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National Science Foundation Revision to Research Misconduct

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COUNCIL ON GOVERNMENTAL RELATIONS

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February 20, 2002

Ms. Anita Eisenstadt
Assistant General Counsel
National Science Foundation
4201 Wilson Boulevard, Room 1265
Arlington, Virginia 22230

SUBJECT: Proposed Rule: 45 CFR Part 689 – Research Misconduct

Dear Ms. Eisenstadt:

The Council on Governmental Relations (COGR) is an association of over 140 research-intensive universities in the United States that promotes policies and practices in research administration that balance accountability with a recognition of the interests of all parties in achieving the maximum scientific benefit from federal and institutional investments in research.

With the proposed revision of its Research Misconduct rule (45 CFR Part 689), the National Science Foundation (NSF) implements the Federal Policy on Research Misconduct issued by the Executive Office of the President, Office of Science and Technology Policy (OSTP) on December 6, 2000. Our members, among them the principal academic research institutions, share NSF's commitment to ensure the integrity of the research enterprise in the United States. We support the OSTP approach to the management of research misconduct and applaud NSF's willingness to revise its existing regulations to make them consistent with the federal policy.

NSF has skillfully blended the new definitions offered in the Federal Policy into its existing regulatory framework while retaining those features of the definition that reflect NSF's goals, notably the inclusion of science and engineering education activities in the meaning of "research" for the purposes of this regulation.

We would like to draw your attention to one issue. We believe a statement concerning the confidential status of the investigative files should be retained in the regulations as well. This will ensure greater consistency with the OSTP research misconduct policy and offer reasonable protections during an on-going review of an allegation of misconduct. The Supplementary Information to the proposed rule and the current regulations at 689.4 (b) include the assurance that NSF will protect investigative and adjudicative files as exempt from mandatory disclosure. We recommend that the status of these files be fully described in the proposed rule at 689.5 (b) with the addition at the end of the paragraph of the following sentence:

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“To the extent permitted by law and regulation, NSF will protect research misconduct investigative and adjudicative files as exempt from mandatory disclosure under the Freedom of Information Act and the Privacy Act. “

We appreciate the opportunity to comment on the proposed revision to NSF’s research misconduct regulations.

Sincerely,

Katharina Phillips
President