

Agency Perspectives
on Preventing Sexual
Harassment and
Bullying in the
Research Environment

October 20, 2022

PANELISTS:

Robert Cosgrove, National Science
Foundation

Jean Feldman, National Science
Foundation

Patricia Valdez, National Institutes of
Health

Candice Wright, U.S. Government
Accountability Office

Speakers

- Bob Cosgrove
 - Awardee Compliance Branch
 - Office of Equity and Civil Rights
 - (703) 292-8020
 - programcomplaints@nsf.gov

- Jean Feldman
 - Head, Policy Office
 - Division of Institution & Award Support
 - (703) 292-4573
 - jfeldman@nsf.gov

Agenda

- NSF Office of Equity and Civil Rights (OECR) Overview & Reporting Mechanisms for the Community
- Recap of NSF's harassment activities beginning in 2018
- Review of NSF's latest efforts to address harassment by topical area
- CHIPS & Science Act
- NSF US Antarctic Program- Sexual Assault/Harassment Prevention and Response (SAHPR) Report and Response
- Q&A

Why is this issue important to NSF?

- Safe and civil environments allow scientific ecosystems to thrive, while unsafe environments disrupt the entire scientific ecosystem, discouraging scientists – particularly early career scientists – harming their careers and scientific progress.
- NSF’s mission is to promote the progress of science; to advance the national health, prosperity, and welfare; and to secure the national defense; and for other purposes
- NSF recognizes that to enable scientists, engineers and students to work at the outermost frontiers of knowledge, the agency must be a role model for teamwork, fairness, and equity.
- Studies, in particular the landmark National Academy of Science, Engineering and Medicine report entitled, “Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine”, (released in June 2018) underscores that the intersection of sexual harassment and race has particular, significant impacts on the participation of persons of color.

Nondiscrimination and Civil Rights Compliance

- The role of the [Office of Equity and Civil Rights](#) (OECR) is to ensure that NSF awardee institutions comply with laws, regulations and executive orders that prohibit discrimination in federally funded programs and activities such as Title IX, which prohibits sex discrimination in education programs. ([Chapter XI, A. PAPPG](#)).
- OECR's Awardee Compliance Branch (ACB) has responsibility for the following activities:

Pre-Award Compliance	Done via submission of an electronic certification at the time of proposal submission.
Post-Award Compliance	Post-award compliance reviews are conducted by OECR to ensure awardee institution compliance with NSF civil rights regulations, provide meaningful, technical assistance to all awardees that helps strengthen their current compliance efforts, as well as identify and report on best practices.
Complaints of Discrimination	OECR also is responsible for processing complaints of discrimination under Title IX and other civil rights laws filed against NSF awardee organizations
Harassment Notification Term & Condition	OECR receives, evaluates and coordinates review and action on notifications submitted by awardees under this term & condition

Reporting Discrimination and Harassment to OECR

- OECR has an online complaint filing form <https://efiler.complaints.nsf.gov/etk-nsf-cr-prod/login.request.do> to receive complaints of unlawful harassment complaints prohibited by Title IX and other civil rights laws tied to receipt of NSF funding awards
- Complaints may be filed by participants in NSF-funded programs (students, faculty, staff etc.)
- Complaints filed by employees of awardee organizations are referred to the US Equal Employment Opportunity Commission
- Sexual harassment complaints must allege that awardee organization was made aware of the harassment but failed to take action to stop the harassment.
- US Department of Education changed their Title IX regulations in August 2020 and are expected to do so again in 2023. NSF has not changed its Title IX regulations

Title IX Discrimination and Harassment Investigations

- OEER does not investigate allegations of discrimination, harassment or retaliation that are not covered by Title IX or other civil rights laws
 - Such discrimination, harassment and retaliation may be covered by state and local laws or institutional codes of conduct and policies.
- If a Title IX violation is found in a complaint investigation (or a compliance review), Title IX requires that awardee institutions be first provided the opportunity to achieve voluntary compliance (propose remedies that are reviewed and accepted by OEER).
- If the awardee refuses or is unable to take corrective action to remedy the non-compliance found by OEER, NSF can ultimately withhold or revoke funding from the awardee organization until compliance is achieved.

Important Notice No. 144 on Harassment, dated February 8, 2018

- National Science Foundation (NSF) does not tolerate sexual harassment, or any kind of harassment, within the agency, at grantee organizations, field sites, or anywhere NSF-funded science and education are conducted.
- NSF is committed to promoting safe, productive research and education environments for current and future scientists and engineers.
- The Important Notice announced steps the Foundation would be taking to bolster our commitment to a safe research environment, including issuance of a new award condition that would require specific notifications to the Foundation.

Harassment Term and Condition Development and Implementation

- Proposed new notification requirements were published in the Federal Register for public comment for 60 days. NSF was pleased to receive input from institutions of higher education, scientific societies, for-profit organizations, faculty, students, etc.
- NSF hosted a Roundtable on Sexual Harassment with professional societies (including representatives from COGR, AAU, APLU) on July 24th, 2018 to discuss the new term prior to issuance.
- The final version of the new term and condition was posted in the Federal Register on September 21st, 2018.

Harassment Notification Term and Condition- Development and Implementation (Cont'd)

- The term and condition applies to all new awards and funding amendments to existing awards issued on or after October 22, 2018.
- Requires the Authorized Organizational Representative to notify NSF:
 - 1) of any findings/determinations regarding the PI/PD or co-PI/co-PD that demonstrate a violation of awardee codes of conduct, policies, regulations or statutes relating to sexual harassment, other forms of harassment, or sexual assault; or
 - 2) if the awardee places the PI/PD, or co-PI/co-PD on administrative leave or imposes an administrative action relating to a finding or investigation of a violation of awardee policies, codes of conduct, statutes or regulations relating to sexual harassment, other forms of harassment, or sexual assault.

Harassment Notification Term and Condition - Development and Implementation (Cont'd)

- Other personnel supported by an NSF award must also remain in compliance with awardee policies or codes of conduct, statutes, regulations, or executive orders. For any personnel not in compliance, the awardee must make appropriate arrangements to ensure both the safety and security of award personnel and the continued progress of the funded project. Notification of these actions is not required under this term and condition.

Procedures for Addressing Submitted Harassment Notifications

- All notifications must be submitted by the Authorized Organizational Representative (AOR) through use of the on-line entry form on the Office of Equity and Civil Rights(OECR) website: https://www.nsf.gov/od/oecr/notification_form.jsp
- All notifications are accessible only by members of the Harassment Notification Workgroup (BFA/Policy, Office of the General Counsel and OECR).
- OECR will contact the AOR identified in the notification to verify that the notification is valid and was submitted on behalf of the awardee organization. OECR also will outline the next steps in the process.
- OECR will conduct an initial review of the information contained in the notification to determine if:
 - 1) additional information is required from the awardee; and
 - 2) the notification requires consultation with other members of the Workgroup and/or consultation with the cognizant program.

Procedures for Addressing Submitted Harassment Notifications (Cont'd)

- If further discussion or fact-gathering is warranted:
 - OECR may contact the AOR to schedule a conference call between the Workgroup, program staff and awardee staff.
 - The purpose of the call will be to obtain information necessary for NSF to evaluate the awardee's ability to continue the award, based on the four factors identified in the Harassment Notification Term and Condition:
 - 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.

