

Notification Requirements

Regarding Findings of Any Form of Discrimination or Sexual Misconduct, Including Sexual Harassment, or Sexual Assault

Virginia Sea Grant (VASG) is following the lead of the National Science Foundation (NSF) and implementing an award term and condition regarding any form of discrimination or harassment, including sexual harassment, and sexual assault.¹ Like NSF, VASG does not tolerate any form of discrimination or harassment, including sexual harassment, or sexual misconduct (e.g. sexual assault within its organization, at awardee organizations, field sites, meetings, or anywhere VASG-funded research, outreach and education are conducted. Virginia institutions of higher education and any other organization that receives VASG funds are responsible for having clearly stated policies prohibiting such discrimination, harassment, sexual harassment or sexual misconduct that comply with federal non-discrimination laws, regulations, and executive orders, and documented procedures for accepting reports of and investigating complaints of misconduct thoroughly, fairly and promptly. VASG is bolstering its policies, guidelines, and communications so that organizations funded by VASG clearly understand expectations and requirements associated with its funding.

A community effort is essential to eliminate all forms of harassment in research, outreach and education and to build academic workspaces where people can safely learn, grow, and thrive. The purpose of the award term and condition is to ensure that recipients of VASG funding respond according to their home institution's written procedures promptly and appropriately to any instances of discrimination or harassment, including sexual harassment, or sexual assault.

VASG considers the Principal Investigator (PI), any co-PI(s), professional mentors, and the funded students (e.g., graduate research fellows, interns, summer resilience fellows, post-graduate fellows, etc.) identified on a VASG award to be in positions of trust. VASG's expectation is that individuals identified on a VASG award will comport themselves in a responsible and accountable manner, in accordance with institutional or organizational policies during the award period. Individuals may be held accountable for any misconduct that occurs at any awardee institution, on-line, or at locations where official organization activities are occurring, such as at field sites or facilities, meetings, conferences and workshops.

This new VASG term and condition requires awardee organizations to notify VASG of any VASG funded PI, co-PI, or student who is found responsible for violation of policy in the form of discrimination or harassment, including sexual harassment or sexual assault by the institution or organization. Notification shall include any administrative, remedial, or disciplinary action imposed on the PI, co-PI, or student relating to any finding/ determination. The new term and condition requires the awardee to notify VASG if the PI, co-PI, or student is placed on administrative leave pending an investigation of an alleged violation of an institution's or organization's policies relating to discrimination or harassment, including sexual harassment or sexual assault.

¹ National Science Foundation; Notification Requirements Regarding Findings of Sexual Harassment, Other Forms of Harassment, or Sexual Assault, Federal Register, 83(184):47940-47942. www.govinfo.gov/content/pkg/FR-2018-09-21/pdf/2018-20574.pdf

In Collaboration With



DEFINITIONS

For purposes of this term and condition, the following definitions apply:

Sexual harassment: Unwelcome conduct based on sex, and includes, but is not limited to, gender- or sex-based harassment, unwelcomed sexual attention, sexual coercion, requests of sexual favor, when it either creates a hostile environment or constitutes “quid pro quo” harassment, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders.

Other Forms of Discrimination or Harassment: Disparate treatment, disparate impact, or unwelcome conduct based on a protected class under federal civil rights laws, including race, color, religion or creed, sex (including pregnancy, childbirth and related medical conditions), national origin, age, disability, veteran status, citizenship status, or genetic information that creates a hostile environment.

Finding/Determination: The final disposition of a matter that results in a finding of responsibility for violation of institutional or organizational policy involving sexual harassment or other forms of discrimination or harassment, including the exhaustion of permissible appeals exercised by the PI, co-PI, or student, or a conviction of a sexual offense in a criminal court of law.

Administrative Leave: Any permanent, temporary, or interim suspension or removal of the PI, co-PI, or student from any institutional or organizational activity.

