Update on the ACD Working Group Recommendations on Changing the Culture to End Sexual Harassment

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NIH Office of Extramural Research

Meeting of the Advisory Committee to the Director
June 10, 2021 (Virtual)

Disclosures: None
Overarching Themes

1. Transparency and Accountability in Reporting of Professional Misconduct, especially Sexual Harassment
2. Mechanisms for Restorative Justice
3. Safe, Diverse, and Inclusive Environments
4. System-wide Change

Rec 1.1 Create a parallel process to treat professional misconduct, including sexual harassment, as seriously as research misconduct

**Actions:**
- Extramural Integrity Team reviews all professional misconduct allegations
- Complaints involving over 300 individuals received, addressed

[Diagram of Allegation Review Process]

Rec 1.1 Amend current processes of reporting a change in PI status on an active NIH grant in cases where professional misconduct is any part of the reason for the change.

Actions:

- NOT-OD-20-124: requests to change should mention whether they are related to concerns about safety and/or work environments (e.g. due to concerns about harassment, bullying, retaliation, or hostile working conditions).

S
cusal harassment, including gender harassment, presents an unacceptable barrier that prevents women from achieving their rightful place in sci-
ence, and ruins society and the scientific enterprise of diverse and critical talent. As the largest single funder of biomedical research in the world, the U.S. National Institutes of Health (NIH) bears a responsibility to take action to put an end to this behavior. In 2010, the NIH called to bolster its policies and practices to address and prevent sexual harassment. This included new communication channels to inform the agency of instances of sexual harassment related to NIH-funded research. This week, the NIH announces a change that will hold grantees institutions and investigators ac-
countable for this misconduct, to further foster a culture whereby sexual harassment and other in-
appropriate behaviors are not toler-
ated in the research and training environment.

Last year, an Advisory Com-
mittee to the Director (ACD) of the NIH presented a report and recommendations to end sexual harassment. A major theme of this report was the need for increased transparency and accountability in the reporting of professional misconduct, especially sexual har-
assment. The cases of sexual ha-
residual, the key blame in the wake of the U.S. National Academies of principal investigator (PI) or the transfer of a grant by an NIH grantee institution. Two important areas required more attention: differentiating between instances where an institution removed a PI from a grant because of find-
ings or concerns of sexual harassment from other reasons (such as medical leave or job change); and preventing “passing the harasser” in which a scientist who changed institutions could evade the consequences of findings of sexual harassment.

To close these gaps, the NIH has issued new guidance to grantees that sets clear expectations for reporting to the NIH when a grantee institution has a finding of sexual harassment of a PI named on an NIH grant. The notice also makes it clear that the NIH expects its grant recip-
ients who request changes in either inves-
tigation or movement of a grant to a new recipient institution to promptly inform the agency, whether changes are related to concerns about safety and/or work environments (e.g., because of concerns about harassment, bul-
ting, retaliation, or hostile work-

ing conditions) (see https://grants. nih.gov/grants/guide/notice-files/ NOT-OD-20-124.html). This in-
cludes situations where a PI, or other senior personnel, are re-
named from a grant during the inves-
tigation of a serious allegation. The NIH will use such information in making decisions related to
Rec 1.3  Establish clear and transparent SOPs to respond to reports/findings of professional misconduct, including sexual harassment, or change in PI status in extramural labs.

- Action: Posted NIH process for handling allegations of sexual harassment on an NIH-funded project at a recipient institution

Rec 1.2 Establish a hotline and a web-based form for reporting sexual harassment and inappropriate behavior...

**Actions:**

- 2019: established web form and email address for anyone… to inform the NIH of harassment.
- 2021: established phone line
## Case Intake Since 2018

<table>
<thead>
<tr>
<th>Characteristic / CY</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total N (%)</td>
<td>31 (9.9)</td>
<td>107 (34.1)</td>
<td>106 (33.8)</td>
<td>70 (22.3)</td>
</tr>
<tr>
<td>Sexual Harassment</td>
<td>28 (90.3)</td>
<td>91 (85.0)</td>
<td>55 (51.9)</td>
<td>41 (58.6)</td>
</tr>
<tr>
<td>Other Harassment</td>
<td>2 (6.5)</td>
<td>7 (6.5)</td>
<td>22 (20.8)</td>
<td>20 (28.6)</td>
</tr>
<tr>
<td>Bullying</td>
<td>1 (3.2)</td>
<td>14 (13.1)</td>
<td>26 (24.5)</td>
<td>5 (7.1)</td>
</tr>
<tr>
<td>Racial Discrimination</td>
<td>1 (3.2)</td>
<td>9 (8.4)</td>
<td>9 (8.5)</td>
<td>16 (22.9)</td>
</tr>
<tr>
<td>Media Publicity</td>
<td>18 (58.1)</td>
<td>21 (19.6)</td>
<td>17 (16.0)</td>
<td>26 (37.1)</td>
</tr>
<tr>
<td>Self-Disclosure</td>
<td>2 (6.5)</td>
<td>8 (7.5)</td>
<td>16 (15.1)</td>
<td>5 (7.1)</td>
</tr>
</tbody>
</table>

Values are N(%)