Procedures for Addressing Submitted Harassment Notifications (Cont'd)

- Members of the Workgroup and representative(s) from the cognizant program will review the information provided in the notification and obtained through any follow-up with the awardee. Based on the results of this review and evaluation of the four factors, the Foundation may determine that:
 1. the awardee is addressing the matter adequately and appropriately, with no further action currently needed by NSF; or
 2. make suggestions as to further steps the awardee should consider based on the 4 evaluation factors listed above; or
 3. assert its programmatic stewardship responsibilities and oversight authority 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.
- Upon making its determination, OECR will communicate back to the awardee, NSF's determination and recommendation.

Long-Term Disengagement (90-Day Rule) and the Harassment Notification Term & Condition

- PAPPG Chapter VII B.2.a. states:

“In the event the PI/PD or co-PI/co-PD will be disengaged from the project for a period greater than three months (e.g., sabbatical leave) but intends to return, arrangements for oversight of the project must be signed and submitted by the AOR via use of NSF’s electronic systems. This request must be submitted at least 30 days before departure or as soon as practicable after the prospective disengagement is known.”

- The Harassment Term & Condition does not eliminate this long-standing requirement.

Conferences and Travel Proposals

- Effective February 25, 2019, NSF began requiring organizations submitting conference proposals to have a policy or code-of-conduct that addresses sexual harassment, other forms of harassment, and sexual assault, and that includes clear and accessible means of reporting violations of the policy or code-of-conduct.
 - The policy or code-of-conduct must address the method for making a complaint as well as how any complaints received during the conference will be resolved. 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.
 - This expectation also is enforced by an award special term and condition.
- Effective October 4, 2021, NSF implemented a similar requirement for travel proposals funded by the Foundation. By signing the Cover Sheet, the AOR is certifying that prior to the proposer's participation in the meeting, the proposer will assure that the meeting organizer has a written policy or code-of-conduct that addresses sexual harassment, other forms of harassment, and sexual assault, and that meets the additional requirements stated above for conference proposals.

Postdoctoral Fellowships, Small Business Innovation Research (SBIR), Residential Experiences for Undergraduates(REU)

- Postdoctoral Fellowships to Individuals – NSF’s postdoctoral fellowship solicitations stipulate that the fellow must agree to abide by the affiliated institution’s policies or codes of conduct and to notify NSF if the fellow is subjected to any “administrative leave/administrative action,” or is the subject of any “finding/determination” relating to sexual harassment, other forms of harassment or sexual assault.
- SBIR Solicitation – Includes language to stipulate that all personnel supported by an NSF award must remain in full compliance with policies and/or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.
- REU Solicitation –Includes language that proposers should provide an orientation for all participants in the REU Site (REU students, faculty, postdocs, graduate students, other research mentors, etc.) to cover expectations of behavior to ensure a safe and respectful environment for all participants, and to review the organization's policy or code of conduct addressing sexual harassment, other forms of harassment, and sexual assault, including reporting and complaint procedures

NEW: Certification Regarding Safe and Inclusive Working Environments for Off-Campus or Off-Site Research

This certification requirement is expected to be effective in the next PAPPG in January 2023

For each proposal that proposes to conduct research off-campus or off site, the AOR must complete a certification that the organization has a plan in place for that proposal that describes how the following types of behavior will be addressed:

1. Abuse of any person, including, but not limited to, harassment, stalking, bullying, or hazing of any kind, whether the behavior is carried out verbally, physically, electronically, or in written form; or
2. Conduct that is unwelcome, offensive, indecent, obscene, or disorderly.
 - This plan should also identify steps the proposing organization will take to nurture an inclusive off-campus or off-site working environment (i.e. provide training)
 - Communications within team and to the organization should be considered in the plan, minimizing singular points within the communications pathway.
 - The process or method for making incident reports as well as how any reports received will be resolved should also be accounted for.

Certification Regarding Safe and Inclusive Working Environments for Off-Campus or Off-Site Research (Cont.)

- The organization's plan for the proposal must be disseminated to individuals participating in the off-campus or off-site research prior to departure.
- Proposers should not submit the plan to NSF for review.
- For purposes of this requirement, off-campus or off-site research is defined as data/information/samples being collected off-campus or off-site, including fieldwork and research activities on vessels and aircraft, and observatories and other facilities.

CHIPS and Science Act

Subtitle D—Combating Sexual Harassment in Science

- Purpose is to increase understanding of the causes and consequences of sex-based and sexual harassment, and to advance evidence-based approaches to reduce the prevalence and negative impact of such harassment.
- Provides for NSF awards to expand research efforts to better understand the factors contributing to, and consequences of, sex-based and sexual harassment and to examine approaches to reduce the incidence and negative consequences of such harassment.
- The Office of Science and Technology Policy will establish an interagency working group for the purpose of coordinating Federal research agency efforts to reduce the prevalence of sex-based and sexual harassment involving award personnel.
 - In consultation with outside stakeholders, the working group will develop a consistent set of policy guidelines for Federal research agencies. Guidelines will establish how awardees will report to Federal research agencies: sexual harassment investigations, findings and determination, and administrative actions imposed on award personnel resulting from investigations.
 - Also discusses that OSTP make sure guidelines and requirements are consistent with FERPA, include privacy protections, as well as other considerations for carrying out guidelines.
 - https://science.house.gov/imo/media/doc/the_chips_and_science_act.pdf

NSF US Antarctic Program (USAP)- Sexual Assault/Harassment Prevention and Response (SAHPR) Report and Response

- NSF's Office of Polar Programs SAHPR Report released in Summer 2022 is a needs assessment of the USAP relating to the prevention of and response to sexual harassment and assault in the USAP
- Upon release of the report the NSF Director took immediate action to establish the SAHPR Support Office in order (i) to provide all the necessary resources including on-the-ground personnel in Antarctica, to support deployed personnel on matters relating to sexual assault and harassment, and (ii) to remove any or all barriers as well as provide an independent line of reporting for victims of sexual assault/harassment matters in the USAP.
- NSF will also enact a multifaceted plan implemented by a task force with cross-agency membership from key NSF offices. to coordinate and integrate the initial operational and strategic elements of the agency response and action plan to combat sexual assault and harassment in the USAP.
- Immediate efforts include deployed victim support; operationalizing the response support services; updates to training and communications for USAP participants; physical safety/security updates to field facilities; and coordinating on-scene engagement during the 2022-23 field season

Questions?

- Any questions regarding NSF's term and condition or the notification requirements should be submitted to sexualharassmenttandc@nsf.gov.
- Any questions, comments or concerns regarding harassment, should be directed to NSF's OECR at programcomplaints@nsf.gov
 - If you do not receive an acknowledgement within 48 hours, please follow up to ensure OECR has received your communication.

NIH Perspective on Preventing Sexual Harassment and Bullying in the Research Environment

Patricia Valdez, Ph.D.

Chief Extramural Research Integrity Officer

NIH Office of Extramural Research (OER)

COGR

October 20, 2022



Supporting a Safe and Respectful Workplace at Institutions that Receive NIH Funding

NIH supports safe and respectful work environments that are free from harassment, including sexual harassment, discrimination, or other forms of inappropriate conduct that can result in a hostile work environment. Learn who to contact with questions or concerns, and what NIH's expectations are for institutions and the individuals supported on NIH-funded awards.

NIH's Commitment

NIH does not tolerate harassment or discrimination of any kind anywhere NIH-funded activities are conducted.

