



Frequently Asked Questions (FAQs)
Regarding NSF's Award Term and Condition Entitled, "Notification Requirements Regarding Sexual Harassment, Other Forms of Harassment, or Sexual Assault"
February 3, 2021

Additional questions regarding the notification term and condition should be submitted to sexualharassmenttandc@nsf.gov.

1. How does the new term and condition impact Title IX regulations?

The new notification term and condition does not impact Title IX regulations. The new term and condition is distinct from Title IX regulations.

2. Does the notification requirement apply even if the actions of the PI or co-PI leading to the findings/determinations or to administrative leave/administrative action occurred outside the scope of the NSF award?

Yes, the notification requirement applies even if the actions of the PI or co-PI leading to findings/determinations, placement on administrative leave, or the imposition of administrative action(s) occurred outside the scope of the NSF award.

3. Does the term and condition cover conduct that occurs prior to the effective date of the term and condition?

Yes, the new notification term and condition covers conduct of a PI or co-PI that occurred prior to the effective date of the term and condition if the finding/determination or imposition of administrative leave/administrative action occurs after the term and condition becomes effective and if the award on which the individual is the PI or a co-PI is subject to the term and condition. The new notification term and condition will apply to new awards and any funding amendments made on or after the effective date of the term and condition.

4. Under what circumstances would NSF take action to remove a PI or co-PI from awards?

Action to remove a PI or co-PI only will occur after consultation with the awardee organization, and after considering the safety and security of personnel supported by the NSF award, the overall impact to the NSF-funded activity, the continued advancement of taxpayer investments in science and scientists, and whether the awardee organization has taken appropriate actions to ensure the continuity of science and continued award progress.

5. Does NSF have a process for investigating allegations reported directly to NSF?

NSF has a process to address allegations reported to NSF. NSF's Office of Diversity and Inclusion (ODI) handles this process. Complaints can be forwarded to ProgramComplaints@nsf.gov.

6. How is NSF addressing sexual harassment, other forms of harassment, or sexual assault that occurs off campus, such as at field sites, facilities, or conferences/workshops?

NSF's ODI has developed a website that contains examples of promising practices, codes of conduct, and policies that may be useful to organizations. In addition, NSF's revised [Proposal and Award Policies and Procedures Guide \(PAPPG\)](#) that will become effective on February 25, 2019, contains [a new policy statement in Chapter II.E.7., Conference Proposals](#), that will require NSF-sponsored conference awardee organizations to have a policy or code of conduct that addresses sexual harassment, other forms of harassment, and sexual assault. The policy further requires that the awardee organization establish clear and accessible means for reporting violations that occur at conferences. This policy or code of conduct must be disseminated to all participants in advance of the event. In addition, NSF is encouraging awardee organizations who use NSF award funds to send individuals to field stations, vessels, summer schools, etc., to implement promising practices to ensure the safety of individuals, to include providing clear reporting mechanisms.



7. Does the term and condition entitled “Notification Requirements Regarding Sexual Harassment, Other Forms of Harassment, or Sexual Assault” (“Notification Term and Condition”) require notification if a PI or co-PI engages in harassment other than or in addition to sexual harassment?

Yes, the Notification Term and Condition addresses “other forms of harassment” which includes but is not limited to harassment based on ethnicity, race, gender, or disability. The Notification Term and Condition provides that a grantee is required to notify NSF of any finding/determination regarding a PI or any co-PI that demonstrates a violation of grantee 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 PI or any co-PI is placed on administrative leave or if any administrative action has been imposed on the PI or any co-PI by the grantee relating to any finding/determination or an investigation of an alleged violation of grantee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault. The phrase “other forms of harassment” includes but is not limited to harassment based on ethnicity, race, gender, or disability.

8. How is confidentiality maintained — who sees the information that an awardee organization reports to NSF?

Notifications must be submitted electronically via a secure web mechanism that will transmit the information directly to NSF's ODI, as opposed to other reporting requirements that are contained in NSF's terms and conditions which direct the information to the Program Officer or the Division of Grants and Agreements. Only ODI and other NSF staff with a specified need to know (e.g., Office of the General Counsel, Policy Office, and program staff, as applicable), will have access to the information upon release by ODI. The information will not be available in NSF corporate systems such as [Research.gov](#) or [FastLane](#).

9. What about other personnel on grants who might be impacted by reductions in award grant funding based on PI or co-PI actions?

