

CLOSEOUT FOR M94120042

This case came to OIG on October 6, 1994, when Dr. [REDACTED] (the complainant), formerly of the [REDACTED], informed us of some problems she had had pursuing her research. She elaborated on these problems in a November 29, 1994, letter to OIG. The complainant is co-PI on an NSF grant ([REDACTED], entitled [REDACTED]) from the [REDACTED] program of the Division of [REDACTED]. Dr. [REDACTED] of the [REDACTED] is the PI. The university is the grantee institution.

The complainant was a part-time curator at the university museum and an unfunded research associate with the university's [REDACTED] department when the award was made. She alleged that, after she received the award, her supervisor at the museum, Dr. [REDACTED] (the subject), impeded the progress of her research by making unreasonable and unnecessary work demands on her and arbitrarily depriving her of the flexibility that she had hitherto enjoyed to set her own hours of work at her museum job. In particular, she alleged that the subject had unreasonably forbidden her from absenting herself from work for consecutive days during the academic year in order to do field research. She also alleged that he arbitrarily refused to authorize her purchase of equipment listed in her grant budget and necessary for her research. She further alleged that, after she complained that his actions constituted sex discrimination, the university retaliated against her.

OIG examined the award jacket and wrote to the subject. We determined that the subject interfered with neither the complainant's ability to fulfill the time commitments she made to NSF concerning her research nor her research activity at times when NSF was funding her research time. The alleged interference with the complainant's research took place during the academic year. The complainant's proposal did not state that at times she would need to absent herself from her job during the academic year to pursue her research, and NSF was paying her salary only during the summer. We therefore concluded that the subject's actions did not interfere with the work commitments that the complainant and her university made in accepting the award.

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We further concluded that the subject, as the complainant's supervisor, did not have an obligation to give the complainant's requests for convenient research time priority over the subject's perceived responsibilities as head of the museum. When we wrote to the subject, he noted that the museum was experiencing significant budget cuts at the time he refused the complainant's requests. The subject gave plausible reasons, consistent with his responsibilities at the museum, for imposing tighter supervisory control over the complainant.

OIG spoke to the university administrator who handled the equipment purchase order that the complainant submitted and the subject refused to approve. The administrator informed us that, at the time the subject refused his approval, the grant funds to cover the purchase were in the process of being transferred out of the museum's accounts and into another account to which the complainant would have access and over which the subject lacked control. She noted that the subject might have been obliged to pay for the equipment out of museum funds if, after the subject authorized the purchase, the grant funds intended to cover it were moved to accounts outside the museum's control. Under these circumstances, we concluded that the subject's refusal to authorize the complainant's purchase was also consistent with a plausible understanding of his responsibilities to the museum.

The complainant alleged that the university denied her access to equipment and facilities that she had represented in her proposal as available to her and that the university, in choosing to submit her proposal, had committed itself to making available to her. We informed the cognizant NSF division of this allegation and suggested that NSF seek assurances from responsible officials at the university that the complainant and other project personnel would have reasonable access to these facilities and equipment for the duration of the award. We further suggested that NSF consider suggesting to responsible university officials the possibility and appropriateness of using NSF indirect cost payments to make personal office and laboratory space available to the complainant so that she might more easily pursue her grant related research. The cognizant program officer contacted the university and received written assurances from the vice chancellor for research and the provost that the complainant would have access to promised facilities and equipment.

The complainant alleged that, because she was a woman and because she complained of gender discrimination, the grantee university engaged in "a widespread program of persistent retaliation and harassment" against her. As instances of this program, she cited the university's actions to deprive her of her office at the museum (and, temporarily, of access to her grant

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related research materials), deprive her of laboratory space of her own at the department (while permitting her access to common laboratory space), delay authorizing necessary grant-related expenditures, and transfer grant funds to the PI's employer after the complainant was laid off from her university job. OIG determined that the university's actions, if carried out in a non-discriminatory way, would have been within the range of its managerial discretion. These actions cannot be construed as sabotaging the complainant's research and are not otherwise misconduct in science. The complainant had initially alleged that she was the victim of gender discrimination and sought redress from a state government agency specializing in that area. OIG concluded that in this case the issue of gender discrimination is appropriately considered by such an agency, rather than by OIG.

NSF's regulation on misconduct in science and engineering includes "retaliation of any kind against a person who reported or provided information about suspected or alleged misconduct and who has not acted in bad faith" as part of the definition of misconduct. Because the grantee institution's alleged retaliation was allegedly occasioned by a complaint of gender discrimination, and did not raise issues of misconduct in science, it does not fall within the definition.

This inquiry is closed and no further action will be taken on this case.