



National Science Foundation • Office of Inspector General
2415 Eisenhower Avenue, Alexandria VA 22314

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Dear Colleague:

This letter describes the procedures followed by the National Science Foundation (NSF) Office of Inspector General (OIG) pursuant to the NSF Research Misconduct regulation, Title 45 Code of Federal Regulations Part 689.¹ Consistent with the Office of Science and Technology Policy's government-wide guidance,² "research misconduct" is defined in the NSF regulation 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."³ It does not cover matters that do not involve NSF. This definition applies to proposals submitted and awards received in all fields of science, engineering, mathematics, and education. The definition does not include ordinary errors in research, nor does it contemplate that NSF will act as an arbitrator of personal disagreements or technical and philosophical disputes between researchers, such as authorship disputes.

A finding of research misconduct requires that the alleged act: (1) meets the definition of research misconduct and implicates NSF jurisdiction; (2) be a significant departure from accepted practices of the relevant research community; and (3) be committed culpably, *i.e.*, intentionally (purposefully), or knowingly, or recklessly.⁴ The evidentiary standard by which all elements must be proven is preponderance of the evidence.⁵

Complainants may report allegations or provide information to us via our web intake page at <https://oig.nsf.gov/contact/hotline>. When reporting allegations to NSF, complainants should inform us rather than NSF Program Officers or other NSF officials. If Program Officers become aware of allegations of research misconduct, NSF policy requires them to forward such allegations to us for assessment. NSF Program Officers play no role in the evaluation of allegations of research misconduct. Complainants may also report allegations to the appropriate institutional official, who is usually designated the Research Integrity Officer (RIO). Regardless of the office to which an allegation is reported, awardee institutions bear primary responsibility for addressing alleged research misconduct.

¹ <https://oig.nsf.gov/sites/default/files/document/2021-08/45-CFR-689.pdf>

² <https://www.govinfo.gov/content/pkg/FR-2000-12-06/pdf/00-30852.pdf>

³ 45 C.F.R. § 689.1(a).

⁴ We explain the degrees of intent at <https://oig.nsf.gov/sites/default/files/document/2022-11/Intent.pdf>.

⁵ 45 C.F.R. § 689.2(c).

Allegations Reported to Institutions

When an institution receives a research misconduct allegation, it should promptly initiate an inquiry to determine whether the allegation has substance and is connected with an NSF activity. If an institution concludes the allegation has substance and has a nexus to NSF, it is allowed 90 days to conduct an inquiry and report its findings to us; if the inquiry is delayed beyond 90 days, the institution should notify us.⁶ If an institution completes an inquiry and concludes the allegation is without substance or has no nexus to NSF, it is not required to notify us.

Allegations Reported to OIG

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 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, the next step is to ensure an inquiry is conducted. An inquiry involves basic fact-gathering to determine whether an allegation has sufficient substance to warrant an investigation.

The Inquiry

In instances where we determine the awardee institution seems better suited to conduct the inquiry (typically allegations of data falsification/fabrication), or if an institution notifies us it has already initiated an inquiry, we will usually defer our inquiry until we receive the institution's inquiry report. If an institution is conducting an inquiry with multiple allegations, then as soon as it determines one allegation warrants an investigation, it should conclude the inquiry and open an investigation into all allegations. Similarly, if an institution receives credible evidence supporting an allegation, such as from us or from a journal, it should initiate an investigation rather than an inquiry.

If the institution is not yet involved and the allegation is plagiarism, we generally send an inquiry letter to the individual who is the subject of the allegation. The letter:

- states that we have received an allegation involving the subject and provides evidence related to the allegation;
- informs the subject that 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;
- requests information about the allegation that could assist our understanding and assessment; and
- establishes a deadline by which we expect a reply and includes contact information for a person in our office to whom questions can be addressed.

⁶ Notifications should be sent to the OIG Director of Research Integrity & Administrative Investigations, Dr. Aaron Manka, at amanka@nsf.gov.

The subject's response to our initial letter is critical in determining our next course of action. If we receive a satisfactory explanation, we close the matter and inform the subject and the complainant of our decision. By limiting our initial contact to the subject in plagiarism cases, we seek to restrict the spread of unfounded accusations. After reviewing the evidence and the subject's response, if our inquiry determines the allegation is substantive, we usually refer the allegation to the awardee 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 significance and to propose appropriate action. Before our office conducts its own investigation, we usually ask the awardee institution to conduct an investigation and provide us with its evidence and conclusions. When we refer an allegation to an institution for investigation, we usually advise the RIO that we have an allegation involving one of its employees or students, and we ask the institution to conduct an investigation. If the institution agrees to conduct an investigation, we write a letter to the RIO describing the results of our inquiry, including evidence about the allegation and the subject's response.⁷ We also prefer to have our staff meet with the RIO, investigation committee, institution attorneys, and other involved staff to make sure our regulations and process are understood, and vice versa. In a small number of cases — for example, if we believe there is an unmanageable conflict of interests — we will not refer an investigation to the awardee institution; in these instances, we 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;
- the methods and procedures used to gather information and evaluate the allegation(s);
- a summary of the records compiled, including summaries or transcripts of interviews;
- 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 investigation.

If we conclude that research misconduct did not occur, we will close the case, notify the subject of our conclusion, and notify the complainant and the institution that the case is closed. If we conclude research misconduct did occur, we prepare our own investigation report, including recommended actions for NSF management. We offer the subject an opportunity to respond to a draft version of our report. The subject's comments or rebuttals receive full consideration and

⁷ We also request the curriculum vitae for each individual responsible for conducting the investigation.

may lead to a revision of the investigation report before we submit it to NSF management for adjudication.

Findings and Actions

OIG does not make findings or take actions, but rather makes recommendations to NSF management 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; set conditions on NSF awards that affect the individual or institution involved; or 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, for a period of time. In deciding what recommendations to make, we consider:

- the severity of the research misconduct;
- the degree 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 NSF management for adjudication. If NSF management finds that research misconduct has occurred and decides to take action, NSF management will provide a notice of the proposed action and information about appeal rights directly to the individual or institution involved. After NSF management has fully adjudicated the matter, we will close the case and notify the complainant and the institution of the case closure.



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