

CLOSEOUT FOR M95060029

OIG opened this case on June 28, 1995, because we had received evidence of possible plagiarism by the two subjects.¹ Attached are (1) OIG's investigation report, including its [REDACTED] (2) NSF's misconduct determinations concerning the two subjects, (3) the second subject's appeal of NSF's misconduct determination, and (4) NSF's letter to the second subject denying his appeal and affirming the misconduct determination. These documents describe the actions taken by OIG and NSF in this case.

¹ The first subject is Dr. [REDACTED] and the second subject is Dr. [REDACTED]

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230



OFFICE OF THE
DIRECTOR

July 28, 1999

CERTIFIED MAIL --RETURN RECEIPT REQUESTED

Re: Appeal of Misconduct in Science Determination

Dear Dr. [REDACTED]

On May 25, 1999, the National Science Foundation (NSF) received your appeal of our April 12, 1999 Misconduct in Science Determination.

In the appeal submitted by Dr. [REDACTED] on your behalf, you contest NSF's finding that you plagiarized text from a [REDACTED] University proposal into a University of [REDACTED] proposal submitted to NSF for which you were a co-PI. You previously raised these issues in your response to the draft Office of Inspector General (OIG) investigative report and they were addressed in both the OIG report and the April 12, 1999 Notice of Misconduct in Science Determination.

In your appeal, you claim that your signature was forged on the proposal and argue that the absence of your signature demonstrates that you were not involved in preparation of the NSF proposal.

NSF assumed, as suggested by OIG in its response to [REDACTED] letter of September 5, 1998 (See Tab 11, OIG Report), that you did not sign the original proposal when it issued its finding of scientific misconduct. In our view, the absence of your signature on the proposal does not negate your responsibility in this case as a co-PI to be aware of the contents of your proposal. As we noted in our Misconduct Determination, although you contest the extent of your involvement in drafting the proposal, there is no dispute in the record that you agreed to serve as the co-PI on the proposal. Indeed, you were the one who obtained a copy of the Harvard proposal and suggested that the Harvard proposal be used as the template for your proposal. It is also undisputed that you participated in drafting the proposal.

Furthermore, NSF funded the proposal and you acknowledge that you were involved in the project for the first year. Even if you did

not know the contents of the proposal when it was initially submitted to NSF, you certainly should have reviewed the proposal once it was funded to familiarize yourself with its contents. Even a cursory review of the [REDACTED] proposal by someone familiar with the [REDACTED] proposal should have led to detection of the plagiarism. You were reckless in: (1) allowing the proposal to be submitted to NSF, naming you as co-PI, which was almost entirely plagiarized from the [REDACTED] proposal; and (2) serving as a co-PI on the funded project and failing to read the proposal, discover the plagiarism, and take appropriate action.

In your appeal, you also claim that the OIG report ignores the fact that the University Investigative Committee initially determined that you did not commit misconduct in science. The Committee subsequently issued an Addendum, following receipt of additional affidavits indicating that your role in drafting the proposal was more extensive than initially thought, and revised its misconduct determination. Contrary to your assertion, the OIG report fully discussed the Committee's change in position.

You also assert that the University never gave you an opportunity to respond to the Addendum and affidavits. The record, however, indicates that you had numerous opportunities during the University proceedings to respond to the allegations of misconduct. The University specifically remanded the case to the Investigative Committee to afford you the opportunity to respond to the Addendum and affidavits (See Tab 9, OIG Report).

I have considered your appeal and conclude that it does not raise any new issues which were not previously considered and addressed in the Misconduct in Science Determination. I agree with the conclusion reached by the University, OIG, and NSF's Deputy Director that you committed misconduct in science and accordingly affirm the finding of misconduct in science.

Sincerely,


Rita R. Colwell
Director

cc: [REDACTED]

[REDACTED]

May 22, 1999

Director
National Science Foundation
4201 Wilson Blvd.
Arlington, VA 22230

RE: Appeal of OIG Case Number M95060029

Dear Sir or Madam:

This is an appeal on behalf of [REDACTED] to your office based on an NSF letter to [REDACTED] dated April 11, 1999, postmarked April 15, 1999, enclosing the OIG report on the above case. It was received at [REDACTED] post office while he was on travel. He signed for it on April 28, 1999.

There is no signatory page to this letter. The three pages of this letter are not numbered. The final sentence on the third page implies that another page is to follow.

