

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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September 19, 2018

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Dorado,

The Committee on Science, Space, and Technology is continuing its oversight of allegations of sexual misconduct within the scientific community. On January 18, 2018, Chairman Smith and Ranking Member Johnson requested that the U.S. Government Accountability Office (GAO) conduct a full study of sexual misconduct regarding federal grant-making agencies' compliance with relevant laws and policies, how agencies share information, and identification of recommendations for better enforcement.¹ Since the request was made, several independent reports and findings of inappropriate behavior, sexual misconduct, and persistent issues within the scientific and academic communities have heightened our concern.

The Committee's investigation has identified gaps in the application of current law and policies, as well as inconsistencies in how federal agencies and related academic institutions handle sexual misconduct complaints. Additionally, uniform policies are not in place for preventing federal research funding from going to researchers and scientists who have committed workplace misconduct.

The Committee is providing GAO with the findings of our investigation to enable GAO to further explore and provide potential solutions to prevent sexual misconduct in the scientific community and ensure that government funding does not go to those who engage in this unacceptable behavior. The following provides a summary and background of sexual misconduct within the scientific community, the Committee's actions and findings regarding the handling of sexual misconduct by federal agencies and academic institutions, additional issues the Committee would like to highlight, and potential recommendations. The Committee recognizes that since we launched our investigation some positive efforts have been undertaken that deserve to be highlighted, although it is clear additional action is needed.

¹ Letter from Hon. Lamar Smith & Hon. Eddie Bernice Johnson, H. Comm. on Science, Space, & Tech., to Hon. Gene L. Dodaro, U.S. Gov't Acct. Office (Jan. 18, 2018).

Studies Find the Prevalence of Sexual Misconduct in Science is Overwhelming

An increasing amount of studies and reports have highlighted the pervasiveness of sexual misconduct in the scientific community, particularly in academic and research settings. A 2016 National Academies of Science, Engineering, and Medicine workshop revealed that “40-70 percent of women had experienced sexual harassment during their careers or as students.”² A 2015 Association of American Universities Campus Climate Survey on Sexual Assault and Sexual Misconduct found that only 7.7 percent of sexual harassment victims reported it to either the appropriate university, agency or another official.³ Additionally, of those sexual harassment victims, only 9 percent of women and 5 percent of men reported their experience to an agency or program.⁴ Chairwoman Comstock, in her hearing remarks, specifically noted survey results presented at the National Postdoctoral Association’s 2018 Annual Conference that found nearly 30 percent of the postdoctoral scholars respondents experience sexual harassment, with 90 percent of those reporting they were sexually harassed as trainees (53 percent as graduate students and 35 percent as postdocs).⁵

Women conducting scientific research and fieldwork are particularly vulnerable to sexual misconduct and harassment. Research conducted by Dr. Kathryn Clancy, an anthropologist at the University of Illinois, found that more than 20 percent of female anthropologists who responded to the survey had experienced “physical sexual harassment or unwanted sexual contact.”⁶ Specific to research field sites, Dr. Clancy found that 64 percent of survey respondents stated they had personally experienced sexual harassment, with over 20 percent reporting they had personally experienced sexual assault.⁷ Most of these victims are female, and most of the perpetrators were colleagues with superior professional status, sometimes the victim’s own fieldwork mentor.⁸ In a second study conducted by Dr. Clancy of the astronomy and planetary science community, 88 percent of respondents reported hearing, experiencing, or witnessing negative language or harassment that was related to race or gender.⁹ The survey also found that 39 percent of respondents were verbally harassed and that 40 percent of non-white female respondents said they felt unsafe at work as a result of their race and gender.¹⁰

² Comm. on Women in Sci., Eng’g, & Med., *Addressing Sexual Harassment in the Science, Engineering, and Medical Workplaces – A Scoping Workshop Summary*, NAT’L ACADS. OF SCI., ENG’G, & MED. (May 2016).

³ ASS’N OF AM. UNIV., REPORT ON THE AAU CAMPUS CLIMATE SURVEY ON SEXUAL ASSAULT AND SEXUAL MISCONDUCT 35 (2015), <https://www.aau.edu/sites/default/files/AAU-Files/Key-Issues/Campus-Safety/AAU-Campus-Climate-Survey-FINAL-10-20-17.pdf> [hereinafter AAU CAMPUS CLIMATE SURVEY REPORT].

⁴ *Id.* at 112.

⁵ Tullia C. Bruno & Kate M Sleeth, Nat’l Postdoctoral Ass’n., *Examining Sexual Harassment in the Postdoctoral Community: NPA 2017 Survey Results* (Apr. 7, 2018), <https://www.nationalpostdoc.org/general/custom.asp?page=2018ACSSatSes>.

⁶ John Bohannon, *Survey Finds Sexual Harassment in Anthropology*, SCIENCE (April 13, 2013), <http://www.sciencemag.org/news/2013/04/survey-finds-sexual-harassment-anthropology>.

⁷ Kathryn B. H. Clancy et al., *Survey of Academic Field Experiences (SAFE): Trainees Report Harassment and Assault 4*, PLOS ONE 9(7) e102172, <http://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0102172&type=printable>.

