

Congress of the United States
Washington, DC 20510

August 6, 2018

Dr. Francis Collins
Director
National Institutes of Health
9000 Rockville Pike
Bethesda, MD 20892

Dear Dr. Collins:

We write to express deep concern regarding harassment in the workplace and to obtain information on how the National Institutes of Health (NIH) is working to address the issue both within the agency and in research facilities that receive NIH funding. Federal funding should not support laboratories and institutions where workplace harassment is allowed to continue unaddressed. It is critical that NIH take proactive steps to hold its grantees accountable for fostering inclusive environments. We firmly believe the agency can promote the highest levels of scientific merit while also doing more to prevent and address discriminatory practices and harassment by NIH-funded researchers.

Sexual harassment is unfortunately all too common in the field of biomedical research. In June, the National Academies of Science, Engineering and Medicine (NASEM) released a groundbreaking report on the sexual harassment of women in the academic sciences. This report found that nearly 60 percent of women in academia have experienced sexual harassment on the job.¹ Other studies have found that one in three female biomedical researchers report sexual harassment,² and up to 71 percent of female scientists report experiencing sexual harassment while conducting field research.³ Often times, the harassers are academic advisors or other superiors who have the ability to ruin decades of young scientists' work to establish themselves in a research field, or sabotage academic careers before they begin. These professional costs make it incredibly difficult for individuals to report harassment in research settings, and as a result, individuals may choose to stay silent or leave the field altogether.

As a federal agency that awards tens of billions of research dollars across the United States, NIH has a critical role to play in holding institutions and their professionals in biomedical research accountable for establishing and modeling safe work environments across the field. The Senate Labor, Health and Human Services, Education and Related Agencies Appropriations legislation for Fiscal Year 2019 includes language recognizing the NASEM report and underscoring that while NIH has taken initial steps to improve research environments, much more work remains.

¹ *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine*, National Academies of Sciences, Engineering, and Medicine (2018).

² Leah Samuel, *Female Scientists Report Pervasive Gender Bias, Sexual Harassment*, STAT News (May 17, 2016) <https://www.statnews.com/2016/05/17/sexual-harassment-female-researchers/>.

³ Madison Pauly, *She was a Rising Star at a Major University. Then a Lecherous Professor Made Her Life Hell*, Mother Jones (Sept. 8, 2017) <https://www.motherjones.com/politics/2017/09/she-was-a-rising-star-at-a-major-university-then-a-lecherous-professor-made-her-life-hell/#>.

While a 2015 NIH notice explicitly outlines expectations that “grantees eliminate barriers and provide equal access to the opportunity to participate in NIH support research, programs, conferences, and other activities,”⁴ the agency’s method for ensuring grantees uphold this standard does not go far enough. In order to receive NIH funding, institutions need only to certify that they have filed a one-time Assurance of Compliance with the HHS Office of Civil Rights (OCR) (NOT-OD-15-152), which specifies that the institution agrees to comply with federal civil rights laws.⁵ NIH staff are available to respond to inquiries regarding this notice, but applicants are directed to contact OCR with questions or complaints regarding compliance with the civil rights laws. It therefore appears that NIH’s only role in ensuring that funding for extramural projects supports research in inclusive, non-hostile environments is confirming that an award applicant’s institution has signed, dated, and mailed the compliance document to HHS OCR.

This lack of engagement from NIH is particularly unacceptable in light of disturbing news reports that cases of sexual harassment in the academic sciences often involve high profile faculty offenders whose behavior is considered an “open secret.” In these instances, their colleagues were aware of ongoing issues and may have warned new faculty and students about the perpetrator, but institutions themselves take little to no action.⁶ Consistent oversight and proactive measures from NIH are necessary to ensure that investigators and research institutions provide effective protections against workplace harassment, among other forms of discrimination.

As the Director of NIH, your leadership is critical to ensure harassment-free research environments and equal employment opportunities for all NIH-funded researchers. While NIH has taken steps to measure, monitor, and address intramural harassment, the agency has largely failed to take steps to hold its awardee institutions accountable for fostering safe workplace environments regarding extramural harassment. The Chief Officer for Scientific Workforce Diversity at NIH, Dr. Hannah Valentine, might agree. She has described sexual harassment in academic medicine as a “multistakeholder issue” requiring a “multipronged approach” that incorporates “policies and structures for reporting, evaluating, and dealing with offenders and for supporting victims.”⁷

Another research agency, the National Science Foundation (NSF), has acknowledged its responsibility to ensure that NSF-funded research environments are free of harassment and in February announced an update to its policies. The updated policies include requiring grantee

⁴ NIH Notice NOT-OD-15-152

⁵ Including Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments Act of 1972, the Age Discrimination Act of 1975, and Section 1557 of the Affordable Care Act.

