



NATIONAL SCIENCE FOUNDATION  
OFFICE OF INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS

## CLOSEOUT MEMORANDUM

Case Number: I04100039

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In October 2004, OIG received information from DIS<sup>1</sup> indicating that [REDACTED] had discovered pornographic images on the personal R: drive of an NSF employee<sup>2</sup>.

Our investigation included reviewing the files on the subject's r-drive and in their outlook folders and interviewing the subject. Our review of the subject's computers identified numerous inappropriate files and programs. When confronted with this information the subject admitted to downloading some of the files but denied knowingly downloading the pornographic files. We also reviewed an NSF laptop computer that had been in the possession of the subject and identified additional pornographic files. A Report of Investigation<sup>3</sup> was completed and submitted to NSF officials<sup>4</sup> for administrative action in December, 2004.

We received documentation in May, 2005 indicating that the subject had received a 5 day suspension for violating NSF policies regarding inappropriate use of NSF electronic resources.<sup>5</sup>

Accordingly, this case is closed.

[REDACTED]



## National Science Foundation

4201 Wilson Boulevard, Arlington, Virginia 22230

### Memorandum

DATE: May 18, 2005  
TO: [REDACTED]  
FROM: [REDACTED]  
SUBJECT: Decision on Proposed Suspension

By memorandum dated April 1, 2005, [REDACTED] proposed your suspension from duty and pay from your position as [REDACTED] for twelve (12) calendar days for your: 1) maintaining pornographic and other inappropriate material of a sexual nature on a government-owned computer, 2) maintaining and forwarding pornographic and other inappropriate material of a sexual nature on a government-owned computer, and 3) installing and using Kazaa peer-to-peer software to download music files to a government-owned computer.

You were given the right to reply orally and in writing and to present affidavits or other documentary evidence in support of your response. You did not make a reply.

I have given thought and consideration to the file supporting the proposed action. Based on the facts of this case, I have determined that the evidence presented in the file supports the charges. I have also determined that a suspension is warranted in order to promote the efficiency of the Federal service.

In reaching this decision, I considered the factors [REDACTED] set forth in his proposal letter, such as the nature and level of your position, the nature and seriousness of your misconduct, and its impact on our office effectiveness. This type of misconduct is serious and does not reflect well on the office and the Foundation. However, I also considered that at the time these offenses occurred, you were in a position with different responsibilities. In your present position as [REDACTED] you are a key member of one of the NSF's main directorates. As such, [REDACTED] has found you to be a reliable and trustworthy employee, and I believe that you have made good progress towards a solid and productive relationship. While these past actions are serious, and cannot be condoned, they have not significantly eroded management's trust in you, nor undermined management's confidence in you. I further considered on your behalf that you have been employed by the Foundation since [REDACTED] and that your last performance rating was Outstanding.

I also considered [REDACTED] suggestion that if this suspension is upheld, that it be implemented in 3-day increments over a six-month period, to lessen the adverse financial impact it may cause. In light of this request, and your supervisor's endorsement and confidence in you, I have decided to mitigate the length of the suspension from 12 calendar days to 5 calendar days. I encourage you to continue your positive movement forward in your present position. I believe I reach an appropriate balance in mitigating this action to a 5-day suspension as a fair penalty in this matter.

Therefore, you will be suspended from duty and pay for a period of five (5) calendar days, effective [REDACTED] through [REDACTED]. You will continue to be in active duty status until your suspension is effective on [REDACTED]. You are expected to return to duty on [REDACTED]. An SF-50 documenting this action will be provided to you.

Please understand that further repetition of this or any other type of misconduct going forward may result in more severe disciplinary action, up to and including your removal from the Federal service.

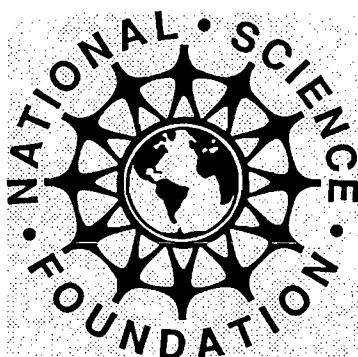
You have the right to grieve this action under the provisions of the administrative grievance procedure described in the PER manual, Chapter 5, Subchapter 300, a copy of which is attached. You may present a grievance at any time after receipt of this memorandum, but not later than 15 days after receipt.

If you have any questions regarding your rights or the procedures used in this matter, you may contact [REDACTED] Senior Employee Relations Specialist, at [REDACTED].

