecting the safety of individuals and ensuring a harassment-free space in which to work and learn. NSF anticipates that exercising its programmatic and stewardship responsibilities to require a particular action only will be necessary if no other reasonable alternative is identified by the awardee.</p> <p>NSF has included a definition of "other forms of harassment" in the revised term and condition that reads: "Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders."</p>
<p>Given the impact of harassment on victims' careers, it is critical that perpetrators suffer career consequences as well. I strongly support making findings public and this sounds like a good first step in that direction. I also support the idea that the perpetrator's funding might be transferred to another PI, allowing the scientists supported by the grant to continue their work.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>

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<p>NSF policies to ensure harassment-free work environments would be bolstered significantly by updating grant award terms and conditions to require awardee organizations to report findings and/or determinations of harassment or assault involving NSF funded Principal Investigators (PIs) or co-PIs. FASEB agrees that this provision provides a clear incentive for institutional compliance and transparency in the handling of harassment and assault reports.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>To enhance understanding of the parameters of the proposed update, specifically the language allowing NSF to take unilateral action, FASEB recommends clearer articulation of the processes that would lead to the substitution or removal of PI or co-PI or suspension, reduction, or termination of the award in the proposed update to the award terms. We suggest that the amplifying text provided in footnote 3 be integrated into the body of the article, making it clear that unilateral actions by the Foundation are only initiated following execution of organizational processes and policies consistent with federal law and regulation.</p>	<p>Thank you for your suggestion. Action by the Foundation only will be initiated following execution of organizational processes and policies consistent with federal law and regulation, review of the notification provided, and consultation with the notifying organization. NSF has clarified in the revised term and condition that in deciding upon appropriate action, if any, we will consider: a. The safety and security of personnel supported by the NSF award; b. The overall impact to the NSF-funded activity; c. The continued advancement of taxpayer- funded investments in science and scientists; and d. Whether the awardee has taken appropriate action(s) to ensure the continuity of science and that continued progress under the funded project can be made. NSF anticipates that it will need to initiate action only if no other reasonable alternative is identified by the awardee.</p>
<p>On a related note, institutions may face initial barriers to developing and providing uniform reports. FASEB appreciates the efforts of NSF’s Office of Diversity and Inclusion to develop a Web portal to provide uniform resources, including policies and procedures, promising practices and frequently asked questions, relating to sexual and other forms of harassment and make this information more readily available to the research community. This effort will contribute to the important overarching goal of providing a safe and welcoming environment within which to pursue research excellence. FASEB commends NSF for its commitment to ensure research environments free of harassment and looks forward to working with the Foundation to reiterate these goals to the research community. Please do not hesitate to contact me should you require further assistance from FASEB on this initiative.</p>	<p>Thank you for your thoughtful comment.</p>

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<p>The University of Oregon appreciates and supports the National Science Foundation's efforts to create a safe, inclusive, and harassment-free workplace for all personnel working in the sciences through the implementation of proposed Article X. (1) Add language clarifying that the obligation to report findings includes only the obligation to report dispositive findings; (2) Provide a period of 30 days to report dispositive findings to the NSF; and, (3) Remove language obligating the institution to report a PI or co-PI placed on administrative leave pending "an investigation" from Article X.</p>	<p>The term and condition has been revised to provide definitions that will help ensure a consistent understanding of NSF's expectations. The reporting period has been changed from seven to 10 business days. The Foundation does not believe that the existing prior approval requirements are sufficient to address the potential impact(s) to an NSF-funded project that may arise when a PI or co-PI is placed on administrative leave or administrative actions have been imposed; nor do we believe that, in these circumstances, it is prudent to wait three months for such a request to be submitted.</p>
<p>I am a faculty member at a small liberal arts college with an active NSF grant. I am writing to express my support for the new requirement on all NSF grants that awardee organizations have to report findings/determinations of sexual harassment, other forms of harassment, or sexual assault, regarding an NSF funded PI, or any co-PI. This new requirement is an important step in establishing a no-tolerance climate with respect to sexual harassment, and any other kinds of harassment, in federally-funded scientific research. Thank you.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>First, thank you for taking these steps to insure a safe working environment on NSF-funded projects. Suggestion 1. Explicitly state the consequences for future NSF-support. Will a report impact the future ability of the accused to get NSF-support.</p>	<p>A notification that has been made under the term and condition is not intended to impact proposals for future NSF awards.</p>
<p>Make it a requirement for institutions to report this information retroactively. PIs, co-PIs, and anyone receiving NSF support should not have a history of sexual harassment or assault. Additionally, for future grants make this part of the proposal process. Institutions should have to report if a PI or co-PI has had previous allegations. The PI/co-PI should have to list this too.</p>	<p>The term and condition will take effect 30 days after publication in the Federal Register. Proposals will continue to be reviewed and awarded in accordance with NSF's merit review process. However, since proposers certify that they do not and will not violate Federal civil rights laws tied to receipt of NSF funds, NSF may defer processing of any new award if it finds that the organization is not complying with these laws. In addition, NSF may terminate existing awards to this organization, and decline to make future awards if the awardee refuses to comply with these laws.</p>

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<p>Suggestion 3. Figure out a way to incorporate the fact that people move from one institution to another. This could provide PIs and co-PIs with a history of sexual assault or harassment to avoid consequences for these actions because the actions would presumably not be in their personnel files at their current institutions. I'm not sure how this can logistically happen. Having seen people be able to move on to other universities after being forced to resign for infractions of this sort, I feel strongly that there needs to be a way to prevent further infractions. NSF should not support scientists with a history of sexual assault or sexual harassment.</p>	<p>Thank you for your considered comments.</p>
<p>Suggestion 4. Is there a way to make co-PIs responsible for reporting too? At the university where I work every employee is a mandatory reporter of assault and harassment to the university. Not all universities have this policy and a lot of NSF grants involve PIs from different institutions. It seems like the co-PIs generally are in a position to know the atmosphere/culture that their collaborators build in their labs. Additionally, they are likely in a position where subordinates interacting with their co-PI would report infractions of this sort to them. Too many times victims are not taken seriously or believed. NSF could make it mandatory that co-PIs report accusations like this to NSF or the institution that has been awarded the award. Again, thanks for making progress on this important issue. This seems like a real opportunity to enact positive changes!</p>	<p>NSF believes that this is an issue that is best addressed at the institutional level. Each institution needs to specify its internal reporting requirements associated with policies or codes of conduct, as applicable.</p>
<p>I think this will do a great deal to ensure that the sciences are more welcoming to women. It will make it so that fewer men who are harassers seem so successful in their field by getting grants but making universities so hard for women to succeed in. I would really appreciate it if our office were to report these issues.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>I strongly support the NSF policy. I myself am a victim of gender based harassment and gender based discrimination. However, I have found it very difficult to get action and institutional change about issues of harassment and discrimination when they do NOT constitute sexual harassment. I hope the NSF will consider this issue when thinking about future policies. I believe that in STEM and in higher education in general there are pervasive gender and power issues at play that extend beyond sexual harassment that unfortunately need to be addressed.</p>	<p>NSF has included a definition of "other forms of harassment" in the revised term and condition that reads: "Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations or executive orders."</p>

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<p>How is 'other harassment' defined? Is the reporting/notification limited to internal complaint violations, or does it extend to findings by the Equal Employment Opportunity Commission (EEOC) or state equivalent agency, Department of Education-Office of Civil Rights (OCR), or internal legal outcomes/settlements? How is 'other grant personnel' defined? Is there a reporting obligation related to 'other grant personnel'?</p>	<p>NSF has revised the term and condition to include a new definition for "other forms of harassment" that reads as follows: "Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations or executive orders." The revised term and condition does not include a notification requirement for other grant personnel. The term however does state that, "Other personnel supported by an NSF award must likewise remain in full compliance with awardee policies or codes of conduct, statutes, regulations or executive orders 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 and security of other award personnel and the continued progress of the funded project."</p>
<p>How will notice to the grantee be provided? Will FSU (or other grant recipient organization) be consulted to determine a resolution? Are there specific expectations related to any of these directives?</p>	<p>Once an awardee notifies NSF of a finding/determination, placement of a PI or co-PI on administrative leave, or imposition of administrative actions on the PI or co-PI, NSF will review the notification and consult with the awardee.</p>
<p>If corrective action is warranted related to a finding of a violation of policy, often the outcome may not be finalized within seven business days due to faculty due process rights (e.g., collective bargaining agreement). Please clarify as to whether the notification should be within seven business days of the finding/determination, with a possible follow-up of the corrective action; or if the notification should be within seven business days of the implementation of the corrective action. Are there specific expectations related to a plan for continued oversight and implementation of the project?</p>	<p>Thank you for your comments. Based on comments received, NSF is changing the reporting time frame from seven to ten business days. In addition, NSF is eliminating the requirement that the notification include a "plan for continued oversight and implementation of the project during the administrative leave period of the reported PI or co-PI." The proposed term and condition now defines Finding/Determination as "the final disposition of a matter consistent with organizational policies and processes, to include the exhaustion of permissible appeals exercised by the PI or co-PI, or a conviction of a sexual offense in a criminal court of law. "</p>

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<p>I am very pleased to see NSF take a stance against harassment. My concern stems from the history of research institutions that hide sexual misconduct. Years ago, a (married) PI in my current department started a relationship with his graduate student. Besides the obvious power differential, the PI took promising projects away from lab members to give to his graduate student. The leadership of the department kept the situation quiet and the PI continues to work. Graduate students have recently filed a sexual harassment grievance for his lewd comments, but it has been months without action. My concern is that this kind of behavior at institutions will continue, and perhaps worsen with the threat of monetary losses. The NSF should also include direct reporting so that NSF is aware of all grievances and institutions are less able to hide them.</p>	<p>Individuals may inform NSF that they have filed a sexual harassment complaint against an NSF-funded PI at their NSF-funded institution. The formal notification requirements included in the term and condition require awardees to report findings/determinations regarding PIs or co-PIs on NSF funded grants which demonstrates a violation of awardee policies or codes of conduct, statutes, regulations or executive orders relating to sexual harassment, other forms of harassment, or sexual assault. The term and condition also will require the awardee to notify NSF if the PI or co-PI is placed on administrative leave or administrative actions have been imposed on the PI or co-PI relating to a harassment finding or investigation.</p>
<p>The NSF should require the reporting of harassment regarding Principal Investigators, not just <i>determinations</i>, in order to ensure due diligence on part of the awardee-institutions.</p>	<p>The term and condition has been revised to require the following notifications to NSF: The awardee is required to notify NSF of: 1) any finding/determination regarding the PI or any co-PI that demonstrates a violation of awardee policies or codes of conduct, statutes, regulations or executive orders relating to sexual harassment, other forms of harassment, or sexual assault; and/or 2) if the PI or co-PI is placed on administrative leave, or if any administrative action has been imposed on the PI or co-PI by the awardee relating to any finding/determination or an investigation of an alleged violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.</p>
<p>The right of future action should be targeted at the accused Principal Investigator, not the awardee institution. see attachment from [redacted] if more information is needed</p>	<p>Thank you for your thoughtful comment.</p>

