



August 31, 2018

The Honorable Patty Murray
United States Senate
Washington, DC 20510

Dear Senator Murray:

Thank you for writing to express your concerns regarding sexual harassment in the workplace and, particularly, the role that the National Institutes of Health (NIH) plays in Title IX oversight for facilities that receive NIH funding.

I wholeheartedly agree that NIH grantee institutions must be held responsible for complying with antidiscrimination laws prohibiting sexual harassment in federally funded programs. We are taking several actions to ensure those expectations are clearly communicated and met, and to follow up on the recommendations of the recent National Academies of Science, Engineering, and Medicine (NASEM) report that you cited in your letter. I am glad that I had the opportunity to help shape this report as co-chair (with the National Science Foundation's France Córdova) of the National Science and Technology Council Committee on Science, and that NIH was able to contribute significantly to the support of the study. I have been in discussions with Dr. Córdova about reconvening the Committee on Science to discuss a federal interagency response to the recommendations in the NASEM report, consistent with our current authorities.

We set expectations for our extramural community through our NIH Grants Policy Statement, which is a term and condition of all awards. The Grants Policy Statement communicates that NIH upholds "high ethical, health, and safety standards in both the conduct of the research we fund and the expenditure of public funds by our recipients," including adherence to civil rights assurances. Further, the Policy Statement makes clear that "NIH recipients are expected to foster work environments conducive to high-quality research."

NIH requires our grantee institutions—the institutions with which the principal investigators (PIs) who conduct the funded research are associated—to be compliant with these conditions of award. We also survey other sources of information to be sure critical events are not overlooked. If and when NIH becomes aware of issues involving PIs or other grant personnel through sources such as the media, NIH immediately works with the recipient institution to verify the issues and take all appropriate actions on the affected grant awards. Such actions could include a change of PI or Program Director (PD) or other actions to remedy noncompliance with the terms and conditions of the grant award, some of which may affect the institution's future funding.

In addition, NIH conducts audits to make sure our grantees have in place appropriate policies and systems, primarily systems to ensure that federal funds are being accounted for properly. We do these things so our careful review of each grantee's specific circumstances can inform definitive findings that lead to successful enforcement actions.

In response to your specific requests (Questions 1-5), I have enclosed the following items:

1. NIH harassment policy:
 - a) National Institutes of Health Anti-Harassment Policy, March 19, 2012.¹
 - b) Policy Memorandum on Maintaining a Safe Working Environment, December 13, 2017.²
 - c) Draft Manual Chapter 1311, Preventing and Addressing Harassment and Inappropriate Conduct, is under final review and scheduled to be published in September. We will provide a copy to your office when this is published (not enclosed).
2. NIH Anti-Harassment Steering Committee Roster and Statement of Goals.
3. A description of all internal or external harassment-related training provided in the last 18 months, including dates.
4. NIH dispute resolution process and policies:
 - a) Office of the Ombudsman Brochure.
 - b) Office of the Ombudsman Annual Report 2013-2017.
 - c) The Office of Equity, Diversity, and Inclusion (EDI) Alternative Dispute Resolution information.
5. The total number of harassment settlements regarding NIH.

In response to Question 6, which concerns other efforts NIH is undertaking to assess and address workplace harassment, I also have enclosed a detailed list of activities related to our specific efforts targeting NIH employees (Enclosure 6). In addition to the 2017 Policy Memorandum (Enclosure 1b) and the Draft Manual Chapter in development for our intramural community (reference 1c, above), with respect to our extramural community, we clearly state in our revised conference grant funding opportunity announcement that we expect organizers of NIH-supported conferences to take steps to maintain a safe and respectful environment for all attendees by providing an environment free from discrimination and harassment.

Further, this week, NIH reaffirmed the requirements for all training grant applications by requiring applicants to include a letter from an institutional leader stating that proper policies, procedures, and oversight are in place to prevent harassment and other discriminatory practices and to appropriately respond to allegations of such discriminatory practices, including providing any required notifications to NIH (e.g., requesting NIH's prior approval of a change of PI/PD status).

In June 2018, the Advisory Committee to the Director discussed these serious issues and NIH Principal Deputy Director Dr. Lawrence Tabak gave a presentation on NIH's anti-harassment efforts. You may hear Dr. Tabak's presentation³ (the presentation begins at 4:35).

¹ https://www.edi.nih.gov/sites/default/files/public/EDI_Public_files/policy/anti-harassment-01.pdf

² <https://hr.nih.gov/working-nih/civil/maintaining-safe-work-environment-memo>

³ <https://videocast.nih.gov/Summary.asp?File=23957&bhcp=1>

Concerning Question 7, regarding compliance and enforcement, when a domestic research institution submits a grant application to NIH, the institution's Authorized Organization Representative must certify, by means of a signature on the application, that they have on file a number of Assurance of Compliance (AoC) documents, including those that pertain to human subjects protection, animal welfare practices, and civil rights compliance. A knowingly false certification by an applicant or recipient concerning the required Assurance of Compliance could result in an adverse action by the Department concerning funding or a referral to the Department of Justice for appropriate action.

With respect to Questions 8-11, prior to the issuance of each award, NIH conducts a pre-award risk assessment for every applicant by checking the federal System for Award Management (SAM),⁴ among other resources, to determine if a recipient is eligible to receive an NIH award. NIH queries SAM, the Federal Awardee Performance and Integrity Information System (FAPIIS),⁵ and the National External Audit Review Center. The lack of adherence to certifications made to NIH would place the recipient at risk for future funding. NIH is not aware of any compliance actions taken specifically because of an institution's failure to file the required Assurance of Compliance; however, because of the importance of these issues, we are exploring further collaboration with the U.S. Department of Health and Human Services' Office for Civil Rights.

With respect to Question 12, NIH is reviewing the NASEM report and considering and exploring its recommendations in conjunction with our federal science agency partners, including NSF. Currently, NIH policy requires funded institutions, if they take administrative or disciplinary action against employee(s) serving as a PI/PD—for example, limiting access to the institution's facilities or resources or modifying employment or leave status during an investigation of alleged sexual misconduct—to notify NIH and seek NIH's advance approval for his or her replacement. On May 1, 2018, NIH reminded the extramural community of this requirement in NOT-OD-18-172.⁶

I hope this response addresses your concerns. Please be assured that I am personally committed to providing a safe, harassment-free work environment, as are all of my senior staff. This is a high priority for NIH. If you have any additional questions, I am available and would be pleased to discuss this matter further in person at your convenience. I have sent an identical response to the co-signer of your letter, Representative Rosa L. DeLauro.

Sincerely yours,



Francis S. Collins, M.D., Ph.D.
Director

Enclosures

⁴ <https://sam.gov/>

⁵ <https://www.fapiis.gov/>

⁶ <https://grants.nih.gov/grants/guide/notice-files/NOT-OD-18-172.html>