

CLOSEOUT FOR M96020005

This case came to OIG on February 26, 1996, when [REDACTED], a program officer in NSF's [REDACTED] Division, informed us of a complaint by [REDACTED] (the complainant) of the [REDACTED] Department (the department) at [REDACTED] (the university). The complainant had alleged to the program officer that several unnamed colleagues in her department were obstructing her NSF funded research.¹ We later learned that the colleagues whose actions were the primary focus of the allegations were [REDACTED] (the first subject), [REDACTED] (the second subject) and [REDACTED] (the third subject). The program officer also informed us that the complainant had made misconduct allegations at her university. In a February 28, 1996, letter, [REDACTED], the university's Vice Provost for Research, notified OIG that these allegations had substance and that the university was undertaking an investigation. OIG agreed to delay independent review of the allegations to give the university an opportunity to complete its investigation.

OIG informed the program officer that she could intervene as necessary to ensure that future progress under the award would be satisfactory, but that she should avoid addressing the misconduct allegations and should refer any allegations of misconduct she received to OIG. The program officer indicated that, having discussed the matter with the complainant, she believed the complainant was making normal progress on her award and that no NSF intervention was required to enable the complainant to continue to do so. OIG noted that, in a progress report to NSF made less than two months before the complainant contacted the program officer, the complainant gave no indication that her progress was unsatisfactory.

When the university's committee concluded its investigation, it reported that "an unacceptable pattern of action based on non-normative understandings of the proper conduct of research ha[d] become common" in the department. The committee recommended "an attempt to restructure the administration" of the department "rather than proceeding to specific charges against specific individuals." It also, however, "le[ft] open the issue of whether disciplinary proceedings should be initiated in the future if the current problems, or similar ones, continue." The committee proposed a one year monitoring period, after which, if it was satisfied with the department's progress in resolving its problems, the committee would "recommend dropping the possibility of pursuing formal disciplinary charges." The university sent us the report and stated that it had adopted the committee's recommendations.

¹ The complainant was the PI for [REDACTED] entitled "[REDACTED]"

After reviewing the university's report, OIG informed the university that the report did not contain the information we needed to fulfill our obligation to independently assess the university's conclusions and recommend appropriate NSF action. We noted that, among other deficiencies, the report did not describe the specific allegations investigated or contain a full explanation of the investigation's findings, conclusions, and recommendations. We requested that, if the university's ongoing monitoring might alter its findings and conclusions concerning misconduct in science, the university send us its final report on the allegations after the monitoring period had concluded. We stressed that our letter expressed no view about the university's conclusions.

The university decided to send us a revised report after the monitoring period had ended. On the basis of the evidence in the revised report, OIG was able to accept the university's conclusion that the actions detailed in the university's report, though some were ill judged or inappropriate, did not seriously deviate from accepted practices for carrying out research at this university and hence could not be considered misconduct in science.

Obstruction Allegations

Most of the allegations that the university considered involved alleged obstruction of the complainant's research. When the complainant agreed to join the university's faculty, the university promised to provide certain laboratory equipment and facilities to enable her to do her research. The complainant agreed to share some of her equipment and facilities with the third subject when he was first hired. The complainant alleged that the third subject would not relinquish her equipment and facilities when her research had progressed to the point that she needed full use of them. She further alleged that, as chairs of the department, the first and second subjects, along with other department members, attempted to misappropriate her equipment and facilities and thereby obstructed her research. She alleged that this attempted misappropriation persisted over an eight month period and that the university administration did not act decisively to remedy the situation.

The university concluded that "various other members of the [department] were wrong to assert that they should have access to the equipment or that they should adjudicate who should have access to the equipment." It found that the subjects and other members of the department "were following what they believed (we think in error) to be acceptable professional, departmental, and university procedures" and "that there was considerable confusion" among certain university administrative officials with responsibilities for research administration "regarding the nature of [equipment] usership rights, how they should be determined and who had the authority to make decisions regarding them." However, the university found that none of the scientists in the department had "acted with knowing malice" to obstruct the complainant's research, and OIG likewise concluded that the pattern of their actions indicated that their primary concern was to enable the third subject to progress in his research.

OIG decided that the actions of the various department and university officials needed to be considered in light of the evidence that the university's customs governing rights to use

equipment and facilities were ill defined. We decided that these officials might be considered negligent in failing to inquire further into the norms in the wider scientific community, but that their actions in this case could not be considered reckless. We concluded that the norms in this area are not easily available in codified form, that the relevant norms may permissibly vary somewhat among institutions where research is performed, and that the officials appropriately recognized their obligation to help the third subject secure access to needed equipment, even if they were mistaken in believing they could do so at the price of creating considerable inconvenience for the equipment's primary user. In light of these considerations, we concluded that the allegedly obstructive actions that the complainant experienced were not misconduct in science.

OIG was pleased to note that the university has undertaken to develop an equipment use policy that will clarify the university's understanding of the rights and responsibilities of scientists and university administrators in this area. When we informed the university that we were closing this case, we expressed our hope that their new policy would recognize both the right of primary users to use their equipment when they needed to do so and the obligation of primary users to share that equipment with other scientists whenever such sharing was feasible without significant cost to the primary user's work.