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<p>I applaud the NSF's efforts to prevent sexual harassment and create safer environments for students - enforcing Title IX compliance and proposals like NSF's are essential to create awareness and change in educational institutions regarding sexual harassment and gender equality. However, I believe that the proposed policy is vague and ambiguous in some parts and has the potential to have the opposite effect than intended. 1.The proposal is vague and ambiguous in its wording, leaving important phrases like, "sexual harassment" and "administrative leave" undefined. 2. The proposal does not explicitly outline how to proceed when there are merely allegations against a PI. see attachment from [redacted] if more information is needed</p>	<p>NSF has revised the term and condition to include a definition for "sexual harassment." The definition reads as follows: "May include but is not limited to gender or sex-based harassment, unwelcome sexual attention, sexual coercion, or creating a hostile academic or work environment, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders." The revised term and condition also includes a definition for "administrative leave/administrative action" that reads as follows: "Any temporary/interim suspension or permanent removal of the PI or co-PI by the awardee under organizational policies or codes of conduct, statutes, regulations, or executive orders, relating to activities, including but not limited to the following: teaching, advising, mentoring, research, management/administrative duties, or presence on campus."</p>

**NSF Disposition of Comments Received in Response to the March 5th Federal Register Notice on Sexual Harassment**

Comment	NSF Response
<p>On behalf of the University of California (UC), thank you for the opportunity to comment on the National Science Foundation’s (NSF’s) proposed reporting requirement for sexual harassment, other forms of harassment and sexual assault (SHHSA), as published in the <i>Federal Register</i> on March 5, 2018 (Docket ID FR Doc. 2018–04374). At the outset, we wish to make clear that UC shares the NSF’s commitment to eliminating all forms of harassment in the workplace, and appreciates the NSF’s desire to ensure appropriate management of projects it funds at institutions of higher education (IHEs) and to receive timely notification when a (co-)PI is found to have committed harassment or a sexual assault. UC’s system-wide Policy on Sexual Violence and Sexual Harassment (SVSH Policy) notes UC’s commitment to creating and maintaining a community dedicated to the advancement, application and transmission of knowledge and creative endeavors through academic excellence, where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation. UC has identified three considerations that frame our approach to addressing the issues raised around SHHSA: NSF’s legitimate concerns about the status of its funded projects as part of its stewardship responsibilities. The University’s authority and obligation to investigate sexual violence/sexual harassment (SVSH) complaints according to its procedures and to take appropriate action for substantiated complaints. The need to protect the integrity of SVSH investigations and the privacy of complainants, (co-)PIs and their co-workers and students during an investigation.</p>	<p>Thank you for this important information.</p>

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<p>Introduction of a policy to address sexual harassment, other forms of harassment, and sexual assault in US research institutions and institutions of higher learning is both a welcome step in the right direction and long overdue. As someone who has been personally affected by sexual harassment, sexual assault, and institutional retaliation for reporting the events, it is my impression that <i>the policy, as stated, fails to address the principal source of the problem</i>. The policy statement is likely to have exactly the opposite of the intended effect: rather than diminishing the incidence of unlawful discrimination, it provides further encouragement for institutions to cover up instances of harassment or assault, or to misrepresent the truth in their reporting procedure.</p>	<p>The term and condition has been revised to require the following notifications to NSF: The awardee is required to notify NSF of: 1) any finding/determination regarding the PI or any co-PI that demonstrates a violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault; and/or 2) if the PI or any co-PI is placed on administrative leave, or administrative action has been imposed on the PI or co-PI by the awardee relating to any finding/determination or an investigation of an alleged violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.</p>

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<p>Like many, we were optimistic to read Important Notice No. 144 on February 8, 2018. The notice underscores efforts at the National Science Foundation (NSF) to create and to support safe research environments for grantees, students, and contractors funded by NSF. Specifically, the statement shows participants at all levels that there will be more communication between universities and the NSF regarding misconduct. Whereas this statement was an important step, we feel that the NSF will need to implement further policy changes to ensure equitable research environments in facilities it operates directly and indirectly. Given recent personal experience with investigations of both Title IX and Title VII cases at our universities, concomitant with public reports of a high-profile case of harassment and abuse in Antarctica, several shortcomings in the NSF's treatment and investigation of such allegations becomes apparent. As such, [Redacted] and [Redacted], with input from [redacted], promulgated a petition hosted by the website of the College of Marine Science at the University of South Florida (<a href="http://bit.ly/2B3tA24">http://bit.ly/2B3tA24</a>, see blue box below for specifics of the petition) in December 2017. The petition sought support from scientists involved in Antarctic research through the U.S. Antarctic Program to ask the NSF take a more active role in investigations of Title IX and Title VII allegations and to implement policy to prevent retaliation through the NSF proposal review process. The response to this petition showed, almost immediately, that it was too narrow in scope. As of February 12, 2018, 274 people had signed the petition. Amongst the signatories, 108 professors, 30 research scientists, 45 postdoctoral investigators, and 72 graduate students signed the petition. Of these, 244 were from institutions, organizations, companies or governmental agencies within the U.S.A The petition quickly resonated with scientists who had never deployed to Antarctica - in fact, only 53 had previously deployed. However, 80 signatories had either deployed to Antarctica, deployed to other remote field stations or ships, sent junior personnel, and/or pointed out that this petition should apply to other remote research areas and facilities outside of Antarctica. Important No. 144 does not explicitly rectify several issues that are encapsulated in the petition. Investigation of incidents during remote fieldwork should be investigated both by the universities involved and by the NSF (Petition point 1). Many who signed the petition (and several who did not) pointed out that universities and funded institutions must be formally involved in investigations because they possess the power to sanction employees whereas the NSF's power of individual sanction is limited. However, institutional resources and policies often center on dormitory life and classroom experiences rendering them ill-equipped to investigate allegations in remote areas under different circumstances than intended. Furthermore, research teams in these environments often contain members of several institutions, necessitating the involvement of several different investigations and policies. Clearly delineated jurisdictions and codification (Petition points 2 and 3) of research conduct while funded by the NSF, both in Antarctica and in the many other remote locations and facilities, often on international soil, will help define expectations of conduct amongst scientists and will simplify investigations by both the funded institutions and by the NSF. Finally, retaliation through the review process (Petition point 4) has to be policed by the NSF - funded institutions seeking funding cannot do this. Thus, given the far-ranging interests from signatories of this petition, beyond Antarctic science, we offer this summary to persuade the NSF to go beyond Important Notice No. 144. Given the unique multi-institutional composition of most research teams and the ways retaliation can be leveled through the NSF review process, these considerations must be made if NSF truly wants to commit to bolstering research safety and equity in remote field and operational locations. Important Notice No.144 represents a step in this ongoing conversation. Our hope is that widespread community interest in the recommendations above will continue this important dialog, and that NSF will strongly consider these or similarly effective policy changes.</p>	<p>Thank you for your thoughtful comment and suggestions.</p>
<p>I would encourage your office to consider additional methods of reporting as required under the NSF Important Notice No. 144, dated February 8, 2018. As you will note from the below synopsis of our recent study, the method of communication sexual harassment is often under-appreciated. Existing methods (email, phone call, webform) remain a considered methods of reporting by our respondents. That said, the audience appears underserved by existing methods, to include the proposed "harassmentnotifications@nsf.gov " email. I would be pleased to discuss this study in greater detail at the convenience of your office.</p>	<p>Thank you for your comment. Individuals can report harassment and file complaints alleging harassment at any time. To that end NSF is developing an electronic, secure, harassment and discrimination complaint process which may include the ability to accept anonymous complaints.</p>

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<p>In numerous instances where sexual harassment complaints are investigated and found to have cause, the perpetrator is not placed on administrative leave. We would like to suggest that a cause finding should be a sufficient condition to require an institution to notify NSF, regardless of the action taken by the institution. We therefore recommend changing "<i>and</i>" to "or" in the first paragraph of Proposed Article X. In fact, having the word "and" might discourage university administrators from placing a perpetrator on leave, because that could jeopardize the NSF award and adversely affect the institution.</p>	<p>We appreciate your comment, and the term and condition has been modified to reflect this change.</p>
<p>I would like to suggest that any reports of sexual misconduct also be reported to NSF. Reports with an outcome where the awardee finds there is no violation of codes of conduct, policies, regulations or statutes relating to sexual harassment, other forms of harassment, or sexual assault may be taken in stride. However, it should be noted that the policy used by USA Gymnastics where reports of misconduct are not acted upon without significant written documentation by the accuser, and where internal investigations are conducted by those who work with the accused, is a policy widely used in academia today. This is the same policy that allowed Larry Nassar to continue prolonged sexual mistreatment of numerous individuals. Even now many of Nassar's victims are saying they tried to raise the alarm, but the policy of the institution prevented any real action. For this reason I believe that reports relating to sexual harassment, other forms of harassment, or sexual assault by a PI/co-PI should also be reported to the NSF. Also, having had an acquaintance go through the problem I will describe I ask that the NSF include in the last paragraph of proposed Article X the ability of NSF to require new stipulations to the award. In existing cases, individuals lost their job/funding after reporting inappropriate behavior by their PI, where the PI was found to have violated the code of conduct of the institution a portion of the punishment was suspension or termination of the award, or a reduction in the award funding amount. These students were first the victims of their PI and secondly the victims of the funding agency as the PI maintained the ability to remove them from a project. My acquaintance who went through this experience lost their income as well as their access to the research and data they had collected and analyzed. This effectively meant they had to start over and lost 3 years of progress towards their Ph.D. For this reason I would suggest the NSF include in the last paragraph of proposed Article X the ability of NSF to require new stipulations to the award. This will ensure that NSF can prevent the victims of sexual harassment, other forms of harassment, or sexual assault from being punished for reporting.</p>	<p>NSF's Office of Diversity and Inclusion has a process to address allegations reported to NSF. Individuals have the option to file a complaint of sexual harassment or retaliation by contacting NSF's Office of Diversity and Inclusion (ODI). Currently, complaints may be filed by contacting ODI at (703) 292-8020, or ProgramComplaints@nsf.gov.</p>

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<p>Our organization's legal and management teams raised a concern regarding the bullet on requiring an institution to give notice when someone has been placed on administrative leave for a pending investigation. A pending investigation would have to be done whether or not the allegations of harassment were substantiated, and if the resulting investigation concluded that there was no harassment, then damage would have already been done. Some institutions may thus be reluctant to place an accused individual on administrative leave during a pending investigation, which would be counterproductive to the intent of the proposed regs. Please clarify this point to state that institutions must give notice when harassment investigations have concluded and been substantiated. Should NSF exercise the option to fully defund or reduce the amount of awarded funding as proposed, this could be highly damaging for certain types of institutions and sizes of awards more so than others. A large university can take that kind of hit; a small organization cannot. This document adopts a zero tolerance public stance but in practice, please consider this a nuclear option.</p>	<p>NSF agrees that termination of an award could substantially impact award personnel and the continuity of the scientific endeavor, and anticipates that this action will be necessary only if no other reasonable alternative is identified. Our understanding is that a primary purpose of actions such as administrative leave or the imposition of administrative action is to ensure community safety, and in that sense, NSF believes that institutions of higher education and other funded organizations, which are committed to safety, will continue to utilize these kinds of actions. It is NSF's intent to protect the confidentiality of the notification information to the extent permitted by law. Notification information will be stored in the Office of Diversity and Inclusion and will only be accessible on a need to know basis.</p>
<p>A major concern with field research title IX safety is access to secure, private and confidential communication for reporting of title IX concerns. Currently at the University of Alaska Fairbanks, the University is using the texts from a University supplied remote field (satellite) communication device as evidence in part to ignore a student's title IX reporting concerns and ultimately making a claim of no finding against the faculty member, even though the perpetrator does not deny his actions. This is atrocious and has created a situation where students are afraid to sign out field communication devices because their communications are not secure, private and confidential. NSF should require all universities receiving NSF funds to provide each student with a secure, private and confidential field communication device. This is a low-cost basic requirement for remote field work that can be covered by F and A.</p>	<p>Thank you for your thoughtful suggestion.</p>
<p>If I am reading this correctly, the institution of the reported PI (i.e., University where the professor is employed) will be the one to report to NSF if that person has been found guilty of sexual harassment (or is under investigation for SH). What will be the incentive of the institution where the reported PI or co-PI resides to report sexual harassment findings to NSF, if the institution relies on the funding in the form of overhead/assessment rate for financial support? Will there be any third-party oversight into this?</p>	<p>Recipients of NSF awards are required to comply with all terms and conditions. Compliance with NSF award requirements is auditable by the NSF Office of the Inspector General.</p>