⁸ *Id.*

⁹ Kathryn B. H. Clancy et al., *Double Jeopardy in Astronomy and Planetary Science: Women of color face greater risks of gendered and racial harassment*, J. OF PLANETARY SCI. (July 10, 2017).

¹⁰ *Id.*

When specifically looking at the dynamic of the effect of professional status and mentoring within the academic community, the issues of reporting and protection of notable academics are two main pervasive issues frequently discussed. According to a report by the U.S. Equal Employment Opportunity Commission (EEOC), in the general workforce, “anywhere from 87% to 94% of individuals [that have experienced harassment] did not file a formal complaint.”¹¹ Specifically within higher education, the most common reason cited for not reporting incidents “was that it was not considered serious enough.”¹² Additionally, some individuals have cited not reporting due to inadequate knowledge of reporting mechanisms or the perception that their reporting would not be relevant to the academic institution or would not be taken seriously.¹³

Another concern that must be considered is the risk posed to the reporting individual. A study cited by the EEOC found that 75 percent of employees who reported workplace mistreatment faced some form of retaliation.¹⁴ In the scientific community, researchers have noted that many junior status scientists and researchers do not report for fear that doing so will negatively impact their careers.¹⁵ “If targets fear reprisals, and feel that the institutional process will not serve them, they will be unlikely to report.”¹⁶ Due to the culture of the scientific community and the notoriety of prominent or “superstar”¹⁷ scientists, there is the potential for an increased presence of harassment issues than general statistics may indicate. High value or superstar employees, such as a grant recipient, present a higher risk for harassment since individuals or an institution may be reluctant to report someone valuable to the institution.¹⁸ More concerning, “the high value employees, themselves, may believe that the general rules of the workplace do not apply to them.”¹⁹

An increasing number of reports have highlighted prominent members of the academic scientific community who have been found guilty or accused of various forms of sexual misconduct.²⁰ High profile allegations of misconduct against University of California, Berkeley

¹¹ U.S. EQUAL EMP’T OPPORTUNITY COMM’N, SELECT TASK FORCE ON THE STUDY OF HARASSMENT IN THE WORKPLACE 16 (2016), https://www.eeoc.gov/eeoc/task_force/harassment/upload/report.pdf [hereinafter EEOC STUDY OF HARASSMENT].

¹² AAU CAMPUS CLIMATE SURVEY REPORT, *supra* note 3, at 36.

¹³ NAT’L ACADS. OF SCI., ENG’G, & MED., SEXUAL HARASSMENT OF WOMEN: CLIMATE, CULTURE, AND CONSEQUENCES IN ACADEMIC SCIENCES, ENGINEERING, AND MEDICINE 62, 81 (2018) [hereinafter NAT’L ACADS., SEXUAL HARASSMENT].

¹⁴ EEOC STUDY OF HARASSMENT, *supra* note 11, at 16 (citing Lilia M. Cortina & Vicki J. Magley, *Raising Voice, Risking Retaliation: Events Following Interpersonal Mistreatment in the Workplace*, 8:4 J. OCCUPATIONAL HEALTH PSYCHOL. 247, 255 (2003).).

¹⁵ NAT’L ACADS., SEXUAL HARASSMENT, *supra* note 13, at 83, 88.

¹⁶ *Id.* at 81.

¹⁷ See EEOC STUDY OF HARASSMENT, *supra* note 11, at 24-25.

¹⁸ *Id.*

¹⁹ *Id.* at 27 (citing Written Testimony of Fran Sepler, Industry Specific Harassment Issues, Meeting of the Select Task Force on the Study of Harassment in the Workplace (Sept. 18, 2015), https://www.eeoc.gov/eeoc/task_force/harassment/9-18-15/sepler.cfm).

²⁰ Sarah Scoles, *2016 Cemented Science’s Sexual Harassment Problem*, WIRED (Dec. 29, 2016), <https://www.wired.com/2016/12/can-build-calendar-sexual-harassment-stories-science>.

(Berkeley) astronomer, Dr. Geoffrey Marcy, emerged in 2015.²¹ Berkeley found that Marcy violated the University's sexual harassment policies, and allegedly "engaged in inappropriate physical behavior with students, including unwanted massages, kisses, and groping."²² In response to pressure from the academic community, Marcy chose to resign. Berkeley was heavily criticized for not firing Marcy following the university's investigation and findings. In the intervening years, numerous accounts of sexual misconduct by leading scientists across disciplines have surfaced, including a California Institute of Technology astrophysicist, a University of Chicago molecular biologist, a University of Washington microbiologist, a University of Kentucky entomologist, and a University of Rochester cognitive scientist.²³ Most of these cases have resulted in the resignation or termination of the accused sexual harasser.

While the statistics on sexual misconduct in science are staggering and extremely concerning, the effect of this unacceptable behavior also causes significant damage to the overall scientific community. Despite women representing half of U.S. college graduates and nearly half of the total U.S. workforce, women only account for 24 percent of American's STEM workforce.²⁴ Women leaving academic and professional STEM fields due to sexual misconduct and harassment is something that must be taken seriously. The overall impact that sexual misconduct on scientific research requires further analysis, but early indicators do not provide an encouraging picture.

