**National Science Foundation • Office of Inspector General**
4201 Wilson Boulevard, Arlington, Virginia 22230

December 1, 2012

Dear Colleague:

This letter describes the procedures followed pursuant to the National Science Foundation (NSF) Research Misconduct regulation. Consistent with Office of Science and Technology Policy's government-wide guidance, "research misconduct" is defined in a regulation that appears in the Code of Federal Regulations (CFR) at Title 45, Part 689.[1]

NSF's regulation defines research misconduct as fabrication, falsification, or plagiarism in proposing or performing research funded by NSF, reviewing research proposals submitted to NSF, or in reporting research results funded by NSF. This definition applies to proposals submitted to all fields of science, engineering, mathematics, and education. The definition is not intended to elevate ordinary errors in research to the level of research misconduct. Nor does it contemplate that NSF OIG will act as an arbitrator of personal disagreements or technical and philosophical disputes between researchers. Neither will we investigate matters that do not involve NSF.

Complainants should report allegations to the Office of Inspector General (OIG) or to the appropriate institutional official. Institutions aware of substantive allegations of NSF-related misconduct are required to notify OIG.

## *Allegations Reported to OIG*

When reporting allegations, complainants should inform OIG rather than a program office. If Program Officers become aware of allegations of misconduct, NSF policy requires them to forward such allegations to the OIG for assessment.

### THE INQUIRY

When we receive an allegation, we first determine whether it meets the definition of research misconduct and whether the alleged research misconduct is connected with an NSF

---

[1]NSF's current regulation defining "misconduct" was implemented on April 17, 2002. NSF's previous definition of "misconduct" in science and engineering—(1) fabrication, falsification, plagiarism, or other serious deviation from accepted practices in proposing, carrying out, or reporting results from activities funded by NSF; or (2) retaliation of any kind against a person who reported or provided information about suspected or alleged misconduct and who has not acted in bad faith—was adopted in July 1987, and revised in May 1991. Research misconduct alleged to have occurred before April 17, 2002 is investigated and adjudicated using NSF's previous definition.

activity—it is not enough for the alleged research misconduct to have occurred in an institution receiving NSF funds. If we lack jurisdiction, we may forward the allegation to the appropriate agency or institutional official for resolution. After we establish NSF jurisdiction in a matter, we conduct an inquiry, which involves basic fact-gathering to determine whether an allegation has sufficient substance to warrant an investigation.[2] Toward this end, we often send an inquiry letter to the individual who is the subject of the allegation. The letter:

- states that we have received an allegation about the individual and describes the allegation;
- requests information about the allegation that assists our understanding and assessment;
- informs the individual we are conducting an inquiry, and our office has not yet notified the individual's institution;
- informs the subject of his or her rights under NSF's research misconduct regulation and the Privacy Act; and
- establishes a deadline by which we expect a reply and includes the name, telephone number, and email address of a person in our office to whom questions can be addressed.

The subject's response to our initial letter is critical in determining our course of action. If we receive a satisfactory explanation, we declare the matter closed and inform the subject and the source of the allegation of our decision. By limiting our initial contact to the subject, we seek to restrict the spread of unfounded accusations. If, after reviewing the evidence and the subject's response, we determine the allegation is substantive, we usually refer the allegation to the subject's institution for investigation.

## THE INVESTIGATION

An investigation is a formal development, examination, and evaluation of relevant facts to determine whether research misconduct has occurred and, if so, to assess its gravity and to propose appropriate action. Before our office conducts its own investigation, we usually ask the institution to conduct an investigation and provide us with its evidence and conclusions. When we refer an allegation to an institution, we usually advise the Authorized Organizational Representative that we have an allegation involving one of its employees, and we ask the institution to conduct an investigation. If the institution agrees to conduct an investigation, we write a letter to the institution's research misconduct official describing the results of our inquiry, including the allegation and the subject's response. In a small number of cases, for example, if we believe there is unmanageable conflict of interests, we will not refer an investigation to the institution. In these instances, we immediately proceed with our own investigation.

An institution is allowed 180 days to conduct an investigation and report its findings to us. The report must include:

- a description of the allegation(s) investigated (including any additional allegation(s) discovered in the course of the investigation);

[2] In instances where the institution may be better suited to conduct the inquiry or if an institution notifies us it has initiated an inquiry, we will usually defer our inquiry until the institution has completed its proceeding and provided its inquiry report.

- the *curriculum vita* for each individual responsible for conducting the investigation;
- the methods and procedures used to gather information and evaluate the allegation;
- a summary of the records compiled;
- a statement of the findings with the reasoning and specific evidence supporting those conclusions; and
- a description and explanation of any actions recommended and/or imposed by the institution.

We carefully review each investigation report for accuracy and completeness in deciding whether to accept its conclusions. We can accept an institution's report in whole or in part, request additional information, or initiate our own independent investigation.

If we conclude that research misconduct **did not** occur, we will close the case and notify the subject and the complainant. If we conclude research misconduct **did** occur, we develop our own investigation report. This report includes recommended actions for NSF management. We offer the subject an opportunity to respond to a draft version of our report. A subject's comments or rebuttals receive full consideration and may lead to a revision of the investigation report before it is submitted to NSF's Deputy Director for adjudication.

## FINDINGS AND ACTIONS

OIG does not make findings or take actions, but rather makes recommendations to NSF's Deputy Director for findings and actions. If NSF finds that research misconduct did occur, it may take action to protect the interests of the Federal government (in addition to any action the institution may take).

Actions that NSF management can take, in response to a finding of research misconduct, fall into three groups (these examples are not exhaustive). First, NSF can send a letter of reprimand to the individual or institution involved, can set conditions on NSF awards that affect the individual or institution involved, or can require special certifications or assurances of compliance. Second, NSF can place restrictions on activities or expenditures under present and future awards. Third, NSF can suspend or terminate an active award, or can initiate an action to debar an individual or institution from receiving awards from any agency of the Federal government, and from working under any other Federal awards.

In deciding what recommendation to make, we consider:

- the severity of the research misconduct;
- the level of intent with which the act was committed;
- whether it was an isolated event or part of a pattern;
- its impact on the research record, research subjects, institutions or public welfare; and
- other relevant circumstances.

## *NSF Management Review and Disposition*

When our investigation report is complete, we send it to the Deputy Director of NSF for adjudication. If the Deputy Director finds that research misconduct has occurred and decides to take action, NSF will provide a notice of the proposed action and information about appeal rights directly to the individual or institution involved. The Deputy Director's decision can be appealed to the Director of NSF.

Alan F. Boehm
Assistant Inspector General for Investigations
Office of Inspector General
National Science Foundation
4201 Wilson Boulevard
Arlington, VA 22230
(703) 292-7100
Hotline: (800) 428-2189
Email: oig@nsf.gov