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<p>From personal experience, my postdoc advisor sexually harassed me while I was a postdoc and was found guilty by the University. His punishment was more sexual harassment training, which, with all due respect, everyone who is employed at that level should be receiving regardless. I have observed no other impact to his career: he still serves on high-profile committees, has received multiple NSF grants, and is an editor or on the editorial board of numerous journals (to which I don't feel comfortable submitting my manuscripts because of him and his retaliatory behavior). I am also aware of one instance in which NSF ignored the list of people that I did not want to review my pending proposal, because this individual came up to me and told me he was reviewing the proposal (which I did not get awarded that time but did the next time). Therefore, I believe the harassed should have some ability to submit the name of the sexual harasser to NSF and that NSF can then get information from the institution where he is employed, in the event that the institution does not report. Furthermore, what is the timeframe of reporting the offending (sexual harasser) PI? Does that expire? It's not clear if this applies only to a PI that has been found guilty of sexual harassment during the time period of an existing award, or if it can be used as punishment to a PI for a guilty sexual harassment verdict in the past. For example, will someone who was found guilty by their institution 10 years ago be denied funding now? Or is it just from this point moving forward? This is not clear from the document. I would recommend not allowing anyone found guilty of sexual harassment at any time, or someone who has been found guilty now of something that they did in the past, to be barred from receiving NSF funding. This is especially important, because many women don't feel comfortable or have enough job security to come forward at the time the offense happened (see the BU Marchant case, or my case). Otherwise, the institution is enabling the culture of harassment to continue. How will the "seriousness of the violation(s)" be evaluated? From my own personal experience, retaliation from a former post-doc advisor, who was found guilty of sexual harassment through a formal investigation by the University, continues to this day (almost 10 years later). He never once touched me. The abuse was all verbal and in the form of wielding his power to cut me out of the research community, but because he basically just got a slap on the wrist, he clearly didn't "get" what he did wrong and therefore has continued with his work as usual, while trying to derail my career as retaliation from my rejection of his sexual advances 10 years ago (and has received several NSF grants since then). If NSF wants to get serious about sexual harassment, there shouldn't be a gray area where someone (who?) will determine whether the PI gets removed from the award or simply reduced funding. I would recommend a zero-tolerance policy. Will individuals be able to report a PI as a sexual harasser or will only PIs who've been through a formal investigation by their institution be able to report a harassing PI?</p>	<p>Thank you for your thoughtful and informative comment. Notification is required of any findings/determinations regarding an NSF funded PI or co-PI that demonstrate a violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault; and/or if the awardee places the NSF funded PI or co-PI on administrative leave or imposes an administrative action on the PI or co-PI relating to a finding or investigation of a violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.</p> <p>The notification requirement applies if the actions of the PI or co-PI leading to findings/determinations, administrative leave or imposition of administrative actions occurred outside the scope of the NSF award as long as the finding/determination or administrative leave/action occurs during the period of an NSF award to which the term and condition applies.</p> <p>With issuance of the 2nd Federal Register Notice, NSF has finalized the term and condition, which will be effective 30 days from the publication date. The new term and condition will be effective for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, this means that any finding/determination, placement on administrative leave, or imposition of an administrative action made on or after the start date of an award or funding amendment subject to the new term will invoke the new notification requirements. The awardee must notify NSF within ten business days from the date of the finding/determination or the date that the awardee places the PI or co-PI on administrative leave or imposes administrative action.</p>
<p>I have reviewed the proposed NSF guidelines and believe that they are thorough and will have institutional impact as well as serve as an individual warning and deterrent. Thanks for developing these, and being a leader on this important issue.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>

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<p>I'm seeking clarification on Important Notice No. 144. Does NSF want to be notified if a current PI <u>has ever</u> had a report of sexual harassment or just if they have had one during an active award?</p>	<p>With issuance of the second Federal Register Notice, NSF has finalized the term and condition, which will be effective 30 days from the publication date. The new term and condition will be effective for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, this means that any finding/determination, placement on administrative leave, or imposition of an administrative action made on or after the start date of an award or funding amendment subject to the new term will invoke the new notification requirements. The awardee must notify NSF within ten business days from the date a finding/determination is made or the awardee places the PI or co-PI on administrative leave or takes administrative action(s).</p>
<p>"...If someone were to be required to be removed as the PI if they have some particular specialized and rare scientific knowledge in that particular field on that grant could they stay on the team but not as the PI maybe as just a team member doing a piece of science?" "Yeah, so that PI that is removed maybe they can ship the data to them and they could evaluate it and send it back but they wouldn't be part of the human contact that caused the situation in the first place?" <a href="https://federalnewsradio.com/federal-drive/2018/04/nsf-rule-restricts-grant-funding-for-institutions-floundering-on-sexual-harassment/">https://federalnewsradio.com/federal-drive/2018/04/nsf-rule-restricts-grant-funding-for-institutions-floundering-on-sexual-harassment/</a></p>	<p>Thank you for your comment. In reviewing any notification and with respect to taking action to remove a PI from the grant, NSF will consult with the awardee regarding the particular situation and will take into account at a minimum, the following factors:</p> <ul style="list-style-type: none"> <li>a. The safety and security of personnel supported by the NSF award;</li> <li>b. The overall impact to the NSF-funded activity;</li> <li>c. The continued advancement of taxpayer-funded investments in science and scientists; and</li> <li>d. Whether the awardee has taken appropriate action(s) to ensure the continuity of science and that continued progress under the funded project can be made.</li> </ul>
<p>This is an incredible proposal and is so important toward protecting targets of sexual harassment and assault. I strongly support this proposal!</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>Formal policy identifying institutional reporting requirements for harassment and assault involving an NSF funded PI or CO-PI is essential for eliminating harassment from the research workplace. As the institutional policies governing the reporting of harassment and findings related to harassment allegations 1) vary widely and 2) are often tilted toward avoiding, if possible, institutional embarrassment associated with such findings, I think NSF could amplify its influence further. For example, it may be helpful for the NSF to develop, in the future, or as a revision to this policy, clear expectations about the standards of conduct and principles for adjudicating harassment charges that institutions are expected to follow. Of these, the differences in how funded institutions adjudicate harassment allegations are greater.</p>	<p>Institutions are required to develop their own policies, codes of conduct, and processes in compliance with federal laws and regulations. NSF's notification requirements are clearly delineated in the term and condition.</p>

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<p>I hope this message finds you well. I'm the Grants Manager at the Russell Sage Foundation and am working to strengthen our harassment policies and practices. Wondering if you developed the award requirement language noted below? If yes, could you please share it with me?</p>	<p>With issuance of the second Federal Register Notice, NSF has finalized the term and condition, which will be effective 30 days from the publication date. The new term and condition will be effective for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, this means that any finding/determination, placement on administrative leave, or imposition of an administrative action made on or after the start date of an award or funding amendment subject to the new term will invoke the new notification requirements.</p>
<p>Article X, as proposed, includes language which requires the awardee to notify NSF if it places the PI or any co-PI 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, other forms of harassment, or sexual assault. AURA is concerned with the requirement to notify NSF regarding harassment <b>investigations</b>, and the lack of detail regarding NSF's intent to protect the confidentiality of this information. Without the protection of confidentiality, the disclosure of an investigation in process is potentially available to the public under the Freedom of Information Act as well as through inadvertent release. Damage to the PI or co-PI may occur simply due to the release of information on the <u>existence</u> of an awardee organization investigation, even if the investigation subsequently establishes the PI or co-PI did not engage in any form of harassment. Public disclosure of the investigation itself has the potential to damage professional and personal reputations, negatively impact career opportunities, and expose the awardee organization to lawsuits by the PI or co-PI for its role in releasing the information that led to the reputational damage. NSF should make clear its intentions regarding confidentiality and protection of information provided by awardees on investigations in process.</p>	<p>NSF recognizes the sensitivity of the information that may be contained in the notifications and will take appropriate steps to manage such information consistent with the Privacy Act, Freedom of Information Act, and other applicable federal law. In addition, NSF has developed an electronic, secure, reporting mechanism to route this information directly to the Office of Diversity and Inclusion, which will limit access to only those NSF personnel with an express need to know.</p>
<p>What is the timeframe of reporting the offending (sexual harasser) PI? Does that expire? It's not clear if this applies only to a PI that has been found guilty of sexual harassment during the time period of an existing award, or if it can be used as punishment to a PI for a guilty sexual harassment verdict in the past. For example, will someone who was found guilty by their institution 10 years ago be denied funding now? Or is it just from this point moving forward? This is not clear from the document. I would recommend not allowing anyone found guilty of sexual harassment at any time, or someone who has been found guilty now of something that they did in the past, to be barred from receiving NSF funding. This is especially important, because many women don't feel comfortable or have enough job security to come forward at the time the offense happened (see the BU Marchant case, or my case). Otherwise, the institution is enabling the culture of harassment to continue.</p>	<p>With issuance of the 2nd Federal Register Notice, NSF has finalized the term and condition, which will be effective 30 days from the publication date. The new term and condition will be effective for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, this means that any finding/determination, placement on administrative leave, or imposition of an administrative action made on or after the start date of an award or funding amendment subject to the new term will invoke the new notification requirements. The awardee must notify NSF within ten business days from the date of the finding/determination or the date that the awardee places the PI or co-PI on administrative leave or imposes administrative action.</p>