Science Committee Investigation

On October 26, 2017, the Committee asked Boston University (BU), the National Science Foundation (NSF), and NASA to produce documents and information related to allegations that Dr. David Marchant, a prominent geologist and federal grant recipient employed by BU, sexually harassed and assaulted female researchers during field expeditions in Antarctica.²⁵ In response to that request, BU, NSF, and NASA engaged with the Committee and provided information required for the Committee to carry out its oversight responsibility. Since the late 1990s, Dr. Marchant has been associated with over \$5.4 million in grant awards from

²¹ Azeen Ghorayshi, *Famous Berkeley Astronomer Violated Sexual Harassment Policies Over Many Years*, BUZZFEED (Oct. 9, 2015), https://www.buzzfeed.com/azeenghorayshi/famous-astronomer-allegedly-sexually-harassed-students?utm_term=.edVaNZbDA#.mceRQ7qWn10/sexual-harassment-geoff-marcy/410089/.

²² *Id.*

²³ Azeen Ghorayshi, *A Caltech Professor Who Harassed Two Female Students Has Resigned*, BUZZFEED (Aug. 2, 2017), https://www.buzzfeed.com/azeenghorayshi/christian-ott-has-resigned?utm_term=.noaq8oPOG#.dhLyKD1b4; Amy Harmon, *Chicago Professor Resigns Amid Sexual Misconduct Investigation*, N.Y. TIMES (Feb. 2, 2016), <https://nyti.ms/2jO>; Azeen Ghorayshi, *In Unprecedented Move, The University of Washington Just Fired a Professor for Sexual Harassment*, BUZZFEED (Aug. 3, 2017), https://www.buzzfeed.com/azeenghorayshi/uw-fired-michael-katze?utm_term=.qt8Y57rnd#.nsVdqONAj; Marjorie Kirk, *Kernel obtains withheld records; victims say UK trying to protect professor in sexual assault case*, KENTUCKY KERNAL (Aug. 13, 2016), http://www.kykernel.com/news/kernel-obtains-withheld-records-victims-say-uk-trying-to-protect/article_1434f31e-6175-11e6-8148-2f5a5ecb7147.html; Vivian Wang, *Rochester Launches New Inquiry Into Harassment Accusations*, N.Y. TIMES (Sept. 20, 2017), <https://nyti.ms/2jJw3rb>.

²⁴ DEP'T OF COMMERCE, ECON. & STATISTICS ADMIN., WOMEN IN STEM: 2017 UPDATE (2017), <http://www.esa.doc.gov/sites/default/files/women-in-stem-2017-update.pdf>.

²⁵ Letter from Hon. Lamar Smith & Hon. Eddie Bernice Johnson, H. Comm. on Science, Space, & Tech., to Dr. Robert A. Brown, Boston Uni. (Oct. 26, 2017).

NSF and NASA, on projects ranging from Antarctic and Mars research, to K-12 STEM Education.²⁶ Two separate Title IX complaints alleged Dr. Marchant created a hostile environment through repeated actions and harassment directed towards the victims while on long-duration isolated expeditions at a remote NSF Antarctic field site.²⁷ The actions included specific threats to utilize his prominent standing and sizeable funding to prevent their advancement in the field of Antarctic research, and to block their access to future NSF research.²⁸

According to recent news articles and documents provided to the Committee, BU's internal investigation found that Dr. Marchant did indeed engage in sexual harassment in violation of the University's policies during a 1999-2000 field expedition in Antarctica.²⁹ Additionally, documents produced by BU and NSF revealed that Dr. Marchant resisted NSF's initial efforts to transfer his federal grants to another researcher for management while he was on administrative leave, insisting there was not an official policy for requiring such a transfer of grant funding until a finding was made and all appeals exhausted.³⁰ It was not until January 2018, three months after the initial allegations were made public, that NSF cancelled Dr. Marchant's federal funding with intervention from NSF leadership. Documents related to these decisions are enclosed.

Since initiating this investigation, the Committee became aware of an increasing number of reports highlighting other prominent members of the academic scientific community that have been found guilty or accused of various forms of sexual misconduct.³¹ Within the past few months, three professors at Dartmouth University were under investigation for allegations of serious sexual misconduct, with all three resigning or retiring following a recommendation that they be terminated and their tenure revoked.³² Another professor at the University of Rochester

²⁶ Boston University, *Professor Profile: David R. Marchant* (last visited Nov. 16, 2017), <http://www.bu.edu/earth/people/faculty/david-r-marchant/>.

²⁷ Meredith Wadman, *Boston University concludes geologist sexually harassed student*, SCIENCE (Nov. 17, 2017), <http://www.sciencemag.org/news/2017/11/breaking-boston-university-concludes-geologist-sexually-harassed-student>; Meredith Wadman, *Disturbing Allegations of Sexual Harassment in Antarctica levels at Noted Scientist*, SCIENCE (Oct. 6, 2017), <http://www.sciencemag.org/news/2017/10/disturbing-allegations-sexual-harassment-antarctica-leveled-noted-scientist>.