The return address on the outside of the envelope is

[REDACTED]
*Office of the General Counsel
National Science Foundation
4201 Wilson Blvd., Suite 1265
Arlington, VA 22230*

This appeal on behalf of [REDACTED] is based on the fact that the OIG report is seriously flawed. I submit the following:

- The OIG report does not address the fact that [REDACTED] signature was forged on documents submitted to the NSF. [REDACTED] first discovered this last September. The act of forging [REDACTED] signature is a felony and an act of scientific misconduct.
- Other important documents including the original application were submitted to the NSF by the University of [REDACTED] without [REDACTED] review, approval, or signature.
- The OIG report ignores the fact that [REDACTED] was first found *not guilty* of "scientific misconduct" in a first report issued by the University/ [REDACTED] Panel on

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August 15, 1996. This first report was given to [REDACTED] on or about August 15, 1996.

- This first report was followed by an Addendum (with a reissue of the August 15 report) issued by the Johnson Panel on November 4, 1996. The Addendum was based on two inconclusive affidavits belatedly submitted to the [REDACTED] Panel between August 15, 1996 and November 4, 1996. Because [REDACTED] is retired and was not on campus, he did not learn of the Addendum and affidavits until the following Spring.
- The University has refused [REDACTED] any rehearing or the right to appear before the [REDACTED] Panel to rebut the Addendum and affidavits or the right to question the affiants. It is the University's position that the Addendum of November 4, 1996 concluded the matter. All avenues of appeal by [REDACTED] have been futile.

The University of [REDACTED] has conducted a sham investigation designed to cover-up its own "scientific misconduct." This travesty must not be allowed to stand.

[REDACTED] has been denied substantive and procedural due process under the 5th and 14th Amendments and his civil rights have been violated under 42 USC 1983 et seq. In addition, he has suffered shame and humiliation, after serving the University with honor and integrity for over 30 years. I hereby urge you to review this matter and reverse the original findings of the NSF.

Very truly yours,

[REDACTED]

Copy: [REDACTED]
National Science Foundation

[REDACTED]
National Science Foundation

[REDACTED]

NATIONAL SCIENCE FOUNDATION

4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230



OFFICE OF THE
DEPUTY DIRECTOR

Memorandum

DATE: April 12, 1999

TO: Phillip Sunshine, Acting Inspector General

FROM: Joseph Bordogna, Acting Deputy Director *J. Bordogna*

RE: Disposition of Recommendation with
Respect to OIG Investigation of Misconduct
in Science in the case of [REDACTED]
and [REDACTED] (OIG Report
M95060029)

cc: Lawrence Rudolph, General Counsel

I have recently taken action with respect to your recommendation for a finding of misconduct in science by Drs. [REDACTED] and your related recommendations for action.

I have determined that Drs. [REDACTED] committed misconduct in science through their verbatim plagiarism of large portions of another's proposal in submitting a proposal to NSF. I have concluded that the actions taken by the University of [REDACTED] are sufficient to protect the government, and am sending the recommended letter of reprimand

This memorandum transmits a copy of the letters informing Drs. [REDACTED] of my determination and conveying the reprimand.

Attachment

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230



April 12, 1999

OFFICE OF THE
DEPUTY DIRECTOR

CERTIFIED MAIL --RETURN RECEIPT REQUESTED

Re: Notice of Misconduct in Science Determination

Dear [REDACTED]

You submitted a proposal entitled [REDACTED]

[REDACTED] jointly with Dr. [REDACTED] to the Directorate for Education and Human Resources at the National Science Foundation (NSF).¹ As documented in the attached Investigative Report prepared by NSF's Office of Inspector General (OIG), your proposal plagiarized text from an earlier proposal submitted to NSF by Dr. [REDACTED] of the [REDACTED] University ("[REDACTED] proposal").²

Scientific Misconduct and Proposed Sanctions

Under NSF's regulations, "misconduct" is defined to include "plagiarism, or other serious deviation from accepted practices in proposing, carrying out, or reporting results from activities funded by NSF." 45 CFR. §689.1(a).

The University of [REDACTED] investigated the allegations of plagiarism and found that the majority of your proposal was copied text from the [REDACTED] proposal. The University determined that your proposal clearly indicated to NSF that you planned to replicate the [REDACTED] already being conducted at [REDACTED] and that you would use many of the educational materials developed by [REDACTED]. However, it concluded that you did not indicate that the language in the proposal was almost entirely copied from the text of the [REDACTED] proposal. The University concluded that you committed plagiarism and misconduct in science. OIG agrees with the University's conclusion.