“At the most fundamental level, our mission is about the respect of human life, which should permeate all aspects of our lives and work. NIH is committed to ensuring a safe and respectful work environment at NIH and the institutions we fund, and will take action if a hostile work

environment is affecting NIH-funded research.”



Policy Topics

Supporting a Safe and Respectful Workplace

NIH Expectations, Policies, and Requirements


NIH Actions and Oversight

Find Help

Institutional Reporting

Definitions

Data

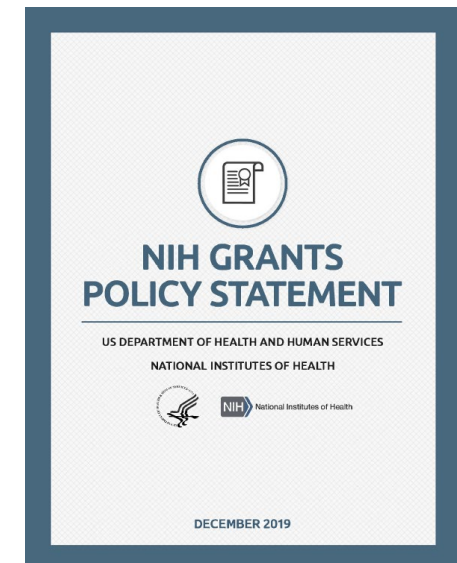
Resources to Evaluate Workplace Climate 

FAQs



Focus on Work Environment

- [NIH Grants Policy Statement Section 4](#): Public Policy Requirements, Objectives and Mandates
 - Safe and healthful working conditions
 - Work environments conducive to high-quality research.
 - Civil Rights Protections, Standards of Conduct
- Also, GPS Section [8.1.2.6](#) and [8.1.2.7](#).



The Consolidated Appropriations Act, 2022

Section 239: “The Director of the [NIH] shall hereafter require institutions that receive funds through a grant or cooperative agreement during fiscal year 2022 and in future years to notify the Director when individuals identified as a principal investigator or as key personnel in an NIH notice of award are removed from their position or are otherwise disciplined due to concerns about harassment, bullying, retaliation, or hostile working conditions. The Director may issue regulations consistent with this section.”

Implementation of Section 239

- [NOT-OD-22-129](#): Updated Requirements for NIH Notification of Removal or Disciplinary Action Involving Program Directors/Principal Investigators or other Senior/Key Personnel
 - Implementation of the Consolidated Appropriations Act, 2022 (Public Law 117-103), Division H, Title II, Section 239
 - Recipient institutions **required** to notify NIH when individuals identified as PD/PI or other Senior/Key personnel in an NIH notice of award are removed from their position or are otherwise disciplined by the recipient institution due to concerns about harassment, bullying, retaliation or hostile working conditions
 - Beginning July 9, 2022



“Otherwise Disciplined”

...refers to any administrative action or other disciplinary action taken by the recipient against a PD/PI or other Senior/Key personnel due to any and all concerns related to harassment, bullying, retaliation or hostile working conditions.



Reporting to NIH

- When to Report
- Where to Report
- What to Report



When to Report

- When a Program Director/Principal Investigator (PD/PI) or other Senior/Key personnel on an NIH grant or cooperative agreement notice of award is removed or otherwise disciplined due to concerns about harassment, bullying, retaliation, or hostile working conditions
- Within 30 days of the removal or disciplinary action



Where to Report

- Notifications must be submitted by the AOR via the [NIH anti-Harassment Portal](#) (also referred to as a web form)
- Web form reports are securely transmitted to OER.
 - OER only shares information with other NIH staff on a need-to-know basis.
- If a change in PI is needed, AOR must obtain prior approval from the Institute or Center (IC) Grants Management Official (GMO).
 - Details of concerns/findings do not need to be shared with IC.
- If your institution is a subrecipient, report to the primary; primary must report to NIH



Where to Report: NIH Extramural Harassment Webform



Electronic Research Administration
AHP (Anti-Harassment Portal)



NIH National Institutes of Health
Office of Extramural Research



AHP | [Anti-Harassment Privacy Notice](#) | [Additional Information](#)

Inform NIH About Harassment or Discrimination Concerns

Individuals: Notify NIH about a concern that harassment, discrimination, or inappropriate conduct (including but not limited to sexual harassment, racial discrimination, and bullying) is contributing to an unsafe or hostile work environment affecting an NIH funded project at a recipient institution. (See [definitions of terms](#).) Individuals may choose to remain anonymous or provide a name and contact information.

While NIH will follow up on all notifications of concerns related to NIH-funded research, NIH cannot take personnel or legal actions on behalf of non-NIH employees. NIH strongly encourages individuals to report allegations to the appropriate authorities, which may include:

- your local police department;
- your organization/institution equal opportunity office, human resources offices, or Title IX Coordinator; and/or
- the HHS Office for Civil Rights (OCR, <https://www.hhs.gov/ocr/index.html>) to obtain additional information and to file a formal complaint.

Authorized Organization Representative (AOR): Report that an individual identified as PD/PI or other Senior/Key personnel has been removed from their position or otherwise disciplined due to concerns about harassment, bullying, retaliation, or hostile working conditions. The AOR must provide their name and contact information. Please include, at a minimum, the following in the "Briefly describe the incident" field:

- Note that this report is from an AOR
- A description of the concerns
- The action(s) taken, including a timeline of events
- Any anticipated impact on the NIH-funded award(s) with grant number(s)