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<p>I notice that only PI and co-PI's are subject to the new reporting requirements specified in NSF Important Notice No. 144, dated February 8, 2018. My initial thought is why other Senior Personnel are not subject to the same requirements?</p>	<p>NSF has carefully considered the applicability of this new term and condition. The decision was made to apply the notification requirement only to PIs and co-PIs as part of the initial implementation. The PIs and co-PIs identified on an NSF award are in a position of trust. Unlike other project participants, these individuals are named in an NSF award and cannot be changed without prior NSF approval. The Foundation may assess at a later date whether the notification requirements specified in the term and condition should be expanded to include other personnel supported on an NSF award.</p>
<p>I support this rule but suggest that "action taken" requires further specification and clarification. For example, very often victims of harassment or assault are merely removed from interaction with the perpetrator, whether that be changing projects, classes, or labs. Is this considered an action? Clearly, in cases such as this, the actions of the perpetrator have impacted the career and trajectory of the victim. However, I expect frequently the reduction in interaction between the victim/perpetrator will be considered sufficient by many to "solve" the issue. Would such a case require reporting to the NSF? I suggest it should, as if the behavior is pervasive and severe enough to warrant a change in another scientist's work, it should be considered an action taken. However, as written, this rule does not provide sufficient guidance for defining "actions."</p>	<p>At this time only a finding/determination, placement on administrative leave, or imposition of an administrative action is required to be reported to NSF. Individuals have the option to file a complaint of sexual harassment or retaliation by contacting NSF's Office of Diversity and Inclusion (ODI). Currently, complaints may be filed by contacting ODI at (703) 292-8020, or ProgramComplaints@nsf.gov</p>
<p>I am currently a postdoc at the Rockefeller University and am writing to voice my support for the new NSF policy on sexual harassment and misconduct. As I'm sure you know, there is an abundance of data showing that women in STEM experience bias and discrimination, perhaps much of it implicit. Implicit bias will take time to change, but what is unequivocally unacceptable is for women in STEM to leave because of explicit harassment, sexual and otherwise. Protecting trainees will be good for science and I hope that NSF continues on this mission to provide an environment where all trainees can produce the best work possible.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>

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<p>Thank you all, as well as NSF in general, for engaging in this important work. Regarding "other forms of harassment," I have had a number of conversations with colleagues recently about the slippery slope between general harassment and sexual harassment, as the recent reports on Antarctic fieldwork conditions have highlighted. As a number of us see it, non-sexual harassment is expected, tolerated, and indeed thought by many harassers to be "good for" the harassed. It's a tradition in many disciplines. There are a great number of problems with these traditions, including it being against efforts to build inclusivity in science. Do we really want to link success in science with one's ability to endure abusive behavior? What would be valuable from NSF is very clear guidelines about what constitutes "other forms of harassment." In other words, what are our collective rules of engagement and where do we draw the line? Perhaps this comes after drawing the line and enforcing sanctions for sexual harassers, but it is good to be forward-thinking in these matters.</p>	<p>A definition has been added to the revised term and condition for "Other forms of harassment" as follows: "Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders."</p>
<p>I'm writing to express my strong support for the NSF's new harassment policy. While I'm sure there will be lots of bumps in the road with implementation, I want to say THANK YOU, for taking <i>some</i> action to combat the pervasive and well recognized problem of harassment, especially of junior women. I look forward to seeing how this policy impacts institutional practices and seeing how it changes over time to be even more effective. I also hope that it provides a model and inspiration for other federal funding agencies to enact similar policies.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>Thank you for initiating this new requirement. I appreciate your commitment to safe and harassment-free laboratories.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>

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<p>I'm please to see the NSF taking action to improve their response to inappropriate and criminal conduct by grant PIs and co-PIs. However, I still see two major problems that will likely prevent this initiative from having an impact:1) It relies on institutions to determine what inappropriate behavior is, and does not provide any guidelines for how stringent this action needs to be. I think this is a problem, because I have seen firsthand how institutions choose to implement other requirements. For example, the requirement that postdocs receive mentoring is often farmed out or brushed aside to put as little of the load as possible on the PI and co-PIs, only fulfilling the letter of such requirements.</p>	<p>NSF's Office of Diversity and Inclusion has a process to address allegations reported to NSF. Individuals have the option to file a complaint of sexual harassment or retaliation by contacting NSF's Office of Diversity and Inclusion (ODI). Currently, complaints may be filed by contacting ODI at (703) 292-8020, or ProgramComplaints@nsf.gov.</p>
<p>No restitution is made to the victim. By allowing the abuser or possibly complicit awardee the power to re-assign the NSF funding, it is conceivable that the victim could lose access to previously available funding that will further interrupt their research and career progression. Since these are obstacles to reporting abusive behavior, I think it is important for the NSF to ensure that the victim receives support from the funds that previously empowered their abuser. I hope you will take these issues into consideration and work to strengthen the NSF initiative against sexual harassment and bullying.</p>	<p>Ensuring continuity of NSF awards and the continued advancement of investments in scientists to include supporting other awardee personnel is of critical importance to NSF.</p>
<p>This proposed Article is a positive step toward improved enforcement of discriminatory behavior, harassment, and abuse. Funding is the heart of academic research. If current and future funding is in jeopardy, institutions will take this responsibility more seriously.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>I am writing to express strong support for the new reporting requirements regarding findings of sexual harassment and assault at NSF. For far too long, senior scientists have been able to (ab)use their positions of power to harass others. Their ability to get away with deplorable behavior stemmed from a lack of direct feedback to the metrics of scientific success, one of which is grant funding. By requiring grant-receiving institutions to report incidents of awardee sexual harassment and taking action against proven assaulters, including termination of grants, NSF will be correcting a decades-long imbalance. This policy will increase justice and integrity throughout the entire scientific community and put us in step with the rest of society. As an early-career female scientist, I commend you for this decision and urge you to push forward with the new requirements.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>

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Comment	NSF Response
<p>First, let me commend the NSF for taking this long overdue step to protect all scientists, young and old, male and female, from sexual harassment. The opportunity for comment is also revolutionary, and adds a layer of transparency and process that will ensure that this policy has maximum impact. I am writing to suggest that you include language about NSF-sponsored workshops, conferences, and summer schools. As a long-time NSF PI, and advisor to over 10 under-represented minority graduate students, I have been continually horrified to hear first-hand reports from students and others about the rampant sexual harassment at a [information redacted to ensure confidentiality]. This program has run for 15 consecutive years almost fully funded by NSF. I have sent half of my graduate students there, until the reports about sexual harassment started to become more than isolated instances. I will never send another of my students there again. I reported my concerns to the cognizant Program Manager, who said that he could do nothing without individual women coming forward to report their experiences. Looking back, I see that NSF could have, and should have, done much more to protect our best and brightest young women from serial harassment at the hands of the summer school instructors. Options would have included: 1) a survey of past attendees (anonymously reported back to NSF) to assess the frequency of sexual harassment 2) special pre-emptive/remedial training sessions on sexual harassment for entire instructor team, making continued funding contingent upon compliance 3) explicitly forced greater gender diversity of the instructor team (towards gender parity or even greater), which is heavily skewed towards senior males. It has done lasting damage to have this kind of "open secret" pervade our close-knit, small community. I hope and trust that this new wave of awareness at NSF will usher in much-needed oversight of these sorts of NSF-funded events, which unfortunately, in some cases, have become fertile grounds for some of the most egregious and damaging behavior that I am aware of.</p>	<p>Thank you for this information. NSF is looking into the particular situation you described both internally and externally. As a policy matter, NSF is encouraging awardees who use NSF award funds to send individuals to field stations, vessels, summer schools, etc., to implement best practices to ensure the safety of individuals and provide reporting mechanisms. NSF may reconsider providing funding for research and education activities at particular facilities if they are unable to provide a safe, harassment-free environment. With regard to conferences, NSF will require all NSF-funded conferences to have a code of conduct which addresses sexual harassment, other forms of harassment and sexual assault, and that includes a clear and accessible means of reporting violations.</p>
<p>Thank you for this policy, it helps make people more accountable for their actions, shows that sexual harassment and assault is a serious issue. Please consider making an opening for others to report the violation to NSF. I think it's a stretch to expect the honor system to work for people who sexually harass or assault others. They have a major conflict of interest! Perhaps you could include department chairs, unit directors, etc. as acceptable reporters, but they have a major conflict of interest as well. Why not work with Title IX offices so that if their investigation finds that a PI committed sexual harassment or assault, they have to check with the person's department if they have NSF funding, and if so the office or department contact NSF directly. Some cases don't go to the Title IX office, perhaps a department chair handles it directly. So again, working with department chairs could also be useful. I know my suggestion is not perfect, but I hope you consider some modification to enable others to ensure a PI violator is held accountable to NSF.</p>	<p>Thank you for your thoughtful comment. Individuals can report harassment and file complaints alleging harassment at any time with NSF. NSF's Office of Diversity and Inclusion may investigate complaints of harassment or retaliation. To file a complaint, contact (703) 292-8020 or ProgramComplaints@nsf.gov. In addition, NSF is developing an electronic, secure, harassment and discrimination reporting mechanism for individuals to submit complaints which may include the ability to accept anonymous complaints.</p>
<p>I am in strong support of this proposed policy.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>

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<p>If you want to do something effective, make policy that protects whistle-blowers while negatively impacts culprits or people/organizations that protect those culprits or fail to take action. A graduate student funded by NSF should not be at risk of losing funding because they report their advisor. (For that matter, though trickier, if the advisor is found guilty, perhaps their NSF funding could be transferred to another advisor so that the grad student could continue their graduate career.) An institution that considers protecting a faculty member because they bring in lots of grants [information redacted to protect confidentiality] should know that there may be a monetary consequence of doing so.</p>	<p>The awardee may at any time propose a substitute investigator to NSF (NSF approval is required) if it determines the PI or any co-PI may not be able to carry out the funded project or activity and/or abide by award terms and conditions. In determining whether to take action with respect to a reported PI or co-PI, NSF will consider, among other factors, the safety and security of personnel supported by the NSF award and the continued advancement of tax-payer funded investments in science and scientists.</p> <p>NSF's Office of Diversity and Inclusion (ODI) has a process to address allegations reported to NSF. Individuals have the option to file a complaint of sexual harassment or retaliation by contacting ODI. Currently, complaints may be filed by contacting ODI at (703) 292-8020, or ProgramComplaints@nsf.gov. In addition, NSF is developing an electronic, secure, harassment and discrimination reporting mechanism for individuals to submit complaints which may include the ability to report anonymously.</p>
<p>This is a helpful and useful step in combating sexual assault and harassment in academic science.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>Thank you to NSF for proposing this great advance in accountability in the NSF policy on reporting harassments, findings and complaints of people on grants funded by NSF. I especially appreciate that you call out online forums, and workshops and conferences as places where research is performed and the investor must operate in a responsible manner on the bottom of the first page. I believe that conferences are the place where some large fraction of harassment happens. You may be familiar with my recent blog post that describes incidents of harassment, some at Universities, but many at conferences, in the Computer Science community. <a href="https://www.sigarch.org/what-happens-to-us-does-not-happen-to-most-of-you/">https://www.sigarch.org/what-happens-to-us-does-not-happen-to-most-of-you/</a> Would it also be possible to require reporting of harassment that happens at workshops and conferences that are partially or fully sponsored by NSF, by the organization to which the funding is granted, e.g., ACM and IEEE?</p>	<p>NSF is committed to fostering harassment-free environments not only on campuses but also at off-site locations including conferences, workshops, and field stations/vessels. NSF's Proposal and Award Policies and Procedures Guide (PAPPG) will contain in the 2019 version, a new requirement for NSF-sponsored conferences which stipulates that proposers must have a policy or code-of-conduct that addresses sexual harassment, other forms of harassment, or sexual assault, and that includes clear and accessible means of reporting violations of the policy or code-of-conduct. This policy or code-of-conduct must be disseminated to conference participants prior to attendance at the conference as well as made available at the conference itself. Because these off-site activities are often of short duration, and involve individuals from many different institutions, NSF believes the on-site conference organizer/awardee is in the best position to address allegations of violations of the applicable code of conduct.</p>