¹ NSF Proposal No. [REDACTED]

² NSF Proposal No. [REDACTED] entitled "[REDACTED]"

Your submission of a proposal to NSF that extensively copies the words of others without adequate attribution or distinction, misled the reader into believing that the proposal contained original language. Failure to provide appropriate attribution to the original source in proposals severely undercuts the ability of NSF staff and reviewers to evaluate the PI's expertise and familiarity with the field.

██████████ submitted a response on your behalf to the OIG's draft investigative report. In your response, you note that your signature does not appear on the proposal and argue that the absence of your signature demonstrates that you were not involved in preparation of the NSF proposal. Although you have contested the extent of your involvement in drafting the proposal, there is no dispute in the record that you agreed to serve as the co-PI on the proposal, that you were the one who obtained a copy of the ██████████ proposal from Dr. ██████████ and suggested that the ██████████ proposal be used as the template for your proposal, that the purpose of your proposal was to replicate the project described in the Harvard proposal, and that you did draft at least a small portion of the proposal. Even a cursory review of the ██████████ proposal by someone familiar with the Harvard proposal should have led to detection of the plagiarism. At a minimum, you were reckless in allowing a proposal to be submitted to NSF, naming you as co-PI, which was almost entirely plagiarized from the Harvard proposal.

In your response, you also contend that the University misconduct in science proceedings were unfair and request that NSF remand this matter to the University of ██████████ for further investigation. The record indicates that you had numerous opportunities during the University proceedings to respond to the allegations of misconduct. I agree with the OIG's rationale articulated in Tab 11 of the OIG report that remanding the case to the University at this juncture would not be fruitful. As I explained above, the administrative record demonstrates, by a preponderance of the evidence, that you were reckless in submitting an extensively plagiarized proposal to NSF.

I therefore agree with the University and OIG that your submission of the proposal constitutes plagiarism as well as a serious deviation from accepted practices within the scientific community. I conclude that you committed misconduct in science under NSF's regulations.

NSF's regulations establish three categories of actions (Group I, II, and III) that can be taken in response to a finding of misconduct. 45 CFR §689.2(a). Group I actions include issuing a letter of reprimand conditioning awards on prior approval of particular activities from NSF; and requiring certifications on the accuracy of reports or assurances of compliance with particular requirements. 45 CFR §689.2(a)(1). Group II actions include restrictions on designated activities or expenditures; and special reviews of requests for funding. 45 CFR §

689.2(a)(2). Group III actions include suspension or termination of awards; debarment or suspension from participation in NSF programs; and prohibitions on participation as NSF reviewers, advisors or consultants. 45 CFR § 689.2(a)(3).

In deciding what response is appropriate, NSF has considered the seriousness of the misconduct, whether it was deliberate or careless; whether it was an isolated event or part of a pattern; and whether the misconduct affects only certain funding requests or has implications for any application for funding involving the subject of the misconduct finding. See 45 C.F.R. §689.2(b).

The large amount of verbatim plagiarism and your years of professional experience contribute to the seriousness of the misconduct. On the other hand, I have taken into account several mitigating factors. Most importantly, you did disclose to NSF that your proposal was intended to replicate the NSF-funded project conducted at [REDACTED] and that the [REDACTED] proposal was the original source of your ideas. Secondly, the [REDACTED] project director at Harvard provided you with a copy of the [REDACTED] proposal and indicated that you had his permission to "utilize [the] proposal as the basis for your submission for funding to NSF." (OIG Investigative Report, Tab 8, pg. 1, Affidavit of [REDACTED]) Thirdly, the University and OIG concluded that Dr. [REDACTED] bears the greatest responsibility for the misconduct that occurred. And finally, the record indicates that this was an isolated instance of plagiarism in your career.

I have also taken into consideration the numerous steps already taken by the University to address the misconduct. The University required you to send a letter of apology to NSF and the authors of the Harvard proposal. In addition, the University instituted a requirement for a three-year period that if you apply for internal or external support, you must submit an affidavit to the University's Vice President for Graduate Studies, Research and Economic Development attesting that the application consists of original prose and ideas. You also were directed to resign your title of Emeritus. A letter of reprimand was also placed in your personnel file for three years.

For all of the above reasons, I conclude that issuing this letter of reprimand is the appropriate action in this matter. It is not necessary for NSF to take any additional action. I am aware that considerable time has passed since the plagiarism occurred and I hope that this isolated event will be an anomaly in your otherwise distinguished career.