Administrative Action: Any non-disciplinary action imposed by the institution or organization, formally or informally, on the PI, co-PI, or student by the awardee institution or organization in response to a complaint of discrimination or harassment, including sexual harassment or sexual assault. Examples of Administrative Action include, but are not limited to, no contact orders between the individual and another member of the community; prohibition from advising or mentoring students of a particular gender; requirements to have a neutral observer attend classes; or written counseling not to engage in similar behavior in the future.

NOTIFICATION REQUIREMENTS

The awardee (Authorized Organizational Representative (AOR)) is required to notify VASG in writing of:

1. Any finding/determination regarding the PI, any co-PI, or student that demonstrates a violation of awardee policies or codes of conduct, statutes regulations, or executive orders relating to discrimination or harassment, including sexual harassment or sexual assault. If a co-PI is affiliated with a sub-awardee organization, the Authorized Organizational Representative (AOR) of the sub-awardee must provide the requisite information directly to VASG, as instructed in this paragraph; and/or
2. Any administrative action imposed on the PI, any co-PI, or student by the awardee prior to a finding/determination or an investigation of an alleged violation of institutional or organizational policies relating to discrimination or harassment, including sexual harassment or sexual assault

Such written notification must be submitted by the AOR to VASG’s Director within ten business days from the date of the finding/determination of responsibility, the placement on administrative leave or the imposing of administrative action on the PI, any co-PI or student. Such notification must be provided regardless of whether the behavior leading to the finding/determination, or placement on administrative leave, or the imposition of an administrative action occurred while the PI, co-PI, or student was carrying out award activities. Each notification must include the following information:



- VASG Award Number;
- Name of PI, co-PI, or student being reported. Only the identification of the PI, co-PI, or student is required. VASG respects the privacy of the victim. Personal identifiable information regarding any complainants, witnesses, or other individuals involved in the matter beyond the PI, Co-PI or student being reported, must not be included in the notification;
- Type of Notification: Select one of the following:
 - Finding/Determination of responsibility that the reported individual violated awardee policies prohibiting discrimination or harassment, including sexual harassment or sexual assault;
 - Administrative leave imposed by the awardee institution or organization on the PI, any co-PI, or student;
 - Administrative action taken by the awardee by the awardee institution or organization on the PI, any co-PI, or student
- Sanctions imposed on a finding/determination of responsibility; and
- Conditions of administrative actions imposed on the PI, co-PI, or student.

The awardee, at any time, may propose a substitute investigator if it determines the PI or any co-PI may not be able to carry out the funded project or activity and/or abide by the award terms and conditions.

VASG PROCEDURES

Finally, the award term and condition specifies the procedure that will be followed by VASG upon receipt of a notification.

In reviewing the notification, VASG will consider, at a minimum, the following factors:

- The safety and security of personnel supported by VASG;
- The overall impact to the VASG-funded activity;
- The continued advancement of taxpayer-funded investments in research, outreach, and education; and
- Whether the awardee has taken appropriate action(s) to ensure the continuity of research, outreach, and education and that continued progress under the funded project can be made.

Upon receipt and review of the information provided, VASG will consult with the AOR or designee. Based on the results of this review and consultation, VASG may, if necessary, assert its programmatic stewardship responsibilities and oversight authority to initiate the substitution or removal of the PI, any co-PI, or student, to reduce the award funding amount, or to suspend or terminate the award. (See 15 CFR § 917.)

Other personnel supported by a VASG award must likewise remain in full compliance with awardee policies or codes of conduct, statutes, regulations, or executive orders relating to discrimination or harassment, including sexual harassment or sexual assault. With regard to any personnel not in compliance, the awardee must make appropriate arrangements to ensure the safety and security of other awardee personnel and the continued progress of the funded project. Notification of these actions is not required under this term and condition.



This new term and condition is effective immediately for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, any finding/determination, placement on administrative leave, or the imposition of any administrative action by the institution for complaints of discrimination or harassment, including sexual harassment or sexual assault made on or after the start date of an award or funding amendment subject to the new term will invoke the new notification requirements.