NSF very much appreciates that personnel other than the PI or co-PI are impacted by reductions in award

funding. NSF will consider the continued advancement of the research and researchers in making any decisions about changes to award operations.

10. What is NSF doing to prevent PIs from retaliating against complainants?

NSF awardee organizations and their staff, including PIs and co-PIs on NSF funded awards are prohibited by law from retaliating, harassing, coercing, or taking any adverse action against individuals who filed a complaint or participated in a discrimination, harassment, or retaliation investigation. NSF's ODI investigates complaints of retaliation. To file a complaint, contact 703-292-8020 or ProgramComplaints@nsf.gov.

11. Why do the notification requirements only apply to new awards and funding amendments on existing awards and not all currently active NSF awards?

In implementing this new notification 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 awardee organizations are fully aware of new award requirements prior to the application of any new terms and conditions.

12. Please provide clarification regarding the definition of "any administrative action." Our institution uses a variety of interim measures prior to initiating an investigation or while an investigation is taking place, when the PI or co-PI and the complainant work in the same lab or otherwise work together or in close proximity, to ensure safety and reduce the opportunity for intended or unintended contact. These interim measures include but are not limited to no-contact orders, alternate work schedules, telework, or assigning the complainant a new supervisor/mentor/evaluator. Do such interim measures meet the definition of an "administrative action?"

Interim or other measures taken by the awardee organization at the beginning of an investigation or that are in place during an investigation are reportable to NSF as an "administrative action" under NSF's new notification term and condition. This term and condition defines Administrative Leave/Administrative Action as " Any temporary/interim suspension or permanent removal of the PI or co-PI, or any administrative action imposed on the PI or co-PI by the awardee organization 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." (emphasis added). The term and condition goes on to state that awardee organizations are required to notify NSF "if the PI or any co-PI is placed on administrative leave or if any administrative action has been imposed on the PI or any 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.

13. Our institution is working to finalize our process to ensure we are in compliance with NSF's new notification requirements on harassment. Our Title IX coordinator has a question about the policy's requirement that we notify NSF if a PI or co-PI is placed on administrative leave relating to an investigation of an alleged violation. Our coordinator notes that the institution

may place a person on an administrative leave while there is a pending investigation, even though the individual has not been found responsible. There is concern about reporting an individual who has not yet been found guilty of anything. Are we reading this policy requirement correctly?

Yes, you are reading the policy correctly. The awardee organization's AOR is required to notify NSF through use of the [Organizational Notification of Harassment Form](#), any temporary/interim suspension or permanent removal of the PI or co-PI, or any administrative action imposed on 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.

NSF is aware that in the instance described above, the awardee organization may have an investigation or inquiry underway and a finding/determination regarding whether the PI or co-PI is responsible for violating the organization's codes of conduct, etc., has not yet been made. The organization is required to notify NSF of the placement on administrative leave/imposition of administrative action so that NSF can properly monitor whether the PI or co-PI can manage the award or advise/supervise students, other personnel, etc., and whether a substitute PI/co-PI is needed so award activities may continue without adverse impact upon students and other personnel on the award.

14. To protect the privacy of the individuals involved, our University limits disclosure of harassment investigations and related interim measures to those who have a legitimate "need to know" the information; this does not typically include the Authorized Organizational Representative (AOR), as defined in NSF policies and systems. If the individuals who typically serve as AORs must submit the required reports, then the University will be compelled to broaden the scope of its disclosure of private and highly sensitive information. We request that NSF create a role separate for reporting under this new term and condition. In the meantime, do institutions have the discretion, as they may deem appropriate, to designate AORs for the limited purposes of reporting under this new term? Such official may include the Title IX or Equal Opportunity Officer.

NSF includes a definition of the Authorized Organizational Representative (AOR) in the [NSF Proposal and Award Policies and Procedures Guide \(PAPPG\), Introduction, D. Definitions & NSF-Grantee Relationships](#). All AORs must be able to carry out the functions and meet the responsibilities described therein.