Procedures Governing Appeals


Under NSF's regulations, you have 30 days after receipt of this letter to submit an appeal of this decision, in writing, to the Director of the Foundation. 45 CFR §689.9(a). Any appeal should be addressed to the Director at the National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. For your

information we are attaching a copy of the applicable regulations. If you have any questions about the foregoing, please call Lawrence Rudolph, General Counsel, at (703) 306-1060.

Sincerely,

A handwritten signature in dark ink, appearing to read "Joseph Bordogna", with a long horizontal flourish extending to the right.

Joseph Bordogna
Acting Deputy Director

Enclosures (2)
Investigative Report
NSF's misconduct in science regulations


NATIONAL SCIENCE FOUNDATION

4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230



April 12, 1999

OFFICE OF THE
DEPUTY DIRECTOR

CERTIFIED MAIL --RETURN RECEIPT REQUESTED

[REDACTED]

Re: Notice of Misconduct in Science Determination

Dear [REDACTED]

You submitted a proposal entitled [REDACTED]
[REDACTED]
to the Directorate for Education and Human Resources at the
National Science Foundation (NSF).¹ As documented in the
attached Investigative Report prepared by NSF's Office of
Inspector General (OIG), your proposal plagiarized text from an
earlier proposal submitted to NSF by Dr. [REDACTED] of the
[REDACTED]
proposal").²

Scientific Misconduct and Proposed Sanctions

Under NSF's regulations, "misconduct" is defined to include
"plagiarism, or other serious deviation from accepted practices
in proposing, carrying out, or reporting results from activities
funded by NSF." 45 CFR. §689.1(a).

The University of [REDACTED] investigated the allegations of
plagiarism and found that the majority of your proposal was
copied text from the Harvard proposal. The University determined
that you had clearly indicated to NSF in your proposal that you
planned to replicate the [REDACTED]
[REDACTED] already being conducted at
Harvard and that you would use many of the educational materials
developed by [REDACTED]. However, it concluded that you did not
indicate that the language in the proposal was almost entirely
copied from the text of the [REDACTED] proposal. The University
concluded that you committed plagiarism and misconduct in
science. OIG agrees with the University's conclusion.

¹ NSF Proposal No. [REDACTED] (formerly [REDACTED]).

² NSF Proposal No. [REDACTED] entitled [REDACTED]
[REDACTED]

Your submission of a proposal to NSF that extensively copies the words of others without adequate attribution or distinction, misled the reader into believing that the proposal contained original language. Failure to provide appropriate attribution to the original source in proposals severely undercuts the ability of NSF staff and reviewers to evaluate the PI's expertise and familiarity with the field. I agree with the University and OIG that this constitutes plagiarism as well as a serious deviation from accepted practices within the scientific community. I therefore conclude that you committed misconduct in science under NSF's regulations.

NSF's regulations establish three categories of actions (Group I, II, and III) that can be taken in response to a finding of misconduct. 45 CFR §689.2(a). Group I actions include issuing a letter of reprimand conditioning awards on prior approval of particular activities from NSF; and requiring certifications on the accuracy of reports or assurances of compliance with particular requirements. 45 CFR §689.2(a)(1). Group II actions include restrictions on designated activities or expenditures; and special reviews of requests for funding. 45 CFR § 689.2(a)(2). Group III actions include suspension or termination of awards; debarment or suspension from participation in NSF programs; and prohibitions on participation as NSF reviewers, advisors or consultants. 45 CFR § 689.2(a)(3).

In deciding what response is appropriate, NSF has considered the seriousness of the misconduct, whether it was deliberate or careless; whether it was an isolated event or part of a pattern; and whether the misconduct affects only certain funding requests or has implications for any application for funding involving the subject of the misconduct finding. See 45 C.F.R. §689.2(b).

The large amount of verbatim plagiarism and your years of professional experience contribute to the seriousness of the misconduct. On the other hand, I have taken into account several mitigating factors. Most importantly, you did disclose to NSF that your proposal was intended to replicate the NSF-funded project conducted at Harvard and that the [REDACTED] proposal was the original source of your ideas. Secondly, the [REDACTED] project director at [REDACTED] provided you with a copy of the [REDACTED] proposal and indicated that you had his permission to "utilize [the] proposal as the basis for your submission for funding to NSF." (OIG Investigative Report, Tab 8, pg. 1, Affidavit of [REDACTED]) Thirdly, the record indicates that this was an isolated instance of plagiarism in your career.

