

CLOSEOUT FOR M94110036

On October 28, 1994, Dr. [REDACTED] a program officer in the Division of [REDACTED] in the Directorate for Biological Sciences informed OIG that she had received a letter from Dr. [REDACTED] the complainant and a faculty member at [REDACTED] University. Attached to this letter was a copy of a September 1994 letter the complainant had sent to Dr. [REDACTED] the Senior Vice President of The [REDACTED] (the Institution). The complainant was objecting to a letter the Institution had sent to another researcher who employed a technology that was the subject of three successful patents by the Institution and one of its faculty members, Dr. [REDACTED], and his two associates. The letter contained an agreement the researcher was expected to sign. Among the items described in the agreement were his limited publication rights and his responsibility, when using the technology, to report his research progress to the Institution. The agreement specified that his discoveries made with the aid of the technology became the property of the Institution. According to the complainant the technology is commonly used in his research field and should not have been the subject of the three patents. He decried the current efforts by institutions, to commercialize researchers' inventions. He felt it was a negative influence on the academic enterprise. He stated that his objectives were to promote public debate and to stimulate a study of the issues by the National Academy of Sciences. The complainant's concerns describe the increasing tension between the scientific community's custom of openly sharing data and results and the confidentiality associated with the patent application process, as well as the increasing efforts by institutions to commercialize their researchers' inventions.

Attachments to the complainant's letter show that the Institution's letter to the other researcher caused an outcry within the field which then caused the Institution to take the unusual step of sending a letter to the editor of the field's leading journal. The letter was published. In that letter the Institution characterized the letter to the researcher as "ill-considered" and stated that there was a "research exemption under patent law, and academic researchers are free of the patent restriction that otherwise might apply to commercial organizations. There is absolutely no need for any academic researcher to obtain permission from, send information to, or obtain a license from the [Institution] in order to carry out academic research on any aspect of [the field]."

OIG found that the faculty member at the Institution had not received NSF support, and therefore NSF would not have jurisdiction in this case. This inquiry is closed and no further action will be taken in this case.

cc: Staff Scientist, Deputy AIG-Oversight, AIG-Oversight, IG