

CLOSEOUT FOR M98080021

This case came to OIG on August 8, 1998, when we received a letter and supporting documents from Dr. [REDACTED] (the complainant) of the [REDACTED] (the department) at [REDACTED] (the university). The complainant alleged that Drs. [REDACTED] (the first subject), [REDACTED] (the second subject), and other members of the department's faculty had obstructed her research and retaliated against her for informing OIG and responsible officials at the university about the subjects' alleged misconduct in science.

The complainant had made earlier allegations against the subjects. These were investigated by the university, which found that no misconduct occurred in that case. OIG, after reviewing the evidence, accepted the university's conclusion.¹ The complainant's new allegations concerned the subjects' actions since this earlier case was resolved.

The complainant alleged that the first subject deliberately obstructed her research by failing to give her adequate technician support for her work and that his action in this regard was misconduct in science. However, the complainant judged this alleged obstruction to be less serious than previous actions that the university and OIG had concluded were not misconduct in science, and OIG agreed with her judgment in this regard. OIG decided that there was no evidence of obstruction of research that was so serious as to constitute evidence of misconduct in science.

The complainant cited four instances of alleged retaliation against her for being a whistleblower. The university's misconduct official, who had not handled the complainant's previous allegations or been otherwise involved in the case previously, assessed the retaliation allegations. After interviewing knowledgeable persons in the department and examining records relevant to these allegations, the official determined that further fact gathering was not required and that the allegations lacked substance as allegations of misconduct in science. The four instances of alleged retaliation were:

1. The complainant suggested that the first subject's persistence in allegedly obstructive behavior was evidence that the behavior was deliberately obstructive and retaliatory. The university official concluded that many of the allegedly obstructive actions could be attributed to administrative problems, including limited resources,

¹ OIG's decision is explained in the document closing OIG case M96020005.

inadequate planning, and poor communication. He concluded that the first subject's pattern of action was generally inconsistent with the idea that his actions were motivated by a retaliatory intent. OIG accepted this conclusion.

2. The complainant alleged that an official complaint against her by the second subject constituted retaliation. OIG examined the complaint. The university official dismissed this complaint as "not, in itself, an act of scientific misconduct." OIG noted that the second subject's complaint was precipitated by an altercation that was not specifically related to the complainant's whistleblowing. The second subject's complaint cited a history of interpersonal conflict between the second subject and the complainant that predated the complainant's misconduct allegations and was in significant measure unrelated to it. We concluded that there was insufficient evidence to tie the second subject's complaint specifically to the complainant's whistleblowing and that the allegation that this complaint was retaliation lacked substance.

3. The complainant alleged that a union grievance filed by the subjects and two of their colleagues in the department, which alleged that the university had failed to protect the grievants from discriminatory and damaging actions and comments by an unnamed faculty member, constituted retaliation. The university official noted that "except that [the complainant] chose to involve herself in the handling of the grievance, the existence of this grievance placed no restrictions on her behavior or on her research and did not result in any decrease in technical support for her projects." The grievance, which was subsequently withdrawn, could not substantively and adversely affect the complainant unless disinterested persons assessed it to be meritorious. OIG concluded that the filing of the grievance lacked sufficient direct retaliatory impact on the complainant to make it misconduct in science within the meaning of NSF's definition.

4. The complainant alleged that the department's unjustified decision to deviate from its hiring plan (by hiring a scientist whose specialization did not complement the complainant's) adversely affected the complainant and was retaliatory. In her complaint, the complainant acknowledged that other interpretations of the department's action were possible. The university official concluded that the record of the department's decision did not support the interpretation of the decision as retaliatory, and OIG accepted this conclusion.

On the basis of OIG's review of the university official's conclusions and the record in this case, we concluded that the allegations lacked sufficient substance as an allegation of misconduct in science to warrant pursuing further. This inquiry is closed and no further action will be taken on this case.