²⁸ Wadman, *supra* note 27; Ben Guarino, *Antarctic geologist accused of sexually harassing, assaulting female researchers*, WASH. POST (Oct. 10, 2017), https://www.washingtonpost.com/news/speaking-of-science/wp/2017/10/10/antarctic-geologist-accused-of-sexually-harassing-assaulting-female-researchers/?utm_term=.378cee341442&wpisrc=nl_science&wpm=1.

²⁹ *Id.*; Ben Guarino, *Boston University professor sexually harassed graduate student, investigation finds*, WASH. POST (Nov. 20, 2017), https://www.washingtonpost.com/news/speaking-of-science/wp/2017/11/20/boston-university-professor-sexually-harassed-graduate-student-investigation-finds/?utm_term=.3b76f5bc3c2b.

³⁰ Emails between Boston University Staff, and Nat'l Sci. Found. Staff (Jan. 25, 2018, 6:20 p.m., Jan. 22, 2018, 4:51 p.m., Dec. 18, 2017, 11:26 a.m., & Dec. 11, 2017, 12:45 p.m.) (on file with Committee Staff).

³¹ See Wang, *supra* note 23; Katharine Q. Seelye & Stephanie Saul, *Dartmouth College Professors Investigated Over Sexual Misconduct Allegations*, N.Y. TIMES (Oct. 31, 2017), <https://nyti.ms/2iRX7oh>; Scoles, *supra* note 20; Rachel Feltman, *Astronomy's snowballing sexual harassment scandal picks up even more cases*, WASH. POST (Jan. 13, 2016), https://www.washingtonpost.com/news/speaking-of-science/wp/2016/01/13/astronomys-snowballing-sexual-harassment-scandal-picks-up-even-more-cases/?tid=a_inl&utm_term=.4650b62d41f7.

³² Seelye & Saul, *supra* note 31; Nora Doyle-Burr, *Dartmouth Psych Professor Retires Amid Harassment Inquiry*, VALLEY NEWS (June 14, 2018), <http://www.vnews.com/Dartmouth-College-professor-Todd-Heather-ton-to-retire->

was the subject of a follow-up investigation into repeated claims that he violated harassment and discrimination policies by creating a toxic environment.³³ The recent complaint at Rochester also pushed the university to revamp its ineffective system for investigating sexual harassment complaints.³⁴ Previous cases involving prominent professors at schools such as the University of Washington, California Institute of Technology, and Princeton University disclose serious cases of sexual misconduct with wide ranging punishments and outcomes.³⁵ This represents just a small fraction of the allegations and confirmed findings of sexual misconduct within the science community.

On January 18, 2018, Chairman Smith and Ranking Member Johnson made a bipartisan request that GAO conduct a full study of sexual misconduct regarding federal grant-making agencies' compliance with relevant laws and policies, how agencies share information, and identification of recommendations for better enforcement.³⁶ This request specifically noted the increasing number of allegations across the scientific community, the wide range of responses by academic institutions, and the uncertainty in interactions between the federal agencies and those receiving and managing federal grants.

On January 19, 2018, Chairman Smith sent letters to eleven academic institutions and six federal entities requesting documents and information to bring further transparency to how federal science agencies and academic research institutions have responded to allegations of sexual misconduct. These requests—beyond the BU letter—were necessary due to the inconsistent policy application at the academic institution level. The Committee sought to understand the interactions, advice of NSF, and the eventual process undertaken to investigate complaints. Additionally, the information gathered helped the Committee gain a better understanding of the facts surrounding cases of sexual misconduct, steps that have been taken to uncover the extent of the allegations and investigate their validity, repercussions related to such allegations, and the safeguards federal science agencies and academic research institutions have in place to address sexual misconduct. This investigation specifically focused on identifying the effectiveness of current policies and procedures, as well as areas where academic institutions could improve. These letters contained broad requests for documents related to policies, investigations, and specific individuals in previous or ongoing sexual misconduct cases at other academic research universities.

18185200; Deirdre Fernandes, *Dartmouth professor accused of misconduct resigns*, BOSTON GLOBE (June 26, 2018), <https://www.bostonglobe.com/metro/2018/06/26/dartmouth-professor-accused-misconduct-resigns/V2IuqkEgeROEmZZvEH3rL/story.html>.

³³ Wang, *supra* note 23.

³⁴ *Id.*

³⁵ Scoles, *supra* note 20; Feltman, *supra* note 31; Alanna Vagianos, *Grad Student Says Princeton Prof Who Sexually Harassed Her Was Given Slap On The Wrist*, HUFFPOST (Nov. 9, 2017), https://www.huffingtonpost.com/entry/princeton-professor-sexual-harassment-not-punished_us_5a01d203e4b0368a4e872655.

³⁶ Letters on file with the Committee (including letters to U.S. Dep't of Commerce, U.S. Dep't of Energy, U.S. Evtl. Prot. Agency, NASA, NSF, Smithsonian Institute, Univ. of Arizona, Boston Univ., Univ. of California, Berkeley, Californian Inst. of Tech., Univ. of Chicago, Dartmouth College, Univ. of Kentucky, Princeton Univ., Univ. of Rochester, Univ. of N. Carolina, Chapel Hill, Univ. of Washington).