I have also taken into consideration the numerous steps already taken by the University to address the misconduct. The University required you to send a letter of apology to NSF and the authors of the [REDACTED] proposal, which you have done. In addition, the University instituted a requirement for a three-year period that if you apply for internal or external support, you must submit an affidavit to the University's vice president

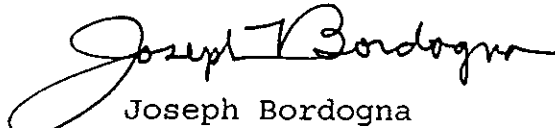
for graduate studies, research and economic development attesting that the application consists of original prose and ideas. You also resigned from your appointment as Distinguished University Professor. Finally, a letter of reprimand was placed in your personnel file for three years.

For all of the above reasons, I conclude that issuing this letter of reprimand is the appropriate action in this matter. It is not necessary for NSF to take any additional action. I am aware that considerable time has passed since the plagiarism occurred and I hope that this isolated error in judgment will be an anomaly in your otherwise distinguished career.

Procedures Governing Appeals

Under NSF's regulations, you have 30 days after receipt of this letter to submit an appeal of this decision, in writing, to the Director of the Foundation. 45 CFR §689.9(a). Any appeal should be addressed to the Director at the National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. For your information we are attaching a copy of the applicable regulations. If you have an questions about the foregoing, please call Lawrence Rudolph, General Counsel, at (703) 306-1060.

Sincerely,


Joseph Bordogna
Acting Deputy Director

Enclosures (2)
Investigative Report
NSF's misconduct in science regulations

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230



OFFICE OF
INSPECTOR GENERAL

September 15, 1998

To: Joseph Bordogna
Acting Deputy Director

From: Philip Sunshine *PSunshine*
Acting Inspector General

Subject: Misconduct Investigation Report M95060029

Attached is our confidential investigation report concerning allegations of misconduct in science against Dr. [REDACTED]. On the basis of an investigation done by the University of Toledo, we concluded that Drs. [REDACTED] and [REDACTED] committed plagiarism in a proposal to NSF.

We recommend that NSF find that Drs. [REDACTED] committed misconduct and send each of them a letter of reprimand.

If you have any questions about the investigation report or our recommended findings and disposition, I would be happy to discuss them with you.

cc: Lawrence Rudolph, General Counsel
[REDACTED] Assistant to the Director

NSF OIG REPORT

OIG Case Number M95060029

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REPORT OF INVESTIGATION INTO AN ALLEGATION OF MISCONDUCT IN SCIENCE AND ENGINEERING

SUMMARY

The Office of Inspector General (OIG) has determined that Dr. [REDACTED] (the first subject) and Dr. [REDACTED] (the second subject) of the University of Toledo (the university) committed plagiarism in a proposal to NSF. This conclusion is based on an investigation performed by the subjects' university. OIG recommends that NSF find that the subjects committed misconduct and send each of them a letter of reprimand from NSF's Deputy Director. In view of the university's actions in this case, OIG believes that no further action is necessary to protect NSF's interests.

OIG'S INQUIRY

In the course of an awardee institution's investigation of an otherwise unrelated allegation of plagiarism, the investigating committee noted that there were extensive similarities between a proposal submitted to NSF by the subjects¹ and an earlier proposal (the source proposal) by Dr. [REDACTED] of the [REDACTED] University (the other university).² These similarities came to OIG's attention when the institution sent the committee's report to us.³ OIG examined the two proposals and concluded that almost the entire text of the subjects' proposal was identical or substantially similar to that of the source proposal. The subjects' proposal appears after Tab 1, and the source proposal appears after Tab 2. The identical portions of the two proposals are highlighted. OIG wrote to the subjects, noting that, although their proposal made clear that their project would be modeled after the source proposal's project and would draw extensively on educational materials originally developed for that project, their proposal gave no indication that the language of the proposal was taken directly from another source and was not original to the proposal itself. OIG's letter to the first subject appears after Tab 3.⁴ After receiving replies from the subjects (Tab 4), OIG referred the case to the university for investigation. OIG's referral letter, which includes a summary of our inquiry, appears after Tab 5.⁵

¹ The proposal is [REDACTED]

[REDACTED] On the basis of the proposal, NSF made an award to the University. The award has since closed.

² The proposal is [REDACTED]

[REDACTED] On the basis of this proposal, NSF made an award to [REDACTED] University.

³ This other case also involved an NSF award. OIG had deferred independent investigative activity while the institution conducted its own investigation, and, consistent with NSF's misconduct regulation (45 C.F.R. § 689.3 (b) (4)), the institution provided OIG with its investigation report. The committee noted these similarities because it considered them to be evidence of possible misconduct that might require further investigation.