Other Allegations

The investigation committee also considered several other allegations. The complainant alleged that the third subject submitted a proposal² to NSF listing the complainant as a co-PI and signing the certification page for the complainant (i.e., indicating that the signature that appeared there was not actually hers) when the complainant had not reviewed the text of the proposal. The proposal sought NSF funds for an equipment purchase and was a revision of an earlier submission.³ The committee concluded that "there was no misconduct" because it appeared that the third subject "believed he had [the complainant's] permission to sign in her absence." OIG noted in its letter to the university, a copy of which went to the third subject, that it is inappropriate for a PI to sign for a co-PI without explicit permission to do so. We also noted that the signatories to the proposal cover page should be in a position to carefully review the content of the proposal before signing. However, OIG concluded that under the circumstances the third subject's action, though undesirable, could not be considered misconduct in science. The third subject's action would have been more serious if (1) the complainant was unaware that a revision of their jointly submitted proposal was about to be submitted, (2) the complainant was unaware, in general, of its content, or (3) if the third subject had contravened a specific request by the complainant that the proposal not be sent to NSF unless she personally reviewed the text. In the absence of these or other aggravating

² The proposal was [REDACTED], entitled "[REDACTED]" In addition to the complainant, [REDACTED] and [REDACTED] were co-PIs for this proposal.

³ The earlier proposal was [REDACTED], entitled "[REDACTED]" The complainant was the PI for this proposal. [REDACTED] and the third subject were co-PIs.

conditions, we concluded that the third subject's action did not rise to the level of misconduct in science.

The complainant also alleged a variety of improprieties connected to the handling of a proposal by the third subject to another government agency.⁴ The first and second subjects were co-PIs on this proposal, and the proposal requested funds to pay them summer salaries. They nonetheless failed to recuse themselves from administrative decisions (concerning, for example, the use of university owned equipment) affecting the proposal, and the complainant alleged these decisions hindered her work. For reasons given above, OIG decided that, like the subjects' other allegedly obstructive actions, the subjects' administrative decisions were not, as such, misconduct in science.

We further determined that the failure to properly manage the conflict of interests of persons who participated in those decisions was an internal university matter. We determined that in this case this failure violated no federal law or regulation and decided that it would be inappropriate in this situation to recommend formal NSF action. However, because the facts about this conflict of interests raised concerns about the care with which university officials administered federal awards, we informed the university, in the letter we sent when we closed this case, that we hoped that in the future officials at the university would be more sensitive to conflicts of interests affecting the administration of NSF proposals and awards. We noted that we were pleased that the first subject, in a letter commenting on the university's investigation report, had indicated that one of the "lessons invaluable to [his] functioning as a chairman" that this case had taught him was to be more sensitive to conflicts of interests. We expressed our hope that officials at the university generally had learned this lesson.

The complainant also alleged that the subjects supplied the other agency with false or misleading information in their proposal and did not keep the other agency apprised of changing circumstances that might affect its proposal and award decisions. Because these allegations did not involve an NSF proposal or award, we concluded that they fell outside our jurisdiction. Regarding these allegations, the university found that no misconduct had occurred. Because the evidence in the report did not suggest that these allegations were well founded and because we had evidence that responsible officials at the other agency were knowledgeable about the allegations that affected their award, we did not inform the other agency of these allegations.

The complainant alleged that she had felt coerced to support a graduate student in the department with her award funds, even though the student was not working on the award. The investigation committee decided that "the issue was moot" because the complainant "had signed the necessary paperwork." OIG noted that there was no evidence of actual coercion and concluded that memories of these events could not be sufficiently reliable as to context and detail to form the basis for NSF action concerning this allegation.

⁴ The agency was the Air Force Office of Scientific Research.

CLOSEOUT FOR M96020005

The complainant made two allegations concerning inappropriate comments. One allegation concerned comments made by a faculty colleague urging the complainant to make what the complainant viewed as unjustified concessions. The other allegation concerned discussions in which the third subject allegedly attempted to involve the complainant's students in his dispute with the complainant. OIG agreed with the investigation committee that the actions that were the basis of these allegations could not be considered misconduct in science connected to an NSF proposal or award. The committee also dismissed two other allegations—both concerning failures to consult the complainant about matters related to planned uses of her laboratory space—as not rising to the level of misconduct in science. OIG accepted the university's judgment concerning these allegations.

The complainant informed OIG that a student at the university⁵ made an unauthorized entry into her laboratory. She provided some evidence to indicate that the third subject assisted the student. This matter has been addressed by the university police, but the complainant believes that their investigation was inadequate. OIG decided not to pursue this matter further because there was no evidence that the intrusion caused tangible harm to the complainant's NSF-supported research or that any specific individual was trying to cause such harm. Under these circumstances, this incident raised no significant concern about misconduct in science.

OIG informed the university that we were pleased to note that the university has endeavored to help the complainant to recover from the disruptions to her NSF supported work by providing her with additional resources to facilitate her future research progress.

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

cc: IG, AIG-O

⁵ His name is [REDACTED]