⁶ Meredith Wadman, *Famed Cancer Biologist Allegedly Sexually Harassed Women for Decades*, Science (Apr. 26, 2018), <http://www.sciencemag.org/news/2018/04/famed-cancer-biologist-allegedly-sexually-harassed-women-decades>; Harriet Ryan, Matt Hamilton and Paul Pringle, *A USC Doctor was accused of bad behavior with women for years. The university let him continue treating students*, Los Angeles Times (May 16, 2018) <http://www.latimes.com/local/california/la-me-usc-doctor-misconduct-complaints-20180515-story.html>; Cornelia Dean, *Francisco J. Ayala, Famed Biologist, Resigns After Sexual Harassment Inquiry*, New York Times (June 29, 2018) <https://www.nytimes.com/2018/06/29/science/francisco-ayala-sexual-harassment.html>.

⁷ Martha Jablow, *Combatting Sexual Harassment in Academic Medicine*, Association of American Medical Colleges (April 4, 2017) <https://news.aamc.org/diversity/article/combating-sexual-harassment-academic-medicine/>.

organizations to report findings of harassment related to a principal investigator, co-investigator, or other related personnel of an NSF award and to implement harassment-free workplace standards.⁸ As a result, NSF will become aware of investigators within institutions that have committed workplace harassment, and be able to consider such information when administering future awards. NASEM recommends that other award-granting federal agencies, such as NIH, implement comparable measures and treat such instances of harassment as a form of research misconduct.⁹

We are interested in any similar efforts NIH is undertaking as well as the ongoing discussions, plans, and actions within the agency aimed at protecting researchers and establishing a safe working environment free from harassment. We request a briefing with our staff about the ways in which NIH is addressing this issue. Additionally, we request the following information and answers to the below questions by no later than August 17, 2018:

1. A copy of the agency's harassment policy;
2. Descriptions, charters, and rosters for any working groups or task forces on the issue of harassment for intramural and extramural researchers;
3. A description of all internal or external trainings provided in the past 18 months related to harassment including dates of the trainings;
4. A copy of the agency's dispute resolution process and policies;
5. The total number of harassment settlements regarding NIH (including instances in facilities that receive NIH funding) made during in FY2013, FY2014, FY2015, FY2016, and FY2017 and the individual and aggregate amounts of those settlements; and
6. A description of any other efforts the agency undertakes to assess and address workplace harassment.

We also request answers to the following questions:

7. What is the process by which NIH ensures an applicant for NIH funding has an Assurance of Compliance on file with HHS OCR? Is this process completed for all applicants or only those awarded grants?
8. In what instances does NIH query HHS OCR to determine whether a grantee has an Assurance of Compliance on file? How often does this query occur?
9. How often has NIH queried HHS OCR to determine whether a Principle Investigator or Co-Investigator for an NIH award has been found to be in violation of the civil rights laws cited in the Assurance of Compliance?
10. How often has NIH queried HHS OCR to determine whether the applicant institution for an NIH award has been found out of compliance with the civil rights laws cited in the Assurance of Compliance?
11. How many instances has NIH determined a grantee to be out of compliance with policy NOT-OD-15-152? For each instance, please include a description of the violation, and the remedy undertaken by the agency.

⁸ France A. Cordova, *Important Notice No. 144: Harassment*, National Science Foundation (Feb. 8, 2018) <https://www.nsf.gov/pubs/issuances/in144.jsp>.

⁹ *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine*, National Academies of Sciences, Engineering, and Medicine (2018).

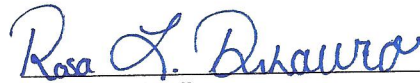
12. Does NIH have plans to implement recommendations included in the recent NASEM report regarding the sexual harassment of women in the academic sciences, including the recommendation to require institutions to report when individuals on grants have been found to have violated sexual harassment policies or been put on administrative leave related to sexual harassment, as NSF has proposed?

The biomedical industry undoubtedly looks to NIH for leadership in how to tackle the pervasive problem of workplace harassment. While significant work remains by NIH on this front, we appreciate you taking this matter seriously, and look forward to continued discussions. If you have any questions regarding this letter please contact our staff: Madeleine Pannell at 202-224-7675 and Stephen Steigleder at 202-226-7179.

Sincerely,



Patty Murray
United States Senator



Rosa L. DeLauro
United States Representative