§ 689.2 Actions.

(a) Possible final actions listed below for guidance range from minimal restrictions (Group I) to the most severe and restrictive (Group II). They are not exhaustive and do not include possible criminal sanctions.

(1) Group I Actions.

(i) Send a letter of reprimand to the individual or institution.

(ii) Require as a condition of an award that for a specified period an individual, department, or institution obtain special prior approval of particular activities from NSF.

(iii) Require for a specified period that an institutional official other than those guilty of misconduct certify the accuracy of reports generated under an award or provide assurance of compliance with particular policies, regulations, guidelines, or special terms and conditions.

(2) Group II Actions.

(i) Restrict for a specified period designated activities or expenditures under an active award.

(ii) Require for a specified period special reviews of all requests for funding from an affected individual, department, or institution to ensure that steps have been taken to prevent repetition of the misconduct.

(3) Group III Actions.

(i) Immediately suspend or terminate an active award.

(ii) Debar or suspend an individual, department, or institution from participation in NSF programs for a specified period after further proceedings under applicable regulations.

(iii) Prohibit participation of an individual as an NSF reviewer, advisor, or consultant for a specified period.

(b) In deciding what actions are appropriate when misconduct is found, NSF officials should consider:

(1) How serious the misconduct was;

(2) Whether it was deliberate or merely careless;

(3) Whether it was an isolated event or part of a pattern;

(4) Whether it is relevant only to certain funding requests or awards involving an institution or individual found guilty of misconduct.

(c) Interim actions may include, but are not limitd to:

(1) Totally or partially suspending an existing award;

(2) Totally or partially suspending eligibility for NSF awards in accordance with debarment-and-suspension regulations;

(3) Proscribing or restricting particular research activities, as, for example, to protect human or animal subjects;

(4) Requiring special certifications, assurances, or other, administrative arrangements to ensure compliance with applicable regulations or terms of the award;

(5) Requiring more prior approvals by NSF;

(6) Deferring funding action on continuing grant increments;

(7) Deferring a pending award;

(8) Restricting or suspending use of individuals as NSF reviewers, advisors, or consultants.

(d) For those cases governed by the debarment and suspension regulations, the standards of proof contained in those regulations shall control. Otherwise, NSF will take no final action under this section without a finding of misconduct supported by a preponderance of the relevant evidence.

§ 689.3 Role of awardee institutions.

(a) Awardee institutions bear primary responsibility for prevention and detection of misconduct. In most instances, NSF will rely on awardee institutions to promptly;

(1) Initiate an inquiry into any suspected or alleged misconduct;

(2) Conduct a subsequent investigation, if warranted; and

(3) Take action necessary to ensure the integrity of research, the rights and interests of research subjects and the public, and the observance of legal requirements or responsibilities.

(b) If an institution wishes NSF to defer independent inquiry or investigation, NSF expects it to;

(1) Inform NSF immediately if an initial inquiry supports a formal investigation.

(2) Keep NSF informed during such an investigation.

(3) Notify NSF even before deciding to initiate an investigation or as required during an investigation

(i) If the seriousness of apparent misconduct warrants;

(ii) If immediate health hazards are involved;

(iii) If NSF's resources, reputation, or other interests need protecting;

(iv) If Federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected; or

(v) If the scientific community or the public should be informed.

(4) Provide NSF with the final report from any investigation.

(c) If an institution wishes NSF to defer independent inquiry or investigation, it should complete any inquiry and decide whether an investigation is warranted within 90 days. It should similarly complete any investigation and reach a disposition within 180 days. If completion of an inquiry or investigation is delayed, but the institution wishes NSF deferral to continue, NSF may require submission of periodic status reports.

(d) Awardee institutions should maintain and effectively communicate to their staffs appropriate policies and procedures relating to misconduct, which should indicate when NSF must or should be notified.

§ 689.4 Initial NSF handling of misconduct matters

(a) NSF staff who learn of alleged misconduct will promptly and discreetly inform OIG or refer informants to OIG.

(b) To the extent possible the identify of informants who wish to remain anonymous will be kept confidential. To the extent allowed by law, documents and files maintained by NSF during the course of an inquiry or investigation of misconduct will be treated as investigative files exempt from mandatory pubic disclosure upon request under the Freedom of Information Act.

(c) If alleged misconduct may involve a crime, OIG will determine whether any criminal investigation is already pending or projected. If not, OIG will determine whether the matter should be referred to the Department of Justice.

(d) Otherwise OIG may:

(1) Inform the awardee institution of the alleged misconduct and encourage it to undertake an inquiry;

(2) Defer to inquiries or investigations of the awardee institution or of another Federal agency;

(3) At any time proceed with its own inquiry.

(e) If OIG proceeds with its own inquiry it will normally complete the inquiry no more than 60 days after initiating it.

(f) On the basis of what it learns from an inquiry and in consultation as appropriate with other NSF offices, OIG will decide whether a formal NSF investigation is warranted.

§ 689.5 Investigations.

(a) When an awardee institution or another Federal agency has promptly initiated its own investigation, OIG may defer an NSF inquiry or investigation until it receives the results of that external investigation. If it does not receive the results within 180 days, OIG will ordinarily proceed with its own investigation.

(b) If OIG decides to initiate an NSF investigation, it must give prompt written notice to the individual or institutions to be investigated, unless notice would prejudice the investigation or unless a criminal investigation is underway or under active consideration. if notice is delayed, it must be given as soon as it will no longer prejudice the investigation or contravene requirements of law or Federal law-enforcement policies.

(c) If a criminal investigation by the Department of Justice, the Federal Bureau of Investigation, or another Federal agency is underway or under active consideration by these agencies or the NSF, OIG will determine what information, if any, may be disclosed to the subject of the investigation or to other NSF employees.

(d) An NSF investigation may include:

(1) Review of award files, reports, and other documents already readily available at NSF or in the public domain;

(2) Review of procedures or methods and inspection of laboratory materials, specimens, and records at awardee institutions;