[REDACTED]  
Acknowledgement of Receipt

[REDACTED]  
Date

# National Science Foundation Office of Inspector General



## Confidential Investigation Report



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## Summary

This investigation involves an NSF employee,<sup>1</sup> who acknowledged to OIG, downloading copyrighted music through the use of the Kazaa Peer to Peer software in violation of NSF policies and possibly downloading inappropriate, sexually explicit videos. These activities took place at various times from May 2003 through October 2004, while the subject was on duty. Additionally, this employee downloaded these files to her personal directory on the NSF network. The video clips included scenes involving males and females engaging in sexually explicit activity. The subject also maintained and forwarded numerous e-mails found to contain sexually explicit photographs and video clips. The NSF Office of Inspector General (OIG) has identified potential violations of two current NSF Policies. The first being the Personal Use of NSF's Technology and Communication Resources contained in NSF Bulletins 98-13 and 04-11.<sup>2</sup> The second being the Peer-to-Peer File Sharing Policy contained in NSF Bulletin 04-15.<sup>3</sup>

## OIG Investigation

In October 2004, OIG received information from DIS indicating that [REDACTED] had discovered pornographic images on the personal R: drive of an NSF employee. They stated that the subject had recently changed job assignments and the change required that all of her computer files be moved to another server. While attempting to move the files it was determined that the subject had in excess of 15 gigabytes stored on her network drive. The files were so large that they could not be moved as one unit. While attempting to move the files several file names were identified that appeared to contain sexually explicit material. [REDACTED] immediately backed up the files and notified OIG.

A search of the subject's network directory identified a folder labeled as

This folder was found to contain numerous subfolders and thousands of music files with the most recent files downloaded on October 20, 2004.<sup>4</sup>

Additional searches of this directory identified numerous video files including 16 video files with titles indicating sexual content. Further review of these videos identified them as short 4-10 minute film clips of males and females engaged in various sexual acts.

Also identified during this search were 2 versions of the Kazaa Peer to Peer program and additional information regarding Kazaa including several help screens. The Kazaa applications were located in two zip files that had not been opened or loaded. No copies of any Kazaa programs currently operating were located on the network directory.

[REDACTED]

After scheduling the interview with the subject but prior to conducting the interview, a follow-up search of the subject's network directory identified that all of the sexually explicit videos had been deleted.

The subject was interviewed<sup>5</sup> by representatives from NSF's OIG in reference to the files found on the computer. Prior to the interview the OIG provided the subject with both a Garrity Warning<sup>6</sup> and a Weingarten Warning,<sup>7</sup> both of which were read and signed by the subject. The subject requested and was represented by a member of the bargaining unit.<sup>8</sup> During the interview the subject initially admitted that she did load and use Kazaa on her NSF computer to download music files. However, she stated that after somebody informed her that NSF prohibited the program, she deleted the program from her files and stopped using it to download music. The subject could not recall specifically when she learned that it was prohibited or when she deleted the program but she was sure she had deleted it. Our review of the directory found copyrighted music files that had been downloaded as recently as 10/20/04.

With respect to the pornographic videos, the subject denied any knowledge of the pornographic materials on her computer. She stated that others had access to her computer and password. The subject was asked for the names of any individuals who had access to her password, so that they could be interviewed regarding the downloaded pornographic files. The subject responded that she did not say that she had not put these files on her R drive, only that she did not recall doing it and did not know if she did it or not. She offered as an explanation that maybe when she was downloading music with Kazaa, some of these videos were inadvertently downloaded as well.

The subject was advised that these videos contained very graphic titles and were maintained on her R drive, which only she had access to. She denied again realizing that they had been on her R drive, even though she admitted accessing her R drive on a regular basis, every day. The subject also denied ever seeing these files even though they have been in her personal network directory for more than a year and are located side by side with music files that she admittedly uses frequently.

When questioned about the recent deletion of the questionable files the subject denied having gone into her R: drive and removing the individual files containing pornographic materials. However, she admitted that after receiving notification of the investigation from OIG, she accessed Media Player and selected all emails with videos and deleted them as a whole, without looking at any individually.