At this time, the Foundation believes that the specific grant-related knowledge and expertise housed in the award organization'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 an administrative action. While NSF fully understands that this will be a process change for most organizations¹, the Foundation nevertheless believes that it is an important one to mandate. Organizations therefore, do not have the discretion to designate AORs for the limited purpose

¹ Previously, such coordination may have been limited to exchanges between the AOR and the Title IX Coordinator regarding the Nondisclosure Certification provided by the AOR at proposal submission, and, compliance with Federal statutes and regulations regarding Nondiscrimination during the administration of the NSF award.

of reporting under this new notification term. The Foundation may assess at a later date whether the term and condition should be revised to permit submission of the requisite notifications by other authorized officials at the awardee organization.

15. Is NSF's method for receiving notifications secure?

Yes. NSF has developed a dedicated, secure [Organizational Notification of Harassment Form](#) for use in transmitting notifications to the Foundation. The form is protected by NSF's established security mechanisms which are subject to annual independent assessment by the NSF Office of Inspector General. When an AOR submits the notification form, it is transmitted directly to NSF's ODI. Upon receipt of the notification, ODI will verify with the submitting organization that the organization has indeed submitted the notification. Once verification has occurred, NSF will review the information provided, and then consult with the AOR or designee to determine what, if any, action is appropriate, relying on the criteria outlined in the new notification term and condition.

ODI will not share the information provided in the form within the Foundation except on a strict "need to know" basis, such as with the Office of the General Counsel. Individual staff receiving the information on a "need to know" basis will receive specific instruction before accessing the information. The information provided in the form will not be accessible on NSF business systems.

16. Sometimes a PI will transfer to a new institution, but some of the PI's grants will remain at the former institution. The PI may be given affiliate status by the former institution to remain as the PI for the grants that did not transfer to the new institution. Are awardee organizations responsible for NSF harassment notification for former employees with PI/co-PI affiliate status if the harassment allegation is at their new institution? The former institution may not have knowledge of the harassment allegation at a new institution.

Awardee organizations are responsible for the PIs and co-PIs on their NSF awards. Under the new notification term and condition, awardees are not required to report allegations. Rather, they must report findings/determinations regarding a PI or co-PI that demonstrate a violation of *their* policies or codes of conduct, statutes, regulations or executive orders relating to sexual harassment, other forms of harassment, or sexual assault. Awardees organizations must also report if the PI or co-PI is placed on administrative leave, or if the awardee organization imposes any administrative action on the PI or co-PI relating to any finding/determination or 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.

17. What are the expectations for NSF notification reporting when a settlement has been negotiated that does not include a finding or admission of wrongdoing on behalf of the PI or Co-PI?

Awardee organizations are only required to report 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 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. Where there is a settlement agreement that does not involve a finding or admission of a violation as described above or placement on administrative leave, or administrative action, there is no requirement to notify NSF.

18. What are the expectations for NSF reporting when a PI or co-PI resigns during a harassment investigation? Complete the investigation to point of final determination?

Awardee organizations are required to notify NSF of any findings/determinations of sexual harassment, other forms of harassment, or sexual assault regarding an NSF funded Principal Investigator (PI) or co-PI, or of the placement of the PI or co-PI on administrative leave, or the imposition of any administrative action relating to harassment or sexual assault finding or investigation. If a PI or co-PI resigns, awardee organizations will need to replace the PI; therefore, NSF should be notified. Awardee organizations should follow their established procedures and policies regarding whether, in this type of situation (where the PI/co-PI resigns during the investigation) the investigation is terminated or is completed through to a final determination.

19. What are NSF's expectations for removal of PIs? At what point should a PI be removed from an NSF grant, or is this an institutional decision?

Upon receipt of the notification, ODI will verify that the awardee organization has indeed submitted the notification. Once this verification step has occurred, NSF will review the information provided, and then consult with the AOR or designee to determine what, if any, action is appropriate, relying on the criteria outlined in the new notification term and condition. If it is determined that substitution or removal of the PI/co-PI is necessary, the process for requesting a change in PI/PD, or co-PI/co-PD identified in the [NSF Proposal and Award Policies and Procedures Guide, Chapter VII.B., Changes in Project Direction or Management](#), must be followed. Awardee organizations are not permitted to unilaterally remove a PI/co-PI without prior NSF approval.

20. Where an interim action is imposed but there is no finding/determination, does NSF require a subsequent notification upon release of the interim action? At the COGR meeting, it was stated that another notification was not needed in this instance. However, wouldn't NSF want follow-up on a previous interim action notification that was finalized without a finding?

