



Active Grants and Awards Notification and Reporting Requirements Regarding Findings of Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation

NSF, NIH, USDA NIFA, and Other Sponsored Programs

STATEMENT OF PURPOSE

California State University, East Bay is committed to creating and maintaining an educational, working, and living environment free from all forms of harassment and sexual misconduct. The University's policies prohibit such harassment and misconduct and apply to all members of the University community.

The procedures are provided here for required notification and reporting to sponsoring federal agencies.

At present, this procedure addresses NIH, NSF, and USDA NIFA reporting only. However, the University may have other legal or contractual obligations to report harassment or sexual misconduct to third parties, *e.g.*, to other government agencies or sponsors in connection with specific awards or collaborations, and will act in accordance with those obligations. Also, the University anticipates that additional funding agencies or organizations may adopt similar comprehensive notification requirements. The University may update this procedure as necessary to address such additional notification requirements.

BACKGROUND

California State University

In many instances, award terms and conditions refer to "organizational policies or codes of conduct, statutes, regulations, or executive orders." Cal State East Bay complies with the [CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation](#)

All East Bay employees have a mandatory duty to report allegations or acts of harassment to the Campus Title IX Coordinator and/or Discrimination, Harassment Retaliation (DHR) Administrator.

NSF

- 1) On September 21, 2018, the National Science Foundation (NSF) published in the [Federal Register](#) a final notice of a new award "*term and condition regarding sexual harassment, other forms of harassment, and sexual assault.*" That term and condition requires the University to notify NSF promptly of findings of "sexual harassment, other forms of harassment, or sexual assault" against an NSF-funded principal investigator (PI) or co-PI, as well as interim administrative actions imposed by the University (*e.g.*, administrative leave or curtailment of certain University duties). Please see the [Term and Condition Frequently Asked Questions \(FAQs\)](#) for additional information.

- 2) In February 2019, NSF released its policy statement (PAPPG III.E.7) for harassment free conferences. (See also *NSF-Sponsored Conference and Off-Campus/Off-Site Work* below.) *“It is NSF policy to foster harassment-free environments wherever science is conducted, including at NSF-sponsored conferences. Proposers are required to have a policy or code-of-conduct that addresses sexual harassment, other forms of harassment, and sexual assault, and that includes clear and accessible means of reporting violations of the policy or code-of-conduct. The policy or code-of-conduct must address the method for making a complaint as well as how any complaints received during the conference will be resolved. This policy or code-of-conduct must be disseminated to conference participants prior to attendance at the conference as well as made available at the conference itself. Proposers should not submit the policy or code-of-conduct to NSF for review.”*
- 3) Effective January 2023 NSF released restated terms and conditions guidance for [Safe and Inclusive Working Environments for off-campus or off-site research](#), *“It is NSF policy (see Chapter XI.A.1.g.) to foster safe and harassment-free environments wherever science is conducted. NSF’s policy recognizes that a community effort is essential to eliminate sexual and other forms of harassment in science and to build inclusive scientific climates where people can learn, grow, and thrive. Accordingly, for each proposal that proposes to conduct research off-campus or off site, the AOR must complete a certification that the organization has a plan in place for that proposal that describes how the following types of behavior will be addressed:*
- 1. Abuse of any person, including, but not limited to, harassment, stalking, bullying, or hazing of any kind, whether the behavior is carried out verbally, physically, electronically, or in written form; or*
 - 2. Conduct that is unwelcome, offensive, indecent, obscene, or disorderly.*

This plan should also identify steps the proposing organization will take to nurture an inclusive off-campus or off-site working environment, e.g., trainings; processes to establish shared team definitions of roles, responsibilities, and culture, e.g., codes of conduct; and field support, such as mentor/mentee support mechanisms, regular check-ins, and/or developmental events

Communications within team and to the organization should be considered in the plan, minimizing singular points within the communications pathway (e.g., a single person overseeing access to a single satellite phone), and any special circumstances such as the involvement of multiple organizations or the presence of third parties in the working environment should be taken into account. The process or method for making incident reports as well as how any reports received will be resolved should also be accounted for.

