

# Report on Research Compliance Volume 18, Number 2. January 20, 2021

## OIG FY 20 Report Shows Drop in NSF Debarments for Misconduct

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By Theresa Defino

Instead of debaring a graduate research fellow who confessed to multiple instances of data fabrication that caused a “major setback” to his team and got him expelled from his university, the National Science Foundation (NSF) is requiring submission of a data management plan should he submit proposals to the agency within the next four years.<sup>[1]</sup>

A principal investigator (PI) who lied and blamed plagiarism in an unfunded NSF proposal on a student, then later said the copied text was “unintentional” despite the fact that nearly all of the “Broader Impacts” portions of two other proposals were “copied verbatim from an awarded NSF proposal,” also wasn’t debarred by NSF. Instead, he will have to submit certifications and complete training, requirements NSF also applied to the graduate research fellow.

In both cases, the Office of Inspector General (OIG), which investigates allegations of fabrication, falsification and plagiarism in NSF-supported research and by NSF employees but has no authority to make actual findings or impose sanctions, recommended that the agency debar the individuals for a year.

According to OIG’s most recent semiannual report (SAR) to Congress, NSF imposed no debarments in fiscal year 2020 on cases with a research misconduct finding in that FY. However, in comments to RRC, NSF officials said they debarred one individual for misconduct during this period, but because the misconduct finding itself was made in FY 2019, that action is recorded in the column for the previous year.

Even one debarment for misconduct is a significant drop for NSF, which debarred seven individuals for research misconduct in FY 2018, for example.<sup>[2]</sup>

### Little Info Shared About NSF Misconduct Cases

NSF OIG SARs are the only way the research compliance community—and the public at large—learns how misconduct in NSF-funded research or among employees and peer reviewers is handled. In contrast, the HHS Office of Research Integrity (ORI) publishes notifications in the *Federal Register* for each case in which there is a finding of research misconduct, and includes the investigator’s name, institution name, and the exact nature of the misconduct down to the chart or table number of where the false data or information was published.

Debarment is the most serious sanction imposed, aside from civil or criminal penalties.

Although debarments by HHS for misconduct are rare, ORI frequently requires supervisory or monitoring plans for up to five years, the details of which are also spelled out in the *Federal Register* notices. It also often requires a retraction, if this has not already occurred. Research integrity officers at universities and other institutions with federal funding study the HHS cases and use them as training tools for investigators.

HHS’ findings may also give rise to media attention to misconduct cases, and can serve as warnings to institutions that may not wish to hire someone who has had a finding made against him or her.

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By law, institutions cannot permit debarred individuals to work on federally supported projects for the length of the debarment (and such people are listed in a nonpublic database), but that does not apply to those who are under supervision or have other less serious sanctions against them.

In contrast to the information available about ORI cases, institutions managing NSF funds have far less information. NSF OIG SARs contain only the broad outlines of misconduct cases and do not disclose the investigator's name, institution name, type of research or work, or publication titles, if any were implicated. These SARs used to identify a region of the country and relative size of the investigator's institution, but in recent years even these details have disappeared.

It can be puzzling to officials managing misconduct investigations when OIG recommends a debarment but NSF determines a lesser sanction is warranted, particularly because SARs generally do not report on NSF's reasoning.

OIG told RRC records indicated that, "based on a preliminary review, it appears there were multiple years in which NSF did not issue any debarments, primarily in the 1990s." The most recent year in which there was no debarment was 2002, OIG said.

These two cases were among three OIG recently recommended for debarment that NSF chose not to accept.<sup>[3]</sup> In the third case, for which OIG said a three-year debarment was appropriate, NSF imposed no sanction at all.<sup>[4]</sup> This case involved a postdoctoral researcher whose data falsifications required four retractions and earned him a demotion.

For the newest two cases, OIG told RRC it did not know why NSF did not accept its debarment recommendations. "NSF does not typically provide us with an explanation of its adjudicative actions in these matters and did not do so for the two cases" in the current report, OIG said.

However, NSF responded to RRC's questions and shared its reasoning behind these two cases. In response to RRC's inquiries, both OIG and NSF officials discussed the purpose of debarment.

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