<https://public.era.nih.gov/shape/public/notificationForm.era>



NIH National Institutes of Health
Office of Extramural Research

NIH Extramural Harassment Webform continued

Fields marked with an * are required

Your first name *(Optional for individuals, required for AOR)*

Your last name *(Optional for individuals, required for AOR)*

Your email address *(Optional for individuals, required for AOR)*

Your phone number *(Optional for individuals, required for AOR)*

First name of the person who may have committed harassment or discrimination *

Last name of the person who may have committed harassment or discrimination *

Institution that employs that person *

Briefly describe the incident *

 Submit

<https://public.era.nih.gov/shape/public/notificationForm.era>

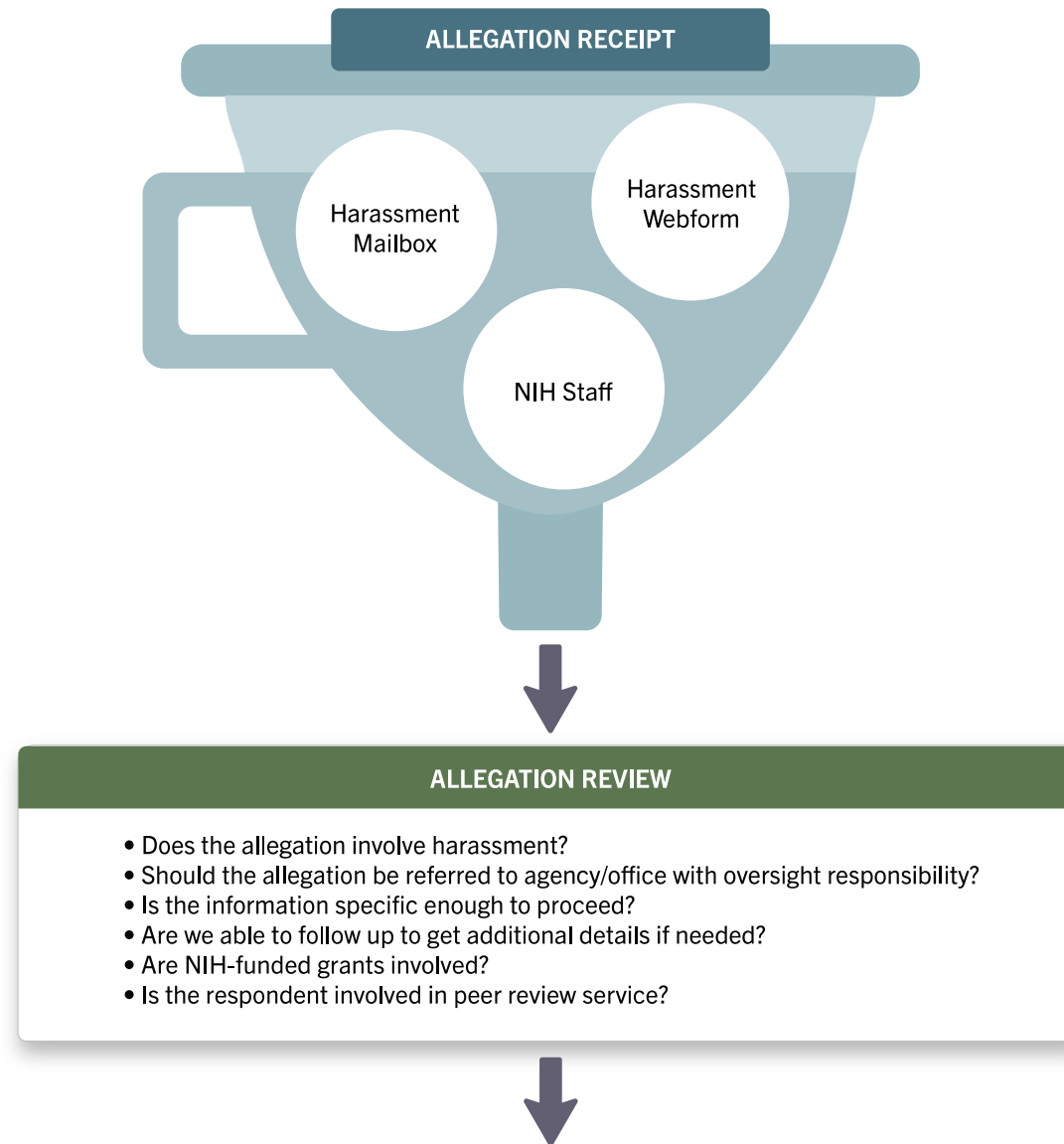


What to Report

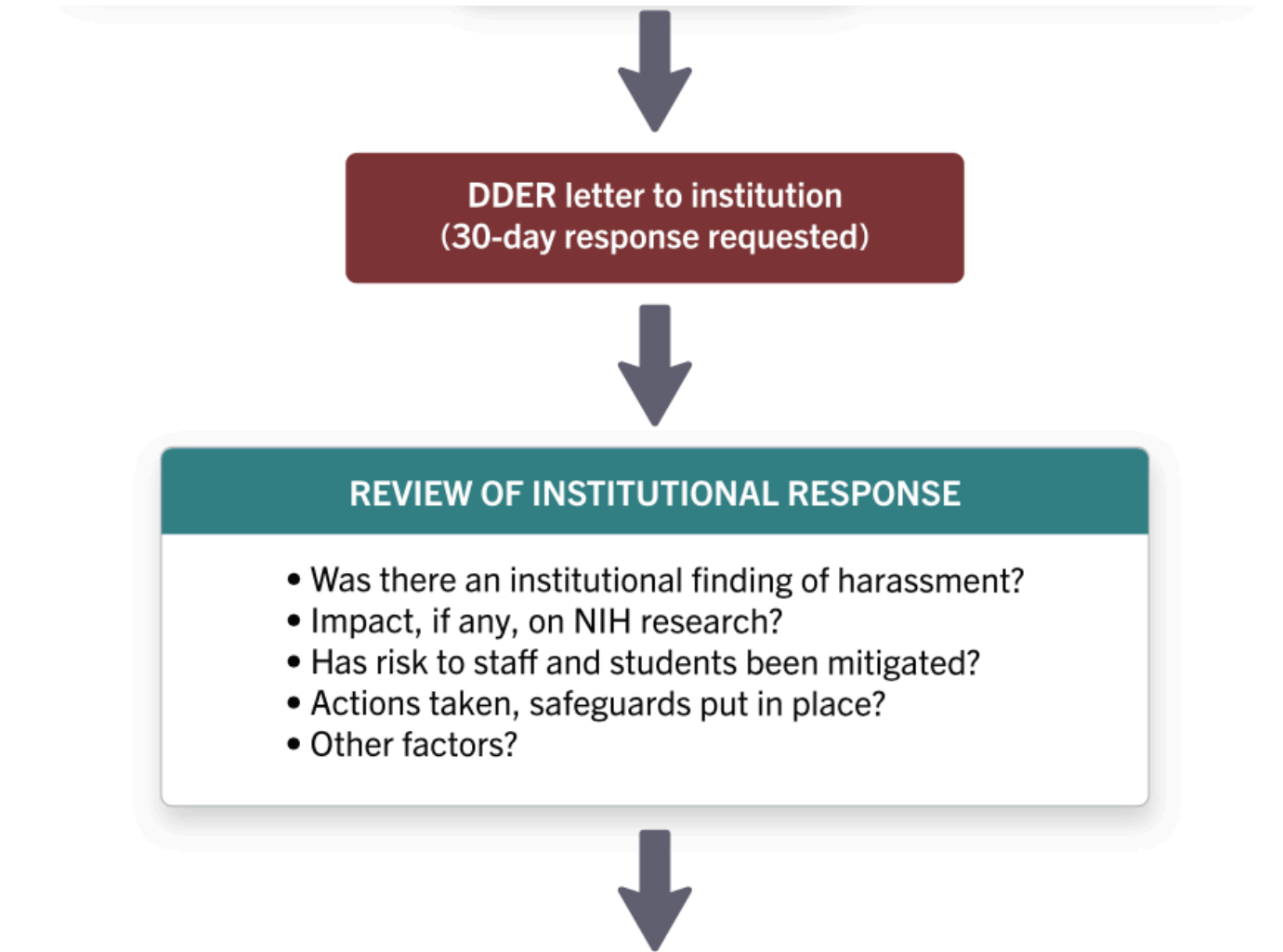
- The name of the PD/PI or Senior/Key personnel removed from their position or otherwise disciplined due to concerns about harassment, bullying, retaliation, or hostile working conditions
- A description of the concerns
- The action(s) taken, including a timeline of events
- Any anticipated impact on the NIH-funded award(s) with grant number(s)
- AOR's name and contact information and confirmation that the report is from an AOR