The information helped provide a spectrum of information on how sexual misconduct cases have been and continue to be handled at academic institutions by targeting specific universities that were in different stages of their respective investigations. Additionally, the letters helped provide insight into how agencies have each handled complaints of sexual misconduct, specifically when federal taxpayer money is involved.

Case Studies Examined by the Science Committee

Chairman Smith's January 19, 2018, letters provided the Committee with the opportunity to engage with representatives of multiple agencies and academic institutions.

On January 29, 2018, Committee staff spoke with representatives of the University of North Carolina, Chapel Hill (UNC) to discuss UNC's policies and procedures and sexual misconduct allegations involving former UNC professor Jason Lieb, a recipient of an estimated \$12.5 million in federal grants. When discussing communications with federal agencies, UNC representatives told Committee staff that they had no documents regarding coordination between UNC and any federal grant-making agency in response to allegations or complaints filed against Dr. Lieb or other scientists and researchers. This demonstrates a lack of communication between federal agencies and academic institutions regarding recipients of federal funds that have been accused of sexual misconduct or harassment as well as ineffective policies and procedures related to allegations of sexual misconduct in academia.³⁷ Without transparent and effective communication between the federal agencies and academic institutions, federal funding will continue to be awarded to individuals that have not conducted themselves in a manner that is deserving of taxpayer funds.

On February 2, 2018, NASA officials briefed Committee staff regarding complaints of and investigations into sexual harassment.³⁸ According to NASA, a large majority of their grantees are in the academic sector and the agency has ensured strong lines of communication with the institutes striving to provide the necessary information and guidance on a continual basis. NASA representatives explained they initiate two Title IX compliance reviews of academic institutions each year, and NASA has established extensive methods of reporting that are currently available to employees and those working with NASA. The Committee has no reason to doubt the effectiveness of NASA's initiatives.

On February 27, 2018, NOAA issued a new Sexual Assault and Sexual Harassment Prevention and Response Policy, which provided guidance for taking action on allegations of sexual assault and sexual harassment, established processes to encourage employees to come

³⁷ After facing allegations of sexual harassment, Lieb resigned from his position at UNC, where he was the recipient of multiple federal grants. Lieb was immediately hired by Princeton University, where he was the recipient of additional federal funding. After taking the position at Princeton, Lieb was recommended by other UNC faculty for a year-long Adjunct Professor position at UNC, solely so Lieb could complete his research at UNC, supervising two employees, a postdoctoral researcher, and a research associate, while also continuing to serve on UNC dissertation committees. In 2014, Lieb abruptly resigned from his position at Princeton, where he was the recipient of federal funding, amid another sexual misconduct investigation. Lieb then took a position with the University of Chicago, where he faced additional allegations of sexual misconduct and was also the recipient of federal funding.

³⁸ NASA Staff, Briefing to H. Comm. on Science, Space, & Tech. Staff (Feb. 2, 2018).

forward when such incidents occur, defined resources available to those involved, and instituted a sexual assault and sexual harassment prevention program within NOAA.³⁹ NOAA also specified that, through its Acquisitions and Grants Office, the agency would develop language to incorporate the terms of this order into future contracts, grants, and cooperative agreements for application to NOAA contractor employees and affiliates.⁴⁰

On March 7, 2018, the Smithsonian Institute briefed Committee staff on their policies and procedures related to allegations of sexual misconduct. While not considered a federal grant-making agency, the Smithsonian supports a wide variety of scientific research and programs at Smithsonian museums, research institutes, and research offices, which include the support and funding of internship, fellowship, and research associate positions.⁴¹ According to documents provided by the Smithsonian, in one instance an individual who worked for the Smithsonian as a former intern, graduate student fellow, and research collaborator engaged in sexual misconduct and was eventually employed again by Smithsonian in a more prestigious role—a role that would certainly result in continued interaction with the individual who made the initial allegations.⁴²

When Committee staff pressed the Smithsonian to provide full clarification and details on how previous internal, Smithsonian-managed complaints are taken into account during Smithsonian's hiring and decision-making process for employees and/or affiliated positions, Smithsonian provided the following response: "There is no specific policy for considering disciplinary actions for affiliated staff."⁴³ Additionally, the Smithsonian noted that the No FEAR Act—which requires agencies to provide training to its employees at least every two years regarding the rights and remedies available under employment discrimination and whistleblower protection laws⁴⁴—only applied to executive branch agencies, which the Smithsonian is not, but they have "long required training every three years on sexual harassment in the workplace as an administrative practice."⁴⁵

It is clear that the Smithsonian needs to be part of the discussion of sexual misconduct in the science community. Although the Smithsonian was not part of our initial request to GAO, based on these new findings, the Committee requests that GAO provide additional analysis on the Smithsonian as part of the analysis of the inconsistencies in handling sexual misconduct among the various federal science research entities.

³⁹ National Oceanic and Atmospheric Administration, NAO 202-1106: NOAA Sexual Assault and Sexual Harassment Prevention and Response Policy (Feb. 26, 2018), http://www.corporateservices.noaa.gov/ames/administrative_orders/chapter_202/202-1106.html.

⁴⁰ *Id.*

⁴¹ See *Office of Fellowships and Internships*, SMITHSONIAN INST., <https://www.smithsonianofi.com/> (last visited July 11, 2018).