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<p>We are writing in response to the National Science Foundation’s request for public comment on new reporting requirements described in NSF Important Notice No. 144, dated 8 Feb 2018. We support the changes in steps 1-3 of the Notice. In particular, with respect to step 2, Harassment-Free Research Workplaces, we encourage the NSF to implement specific requirements for awardees organizing or hosting NSF-sponsored offsite events, such as conferences and workshops. We recommend that NSF require these awardees to establish and enforce effective policies to prevent and address harassment at NSF-sponsored offsite events. Both Proposed Article X and step 2, Harassment-Free Research Workplaces, mention such events as part of the overall research environment. However, our experience unfortunately indicates that offsite events are times of heightened risk for harassment, meriting specific attention. In the spirit of the Harassment-Free Research Workplaces goal of Important Notice 144, we encourage the NSF to establish requirements and promulgate best practices for organizers of NSF-sponsored conferences, workshops, and similar events, including: Events must have a published anti-harassment policy that includes instructions on how to file a complaint. Event organizers must have a process in place for handling complaints. Event organizers must inform NSF of all complaints, regardless of affiliation or grantee status of those allegedly involved, promptly after they are reported (or alternatively after conclusion of an investigation). Best practices could include model language for the anti-harassment policy and procedures. We believe that by establishing such requirements and best practices, NSF will place its weight behind conference attendees and conference organizers who are trying to keep attendees safe.</p>	<p>NSF appreciates your thoughtful and detailed recommendations. We have developed a website that provides examples of “best practices” and sample documents, and may address much of what you have provided. NSF is committed to fostering harassment-free environments not only on campuses but also at off-site locations including conferences, workshops, and field stations/vessels. NSF’s Proposal and Award Policies and Procedures Guide (PAPPG) will contain in the 2019 version, a new requirement for NSF-sponsored conferences which stipulates that proposers must have a policy or code-of-conduct that addresses sexual harassment, other forms of harassment, or sexual assault, and that includes clear and accessible means of reporting violations of the policy or code-of-conduct. This policy or code-of-conduct must be disseminated to conference participants prior to attendance at the conference as well as made available at the conference itself. Because these off-site activities are often of short duration, and involve individuals from many different institutions, NSF believes the on-site conference organizer/awardee is in the best position to address allegations of violations of the applicable code of conduct.</p>
<p>I am writing to express my strong support for the proposed condition on NSF awards that award organizations must report findings/determinations of sexual harassment, other forms of harassment or sexual assault regarding an NSF funded PI, or any co-PI. This is a critical step towards holding both institutions and individuals responsible for unacceptable and illegal behavior. Harassment and assault (often of a sexual nature) are likely to contribute to the decision of women and underrepresented minorities to leave science, technology, engineering and math fields (STEM). Ensuring the safety of all who participate in STEM is an important prerequisite to ensuring that a diverse and wide array of voices and minds contribute to the development of knowledge, technology and innovation in our country. I believe this award condition is an important step to accomplishing this goal.</p>	<p>Thank you for your thoughtful comment.</p>

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<p>My one concern is that the proposed condition may make institutions less likely to investigate claims of sexual harassment and assault for fear of losing federal funds. It is already not uncommon for universities and other institutions (including my own) to fail in their responsibility to address these issues internally, as evidenced by investigations by the Department of Education. For this reason, I would strongly encourage NSF to also consider an anonymous reporting mechanism whereby survivors and witnesses to harassment and assault can report these behaviors directly to NSF. Such a mechanism will surely act to motivate funded institutions to take these complaints seriously, and act as a backup for cases in which institutions fail to uphold their responsibilities to their students, faculty, and staff.</p>	<p>Individuals have the option to file a complaint of sexual harassment or retaliation by contacting NSF's Office of Diversity and Inclusion (ODI). Currently, complaints may be filed by contacting ODI at (703) 292-8020, or ProgramComplaints@nsf.gov. NSF is developing an electronic, secure, harassment and discrimination complaint process which may include the ability to accept anonymous complaints.</p>
<p>In these proposed policies, NSF would take a leading role among federal granting agencies in fighting the epidemic of workplace harassment by giving the agency the ability to protect the safety of grant personnel when a Principal Investigator is put on administrative leave regarding harassment findings or an investigation, up to and including removing personnel from the grant or suspending the award. We support these policies as there have been many cases, both at UC and elsewhere, of PIs who were under investigation or were found to have violated harassment policies, but they continued to receive federal research support. A central component in ending this epidemic is enacting real consequences on those who violate harassment policies, and this is a major step in the right direction. Based on our union's experience representing Postdocs over the last 10 years, we would also like to identify some areas where the proposed policies could be improved and strengthened. For example, the policy relies on the institution to put a PI on administrative leave for NSF to take action while an investigation is underway. There have been numerous cases at UC where a PI, who is under investigation for harassment or sexual assault, is not put on leave during the investigation or even after a finding of policy violation has been made. The NSF policy should be changed to include notification to NSF if the university has opened a formal investigation of a PI or co-PI, and then providing NSF with updates when the investigation is concluded. In addition, as many policy violations predate this policy change, we believe NSF should be aware of PIs with a history of sexual harassment so this can be taken into account as well. Consistent with the HR 6161 introduced by Rep. Jackie Speier, in the 114th Congress, we recommend that NSF require grantee institutions to notify NSF when university grievance procedures have found that a research professor has engaged in harassment or sexual assault in the past 10 years. These reports would be kept on file for 10 years, unless there is another violation by the same PI, in which case the clock would restart.</p>	<p>Thank you for your thoughtful comment.</p>

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<p>Moreover, if these policies only apply to new awards and not existing awards, this would create a loophole so that PIs who are currently funded by NSF could violate harassment or sexual assault policies without the same consequences.</p>	<p>With regard to the recommendation that the term and condition be applied to all current awardees, and, any findings and determinations made prior to the effective date, in implementing this new term NSF is following its longstanding policy that new award terms and conditions are not applied retroactively. Consistent application of this policy for over 40 years has served the research community well and has ensured that NSF awardees are fully aware of new award requirements prior to the application of any new terms and conditions.</p>
<p>The power imbalance between PIs and mentees (typically graduate students and Postdocs) significantly contribute to the widespread and persistent instances of harassment. Survivors often fail to bring claims forward due to concerns about retaliation or fear that the consequences to their PI will in turn impact the careers of themselves and their colleagues. Many Postdocs and graduate students are also in the US on non-immigrant visas, so the institution can attract the best and brightest from around the world. The non-immigrant status makes these mentees even more vulnerable when coming forward to raise concerns about PI misconduct. To address this, protections in the NSF proposal should include strong whistleblower protections and should require grantee institutions to ensure that the careers of claimants or their colleagues do not suffer following a report of harassment or sexual assault, both while an investigation is underway and at its conclusion. Problems like the epidemic of harassment and sexual assault can seem intractable but we believe that through concerted policy and institutional changes we can move toward a more equitable and safe environment for academic research. We appreciate NSF's efforts to this end.</p>	<p>NSF's Office of Diversity and Inclusion (ODI) has a process to address allegations reported to NSF. Individuals have the option to file a complaint of sexual harassment or retaliation by contacting NSF's Office of Diversity and Inclusion (ODI). Currently, complaints may be filed by contacting ODI at (703) 292-8020, or ProgramComplaints@nsf.gov.</p>
<p>Trainees are often harassed because they are in a vulnerable position, where power differentials may exist, making it difficult to establish trust with the PI or co-PI. As these new terms and conditions are implemented, the NPA encourages explicit descriptions of PI and/or co-PI expectations. This could be paired with a mandatory harassment training for individuals that receive NSF funding so the parameters are clear before commencement of the award. Further, providing the same materials to the trainees in the PI or co-PI's lab will ensure that the trainees are also informed of the expectations. Together, these parameters could help ensure that this "position of trust" is well-defined for the PI and/or co-PI and the trainees.</p>	<p>Thank you for your thoughtful recommendation.</p>
<p>Of the 28% of survey respondents that reported sexual harassment, over 90% of these individuals did not report it and frequency did not change as the number of sexual harassment incidents increased. This is particularly important when considering whether or not trainees will report these incidents to the appropriate "authorized organization representative." To ensure that reporting is completed as per these new terms and conditions, the NPA encourages the NSF to provide a similar document(s) to trainees. These clear reporting guidelines and anonymous reporting guarantees will help to reduce trainee concerns that no action will be taken or that PIs and/or co-PIs will retaliate (both concerns were voiced in our survey). Our results further indicated that there can be gender and cultural barriers in the reporting of sexual harassment in trainees and commend the NSF's Office of Diversity and Inclusion initiative to provide resources. The NPA appreciates that timeliness of reporting is important so that the offending PI and/or co-PI can be appropriately reprimanded, however, we would hope that all incidents are recorded regardless of the time.</p>	<p>Individuals have the option to file a complaint of sexual harassment or retaliation by contacting NSF's Office of Diversity and Inclusion (ODI). Currently, complaints may be filed by contacting ODI at 703-292-8020, or programcomplaints@nsf.gov. NSF has developed an electronic, secure, harassment and discrimination complaint reporting mechanism, which may include the ability to accept anonymous complaints.</p>

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<p>Only 51.5% of the victims felt the workplace was helpful in dealing with the incident and this also did not change with multiple incidents. The NPA also wants to ensure that the workplace or authorized organization representative has educational resources regarding victims’ rights and responsibilities and the appropriate courses of action are clearly defined to ensure that these new terms and conditions are properly followed. In conclusion, the NPA supports the new terms and conditions as defined by the NSF. We applaud the NSF for being a leader in developing a clear policy for prevention, reporting, investigation and punishment of sexual harassment in the workplace. This will help to drive changes at the institutional level not only to ensure that the postdoctoral community is informed on this topic, but also, that postdoctoral scholars feel safe to speak freely about incidents that need to be addressed and rectified.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p><b>Responsible and Accountable Manner.</b> While AAAS appreciates that NSF is interested in including misbehavior in settings outside of traditional laboratory environments (e.g., field sites and conferences), we are concerned that the language “during the performance of awards activities” could be interpreted as the chronological time of the period of performance of the grant and could capture conduct of an individual beyond the intended scope of the NSF reporting requirement. AAAS suggests that NSF investigate this further and consider clarifying this language as appropriate.</p>	<p>Thank you for your comment. The notification must be provided regardless of whether the behavior leading to the finding/determination, placement on administrative leave, or imposition of an administrative action occurred while the PI or co-PI was carrying out award activities.</p>
<p><b>Definition of Conduct Covered.</b> In the proposed reporting requirements, NSF notes that it would apply to “sexual harassment, other forms of harassment, or sexual assault.” This broad range of behaviors encompasses both improper behavior and illegal/criminal activities. Furthermore, the term “other forms of harassment” is vague and may or may not be covered under existing laws, thus leading to confusion among covered institutions. As this is a new reporting requirement, AAAS believes that NSF should either focus explicitly on sexual harassment and assault, or provide specific guidance as to what is covered under “other forms of harassment.”</p>	<p>NSF has revised the term and condition to include a new definition of "other forms of harassment" which reads as follows: "Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders."</p>
<p><b>Definition of Finding.</b> As stated above, the NSF reporting requirement covers a broad range of behaviors that encompasses both improper behavior and illegal/criminal activities. It is unclear in the NSF proposal what is considered a finding or determination, especially from a legal perspective. Would a single allegation qualify as a finding? Should the requirement be applied only if there is evidence of pervasiveness? Is it applied after an investigation is completed and an allegation is upheld? If the act at issue is a single incident and an individual is found at fault and appropriate action is taken, would a report still be required? AAAS is concerned that institutions that have robust policies in place and actively work to respond to allegations could be viewed in a negative light in comparison to institutions that do not have robust policies in place. AAAS recommends that NSF provide greater clarity to the definition of finding and determination.</p>	<p>NSF has revised the term and condition to include a definition of "findings/determination."</p>