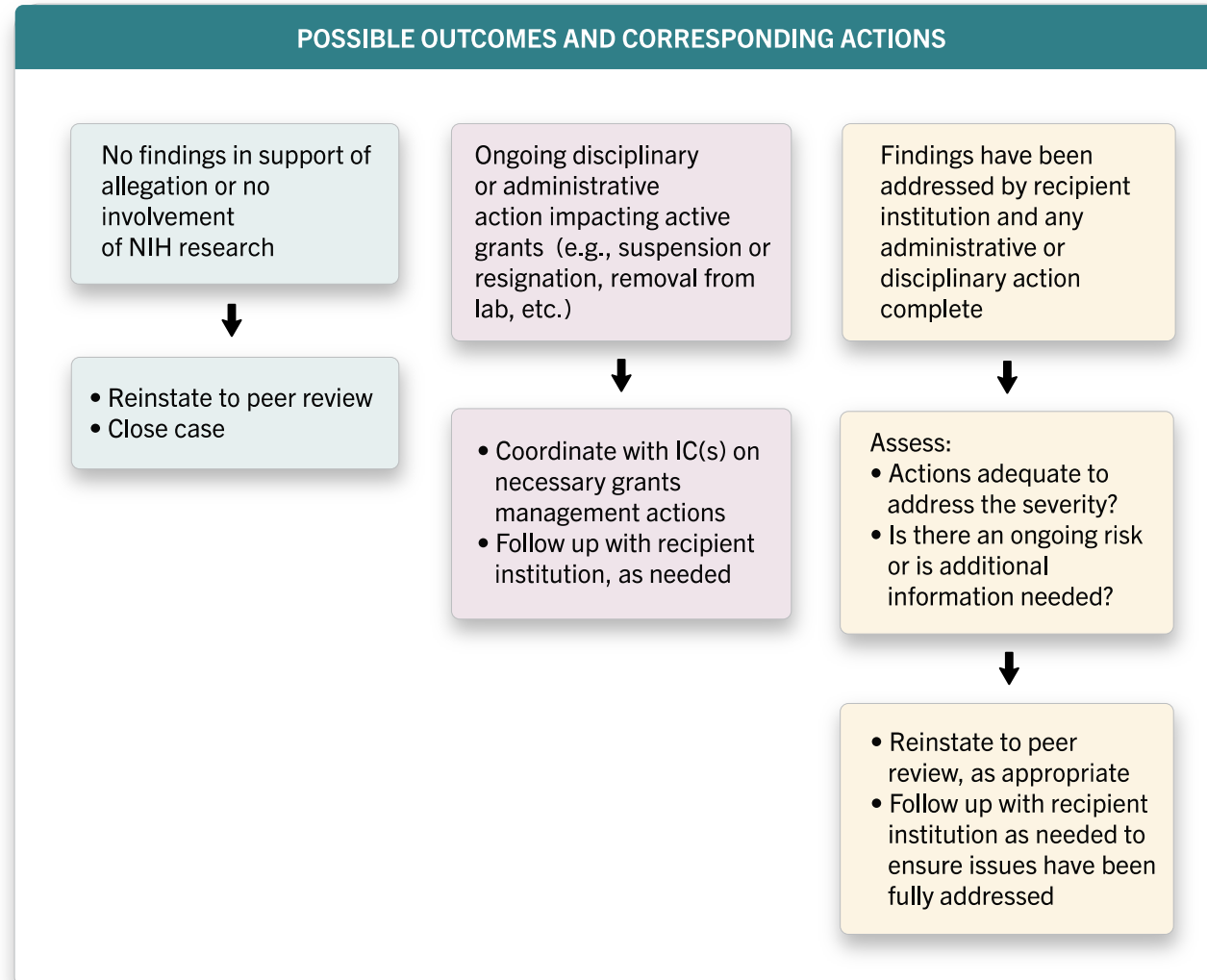
Process for handling harassment allegations



Process for handling harassment allegations



Process for handling harassment allegations



Institutional Responses

- Some reassuring
 - Self-disclosure
 - Removal from grants
 - Rehabilitation, training, and continuous oversight
- Others problematic
 - Institution stops investigation when PI resigns; grants move to new institution with PI
 - PI removed from supervisory responsibilities, remains PI of grant



Allegations Received by the NIH Office of Extramural Research

January 1, 2018 - July 21, 2022

Values shown are Number (%).

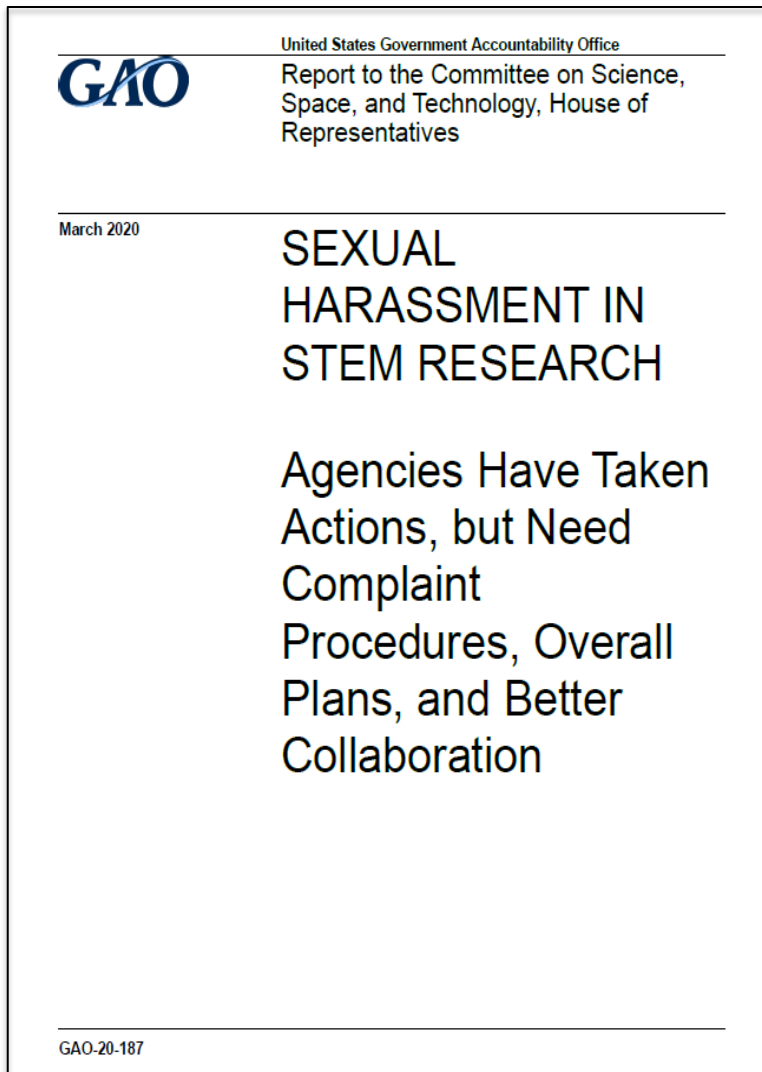
Finding / Outcome	Sexual Harassment Only	Sexual Harassment Plus Other*	Other Only*
Allegation Substantiated	67 (37.4)	23 (24.7)	37 (14.9)
Contact with Institution	136 (76.0)	69 (74.2)	189 (75.9)
Formal Investigation	117 (65.4)	60 (64.5)	106 (42.6)
Left Institution	56 (31.3)	22 (23.7)	21 (8.4)
Other Grant Actions	16 (8.9)	13 (14.0)	14 (5.6)
Principal Investigator Removed	54 (30.2)	14 (15.1)	33 (13.3)
Removed from Peer Review	93 (52.0)	36 (38.7)	59 (23.7)
Total N (%)	179 (34.4)	93 (17.9)	249 (47.8)

* Other types of allegations reported include, but are not limited to, harassment, bullying and discrimination based on race, gender, national origin, etc. Due to the frequent overlap of types of allegations in a single case, and the concern about small numbers and privacy, we do not break out that data in our reporting.