⁴² Documents on file with Committee (Smithsonian Institution Response to House of Representatives Committee on Science, Space, and Technology Follow Up Questions from March 7, 2018 Meeting).

⁴³ *Id.*

⁴⁴ 5 C.F.R. § 724.203 (2017).

⁴⁵ Documents on file with Committee (Smithsonian Institution Response to House of Representatives Committee on Science, Space, and Technology Follow Up Questions from March 7, 2018 Meeting).

Science Committee Hearing

On February 28, 2018, the Science Committee's Subcommittee on Research and Technology held a hearing entitled, *A Review of Sexual Harassment and Misconduct in Science*.⁴⁶ The hearing served as a forum to further inform the Committee and the public on increasing claims of sexual misconduct within the scientific community and provided expert testimony on the issue. The Committee sought to learn how science agencies and research institutions handle complaints under current policy and law, assess the impact of harassment on women's participation in science, and discuss recommendations for improving the complaint and resolution process as well as the culture in science. Witnesses included: Ms. Rhonda Davis, Head, Office of Diversity and Inclusion, NSF; Dr. Kathryn Clancy, Associate Professor, Department of Anthropology, University of Illinois; Ms. Kristina Larsen, Attorney, Law Office of Kristin K. Larsen; and Ms. Christine McEntee, Executive Director, American Geophysical Union (AGU).

All of the witnesses agreed that women are leaving STEM fields because of unprofessional behavior. This behavior reduces the diversity of ideas in science, stymies the advancement of science, and wastes investments and efforts aimed at recruiting women to STEM fields.⁴⁷ In her testimony, Dr. Clancy stated:

We spent all this taxpayer money supporting recruitment of women to STEM fields and supporting their educations only to lose that money when they are forced out by damaging behaviors. We also lose their diversity of perspectives and thus end up with a flatter, more boring, less complex, and less innovative American science.⁴⁸

Ms. McEntee noted that remote field settings where scientific research often occurs offers an environment in which sexual harassment may more easily occur, with the isolation placing a victim in a more vulnerable situation.⁴⁹ This is an issue especially common to the scientific community due to the requirements and difficulties presented by the nature of scientific research. Additionally, common in the traditional model of science training is the design of students and researchers usually having a single advisor responsible for overseeing their research and training necessary for receiving a degree. According to witness testimony, this characteristic could contribute to the opportunity for sexual misconduct. A new model for education and training without sole advising and training responsibilities, however, could help eliminate opportunities for misconduct. This is just one of many thoughtful recommendations, provided by the witnesses before the Committee.

⁴⁶ *A Review of Sexual Harassment and Misconduct in Science*: Hearing Before the Subcomm. on Research & Tech. of the H. Comm. on Sci., Space, & Tech., 115th Cong. (2018).

⁴⁷ *Id.* (Testimony of Dr. Kathryn Clancy).

⁴⁸ *Id.*

⁴⁹ *Id.* (Testimony of Ms. Christine McEntee).

National Science Foundation Policy Announcement

On February 8, 2018, NSF proposed a set of new policies to address sexual harassment.⁵⁰ NSF proposed a new award term and condition requiring that institutions inform NSF when they make a finding of sexual harassment. The new policy will also require the institution to report when a grantee has been put on administrative leave during a pending investigation.

During briefings with NSF, the Committee discovered that NSF currently learns about instances of harassment or misconduct from the news media, and rarely from voluntary reporting. While NSF may revoke funding from an institution that does not comply with Title IX, NSF clarified that it has the authority to suspend a project's funding in such cases, or take other actions "as necessary to protect the safety of all grant personnel."⁵¹ This is something that the Committee recognized was in need of clarification and further review after the Committee reviewed email communications between Dr. Marchant, BU, and NSF. As previously noted, Dr. Marchant resisted NSF's initial efforts to transfer his federal grants to another researcher for management while he was on administrative leave, insisting there was not an official policy for requiring such a transfer of grant funding until a finding was made and all appeals exhausted.⁵² During the Committee's hearing, NSF also clarified that if a principal investigator (PI) or grant recipient is removed from a project, NSF will make efforts to enable research to continue with a newly appointed PI, to ensure that innocent award participants and researchers are not punished.⁵³

Additionally, NSF has recently taken other actions to continue their efforts to combat sexual misconduct. NSF has placed a new, red 'Stop Harassment' button on the NSF.gov homepage, which directs users to a NSF web portal devoted to the issue of sexual harassment.⁵⁴ NSF also created a special task force to "examine and collect promising practices and model codes of conduct" to combat sexual harassment, while also strengthening training for internal staff to guide employees on Title IX issues.⁵⁵ These actions and changes with the intent of making it easier for the research community, the public, and the federal government to access information and take action, are key steps to combatting sexual misconduct in science.

While NSF submitted the new proposed term and condition to the Federal Register for public comment on March 5, 2018, the comment period is now closed and the Committee

⁵⁰ Nat'l Science Found., *Important Notice No. 144: Harassment* (Feb. 8, 2018), <https://www.nsf.gov/pubs/issuances/in144.pdf>.

