

CLOSEOUT FOR M98010004

On January 23, 1998, OIG received a letter from Dr. [REDACTED] (the misconduct officer), Vice Provost and Dean for Research and Graduate Studies at [REDACTED] (the university). The misconduct officer reported that the university had informally handled "an instance of plagiarism" in a proposal to NSF. The proposal was [REDACTED],¹ which was withdrawn shortly after submission. The subject was [REDACTED] of [REDACTED] (the department), who was PI for this proposal. In his proposal, the subject had allegedly misappropriated the work of a collaborator in the department, [REDACTED].

The misconduct officer reported that a standing executive committee of the department (the department committee) considered the subject's proposal and elicited from the subject a memorandum in which he "acknowledge[d] plagiarism and misappropriation of another's work" in his NSF proposal. The committee concluded that in submitting the proposal the subject had made a false certification to NSF in "violation of U.S. code title 18, section 1001." It made an agreement with the subject to "resolve the problem within the department and not proceed to the stage of an Inquiry Committee" under the university's policy governing misconduct in science. The department committee then imposed sanctions on the subject, requiring that he "submit for review by the chair and the [department committee] all proposals, papers, and abstracts that you author or co-author for a period of 5 years" and withdraw a pending request for leave. The committee also directed that its memorandum stating its conclusions and the sanctions it imposed be made a part of the subject's permanent record and be sent to the department's faculty. The misconduct officer supplied OIG with limited information concerning both the subject's alleged plagiarism and the university's handling of the case.

In view of the absence of a formal investigation and its attendant procedural safeguards, OIG elected to initiate its own investigation. We wrote to the misconduct officer asking for the complete record of the university's handling of this matter, including a statement of whether the university considered the subject's actions to be "a serious deviation from accepted practices" and, if so, a full explanation of the basis for this conclusion. We wrote to the subject inviting him to supply whatever evidence or explanations he believed would aid us in understanding the relevant facts of the case.

¹ The proposal was entitled "[REDACTED]"

CLOSEOUT FOR M98010004

The source document from which the department concluded the subject plagiarized was a multi-authored manuscript of which the subject was first author.² The material the department concluded was plagiarized comprised three figures and an introductory paragraph containing eleven lines of text. This material was developed by the collaborator and supplied to the subject for inclusion in the manuscript. The department also concluded that the collaborator had “partly or wholly” developed “many of the key ideas” in the subject’s proposal. The department did not specify, with regard to key ideas in the two scientists’ joint work, where on the continuum between “partly” and “wholly” the collaborator’s contributions fell. The record indicated that, before the subject incorporated these ideas into his proposal without attribution, the subject and the collaborator had discussed these ideas extensively, the subject had formulated them in his own words, and the two scientists had used these ideas in their joint work. It also indicated that the collaborator had not given the subject permission to use his words or ideas without attribution in a sole authored document.

OIG concluded that the subject made unattributed use of material and ideas, including three figures and a small amount of text contributed by his collaborator, from a manuscript to which the subject was undisputedly a major contributor and for which he reasonably claimed credit as first author. We concluded that this action could not be considered a serious deviation from accepted practices in the scientific community at large or in the subject’s disciplinary community. The department did not use NSF’s criterion for assessing misconduct in science (whether an action seriously deviates from accepted practices) in reaching its conclusion that the subject had committed “misconduct.” Thus we have no basis for determining whether, in the department’s view, the subject’s action seriously deviated from accepted practices at the university or in the department.

An important element in the department’s view of this case, according to the department chair’s account of the department’s decision, was that “there was a prior case of misconduct on the part of [the subject] already in the file.” This prior case had not been investigated or adjudicated at the university. NSF’s regulation on Misconduct in Science and Engineering (45 U.S.C. § 689.2 (b)) instructs NSF officials that, “when misconduct is found,” they should consider whether it was “an isolated event or part of a pattern.” Because the evidence supplied by the university and the subject indicated that the subject had not committed misconduct in science in submitting his proposal, OIG concluded that it should not consider any evidence of alleged past misconduct, as such evidence was not relevant to NSF’s determination of whether misconduct had occurred in this case.

OIG wrote to the university and the subject informing them that we had concluded that a finding of misconduct in science by NSF was not warranted in this case. In our letter to the university, we expressed the hope that university officials, in reflecting

² The manuscript was entitled “[REDACTED]” It was submitted to the [REDACTED]. The manuscript lists the subject, the collaborator, [REDACTED] and [REDACTED] as authors.

CLOSEOUT FOR M98010004

on their experience in handling this case, would come to share our view that allegations of misconduct are best handled by procedures that contain safeguards to ensure (a) fairness to the affected individuals and (b) thorough and careful consideration of relevant facts and standards by disinterested parties. We noted that the absence of appropriate safeguards in a university's investigative process could cause OIG to conclude that we could not accept a university's findings in a misconduct case (§ 689.8 (a)).

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