<https://grants.nih.gov/grants/policy/harassment/data>



GAO Report on Sexual Harassment in STEM Research



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>



NIH and HHS/OCR Collaboration

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
- Extensive information sharing



Supporting Research on Interventions

Notice of Special Interest (NOSI): Interventions Designed to Change the Culture to Mitigate or Eliminate Sexual Harassment in the Biomedical Research Enterprise

Notice Number:

NOT-OD-21-150

Key Dates

Release Date:

July 20, 2021

First Available Due Date:

October 13, 2021

Expiration Date:

October 14, 2023

Research on Interventions that Promote the Careers of Individuals in the Biomedical Research Enterprise (R01 Clinical Trial Not Allowed)

R01 Research Project Grant

PAR-21-269



THANK YOU!

NIHResearchIntegrity@mail.nih.gov
GranteeHarassment@nih.gov



Sexual Harassment in STEM Research

**Council on Governmental Relations
Membership Meeting**

October 20, 2022



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Independent,
nonpartisan,
legislative branch
agency.

Supports Congress in
its oversight
responsibilities.

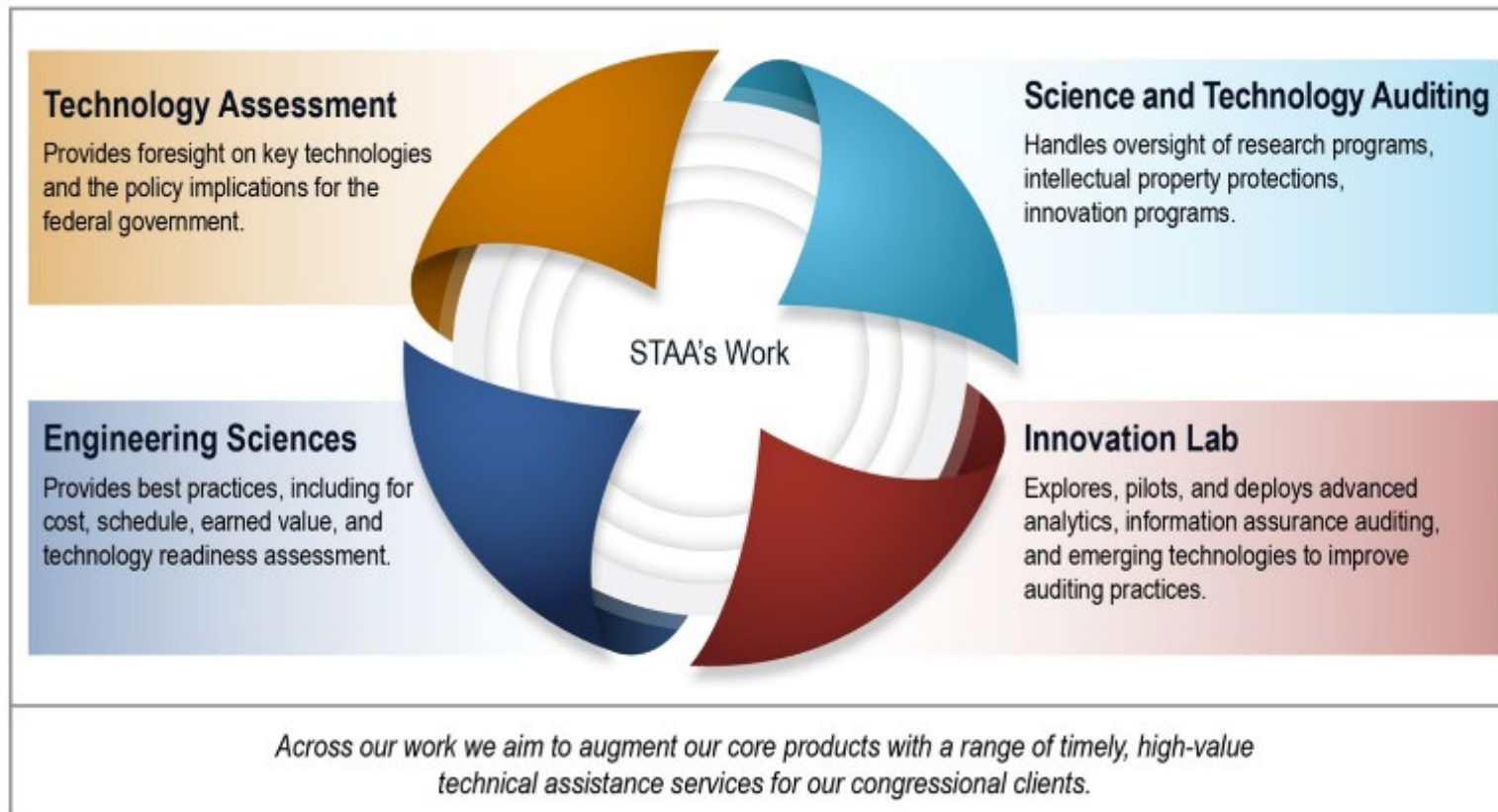
Improves
government
performance and
accountability.



GAO
U.S. GOVERNMENT
ACCOUNTABILITY OFFICE



GAO - Science, Technology Assessment, and Analytics



Related GAO Work



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

GAO United States Government Accountability Office
Testimony
Before the Committee on Science,
Space, and Technology, House of
Representatives

For Release on Delivery
Expected at 10:00 a.m. ET
Wednesday, June 12, 2019

SEXUAL HARASSMENT IN STEM RESEARCH

Preliminary Observations
on Policies for University
Grantees and Information
Sharing among Selected
Agencies

Statement of John Neumann, Managing Director,
Science, Technology Assessment, and Analytics

GAO-19-583T

GAO United States Government Accountability Office
Report to Congressional Requesters

December 2015

WOMEN IN STEM RESEARCH

Better Data and
Information Sharing
Could Improve
Oversight of Federal
Grant-making and
Title IX Compliance

GAO-16-14

GAO United States Government Accountability Office
Report to the Committee on Science,
Space, and Technology, House of
Representatives

March 2020

SEXUAL HARASSMENT IN STEM RESEARCH

Agencies Have Taken
Actions, but Need
Complaint
Procedures, Overall
Plans, and Better
Collaboration

The issue

- Sexual harassment is degrading and illegal
- Federal agencies are required to enforce Title IX which prohibits sexual harassment and other forms of sex discrimination in education programs that receive federal funding
- Media reports and studies have reported allegations of sexual harassment at higher education institutions, with some of the most high-profile cases occurring in the fields of science, engineering, and medicine.
- Studies show sexual harassment has a negative effect on the ability of women to engage in research at the same level as men.
- Sexual harassment can result in loss of much needed STEM talent and money