⁵¹ *Id.*

⁵² Emails between Boston University Staff, and Nat'l Sci. Found. Staff (Jan. 25, 2018, 6:20 p.m., Jan. 22, 2018, 4:51 p.m., Dec. 18, 2017, 11:26 a.m., & Dec. 11, 2017, 12:45 p.m.) (on file with Committee Staff).

⁵³ *A Review of Sexual Harassment and Misconduct in Science*: Hearing Before the Subcomm. on Research & Tech. of the H. Comm. on Sci., Space, & Tech., 115th Cong. (2018) (Testimony of Ms. Rhonda Davis).

⁵⁴ *Sexual Harassment*, NAT'L SCIENCE FOUND., <https://www.nsf.gov/od/odi/harassment.jsp> (last visited July 9, 2018).

⁵⁵ *A Review of Sexual Harassment and Misconduct in Science*: Hearing Before the Subcomm. on Research & Tech. of the H. Comm. on Sci., Space, & Tech., 115th Cong. (2018) (Testimony of Ms. Rhonda Davis).

anticipates their final publication and implementation.⁵⁶ With this notice, NSF sent a clear message to the leadership of NSF awardee organizations that “NSF does not tolerate sexual harassment, or any kind of harassment, within the agency, at awardee organizations, field sites, or anywhere NSF-funded science and education are conducted.”⁵⁷ The Committee believes these actions by NSF are something that other federal grant-making agencies should also consider.

American Geophysical Union Scientific Misconduct Policy

In September 2017, the American Geophysical Union (AGU), announced it was changing the society’s policies to include harassment, discrimination, and bullying in scientific endeavors as part of the definition of scientific misconduct.⁵⁸ AGU was the first major scientific society to adopt the change. Since the early 2000’s, scientific or research misconduct has been limited to the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.⁵⁹ Previously the federal definition of research misconduct also included “detrimental research practices,” but the phrase was considered too broad by the research community. Moving forward, the consideration of the definition of research misconduct is something the Committee believes should be discussed and evaluated further.

National Academies of Sciences, Engineering, and Medicine Study

On June 11, 2018, members and staff from the U.S. National Academies of Sciences, Engineering, and Medicine (“National Academies”) briefed Committee staff on the newly released consensus study report entitled, *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine*.⁶⁰ The report examined sexual harassment of women in academic sciences, engineering, and medicine, and concluded that the cumulative result of sexual harassment is significant damage to research integrity and a costly loss of talent in these academic fields.⁶¹ The report is the largest study of sexual harassment in the sciences.

The study examined the extent to which sexual harassment in academia negatively impacts the recruitment, retention, and advancement of women pursuing scientific, engineering, technical, and medical careers, with comparative evidence drawn from other sectors, such as the military, government, and the private sector. The study also identified and provided analysis of policies, strategies, and practices that have been the most successful in preventing and addressing sexual harassment in these settings.⁶² The report specifically urges institutions to consider sexual

⁵⁶ News Release, Nat’l Science Found., *NSF announces new measures to protect research community from harassment* (Sept. 19, 2018).

⁵⁷ Nat’l Science Found., *Important Notice No. 144*, *supra* note 50.

⁵⁸ Maggie Kuo, *Scientific society defines sexual harassment as scientific misconduct*, SCIENCE (Sept. 20, 2017), <http://www.sciencemag.org/news/2017/09/scientific-society-defines-sexual-harassment-scientific-misconduct>.

⁵⁹ U.S. Dep’t of Health & Human Serv., *Definition of Research Misconduct*, <https://ori.hhs.gov/definition-misconduct> (last visited Feb. 22, 2018).

⁶⁰ NAT’L ACADS., *SEXUAL HARASSMENT*, *supra* note 13.

⁶¹ *Id.*

⁶² *Id.*

harassment equally important as research misconduct in terms of its effect on the integrity of research.⁶³

The report noted a number of recommendations that are relevant to the Committee's work on this issue. First, to improve transparency and accountability the report also details the need for academic institutions to "develop—and readily share—clear, accessible, and consistent policies on sexual harassment and standards of behavior."⁶⁴ This means "clearly stated, appropriate, and escalating disciplinary consequences for perpetrators found to have violated sexual harassment policy and/or law."⁶⁵ The report encourages an increase in federal agency action and collaboration in training and researching this issue.⁶⁶ This broad recommendation includes specific actions like increasing "collaboration among offices that oversee the integrity of research (i.e., those that cover ethics, research misconduct, diversity, and harassment issues); centraliz[ing] resources, information, and expertise,"⁶⁷ and requiring "institutions to report to federal agencies when individuals on grants have been found to have violated sexual harassment policies or have been put on administrative leave related to sexual harassment, as the National Science Foundation has proposed doing."⁶⁸ "Academic institutions should be as transparent as possible about how they are handling reports of sexual harassment."⁶⁹

Just as the Committee has noted, agencies should use their available options and "hold accountable the perpetrator and the institution by using a range of disciplinary actions that limit the negative effects on other grant personnel who were either the target of the harassing behavior or innocent bystanders."⁷⁰ Finally, the study also discussed potential legislative action which could require institutions receiving federal funds to publicly disclose more results, reports, or investigations, which would provide further transparency and allow the federal government and the public to gain a better understanding of the extent of the issue within the scientific community.⁷¹

Despite sponsoring the extensive study, it should be noted that the National Academies has recently been the target of extensive criticism for its lack of actions regarding individuals within the National Academies that have been the subjects of sexual misconduct allegations and investigations.⁷² The National Academies currently lack mechanisms for removing members—who are granted lifelong terms—for harassment.⁷³

⁶³ *Id.*

⁶⁴ *Id.* at 6.