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<p><b>Type of Reporting.</b> According to the NSF proposal the reporting requirement would be triggered “from the date of the finding/determination or the awardee’s placement of the PI or co-PI on administrative leave.” In addition, NSF must be informed by the Authorized Organization Representative via email within seven (7) business days. Individuals may be put on administrative leave for many different reasons, for example, at the onset of a related investigation and for both brief (e.g., a few days) or long periods of time depending on the severity of the allegation. AAAS is concerned that it would be premature to disclose such information at an interim stage. It has the potential to trigger employment laws and expose institutions to allegations of defamation. AAAS recommends that NSF require that reporting be triggered after a conclusive finding has been made and an action has been established.</p>	<p>Notification is required of any findings/determinations regarding an NSF funded PI or co-PI that demonstrate a violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault; and/or if the awardee places the NSF funded PI, or co-PI on administrative leave or imposes an administrative action relating to a finding or investigation of a violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault. With regard to the timing of the notifications, the new term and condition will be effective for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, this means that any finding/determination made on or after the start date of an award or funding amendment subject to the new term will invoke the new notification requirements. With regard to the notification of placement on administrative leave or imposition of an administrative action, the awardee must notify NSF within ten business days from the date the awardee places the PI or co-PI on administrative leave or imposes administrative action. As to the recommendation that notification only be triggered after a conclusive finding is made, as part of the Foundation's programmatic stewardship responsibilities and oversight authority, it is vital that the impact of placement on administrative leave or imposition of administrative action be assessed in order to ensure the safety and security of personnel working on the NSF-funded project as well as the impact on the scope of the project and the continued advancement of taxpayer funded investments in science and scientists.</p>
<p><b>Protection of Privacy.</b> It is unclear how NSF’s Office of Diversity and Inclusion will protect the confidentiality of the personal information that is submitted and whether the agency will have a secure system for obtaining reports of findings and determinations. It is crucial that the NSF reporting requirement provide clear guidelines as to how that information will be filed, protected, shared, and archived. This is particularly crucial as personal information could be subject to Freedom of Information Act inquiries and the information on a claimant could be made public. This could have negative consequences for that individual at a professional and personal level, and could create a disincentive for individuals to file complaints with their institutions. Furthermore, there is no instruction as to how NSF would address the removal or correction of reported information if a “finding/determination” is later found to be incorrect. Given the sensitive nature of harassment, it is important that NSF take concrete measures to protect the privacy of both parties involved.</p>	<p>NSF recognizes the sensitivity of the information that may be contained in the notifications and will take appropriate steps to manage such information consistent with the Privacy Act, Freedom of Information Act, and other applicable federal laws. Importantly, NSF makes clear in the term and condition that names other than those of the relevant PI or co-PI, such as those of victims and complainants, must not be included in the notification.</p> <p>In addition, NSF has developed an electronic, secure notification mechanism to route this information directly to the Office of Diversity and Inclusion, which will limit access to only those NSF personnel with an express need to know.</p>

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<p><b>Unilateral Action.</b> AAAS respects NSF’s interest in protecting federal funding and ensuring that individuals with a record of harassment and/or assault are restricted from receiving federal funds. However, the NSF clause to allow it to take unilateral action and to terminate an award does not appear to take into consideration whether an institution is acting to resolve the situation. Nor does NSF provide any guidance with respect to an appeals process. NSF should consider creating a safe harbor as part of its policy and allow for a consultation period between NSF and the institution. For example, NSF could first alert an awardee institution that it is considering unilateral action, who the authorized individuals are that are involved in the decision-making process, and provide for discussion between the agency and institution regarding the action(s) it is taking. Finally, as this is a new and very important policy that can have a positive impact in ensuring that institutions work proactively to create robust policies so that scientists may work in a safe environment, AAAS recommends that NSF use this opportunity to gather information on the impact of the policy on the scientific enterprise. There may be unintended consequences or unforeseen impacts of the reporting requirements—as outlined above—that may necessitate NSF’s making changes to the policy accordingly. AAAS recommends that NSF revisit the policy in 1 to 2 years and analyze the evidence of policy impact. This will afford other federal agencies and/or funding organizations an opportunity to craft policies appropriately and move toward a uniform standard.</p>	<p>NSF will consult with awardees, upon receipt of the notification, and will fully explore all reasonable actions and solutions identified taking into consideration the following factors: the safety and security of personnel working under the award; the overall impact to the NSF-funded activity; the continued advancement of taxpayer-funded investments in science and scientists; and whether the awardee has taken appropriate action(s) to ensure the continuity of science and that continued progress under the funded project can be made. Our expectation is that in most cases the awardee will be able to take action that will enable it to continue the work under the award while protecting the safety of individuals and ensuring a harassment-free space in which to work and learn. NSF anticipates that it will have to initiate action only if no other reasonable, appropriate alternative is identified by the awardee.</p>
<p>Definition of other forms of harassment. The term is used but is not defined in Article X. It would usefully reduce ambiguity if NSF clarified the scope and meaning of this term. The AERA Code of Ethics defines harassment and addresses sexual harassment in Standard 8; many other sources also provide guidance on what forms of activity and with whom constitute harassment. NSF awards include other personnel in power positions.</p>	<p>NSF has revised the term and condition to include a new definition of "other forms of harassment" which reads as follows: "Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders."</p>
<p>Article X speaks primarily to PIs and Co-PIs and the responsibility of awardee organizations (or subaward organizations). Should the terms and conditions speak more explicitly to the responsibility of awardee organizations for “other personnel” supported by an NSF award who serve in supervisory or authority positions on NSF-funded research? In large-scale studies, professional staff in such roles is not uncommon. The language in Article X makes only a passing reference to such personnel and any reporting expectations.</p>	<p>NSF has carefully considered the applicability of this new term and condition. The decision was made to apply the notification requirement to only PIs and co-PIs as part of the initial implementation of the term and condition. The PIs and co-PIs identified on an NSF award are in a position of trust. Unlike other project participants, these individuals are named in an NSF award and cannot be changed without prior NSF approval. The Foundation may assess at a later date whether the notification requirements specified in the term and condition should be expanded to include other personnel supported on an NSF award.</p>
<p>Clarification of the intent, conditions, and process whereby NSF might take unilateral actions. Unilateral may not be the optimal choice of words to cover what might lead to an action by NSF based on the report of an awardee organization. If with a pending investigation, the awardee takes action to remove the individual through administrative leave or other form of separation, the steps for NSF seem generally clear. It would be useful if Article X would further specify the circumstances and process whereby NSF would determine to take action absent a finding or determination by the awardee organization. How will NSF communicate and explicate its actions to awardee organizations and to those who are the subjects of investigation?</p>	<p>NSF will consult with awardees, upon receipt and review of a notification, and will fully explore all reasonable actions and solutions identified taking into consideration the following factors: the safety and security of personnel working under the award; the overall impact to the NSF-funded activity; the continued advancement of taxpayer-funded investments in science and scientists; and whether the awardee has taken appropriate action(s) to ensure the continuity of science and that continued progress under the funded project can be made. Our expectation is that in most cases the awardee will be able to take action that will enable it to continue the work under the award while protecting the safety of individuals and ensuring a harassment-free space in which to work and learn. NSF anticipates that it will have to initiate action only if no other reasonable, appropriate alternative is identified by the awardee.</p>

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<p>Consequences of a violation of trust. The terms and conditions in Article X address the responsibility of an awardee organization to report on PIs or co-PIs “during the performance of award activities” broadly defined. The emphasis is appropriately on PIs and co-PIs being in positions of trust. What requirements, if any, will awardee organizations have with respect to reporting to NSF on prior determinations of sexual harassment, other forms of harassment, or sexual assault? How will prior determinations affect, if at all, future eligibility to serve as NSF PIs or co-PIs (at all or for any span of time)?</p>	<p>The new term and condition will be effective for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, this means that any finding/determination made on or after the start date of an award or funding amendment subject to the new term will invoke the new notification requirements. With regard to the notification of a finding/determination, placement on administrative leave, or imposition of an administrative action, the awardee must notify NSF within ten business days from the date of the finding/determination or the date the awardee places the PI or co-PI on administrative leave or imposes administrative action. The revised term and condition applies to PIs and co-PIs on current NSF-funded awards. The removal of a PI or co-PI from an NSF award does not automatically mean the individual is banned from submitting future proposals to NSF for funding. Such a restriction would require the individual to be formally suspended or debarred. Suspensions and debarments are made based on a recommendation from NSF’s Office of Inspector General (OIG), following an OIG investigation, and must comport with 2 CFR 180.</p>
<p>There are two other issues worthy of NSF’s attention along with these important steps: First is the value of evaluating the changes being made by NSF in order to understand their impact and to allow for modifications. The second is for NSF to invest in research on sexual harassment, exploitation, assault, and other forms of harassment in scientific professions and in the workplaces and environment in which science takes place. A robust program of research as well as statistics collected under the auspices of a unit like the National Center for Science and Engineering Statistics can yield fundamental knowledge about the causes and consequences of welcoming and unwelcoming environments on science and the scientific workforce. This is an area that has been undervalued and understudied. Thank you once again for the vital work that NSF is undertaking to address these important issues and to promote the responsible conduct of science. We commend you for your forward thinking and leadership. We look forward to the release of a final Article X.</p>	<p>NSF concurs with the importance of conducting periodic assessments of the implementation of new policies, and based on these assessments, making any necessary modifications, where appropriate. NSF provided significant financial support to the recent National Academies of Sciences, Engineering and Medicine consensus study report entitled, Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine, and supports other research in this area.</p>