The organization’s plan for the proposal must be disseminated to individuals participating in the off-campus or off-site research prior to departure. Proposers should not submit the plan to NSF for review.”

While Cal State East Bay procedures for reporting are outlined below, if you would like to report harassment you were subjected to, have witnessed or became aware of involving an NSF-funded program or activity directly to the National Science Foundation, the contact is the NSF Office of Diversity and Inclusion (ODI) at programcomplaints@nsf.gov. If you do not

receive an acknowledgement within 48 hours, NSF requests follow ups to ensure ODI has received the communication.

NIH

The National Institutes of Health (NIH) is committed to supporting a safe and respectful work environment across the entire biomedical research enterprise. NIH does not tolerate harassment of any kind, including [sexual harassment](#), at research institutions that receive NIH funding, or anywhere NIH-funded activities are conducted.

Recipients of NIH funds (i.e. the institution) must proactively notify NIH of changes in a principal investigator or other senior key person's status, for example modified employment or leave status during an investigation of alleged sexual misconduct.

- The organization receiving NIH funding must notify NIH if it takes an administrative or disciplinary action against its employee(s)-for example, limiting access to the institution's facilities or resources or modifying employment or leave status during an investigation of alleged sexual misconduct - that affects the ability of the employee(s) to continue as PI or other senior key personnel on an NIH award.
- The organization is required to notify NIH and seek NIH's prior approval for replacement(s) of the individual(s).
- [NOT-OD-20-124](#). The request for prior approval should include mention as to whether change(s) in PD/PI or Senior/Key Personnel is related to concerns about safety and/or work environments (e.g. due to concerns about harassment, bullying, retaliation, or hostile working conditions). NIH will in turn be better positioned to enable informed grant-stewardship decisions regarding matters including, but not limited to, substitute personnel and institutional management and oversight.

Prior approval is required for the transfer of the legal and administrative responsibility for a grant-supported project or activity from one legal entity to another before the completion date of the approved project period (competitive segment). As outlined in [NOT-OD-20-124](#), NIH expects both the relinquishing and applicant organizations to disclose whether a Change of Recipient Organization is occurring within the context of an ongoing or recent investigation of misconduct of any kind, including but not limited to professional misconduct or research misconduct.

For more details on NIH Anti-Sexual Harassment Expectations, Policies, and Requirements, see <https://grants.nih.gov/grants/policy/harassment/policy-requirement.htm>

USDA-NIFA

On December 16, 2020, the USDA's National Institute of Food and Agriculture (NIFA) issued a notification letter regarding its, "Sexual Harassment Notification Process." "NIFA prohibits harassment of any kind, including sexual harassment at institutions who are recipients of federal funding and in any federally assisted program or activity. In addition to taking prompt corrective action to address sexual harassment when it occurs, NIFA expects all recipients of federal funding to implement the following proactive steps to prevent sexual harassment:

- Develop clear, publicly accessible policies on sexual harassment and procedures for investigating and responding to sexual harassment complaints;

- Notify faculty, staff, and students of sexual harassment policies and procedures annually; and
- Notify NIFA Equal Opportunity and Civil Rights staff within three (3) business days of any administrative or disciplinary action taken as related to sexual harassment concerns and/or complaints in a NIFA-funded program or activity.