⁴ OIG's letters to the two subjects are substantively the same, and we have therefore appended only one of them to this report.

⁵ Although the alleged plagiarism in this case dates to a 1990 proposal, it was not brought to OIG's attention until 1995. The university experienced unusual delays in resolving the case, with the result that OIG did not receive notification of its final action until April, 1998, nearly two and one half years after we had referred the case to it for investigation.

THE UNIVERSITY'S INVESTIGATION

After conducting its own inquiry, the university proceeded with an investigation. The university reported the results of its investigation in two documents—a "Final Report" and an "Addendum." These documents, which together comprise the university's investigation report, appear after Tab 6. They are an integral part of OIG's report in that they state the factual findings on the basis of which we believe NSF should make its decisions concerning this case.

According to the Addendum (p. 3), the committee sent a preliminary draft of its investigation report to the subjects, received a reply from the first subject, chose to make some "small textual changes" to the preliminary draft, and declared the resulting document final. The committee also, in light of the first subject's reply, wrote the Addendum, which is an integral part of its final judgment concerning the subjects. In the Addendum, the committee reaffirmed its judgment concerning the first subject, but substantially revised its conclusions concerning the second subject.

In both documents, the investigation committee concluded that the first subject had committed misconduct in science by incorporating into his proposal, without attribution, text from the source proposal. It judged that the first subject played the leading role in preparing the proposal and that he knew that he was incorporating materials written and supplied by staff members from the source project. It cited the extent of the unattributed copying and the first subject's "senior position" (Final Report, p.10) as factors contributing to the seriousness of his actions. But it noted that the first subject had clearly indicated to NSF his plan to replicate in a new region of the country a project that had proven successful elsewhere. It concluded that the first subject had not attempted to mislead NSF as to the originality of the work he proposed. In explaining its view that the first subject's action was misconduct, the committee stated (Final Report, p.13) that "it is acceptable to copy a program, but unacceptable to copy a proposal."

The University Research Council reviewed the investigation report and unanimously recommended that the first subject write letters of apology to NSF and the authors of the source proposal; at the time he submits applications for internal university or external grant support, also submit an affidavit to the university's Vice President for Graduate Studies, Research and Economic Development attesting that his applications consist of original or properly attributed prose and ideas; and resign his position as Distinguished University Professor (while retaining his tenure, rank, and other university positions). The Council also recommended that a letter of reprimand be placed in the first subject's personnel file, to be removed after three years if there were no further evidence of misconduct. The subject appealed the recommended action concerning his distinguished professorship, but did not contest the other recommendations. The university president denied his appeal. Materials concerning the university's sanctions, including the first subject's apology to NSF, the first subject's letter resigning his distinguished professorship, and the letter of reprimand, appear after Tab 7.

The investigation committee initially concluded that the second subject played a limited role in preparing the proposal and, because he was merely careless, should not be held responsible for the plagiarism in it. New evidence that the first subject submitted in response to the preliminary draft led the committee to conclude that the second subject played a more substantial role in preparing the proposal than the committee first thought and that the second subject misappropriated text from the source proposal. However, the committee continued to suggest that the second subject's role was subsidiary to that of the first subject. The first subject's reply to the preliminary draft and the new evidence he submitted appear after Tab 8.

The University Research Council reviewed the investigation report and unanimously recommended that the university find that the second subject committed misconduct in science and impose sanctions on him. The Council's recommendations regarding the second subject concerning letters of apology, affidavits, and a letter of reprimand were the same as its recommendations concerning the first subject. The Council also recommended that the second subject resign his title of Emeritus (while retaining his tenure, rank, and other university positions). The second subject raised questions about the evidence that led the university to conclude he had committed misconduct and appealed the council's recommendations. The university's president denied his appeal, and the university reprimanded the second subject. Because the second subject did not voluntarily resign his title of Emeritus, the university's president recommended that the Board of Trustees strip the second subject of his Emeritus status. The Board did so in April, 1998. According to the university, the second subject did not write the letters of apology that the university requested. Documents relating to the second subject's appeal appear after Tab 9.

OIG has examined the university's investigation report and believes that it is fair, accurate, and complete. Given the amount of time since the events in this case occurred, we do not believe that the factual uncertainties noted by the university⁶ concerning the second subject's role in preparing the proposal can be resolved by further investigation, nor do we believe that these uncertainties vitiate the university's conclusion that the second subject committed misconduct in science. Although the subjects raised various considerations with OIG and the university to suggest that their actions were not sufficiently serious to be misconduct,⁷ we believe that only the considerations mentioned below in our analysis of the subjects' actions have substantial merit.⁸

⁶ On this point, see especially pages 3-6 of the Addendum to the Final Report of the Investigation Panel. The Addendum is included after Tab 6.