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<p>The proposed implementation to require NSF funded PI's to report findings/determinations of sexual harassment is imperative. With the current system there are almost no repercussions for acts of sexual harassment in science. Scientists who are accused and proven guilty generally continue to receive funding and continue their work, as institutions attempt to brush aside these allegations in an attempt to protect their name. This practice is harmful to the work environment and diminishes the effects of their actions and the suffering of the victims. To foster an environment that is safe for everyone it is important to implement procedures to reprimand inappropriate behavior. At the MINIMUM they should not continue to receive government funding. The NIH and NSF receive tax money to allocate funds to propel science forward. Giving these funds to scientists guilty of sexual harassment is stagnating science and creating a toxic environment, especially for students and scientists not in positions of power. The argument against these implementations might cite that these actions are sometimes a result of "cluelessness" or social impairment of the accused. However, if this were the case there would be more incidences of sexual harassment against individuals in higher positions of power. It is NOT possible to be unaware that you are sexually harassing someone.</p>	<p>Thank you for your thoughtful comment.</p>
<p>The entity reviewing harassment reports to determine a response needs to be separated from the university. It is crucial. The review cannot lay in the hands of the universities themselves, because their agenda is biased - for the worse. The university is acting to "protect its brand" and is afraid to get sued by the harasser. Therefore, a majority, if not all, "everyday" harassments get ignored and swooped under the carpet, and especially cases where a student is harassed. Currently, our Title IX Office handles all harassment cases, which means non-Title IX cases that are still harassment are especially not acted upon. It is so bad that whistleblowers and the harassed get harassed by the university administration for reporting. I've had personal experience of that. The culture will never improve to the better unless we have a functional system where there are consequences. We will only get there by removing the reporting, review and decision to an entity outside of the university walls. Thank you for working on a very important issue,</p>	<p>Awardees have a responsibility to implement fair and equitable organizational policies and procedures which comply with Federal law. In addition, individuals who believe that a harassment complaint filed was not investigated and adjudicated in a fair and equitable manner may file a complaint directly with NSF's Office of Diversity and Inclusion (ODI). ODI has a process to address allegations reported to NSF. Individuals have the option to file a complaint of sexual harassment or retaliation by contacting NSF's Office of Diversity and Inclusion (ODI). Currently, complaints may be filed by contacting ODI at (703) 292-8020, or ProgramComplaints@nsf.gov. In addition, NSF is developing an electronic, secure harassment and discrimination reporting mechanism for individuals to submit complaints which may include the ability to accept anonymous complaints</p>
<p>I applaud NSF for taking sexual harassment seriously. I do not know the background on this policy, but I hope it has been crafted with the input of students and faculty who have experienced sexual harassment and have pursued claims against PIs. My concern is that if this policy only addresses claims that have been investigated and confirmed, it may act as a disincentive to universities to investigate claims for fear of losing grant funding. Getting universities to take claims seriously is a major issue, and that should be the focus of policy changes. Universities should track their progress in acknowledging and investigating claims, along with issuing consequences for perpetrators.</p>	<p>Thank you for your thoughtful comment. Individuals who believe that a harassment complaint filed was not investigated and adjudicated in a fair and equitable manner may file a complaint directly with NSF's Office of Diversity and Inclusion (ODI). ODI has a process to address allegations reported to NSF. ODI may investigate complaints of harassment or retaliation. To file a complaint, contact (703) 292-8020 or ProgramComplaints@nsf.gov. In addition, NSF is developing an electronic, secure harassment and discrimination reporting mechanism for individuals to submit complaints which may include the ability to accept anonymous complaints.</p>

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<p>This is, obviously, a timely and critically important matter, and I'm glad to see the NSF taking positive steps. My one concern regards the reporting of administrative leave. Administrative leave includes pay and benefits specifically because it has not been determined whether the person alleged to have acted inappropriately has indeed done so. It is a good idea for the university to report such instances to NSF, but it is not always appropriate for NSF to take action based on such allegations. Some clarification about how NSF will handle administrative leave and inconclusive investigations is extremely important. What we would like to do, of course, is 1) protect trainees from hostile work environments and systematic harassment, as recently documented to be surprisingly commonplace; 2) protect individuals accused of inappropriate behavior who have not been found to have done anything wrong; and 3) make certain that serial offenders are not able to avoid consequences due to the private nature of their offences (which eliminates witnesses and other forms of corroboration), or avoid them based on the incentive that universities may have to force an offender on to a new position, which solves the university's immediate problem without taking the predatory PI away from trainees. I suggest that NSF consider a policy in which administrative leave is reported, but which as a single instance is not considered actionable. This would mean that someone for whom more than one complaint had been filed, or who had moved among universities, would still be visible to NSF, and could trigger an outside investigation. Moreover, universities who were systematically dealing with Title IX cases by forcing accused PIs out the door (and into new places where they can continue their abuse) could be recognized as contributing to sexual harassment within the sciences by virtue of their complicity. Of course, any complaint that was verified by the university would also elicit a response from NSF. I have witnessed several Title IX cases at the two universities I have worked. In one, an eminent scientist harassed his male graduate students until he was forced to retire. The reason for his retirement was not widely known, and he took another position at another excellent university. In a second, a student of mine filed a complaint against a former mentor. He was eventually found guilty, barred from taking students and suffered a significant loss of pay -- but the first response of the university was to give my student a non-disclosure agreement as a condition of their moving forward. In a third, a PI was accused by a student, but the university did not determine that he had behaved inappropriately. A fourth is currently pending, and involves a colleague for whom the exact allegations are unknown to me, but who is currently on administrative leave. Let's keep in mind that these are not just major trends in our society, trends certainly toward justice and inclusiveness, but also that in a very real sense, lives are stake. These decisions are of paramount importance to everyone involved.</p>	<p>Thank you for your considered comments.</p>

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<p>I wholeheartedly think that this regulation should be implemented. It is absurd that one can conduct themselves so poorly and unprofessionally and continue to receive federal money. I also think that this regulation will help to bring consistency to how people who are found to have violated harassment policies are disciplined (I suspect that those with more funding are provided sanctions that allow their labs to stay intact more often than those who do not have equal funding.) As a graduate student, I was sexually harassed by my adviser, and the university's investigation found that he had violated their policy. From that experience, I have witnessed and lived through how detrimental sexual harassment is. I left academia because of my experience. Many of my fellow lab members did the same. I believe my adviser knew what he was saying was wrong, and at the very least, he knew I was not okay with his behavior, and yet, he continued to make highly inappropriate comments. Many of these comments were also said to other professors in my field. It's an awful thing to be characterized as "useful" only for your attractiveness when you're trying to present yourself as an intelligent scientist. We should not fund people who actively ruin the potential careers of the upcoming generation of scientists. How is that even something that needs to be discussed?</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>I support this new regulation with enthusiasm. Sexual harassment is a serious impediment to scientific achievement, for the victim and also for all the other members of the research team who may observe or otherwise be indirectly affected by the inappropriate behavior. This new regulation will be an important component of addressing such effects on scientific achievement.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>I believe that overall the Proposed Article moves in a positive direction from the current state of affairs. Funding from NSF and other funding agencies plays an important role in determining the social and power structure in the scientific workforce. It is harmful to the workforce to fund PIs who have been demonstrated to have violated codes of appropriate conduct. As an early-career research scientist working with many NSF-funded scientists, I would benefit directly from policies that increased the accountability of PIs for inappropriate conduct.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>
<p>I strongly support this initiative as long as appropriate policies for anonymous reporting and whistleblower protections are included. Harassment is a negative broader impact on society and NSF should take measures to combat it.</p>	<p>Thank you for your comment. Individuals have the option to file a complaint of sexual harassment or retaliation by contacting NSF's Office of Diversity and Inclusion (ODI). Currently, complaints may be filed by contacting ODI at (703) 292-8020, or <a href="mailto:ProgramComplaints@nsf.gov">ProgramComplaints@nsf.gov</a>.</p>
<p>I support the proposed regulation to require reporting, and to hold NSF awardees to the highest level of accountability, of findings of sexual harassment and assault. In particular, I support this regulation applying to all activities supported by NSF funding, including activities outside of the awardee institution. This is especially critical as many individuals who report instances of sexual harassment and assault have indicated that these instances have occurred while conducting research or at conferences away from the home institution.</p>	<p>Thank you for your positive response to what NSF views as a vital and an important step to ensuring scientific research environments where everyone can learn, grow and thrive.</p>

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<p>It is critically important to demonstrate that sexual harassment and assault are completely unacceptable and will not be tolerated by the NSF. Thank you for making that clear with this new policy. First, after someone is reported to NSF, there should be a transparent process of what happens with this information. If someone is found not guilty in an investigation, will that initial report affect that person's funding potential in the future? How will that information be protected? The process of what happens if there is a finding of sexual harassment or assault should also be made transparent.</p>	<p>A notification of a finding/determination or placement on administrative leave or imposition of an administrative action does not automatically mean the individual is banned from submitting future proposals to NSF for funding or serving as a PI or co-PI on awards. Such a restriction would require the individual to be formally suspended or debarred. Suspensions and debarments are made based on a recommendation from NSF's Office of Inspector General (OIG), following an OIG investigation, and comport with 2 CFR 180.</p> <p>NSF recognizes the sensitivity of the information that may be contained in the notifications and will take appropriate steps to manage such information consistent with the Privacy Act, the Freedom of Information Act, and other applicable Federal laws. NSF has developed an electronic, secure reporting mechanism by which the notifications will be routed directly to the Office of Diversity and Inclusion, which will limit access to only those NSF personnel with the express need to know.</p>
<p>In the policy language, three actions are proposed if an awardee is under investigation or if there has been a finding of sexual harassment or assault: 1) appoint a substitute PI, 2) suspend or terminate the award, or 3) reduce the amount of the award. I am asking that during an investigation, none of these actions happen, as the outcome of the investigation could show that there was no harassment or assault. In the event that action needs to be taken, I ask that option 1, appointing a substitute, be given a clear priority because the lab personnel (students, postdocs, and research scientists) are dependent on these awards and are not at fault for the PI's behavior. During an investigation, the lab personnel are not well informed (or informed at all) about the status of their own careers or the funding that supports their research. Including specific language in the policy that prioritizes this outcome (appointing a substitute) would be an important safeguard for personnel.</p>	<p>NSF will consult with awardees, upon receipt and review of a notification, and will fully explore all reasonable actions and solutions identified taking into consideration the following factors: the safety and security of personnel working under the award; the overall impact to the NSF-funded activity; the continued advancement of taxpayer-funded investments in science and scientists; and whether the awardee has taken appropriate action(s) to ensure the continuity of science and that continued progress under the funded project can be made. Our expectation is that in most cases the awardee will be able to take action that will enable it to continue the work under the award while protecting the safety of individuals and ensuring a harassment-free space in which to work and learn. NSF anticipates that it will have to initiate action only if no other reasonable, appropriate alternative is identified by the awardee.</p>
<p>It would be useful to include specific language about who is responsible for communication in the event of an investigation or finding of harassment or assault. The policy states that the Authorized Organization Representative is required to email NSF 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. There are no guidelines, however, about how information should be communicated to the personnel working on that grant. While NSF might assume that the Organization will inform the personnel at an appropriate time, this is not always the case. I ask that specific language be added to the policy that either the Organization or NSF be required to alert personnel funded (salary and/or research) by an award in advance of terminating that award or reducing the amount of the award. In the event that an award is terminated, this advanced notice could also allow personnel to bring ongoing projects to the best possible stopping point. NSF should explicitly build in reasonable protections for these personnel whose careers depend on success in their current jobs. Thank you again for working to make science safer and more inclusive.</p>	<p>NSF expects the awardee to communicate with award personnel. Only PIs and co-PIs are required to be named in an NSF award, and cannot be changed without prior NSF approval.</p>