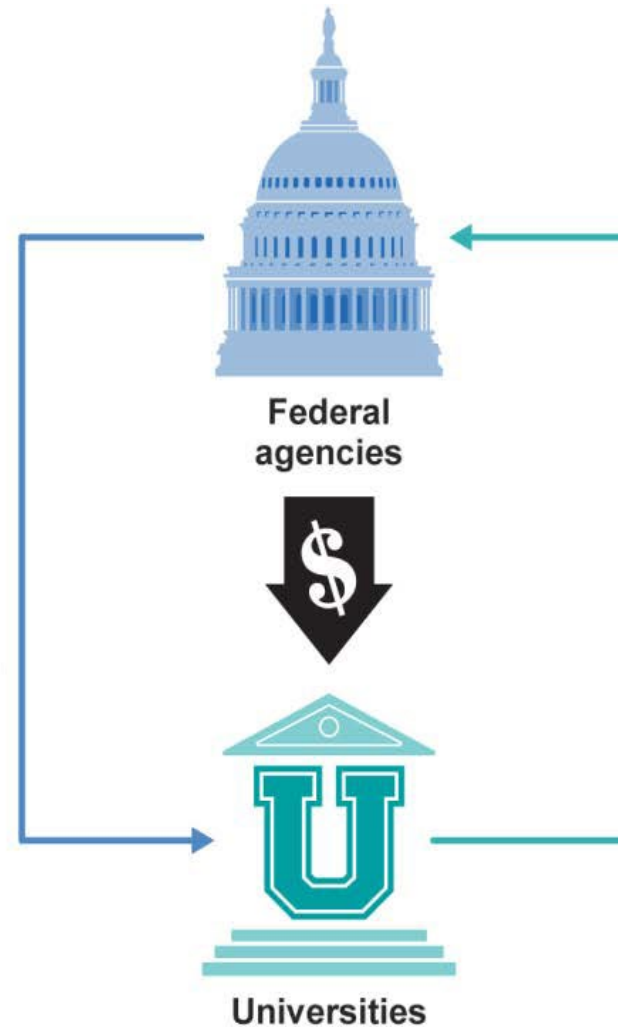
Why GAO did this study

- GAO was asked to review federal efforts to help prevent sexual harassment at universities that receive federal grants for STEM research.
- GAO's work included a review of the largest agencies awarding STEM research grants—Departments of Agriculture (USDA) and Energy (DOE), the National Aeronautics and Space Administration (NASA), the National Institutes of Health (NIH), and the National Science Foundation (NSF).



Key Title IX Compliance Requirements for Federal Funding Agencies and Universities

- Require statement of assurance for Title IX compliance
- Conduct periodic compliance reviews
- Establish and publish procedures for the prompt processing and disposition of complaints^a
- Investigate complaints of sex discrimination made against universities



- Conduct self-evaluation
- Provide assurance of Title IX compliance
- Designate an employee to coordinate compliance
- Establish procedures to resolve complaints of sex discrimination made against universities
- Notify students and employees that sex discrimination is prohibited

Source: GAO analysis of federal laws and regulations. | GAO-20-187

Agency Offices Responsible for Title IX Enforcement, Grant Management, and Policymaking

Agency, Component, and Office	Type of Responsibility
Department of Agriculture (USDA)	
Office of the Assistant Secretary for Civil Rights	Title IX enforcement (complaints) and policymaking
National Institute of Food and Agriculture (NIFA)	
Office of Director	Title IX enforcement (compliance reviews)
Office of Grants and Financial Management	Grant management
Department of Energy (DOE)	
Office of Civil Rights and Diversity within the Office of Economic Impact and Diversity	Title IX enforcement and policymaking
Research and Development Program Offices	Grant management and policymaking
Department of Health and Human Services (HHS)	
Office for Civil Rights (HHS-OCR)	Title IX enforcement and policymaking
National Institutes of Health (HHS-NIH)	
Office of Extramural Research within the Office of the Director	Grant management
Office of Science Policy within the Office of the Director	Policymaking
National Aeronautics and Space Administration (NASA)	
Office of the Chief Financial Officer	Grant management
Office of the Chief Scientist	Policymaking
Office of Diversity and Equal Opportunity	Title IX enforcement and policymaking
Science Mission and Space and Human Exploration Mission Directorates	Grant management and policymaking
National Science Foundation (NSF)	
Office of Budget, Finance, and Award Management	Grant management
Office of Diversity and Inclusion	Title IX enforcement and policymaking
Research and Education Directorates and Offices	Grant management and policymaking

Source: GAO analysis of DOE, HHS, NASA, NIFA, NIH, NSF, and USDA documents and interviews. | GAO-20-187



Key Finding

Agencies Conducted Title IX Compliance Reviews, with Some Publicizing Promising Practices

For the five-year period reviewed (FY2015 through FY2019):

- DOE, HHS-NIH, NASA, NSF, and USDA-NIFA conducted between 4 and 11 Title IX compliance reviews
 - No agency conducted more than three reviews in a fiscal year
 - DOE and NASA are statutorily required to start at least two compliance reviews each year
- DOE, NASA, and NSF conducted joint Title IX compliance reviews to leverage resources
- Agencies conducted visits to assess compliance and developed written compliance reports
 - In its compliance reports, agencies can **recommend** a grantee take action to improve existing compliance efforts
- NASA and NSF publicized promising practices
 - Developing bystander behavior skills, discussing consent and sexual respect, learning how to encourage and support reporting of sexual misconduct



Key finding

Agencies Varied in Efforts to Address Allegations of Sexual Harassment

For the five-year period reviewed (FY2015 through FY2019):

- Agencies received Title IX complaints but varied in efforts to address allegations including:
 - Finalizing procedures for processing complaints
 - Communicating complete information about the complaint process to grantees
 - Addressing allegations outside the Title IX process

Key finding

Agencies Varied in Efforts to Address Allegations of Sexual Harassment

Number of Title IX Complaints and Sex Discrimination Concerns Received by Agencies

Agency	DOE	HHS	NASA	NSF	USDA	Total
Title IX Complaints, FY 2015-2019	2	1	3	33	1	40
Sex Discrimination Concerns, FY 2019 ^a	0	93 ^b	0 ^c	47	0	140

Source: GAO analysis of information for fiscal years (FY) 2015 through 2019 from Department of Energy (DOE); Department of Health and Human Services (HHS); NASA; National Science Foundation (NSF); and Department of Agriculture (USDA) as well as interviews with agency officials. | GAO-20-187