⁶⁵ *Id.* at 6.

⁶⁶ *Id.* at 10.

⁶⁷ *Id.* at 7, 10.

⁶⁸ *Id.* at 10.

⁶⁹ *Id.* at 6.

⁷⁰ *Id.* at 10.

⁷¹ *Id.* at 9-10.

⁷² Meredith Wadman, *Will U.S. academies expel sexual harassers?*, SCIENCE (May 29, 2018),

<http://www.sciencemag.org/news/2018/05/will-us-academies-expel-sexual-harassers>.

⁷³ *Id.*

Committee Recommendations

The Committee's findings through our investigation, the extensive media reporting, and numerous studies on this issue have made it clear that changes need to be made in our federal agencies and academic institutions to ensure that sexual misconduct does not continue to impair the scientific community. All scientific research is undermined if misconduct is allowed to go unchallenged. While the mechanisms used to ensure compliance with Title IX vary from agency to agency, the general process includes (1) investigating complaints, (2) conducting compliance reviews, and (3) providing technical assistance to institutions.⁷⁴ If an institution fails to comply with Title IX, a grant-awarding agency may opt to terminate federal funding to that institution. The problem is determining when an institution fails to comply because of a lack of transparency and the lack of a reporting system in place to notify the funding agency.

As Chairman Smith stated in the Committee's hearing, "No taxpayer dollars should be awarded to a . . . researcher who engages in harassment and inappropriate behavior toward a colleague or a student under their charge." Additionally, if there is a finding of research or workplace misconduct, especially those involving sexual misconduct, by a federally funded researcher, that information should immediately be provided to the grant-making agency and also be made public so that every research institution, federal agency, and student is aware of the finding.

The following are other specific recommendations that the Committee has identified through our investigation. The Committee encourages GAO to analyze these recommendations to be included in their assessment:

Training — It is evident to the Committee that there is varying methods and levels of effectiveness of training provided to federal employees, grant recipients, and others that work and conduct research in federally supported labs and other settings. These inconsistencies among federal entities and academic institutions regarding how to handle and report allegations of sexual misconduct or instances of during which an individual witnesses sexual misconduct could be remedied with increased guidance and training.

Reporting — The Committee has reviewed numerous reporting mechanisms that exist throughout the academic and agency settings. There is an obvious need to make reporting systems more accessible, responsive, and trustworthy. Overall, there is a lack of awareness of avenues for reporting sexual misconduct. These reporting points should also provide clear and transparent instructions and details related to consequences of reporting.

Advising Structure — As the Committee has previously identified, the current model of having a single advisor responsible for overseeing a student or trainees' research and training necessary for receiving a degree could be a contributor to the opportunity for sexual misconduct. A new

⁷⁴ See U.S. EQUAL EMP'T OPPORTUNITY COMM'N, MANAGEMENT DIRECTIVE 110, at ch.1 (2015), https://www.eeoc.gov/federal/directives/md-110_chapter_1.cfm#_Toc425745105.

model for education and training without sole advising and training responsibilities could help eliminate opportunities for misconduct.

Effective Consequences — The current consequences for those found to have committed sexual misconduct is considered by many to be inadequate. While federal agencies only have control over the federal funding provided to academic institutions, other examples of potential consequences that have been suggested and apply throughout the scientific community include: ineligibility; loss of honors, awards, or membership; administrative leave, loss of position as PI or loss of grant funding. The clarification of the ability by federal grant-making and the academic institutions to replace a PI on a grant for allegations or a finding of sexual misconduct is something that needs to be publicized in the science community.

As GAO conducts a full assessment of sexual misconduct regarding federal grant-making agencies' compliance with relevant laws and policies, how agencies share information, and identification of recommendations for better enforcement, we encourage GAO to use the information, testimony, recommendations, and documents provided by the Committee in this letter.

The Committee trusts GAO to fully evaluate these issues and appropriately inform the Committee. It is the Committee's goal to provide potential solutions to prevent sexual misconduct from occurring in the scientific community and ensure that government funding is not going to those responsible for the unacceptable behavior. Along with any support that is needed from the Committee, we also are transferring to GAO all the documents, communications, and other information that was received by the Committee, including documents from academic institutions, federal entities, and whistleblowers.

If you have any questions, please contact Jenn Wickre or Travis Voyles of the Committee staff at 202-225-6371. Thank you for your attention to this matter.

Sincerely,



Lamar Smith
Chairman
House Committee on Science,
Space, and Technology



Barbara Comstock
Chairwoman
Subcommittee on Research and Technology

cc: The Honorable Eddie Bernice Johnson, Ranking Member, House Committee on Science, Space, and Technology
The Honorable Dan Lipinski, Ranking Member, Research and Technology Subcommittee