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<p>Three actions are proposed if an awardee is under investigation or if there has been a finding of sexual harassment or assault: 1) appoint a substitute PI, 2) suspend or terminate the award, or 3) reduce the amount of the award. First, I am writing to ask that no action be taken during an investigation. Punishment is inappropriate before an assessment of wrongdoing. Second, I am writing to ask that option 1, appointing a substitute, be given a clear priority because the lab personnel (students, postdocs, and research scientists) are dependent on these awards and are not at fault for the PI's behavior.</p>	<p>NSF will consult with awardees, upon receipt and review of the notification, and will fully explore all reasonable actions and solutions identified taking into consideration the following factors: the safety and security of personnel working under the award; the overall impact to the NSF-funded activity; the continued advancement of taxpayer-funded investments in science and scientists; and whether the awardee has taken appropriate action(s) to ensure the continuity of science and that continued progress under the funded project can be made. Our expectation is that in most cases the awardee will be able to take action that will enable it to continue the work under the award while protecting the safety of individuals and ensuring a harassment-free space in which to work and learn. NSF anticipates that it will have to initiate action only if no other reasonable, appropriate alternative is identified by the awardee.</p>
<p>NSF remove responsibility from individual university investigatory units (Title IX, Title VII, etc.) by taking responsibility through its own investigatory office. a) Many field camps are composed of investigators from several different universities, blurring the lines of who is responsible to investigate reported incidences. b) Individual universities develop policies mainly based on the experiences of young students living in dormitories on a relatively safe campus; they are ill-equipped to investigate allegations in field conditions in Antarctica, for example. Individual universities cannot be expected to develop policies for unique situations that may only apply to a miniscule proportion of their employees.</p>	<p>Thank you for your thoughtful comment.</p>
<p>NSF outline clear procedures and jurisdiction for reporting and investigation of incidences of abuse during NSF-funded research campaigns in the field and on ships.</p>	<p>NSF thanks you for your comment and for raising this important issue. NSF's new term and condition explicitly applies to PI conduct whether at the awardee institution, on-line, or conducted outside the organization, such as at field sites, facilities, or conferences/workshops." NSF's Proposal and Award Policies and Procedures Guide (PAPPG) will contain in the 2019 version, a new requirement for NSF-sponsored conferences which stipulates that proposers must have a policy or code-of-conduct that addresses sexual harassment, other forms of harassment, or sexual assault, and that includes clear and accessible means of reporting violations of the policy or code-of-conduct. This policy or code-of-conduct must be disseminated to conference participants prior to attendance at the conference as well as made available at the conference itself. NSF is encouraging awardees who use NSF award funds to send individuals to field stations, vessels, summer schools, etc., to implement best practices to ensure the safety of individuals and provide reporting mechanisms. NSF may reconsider providing funding for research and education activities at particular facilities if they are unable to provide a safe, harassment-free environment.</p>
<p>NSF develop a singular and enforceable code of ethical conduct that all scientists working under all auspices of the USAP will read, understand, and sign.</p>	<p>Thank you for your thoughtful comment.</p>
<p>A major focus of Title IX and Title VII guidelines is retaliation. Because retaliation can be vetted through the scientific review process over which individual universities have no authority, NSF should develop a clear set of policies that minimizes the chances for respondents to review complainants' and witnesses' proposals for scientific funding.</p>	<p>Thank you for your thoughtful recommendation.</p>

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<p>The new policy empowers the NSF to address some of the common contributing factors to the persistence of harassment within science. We support enabling the NSF to substitute a PI or co-PI for findings/determinations that demonstrate a violation of awardee codes of conduct, policies, regulations, or statues relating to sexual harassment, other forms of harassment, or sexual assault, or when the PI or co-PI is placed on administrative leave for findings or investigations of such violations. That NSF can substitute a PI or co-PI may reduce awardee institution reticence to report over concerns of losing a substantial funding award or negatively impacting the careers of collaborators and trainees, especially students, of a perpetrator. The consequences of allowing any perpetrator’s harassing behavior to continue are potentially far more damaging to the careers and well-being of their collaborators and trainees (even those not directly the targets). The perceived value of a perpetrator’s scientific contribution should not be a shield from consequences for behavior and actions. We urge the NSF to be discerning in selecting the substitute, as the same culture of abuse and/or discrimination could be maintained by others within a research group or organizational unit. As a professional society, the AAS is also keenly aware of the “pass-the-harasser” phenomenon, wherein the findings of violations by a PI or co-PI are left behind when they change institutions, allowing the pattern of behavior to continue. Requiring institutions to report findings at the federal funding agency level can subvert this phenomenon, which is a challenge for institutions to address individually.</p>	<p>Thank you for your comment. In the event NSF would be required to approve a substitute PI or co-PI, NSF would adhere to the highest standards in its review.</p>
<p>Broadly, application of this new policy must be done with the knowledge that victims of different and/or intersecting marginalized identities – e.g., women and nonbinary people of color, people with disabilities, and sexual and gender minorities – can and do experience harassment and sexual misconduct differently, more often, and/or of a more severe nature. Further, the AAS recognizes that, with potentially higher stakes – consequences at the funding agency level – comes higher risks to victims and other reporters of misconduct. The NSF should carefully consider how to mitigate both short- and long-term retaliation against complainants or damage to their careers.</p>	<p>Individuals have the option to file a complaint of sexual harassment or retaliation by contacting NSF’s Office of Diversity and Inclusion (ODI). Currently, complaints may be filed by contacting ODI at (703) 292-8020, or ProgramComplaints@nsf.gov.</p>
<p>We also support the NSF’s efforts to provide enhanced Web resources to consolidate policies, procedures and promising practices, and the AAS can help propagate the resources throughout the astronomy community via channels like our bi-annual astronomy department chairs meetings and Society workshops and conferences. We challenge the NSF to further support and develop policies and practices that moves the conversation from a compliance focus towards substantive, systemic change. Evidence-based policies and practices can prevent sexual harassment from happening in the first place by fundamentally changing how we talk about it and the culture around consent and professionalism in the scientific workplace.</p>	<p>Thank you for your thoughtful comment.</p>

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<p>Sexual harassment, bullying, and other forms of discrimination are not new to science, or even society at large. They are, however, enabled within science by the combination of academic power dynamics, organizational tolerance of harassment, and lack of diversity. Cultural and structural changes are required at every level and by every stakeholder community of the scientific enterprise. The AAS strongly recommends a common multi-agency policy that applies to all federally funded awards. The AAS would gladly lend its support in developing such a multi-agency policy that builds from this new NSF policy, and we encourage continued involvement of the various stakeholders.</p>	<p>Consistent with its authorities, NSF has developed a new award term and condition to help ensure a safe research environment. A safe research environment for award personnel is, in NSF's view, essential to the continued progress of science and the fulfillment of our mission. NSF welcomes the opportunity to work with other science agencies in tackling difficult issues facing the scientific community such as sexual harassment.</p>
<p>"During the Performance of Award Activities" We seek clarification on the interpretation of "during the performance of award activities" when determining whether or not a particular finding/determination, or determination that administrative leave is necessary, needs to be reported. For example, if the award period has ended, is reporting required? If the determination relates to behavior during a pre-award activity (that is, related to the award, but before the official start date of the award), is reporting required? If the determination related to behavior on the part of the PI or Co-PI, but the complainant was not involved with the award and/or the behavior did not occur during an activity related to the award, is reporting required?</p>	<p>The new term and condition will be effective for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, this means that any finding/determination or imposition of administrative leave/administrative action made on or after the start date of an award or funding amendment subject to the new term will invoke the new notification requirements. The reporting requirement applies to any complaint arising out of activity or behavior committed during the award performance period, regardless of whether it specifically occurred during the performance of award activities.</p>
<p>Effective Date. We seek confirmation that the reporting requirement will apply only to findings/determinations, and to determinations of administrative leave, made on or after the effective date, and not to prior determinations made relating to an ongoing award or to a PI or Co-PI of an ongoing award.</p>	<p>The new term and condition will be effective for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, this means that any finding/determination or imposition of administrative leave/administrative action made on or after the start date of an award or funding amendment subject to the new term will invoke the new notification requirements.</p>
<p>Other Forms of Harassment. We seek clarification of the term "other forms of harassment." Alternatively, we suggest replacing the term "other forms of harassment" with "unlawful harassment."</p>	<p>NSF has revised the term and condition to include a new definition of "other forms of harassment" which reads as follows: "Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders."</p>
<p>Confidentiality. We are concerned about issues relating to confidentiality in four areas. The first relates to personal information that would be included in reports to NSF. Institutional systems for managing awards are visible to individuals who may not have a need to know with respect to certain sensitive information in the reports which will be contained in the systems. Also, it is recommended that the security and confidentiality of the reports to NSF be protected by using a secure NSF web portal, rather than an NSF email, for receiving reports from institutions. The second relates to protecting the complainants, whose professional positions may be compromised as a result of bringing allegations forward, despite best efforts by institutions to afford them whistleblower protections. The third relates to maintaining confidentiality in order to protect the reputation of the PI or Co-PI who is under investigation or is determined not to have violated sexual harassment, sexual assault or other harassment policies. The fourth relates to maintaining the confidentiality of the institutional processes used in making determinations, as appropriate, in order to preserve the integrity of those institutional investigative processes.</p>	<p>NSF recognizes the sensitivity of the information that may be contained in the notifications and the need to limit exposure of this information on grant management systems. NSF has developed a secure mechanism by which the notifications will be routed directly to the Office of Diversity and Inclusion, which will limit access to only those NSF personnel with an express need to know.</p> <p>NSF also has revised the term and condition to make clear to those submitting notifications not to include names other than the PI or co-PI.</p>

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<p>Processing of Reports by NSF. We seek information on the procedures NSF will follow in response to a report made by an institution. For example, will receipt of the report be acknowledged? Will NSF assess the report and inform the institution of its assessment within a certain time frame?</p>	<p>Receipt of submitted notifications will be acknowledged. NSF's actions, if any, with respect to the notification will depend on the details provided in the notification, and the institution's proposed further actions, if any.</p>
<p>Timing of Reports. We seek clarification relating to the time at which reports are due to NSF. Some institutions have an appeal process embedded in policy. Would the report of a determination/finding be due at the time the institution makes the determination/finding or at the time appeals by the PI or co-PI or complainants, if any, have been reviewed and settled?</p> <p>Due to the serious nature and potential consequences of a determination/finding or a determination of administrative leave, we believe that 7 business days may not provide sufficient time for all parties involved to communicate internally and take the actions necessary to manage the practical consequences in advance of the NSF, an external entity, receiving sensitive internal information. We recommend lengthening the notification period to 30 calendar days, and holding the institution to existing requirements regarding the management and stewardship of NSF research grants and cooperative agreements, especially as they relate to interruptions in a PI's or co-PI's ability to continue directing research under an award.</p>	<p>Based on comments received, NSF is changing the reporting time frame in the revised term and condition to ten business days. The proposed term and condition now defines Finding/Determination as "The final disposition of a matter involving sexual harassment or other form of harassment under organizational policies and processes, to include the exhaustion of permissible appeals exercised by the PI or co-PI, or a conviction of a sexual offense in a criminal court of law."</p>
<p>Conflicts with Other Privacy Regulations. In the event that compliance with the reporting requirement would conflict with other federal or state regulations, such as FERPA or individual state public records laws, we seek guidance on how such conflicts might be resolved. That is, how should the order of precedence be determined?</p>	<p>NSF does not view the notification requirement as being in conflict with other federal privacy laws or regulations, such as FERPA. With regard to state laws and regulations, many state privacy laws contain language allowing for information disclosure to federal agencies, and if there were to be a conflict, conflict of laws doctrines would apply.</p>
<p>Subrecipient Situations. We seek clarification on the procedures that would be employed when a subrecipient institution has made a finding/determination or a determination of administrative leave. Specifically, how will NSF, the prime awardee and the subrecipient institution manage the reporting and review responsibilities without compromising confidentiality with respect to the PI or co-PI, the complainant, and the institutional interests involved? What are the respective roles and responsibilities of the prime awardee institution and the subrecipient institution with respect to reporting and to management of the award?</p>	<p>The Foundation has revised the requirements specified in the term and condition to require subawardees to report notifications regarding any co-PI directly to NSF. This does not negate that appropriate communication must also be provided to the prime organization.</p>