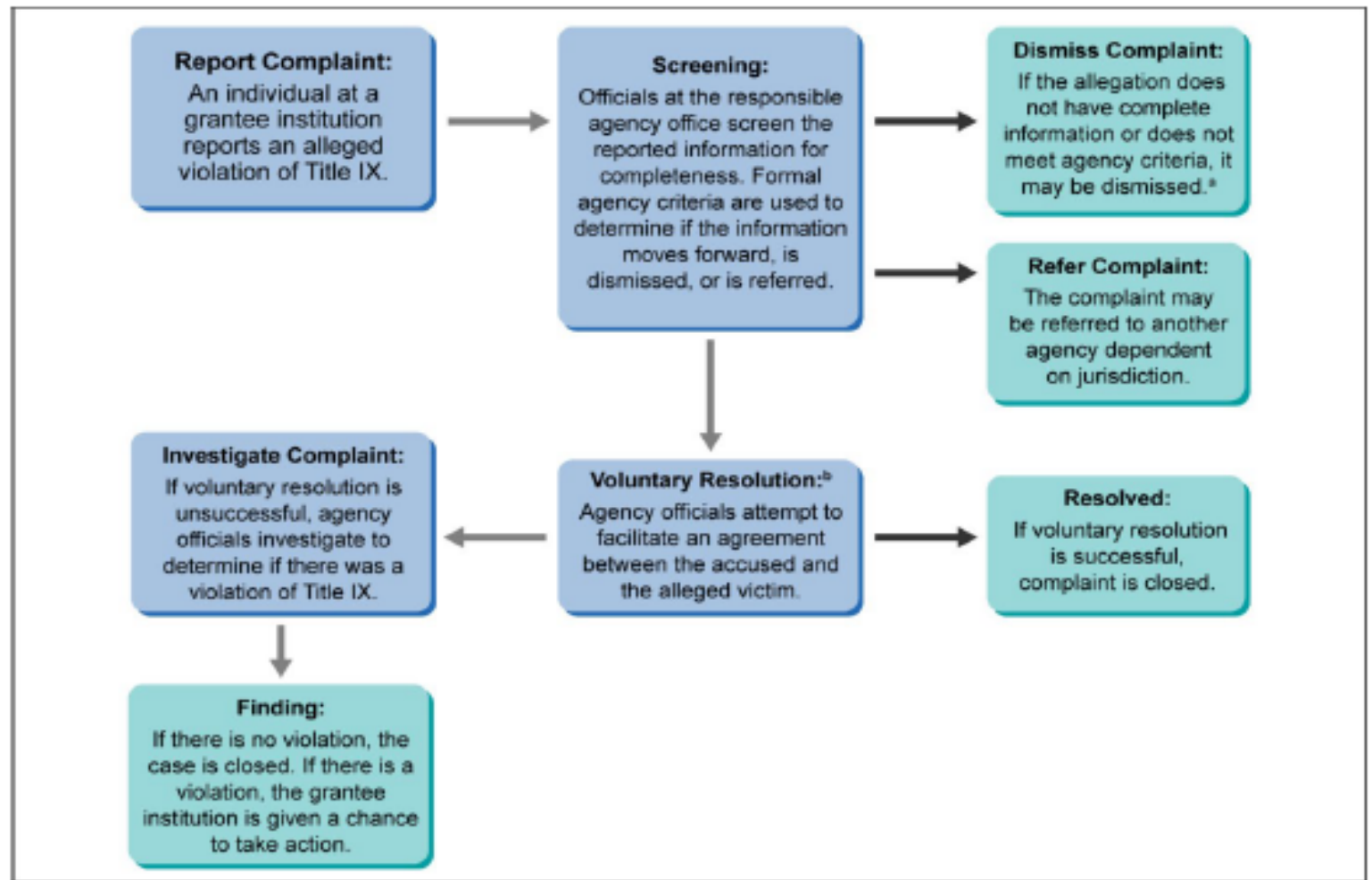
Note: In fiscal years 2018 and 2019, three agencies received the same complaint. GAO counted it as a complaint for all three agencies.

^aAgencies receive sex-discrimination concerns—including sexual harassment—outside of the Title IX complaint process.

^bHHS's National Institutes of Health receives sex discrimination concerns—information not processed or investigated under Title IX—including sexual harassment concerns.

^cOfficials stated that NASA received one concern in FY 2019; however, it did not involve a university.

General Procedures for Evaluating and Investigating Formal Title IX Complaints at NASA and NSF



Source: GAO analysis of agency information from the National Aeronautics and Space Administration (NASA) and the National Science Foundation (NSF). | GAO-20-187

*According to NASA officials, if an allegation does not have complete information, the agency attempts to obtain the missing information before dismissal.

^bVoluntary resolution—referred to as Early Complaint Resolution or Voluntary Resolution Process by NASA and NSF respectively—would not be used for cases of sexual harassment or assault, rather for sex-based discrimination complaints—including gender harassment.

Formal complaints can conclude in one of four ways: 1) dismissed for a variety of reasons—such as untimeliness or lack of information; 2) referred to another agency based on jurisdiction or authority; 3) resolved through a voluntary resolution process; or 4) resolved via an investigation

Key finding

Agencies Have Established and Communicated Sexual Harassment Prevention Efforts

Department of Agriculture (USDA)
"And Justice for All" Poster

USDA created a poster for grantees that describes how the agency prohibits discrimination in all forms, including discrimination on the basis of sex. The poster also provides information on how to file a discrimination complaint with USDA by phone, mail, fax or email.

USDA requires all grantees to prominently display the poster in all offices where there is a USDA presence and where it may be read by customers. USDA also requires that the poster be a specific size.


Source: USDA website and USDA official. | GAO-20-187

- HHS-NIH launched a website to receive concerns of sex discrimination including sexual harassment
- NSF and NASA modified grant terms and conditions that require universities to report findings of sexual harassment

Key finding

Agencies Have Established and Communicated Sexual Harassment Prevention Efforts

Agency Sexual Harassment Prevention Efforts for Grantees – Activities Beyond Those Required by Title IX

		Agencies				
		NSF	NASA	HHS-NIH and HHS-OCR ^a	DOE	USDA-NIFA
Activities Beyond Those Required by Title IX 	Publicize Promising Practices for Grantees from Title IX Compliance Reviews Documents or information on agency websites providing promising practices for grantee Title IX compliance.	●	●	● ^b	○	○
	Communicate Online Title IX Complaint Reporting Information for Grantees^c Information provided on agency websites describing how individuals involved with agency-funded grants can file Title IX sexual harassment complaints.	●	●	●	●	●
	Required Reporting of PI or co-PI Sexual Misconduct in Grant Terms and Conditions^d Terms and conditions apply to all awards and dictate grantee requirements to report sexual harassment to the agency.	●	●	○	○	○
	Department-level or Agency-wide Policy Statements on Preventing Sexual Harassment by University Grantees Agency officials' announcements or policy statements on preventing sexual harassment by grantees posted online.	●	●	●	●	●
	Develop Policy Documents Manuals or written requirements describing the agency's sexual harassment prevention policies and reporting requirements for grantees.	●	●	●	○	○
	Website Guidance on Agency's Grantee Sexual Harassment Prevention Policies and Procedures Descriptions of agency policies and requirements, FAQs, or definitions of sexual harassment.	●	●	●	●	○
	Outreach at Conferences on Agency Grantee Sexual Harassment Policies and Procedures Presentations or discussions on policies and procedures at conferences for science, technology, engineering, and mathematics (STEM) research associations, university grantees, or university Title IX officials.	●	●	●	●	●

● Complete (according to our analysis or agency officials)
 ● In progress or partial efforts (as reported by agency officials)
 ○ No efforts reported

Source: GAO analysis of agency documents, websites, and interviews with agency officials from the National Science Foundation (NSF), National Aeronautics and Space Administration (NASA), Health and Human Services' Office for Civil Rights (OCR) and National Institutes of Health (NIH), Department of Energy (DOE), and Department of Agriculture (USDA) National Institute of Food and Agriculture (NIFA). | GAO-20-187

Recommendations

- 4 to DOE
- 4 to HHS
- 2 to NASA
- 1 to NSF
- 5 to USDA
- 1 to DOJ

- **USDA, DOE, and HHS** should **publicize promising practices** for Title IX compliance on their websites
- **DOE and USDA** should **finalize and publish** Title IX complaint procedures
- **USDA** should clarify on its website that individuals on USDA-funded grants can file Title IX complaints
- **DOE, HHS, NASA, and USDA** should **assess the feasibility of receiving and reviewing concerns** of sexual discrimination including sexual harassment and **communicate the option for individuals to notify the agency** of these concerns, outside of the Title IX process
- **DOE, HHS, NASA, NSF, and USDA** should establish goals and an overall plan to **assess their sexual harassment prevention efforts** for university grantees



What's Next

- Continue monitoring agencies' implementation of outstanding recommendations
- Initiate study called for in the CHIPS and Science Act to assess the effectiveness of federal research agencies' implementation of policy guidelines for preventing and responding to reports of sexual harassment

Thank
you!