2021 values through April 30
<table>
<thead>
<tr>
<th>Finding / Outcome</th>
<th>Sexual Harassment Only</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total N (%)</td>
<td>192 (61.1)</td>
<td>122 (38.9)</td>
</tr>
<tr>
<td>Letter to Institution</td>
<td>131 (68.2)</td>
<td>95 (77.9)</td>
</tr>
<tr>
<td>Formal Investigation</td>
<td>111 (57.8)</td>
<td>50 (41.0)</td>
</tr>
<tr>
<td>Title IX Referral</td>
<td>46 (24.0)</td>
<td>20 (16.4)</td>
</tr>
<tr>
<td>Allegation Substantiated</td>
<td>48 (25.0)</td>
<td>23 (18.9)</td>
</tr>
<tr>
<td>PI Removed</td>
<td>54 (28.1)</td>
<td>21 (17.2)</td>
</tr>
<tr>
<td>Other Grant Actions</td>
<td>22 (11.5)</td>
<td>5 (4.1)</td>
</tr>
<tr>
<td>Safety Actions</td>
<td>32 (16.7)</td>
<td>26 (21.3)</td>
</tr>
<tr>
<td>Left Institution</td>
<td>50 (26.0)</td>
<td>11 (9.0)</td>
</tr>
<tr>
<td>Removed from Peer Review</td>
<td>87 (45.3)</td>
<td>38 (31.1)</td>
</tr>
<tr>
<td>Closed or Resolved</td>
<td>163 (84.9)</td>
<td>105 (86.1)</td>
</tr>
</tbody>
</table>
**Rec 1.7:** NIH should require that meeting organizers put in place a code of conduct and develop mechanisms for reporting misconduct by attendees.

**Actions:**
- **NOT-OD-21-053:** Reiterated expectations that conference organizers employ strategies to prevent/mitigate effects [such as]:
  - Establishing codes of conduct, providing resources for support
  - Conducting conference climate surveys
- **Next:** Plans to foster safe, respectful, and inclusive environments (JIT)
Rec 1.8 Support research on procedures and policies that model and promote a positive climate that cultivates respect, civility, and safety

Action: NOT-OD-21-068; examples of research areas:

• *Educating the research community* about what sexual harassment is …
• *Interventions and policies that model and promote a positive climate* …
• *Interventions to reduce risk factors* for sexual harassment …
• *Intersectional approaches* that recognize [how] different forms of social identities … interact to influence the experience of the individual.
Rec 4.2: NIH should develop mechanisms to incentivize institutions that excel at promoting diversity and inclusion.

Action: “This prize will acknowledge and recognize transformative approaches, systems, projects, programs, and processes that have successfully enhanced and sustained gender diversity within an institution.”

NIH Prize for Enhancing Faculty Gender Diversity

NIH Prize for Enhancing Faculty Gender Diversity in Biomedical and Behavioral Science

- Applications closed March 2021, selections May 2021
- National forum to announce winners & disseminate successful strategies in Fall 2021
- Up to 10 winners, with each winning up to $50,000.

CHALLENGE DETAILS

- TOTAL CASH PRIZES OFFERED: $500,000
- TYPE OF CHALLENGE: Ideas
- SUBMISSION START: 09/10/2020 09:00AM ET
- SUBMISSION END: 04/16/2021 5:00 PM ET
Rec 4.3 Require/assist ongoing evaluations of the research environment’s safety, diversity, and inclusion

- April 20-21, 2021, NASEM workshop sponsored by NIH
- Approaches and strategies for evaluating and measuring the effectiveness of sexual harassment interventions … in order to assist institutions in transforming promising ideas into evidence-based best practices.

https://www.nationalacademies.org/event/04-20-2021/workshop-on-developing-evaluation-metrics-for-sexual-harassment-prevention-efforts
Develop and implement formal procedures for sharing relevant information about Title IX and sex discrimination concerns, including sexual harassment between NIH and Office of Civil Rights (OCR).

Source: https://www.gao.gov/assets/710/705422.pdf
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE FOR CIVIL RIGHTS
AND
NATIONAL INSTITUTES OF HEALTH

Sharing Information about Title IX Enforcement and Sex Discrimination Concerns at NIH Funded Universities

Memorandum of Understanding

- Established September 2020 in response to GAO recommendation
- Leverages NIH’s grants compliance authority and OCR’s civil rights compliance authority
- Regular staff level discussions and case referral
Case Example 1: Institutional Self Disclosure

- VPR requested a phone call with OER.
- Investigator violated the university’s sexual misconduct policy.
- VPR proposed a management plan with sanctions, including removing the individual from NIH grant activities...
- OER received an official letter documenting the plan.
- OER worked with the university to change the PD/PI.
- NIH removed the individual from peer review.
Case Example 2: Not So Fast…. 

- Complaint with link to a public report of sexual misconduct
- OER contacted the institution.
- Institution confirmed finding; investigator would be restricted from graduate students, but no restrictions on NIH-funded work.
- OER: if he cannot serve as a graduate student advisor, is NIH-funded research safe and high-quality?
- University decided to replace PI on NIH grants while he was restricted from training graduate students.
Case Example 3: Pass the Rogue

- Institution makes tentative finding, but does not finalize it
- Scientist chooses to resign, possible NDA
- Investigation stops without formal finding
- Scientist obtains offer from another (oblivious) institution
- First institution submits “relinquishing statement”
- NIH receives Type 7 application from new institution
Summary

• Developed and implemented “parallel process”
• > 300 cases, mix of sexual and other kinds of harassment
• Steps to address harassment at conferences
• Research and prize opportunities
• Ahead
  – Strengthen OCR connection (MOU signed)
  – Strengthen remedies at our disposal
  – Spread message, “Harassment is not tolerated …”
• OD: Larry Tabak, Alfred Johnson, Carrie Wolinetz, Anna Jacobs
• OER: Liza Bundesen, Patricia Valdez, Hiromi Ono, Paula Goodwin, Michelle Bulls, Kristin Ta, Megan Columbus, Melanie Showe, eRA team, colleagues
• OSP: Lyric Jorgenson, Amanda Field, Jennifer Plank-Bazinet
• ORWH: Janine Clayton, Lynn Morin