CAL STATE EAST BAY NOTIFICATION AND REPORTING PROCEDURES

1. Names of the NSF, NIH Principal Investigator(s) and other sponsored principal investigators (PI) and Co- Investigator(s) (Co-PI) will be submitted through a shared document to the Title IX Coordinator upon the following circumstances:
 - a. Once ORSP is notified of an award,
 - b. ORSP will maintain a shared spreadsheet with current PI, Co-PI and other senior/key personnel.
2. The Title IX Coordinator determines on an ongoing basis whether either of the following below exist and report, as a legitimate business need, such finding and action(s) taken, if any, to the Authorized Organizational Representative (Associate Vice President of ORSP) within 3 business days:
 - a. A finding/determination regarding the PI or any co-PI that demonstrates a violation of Cal State East Bay policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault; and/or
 - b. If the PI or any co-PI is placed on administrative leave or if any administrative action has been imposed on the PI or any co-PI by Cal State East Bay relating to any finding/determination or an investigation of an alleged violation of institutional policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.
3. Upon identification of a PI, Co-PI or other sponsored senior/key personnel who may require reporting to NSF, NIH, or other sponsor the PI or Co-PI will be notified by the AVP and the Title IX Coordinator will be copied. This may occur at the proposal stage, award stage, or after award. The PI or Co-PI may request a discussion with the Title IX Coordinator and/or AVP to learn more about the applicable federal policy.
4. *4.a) NSF Funded Grants/Contracts:*
 - a. Within 10 business days, the AVP ORSP notifies NSF of any findings/determinations (based on 2.a. and 2.b. above) regarding an NSF funded PI or Co-PI using the online *Organizational Notification of Harassment Form*: https://www.nsf.gov/od/odi/notification_form.jsp. The following information must be included in each notification to NSF (items ii.-v. are provided by the Title IX Coordinator):
 - i. NSF Award Number
 - ii. Name of PI or Co-PI being reported
 - iii. Type of Notification based on item 2.a. & 2.b. above
 - iv. Description of the finding/determination and action(s) taken, if any; and

- v. Reason(s) for, and conditions of, placement of the PI or any co-PI on administrative leave or imposition of administrative action.
- b. Only the identification of the PI or Co-PI being reported is required and personally identifiable information regarding any complainants or other individuals involved in the matter **MUST NOT** be included in the notification.
- c. The AVP may propose to NSF a substitute investigator if they determine the PI or Co-PI may not be able to carry out the funded project or activity and/or abide by the award terms and conditions. This process will necessarily involve discussions with others at the University, including the potential substitute PI(s) or co-PI(s) and appropriate department chair(s) and dean(s), but disclosures will be limited to the extent possible. NSF will consult with the AVP upon receipt and review of the information provided by the AVP. Final decisions are made by the NSF.

4.b) NIH Funded Grants/Contracts:

- a. The AVP notifies the NIH Program Officer of any findings/determinations (based on 2.a. and 2.b. above) regarding an NIH funded PI or Co-PI and will follow further reporting instructions from the NIH Program Officer.

4c) USDA-NIFA Funded Grants/Contracts:

- a. The AVP notifies the [USDA Office of Equal Opportunity and Civil Rights](#) within 3 business days of any findings/determinations (based on 2.a. and 2.b. above) regarding a USDA-NIFA funded PI or Co-PI and will follow further reporting instructions from the USDA representative.

4d) Other Sponsors:

- a) ORSP will notify other sponsors according to their policies and procedures.

Any institution that has not implemented the NSF or NIH Harassment Policy and enters a subaward with Cal State East Bay must certify that they will follow the Cal State East Bay Procedure. The university Title IX Coordinator/DHR Officer will work with the subawardee's Title IX Coordinator to collect information and report to the East Bay AVP, who is responsible for reporting directly to the funder.

When California State University, East Bay is a subawardee or non-lead institution under a federal award, notifications will be made directly to federal agency. However, the University may also communicate with the prime awardee as necessary or appropriate under the circumstances.

NSF-Sponsored Conferences and Off-Campus/Off-Site Work

1. During PI Orientation for receipt of an NSF award ORSP will remind NSF-funded Principal Investigators that they must provide conference attendees and off-campus/off-site workers or activity participants a [copy of the NSF policy information](#) prior to the event, work, or activity, and at the conference itself and document.
2. NSF-funded PIs agree to distribute the required notification as evidence through signature at orientation and requirement to follow policy and procedures.