⁷ Tabs 4, 7, 8, and 9 contain materials that the subjects submitted.

⁸ One argument, raised by the first subject, deserves particular mention. The first subject compares his actions to those of the subjects in OIG case M94100032. In that case, the awardee institution concluded that the subjects did not commit misconduct, and OIG agreed with this conclusion. We believe that our recommendation in the present case is fully consistent with our conclusion in M94100032. In that case, the amount of verbatim plagiarism was far less and the director of the source project was initially expected to be a co-PI on the proposal the subjects in the case were planning to submit. OIG's decision document closing that case appears after Tab 10. We note that the present case was brought to OIG's attention as a result of the investigation of that case.

OIG'S CONCLUSION REGARDING MISCONDUCT IN SCIENCE

There is no question that the subjects submitted a proposal to NSF that is almost entirely copied from a proposal that was written by personnel working for the source project and supplied to the subjects by the source project's director. Although the subjects' proposal accurately indicated that the subjects planned to "copy" the source project in a different region of the country, the proposal gave no indication that the proposal text was almost entirely a copy of words written by others.

NSF's regulation on Misconduct in Science and Engineering (45 C.F.R. pt. 689) defines misconduct in part as a "serious deviation from accepted practices in proposing" research. The regulation specifically mentions only three examples of misconduct, and one of these is plagiarism (§ 689.1 (a) (1)). Research scientists generally consider plagiarism a serious violation of professional standards. The university's investigation committee rejected the idea that, with regard to plagiarism, professional standards in science education were materially different from those in science research (Final Report, p.13: "We view his distinction between what is accepted behavior in education versus that in science research to be wrong."). We know of no empirical support for this idea, and, in our experience, at least one other investigating committee has explicitly rejected it.⁹ We believe that NSF should join the university in affirming the general applicability in the science education community of the ethical standards that govern attribution in the scientific community at large.

Plagiarism is generally understood to involve using the words or ideas of another person without giving appropriate credit. In this instance, nearly the whole proposal submitted by the subjects consisted of plagiarized text. OIG believes that failing to give credit for this amount of material in this case is a serious deviation from accepted practices and fits NSF's definition of misconduct. The subjects' university reached this same conclusion. OIG believes that NSF should endorse the university's finding.

The preponderance of the evidence indicates that the first subject bears responsibility for submitting a plagiarized proposal. There is no question that he was primarily responsible for preparing the text of the proposal. In preparing the proposal, he knew he was incorporating a large quantity of material into his proposal that was written by staff members at the source project and that he had not attributed to them. In our view, other circumstances surrounding the first subject's action bear on the seriousness of the first subject's misconduct, but not on the issue of whether he committed misconduct at all. (We discuss these other circumstances below, in connection with our recommended disposition of this case.)

⁹ In its investigation report on OIG's case M94100032 (see footnote 6 above), an investigating committee constituted by the [REDACTED] aid, "We do not, therefore, conclude or even suggest that a different standard of academic scholarship should apply to grant applications that involve science education or teacher enhancement programs." This statement appears on page 28 of the committee's report. The report is on file in OIG.

The second subject also bears responsibility for submitting a plagiarized proposal. We believe he acted knowingly. At the very least, he acted recklessly. He permitted a proposal to be submitted to NSF, naming himself as co-principal investigator, that was almost entirely plagiarized from a document that he obtained from the source project. He should have been intimately familiar with the source document, because it described the operation of a project that he planned to use as a model for his own work. Even a cursory examination of his own proposal should have alerted him to the misappropriation of text from the source document. Under these circumstances, we agree with the university's president when he said, denying the second subject's appeal of the university's misconduct finding, that "while I understand that you dispute the extent of your involvement in drafting the text of the proposal, the unequivocal finding of the Investigation Panel that scientific misconduct occurred in the submission of the . . . proposal and your role as co-principal investigator responsible for its submission makes [sic] it difficult for me to find relevance in the limitations you place on your contribution."¹⁰ Moreover, the investigation committee, which was in the best position to make a judgment on the basis of conflicting testimony, concluded that he was involved in preparing portions of the proposal that included plagiarized text. We believe the preponderance of the evidence supports their conclusion, and indicates that he acted knowingly. In any event, whether he acted knowingly or recklessly, he bears responsibility for the misconduct in this case.