[REDACTED]

After conducting the initial interview, OIG received additional information that a laptop computer that the subject had access to was found to contain several internet links and shortcuts to adult web sites containing sexually graphic material.<sup>9</sup> A subsequent search of this laptop found several files directly linked to the subject.<sup>10</sup> Additionally, an e-mail was identified that confirmed that the subject was in possession of an NSF laptop computer for an undetermined time leading up to July 2003.<sup>11</sup> OIG's search of this computer identified several internet sites that had been visited and added to the computer's favorites folder during the time frame the subject was in possession of an NSF laptop computer.<sup>12</sup>

OIG reviewed the subject's e-mail files maintained in outlook folders on the NSF network.<sup>13</sup> This review concentrated on e-mails that contained attachments. A review of several hundred e-mails, both to and from the subject, identified numerous inappropriate attachments that the subject was maintaining in her outlook folders on the NSF Network. The subject had also forwarded many of these attachments to other individuals.<sup>14</sup> Our review did not identify any other NSF employees receiving these e-mails from the subject.

The subject was interviewed<sup>15</sup> a second time by representatives from NSF's OIG in reference to the additional information discovered during the investigation. This information included the discovery of additional sexually explicit internet links found on an NSF laptop that had previously been in the subject's possession and e-mail attachments maintained and sent by the subject on NSF's network. Prior to the interview, the OIG provided the subject with both a Garrity Warning<sup>16</sup> and a Weingarten Warning,<sup>17</sup> both of which were read and signed by the subject. The subject declined to be represented by a member of the bargaining unit for this interview. During the interview the subject admitted that she had borrowed an NSF laptop to use at home. The subject stated that she was working on her resume and had the computer for somewhere between one week and one month. She added that at one point she had forgotten about having it and the [REDACTED] in her office asked about it. When questioned about the inappropriate internet links the subject responded that while she had the computer at her home she allowed [REDACTED] to use it and he must have visited the sites in question. The subject also stated that shortly after she returned the laptop she was contacted by the [REDACTED] who advised her that he had found some internet links to adult web sites on the laptop. The subject stated that she told the [REDACTED] that [REDACTED] must have used the laptop to access those sites.

[REDACTED]

The subject was then questioned about the inappropriate e-mails found in her outlook folders and she acknowledged that she had received them and forwarded some of them to others. The subject also admitted that she was aware that the sexually explicit attachments were inappropriate to have and transmit on her NSF computer.

### OIG Analysis

Based on the information contained in this report, the presence of sexually explicit material in the subject's e-mail folders and the subject's own admission that she downloaded files, including music files, through the use of Kazaa, OIG has determined that the subject routinely downloaded various music files and sexually explicit video clips and maintained these files in her personal directory on NSF's network. The subject also used her access to e-mail services at NSF to send, receive and forward e-mails that contained inappropriate material such as sexually explicit attachments. The subject also continued to utilize the Kazaa application after being advised that NSF policy prohibited the use of this and similar types of peer-to-peer programs.

### OIG Conclusions

**By downloading and maintaining inappropriate files, such as pornographic photos and videos, on her personal directory on the NSF computer network, the subject knowingly violated policies contained in NSF BULLETIN 04-11, Personal Use of NSF's Technology and Communication Resources, which states; "Basic access to the Internet or electronic mail system does not result in an increased cost to the agency. Hence, employees may make use of the Internet and electronic mail for matters that are not official business provided that the following criteria are met: (1) the use does not result in an additional charge to the government (web sites are generally identified as such when the user attempts to access them), (2) the use is not offensive to co-workers or the public (such as sexually explicit or other wise inappropriate web sites), and (3) the use is not for illegal activities (such as gambling)." (Emphasis added)**

**By installing and using Kazaa peer-to-peer software to download copyrighted music files to the NSF network, the subject knowingly violated policies contained in NSF BULLETIN 04-15, Peer-to-Peer File Sharing Policy, which states; "All Federal agencies have been encouraged to protect their computers and networks from the security risks posed by peer-to-peer file sharing. Internet peer-to-peer software shall not be installed on any NSF workstation that connects to any NSF network without prior approval of the NSF CIO or his or her designee. Unauthorized peer-to-peer software installed on your NSF workstation or any other system attached to the NSF network must be removed." And further states "NSF will monitor its systems for compliance with this peer-to-peer file sharing policy. Unapproved use of peer-to-peer software may result in disciplinary action." (Emphasis added)**



### **OIG Recommendations**

In reference to the conclusions outlined above, we recommend that the National Science Foundation proceed with administrative actions that are appropriate and consistent with previous similar incidents.

Please advise us of the actions taken in this case by January 31, 2005.