A second follow-up notification of the cessation of an interim action is not required under the new notification term and condition at this time. Upon receipt of a notification, NSF will enter into a dialogue with the awardee organization about the appropriate outcomes. NSF expects that in most cases the dialogue will continue in some form until all actions taken by the awardee organization are no longer in effect. Awardee organizations may at any time reach out to NSF with relevant updated information.

21. Since the NSF notification itself is FOIA-able, are any details of the award (e.g. PI/Co-PI name, award number) needed in the description?

The [Organizational Notification of Harassment Form](#) specifically outlines the information that must be submitted by the AOR to NSF. The award number and the name of the reported PI/co-PI are among the required data elements. The Foundation, however, is fully cognizant of 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. Importantly, NSF makes it 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.

22. If a harassment notification is made to NSF, is future funding affected? How long will future awards continue to be evaluated? Will NSF or the institution monitor for this?

No, at this time future funding is not affected. Future proposals will continue to be reviewed based on NSF's review criteria of intellectual merit and broader impacts.

23. Does the reporting institution receive any confirmation back when they file an on-line form that it was accepted by the system, and so that they can keep a copy for their own records to document that the action was properly reported?

The awardee organization will receive an encrypted email from ODI within 48 hours of receipt of the transmission, confirming that the notification was received. Before responding, ODI will verify that the awardee organization has indeed submitted the notification.

24. What about informal actions that may be taken outside of the institution's more formal reporting/investigation processes? For example, a department head verbally or via email instructs a faculty member to not be alone in the lab with any students while a complaint is being looked into – but this instruction is not a part of the formal investigation. Should that be reported as an administrative action?

If the verbal instruction is considered an administrative action even if not part of the formal reporting/investigation process, it must be reported to NSF. NSF's new notification term and condition defines Administrative Action as "any administrative action imposed on 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."

25. If an institution has a reportable action/finding, and the investigator in question has two NSF awards, one containing the new award term and condition and the other one that does not, should only the award number containing the new award term and condition be reported?

Yes, only the award that contains the new notification award term and condition should be reported to NSF.

26. Title IX officers were given instructions that for new awards there should be a look back for one year to report any administrative actions or findings from before the award period began. In the Federal Register the only reporting trigger is a new action or finding. Please clarify.

The reporting requirement covers conduct of a PI or co-PI that occurred prior to the effective date of October 22, 2018 of the new notification term and condition, if the finding/determination or imposition of administrative leave/administrative action occurs after the term and condition became effective and if

the award on which the individual is the PI or a co-PI is subject to the term and condition. The new notification term and condition will apply to new awards and any funding amendments made on or after the effective date of the term and condition.

27. The form does not have a user authenticated log-in mechanism. How does NSF ensure the information was submitted by the institution's AOR and is factual?

When information is submitted, NSF's ODI and those with a need to know will contact the AOR directly, based on data NSF already has, to follow up for clarification and to seek additional information. At this clarification stage, NSF will also be able to determine if a notification was fraudulently or falsely reported.

28. Do the notification requirements identified in the term and condition cover bullying?

The new notification term and condition 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." Whether this kind of harassment would be characterized as bullying would likely depend on the organizational policies or codes of conduct.

29. Has there been any consideration of sanctions for an institution that has, or develops, a record of multiple harassment incidents?

The new notification term and condition was not designed to be assessed based on the number of submissions by a given awardee organization. Awardees organizations are expected to report individual incidents that meet the requirements of the new term and condition and it is not held against awardees when they report multiple incidents. At this stage in the implementation of our new notification term and condition, the Foundation does not believe that multiple reporting of incidents should automatically be viewed negatively. Rather, it may reflect positive action taken by the organization to aggressively address the issue, including instituting a climate of safe reporting of such incidents.

NSF also believes that the new notification term and condition is complementary to the Title IX regulation, not a replacement and/or amendment. The NSF Title IX regulation is the legal authority for handling/addressing sexual harassment. The new notification term and condition focuses on the safety of all associated individuals on our grants and collaborative dialogues with the awardees to ensure the awards can be carried out as agreed upon in a safe environment.

30. Will NSF publish a list of harassment statutes, regulations and executive orders relevant to the term and condition?

Statutes, regulations and executive orders that are relevant will vary by jurisdiction and likely change over time. Awardee organizations should work with their respective general counsels' offices to decide whether a determination or action under a particular statute, regulation, etc. requires a notification to NSF under the new notification term and condition.