OIG concludes that a preponderance of the evidence supports the finding that both subjects committed misconduct in science as defined in NSF's regulation on Misconduct in Science and Engineering by submitting a plagiarized proposal to NSF, and recommends that NSF make a finding to that effect.

OIG'S RECOMMENDED DISPOSITION

Under § 689.2 (b) of NSF's regulation on Misconduct in Science and Engineering, upon making a finding of misconduct, NSF, in determining what actions it should take, must consider the seriousness of the misconduct. This includes considering the state of mind with which the subjects committed misconduct and whether the misconduct "was an isolated event or part of a pattern" (§ 689.2 (b) (3)). We have explained why the subjects' actions seriously deviate from accepted practices and hence are misconduct; this section explains OIG's recommended action in light of our assessment of the seriousness of the subjects' misconduct, i.e., our assessment of how serious this instance of misconduct is in relation to other instances.

The large amount of verbatim plagiarism contributes to the seriousness of the misconduct in this case. In our view, the subjects' many years of professional experience also makes their violation of professional standards more serious, because, as experienced scientists and educators, they should have clearly recognized the wrongness of their act.

¹⁰ This statement appears on page 3 of the president's December 15, 1997, letter to the second subject. The letter is among the documents that follow Tab 9.

However, a number of facts tend to attenuate the seriousness of the subjects' misconduct:

- The subjects' proposal accurately indicated the source of their ideas and the fact that the project was a replication of the source project. Thus the plagiarism involved words, but not ideas or implicit claims of originality, except insofar as judgments stated in the proposal appeared to rest on the experience of the subjects, rather than on that of the staff members of the source project.¹¹ NSF knew from the proposal that it was being asked to fund a copy of the source project, transplanted to a different region of the country.
- The director of the source project encouraged the subjects to use the document he supplied to them. There is no evidence that he in any way gave them permission to use the document without appropriate attribution.¹² But the subjects' belief, grounded in their communications with the project director, that they had permission from the source project to "draw on" or "utilize the text of" the source document mitigates the seriousness of their misconduct, because it gives them some limited basis for a good faith, albeit misguided, belief that their plagiarism was justified.
- The subjects did not commit misconduct willfully. There is no indication that they made special provision to prevent detection of their plagiarism.
- The subjects' misconduct appears to be an isolated incident in two otherwise honorable careers. There is no evidence that it was part of a pattern.
- The misconduct took place approximately 8 years ago, and there has been no recurrence of misconduct.

OIG believes that NSF should join the university in affirming that the subjects' actions constitute misconduct in science and should send each subject a letter of reprimand. This is a Group I action (see § 689.2 (a) (1) (i)). We believe that the university's other actions, in particular its affidavit requirements, are sufficient to protect NSF's interests and render additional NSF action unnecessary.

¹¹ On page 8 of the Addendum, the investigation committee quotes two sentences from the subjects' proposal. One, which appears on p.22 of the proposal, states that "[w]e believe that the most important element in science education theory relates to students' 'naive theories.'" The other, which appears on p.23, states that "[w]e are particularly impressed by the results of the [redacted] program organized by [redacted]. The committee comments:

Any independent reader, including the reviewers at NSF, would conclude that these sentences describe personal, professional judgments. However, these sentences were copied without attribution from the [redacted] proposal.

¹² Moreover, such permission was not his to give. Accepted standards of attribution serve readers as well as authors. Authors cannot waive readers' right to know whose words and ideas they are reading or exempt colleagues from their obligations to attribute material properly.

¹³ The quoted words come from the first subject's September 11, 1996, letter to the chair of investigation committee (pages 4 and 5, respectively). On page 4, the first subject is quoting an electronic mail message he received from the director of the source project. The first subject's letter is included in Tab 8.

We share the university's view that the first subject bears greater responsibility for the misconduct that occurred than does the second subject. We believe it would be desirable for the text of NSF's letters of reprimand to reflect this difference, but we do not believe that the difference is of such magnitude as to either justify additional NSF action regarding the first subject or make it inadvisable to reprimand the second subject for his misconduct.

██████████ received a copy of our draft report and elected not to reply to it. Dr. ██████████ Dr. ██████████ representative, submitted a reply on Dr. ██████████ behalf. The reply is attached after Tab 11. In it, ██████████ requests that we remand ██████████ case to the University of ██████████ for further investigation. We have chosen not to do so. A brief statement of our reasons appears directly following Dr. ██████████ reply.