



Report to the Committee on Science,
Space, and Technology, House of
Representatives

March 2020

SEXUAL HARASSMENT IN STEM RESEARCH

Agencies Have Taken
Actions, but Need
Complaint
Procedures, Overall
Plans, and Better
Collaboration

Highlights of [GAO-20-187](#), a report to the Committee on Science, Space, and Technology, House of Representatives

Why GAO Did This Study

Sexual harassment is degrading and illegal. Studies show it has a negative effect on the ability of women to engage in research at the same level as men. Title IX prohibits sexual harassment and other forms of sex discrimination in education programs that receive federal funding, and federal agencies are required to enforce the law at universities they fund. In fiscal year 2018, the most recent year for which data were available during GAO's review, U.S. universities were awarded about \$27 billion in federal grants for STEM research. GAO was asked to review federal efforts to help prevent sexual harassment at universities that receive such grants.

This report examines, among other things, (1) how selected federal agencies receive, investigate, and resolve Title IX complaints; (2) the extent to which selected agencies have established an overall plan for their sexual harassment prevention efforts for university grantees, including for communicating and evaluating these efforts and (3) the extent to which selected agencies collaborate on efforts to prevent sexual harassment at universities they fund for STEM research. GAO reviewed agencies' relevant regulations and documentation and interviewed agency officials.

What GAO Recommends

GAO is making 17 recommendations to the five agencies funding STEM research and DOJ, including to finalize and publish complaint procedures, establish goals and an overall plan for prevention efforts, and fully adopt two collaboration leading practices. The agencies agreed with GAO's recommendations and identified actions they plan to take to address them.

View [GAO-20-187](#). For more information, contact John Neumann at (202) 512-6888 or neumannj@gao.gov.

March 2020

SEXUAL HARASSMENT IN STEM RESEARCH

Agencies Have Taken Actions, but Need Complaint Procedures, Overall Plans, and Better Collaboration

What GAO Found

The five agencies GAO reviewed provided approximately 80 percent of federal science, technology, engineering, and mathematics (STEM) research grants since fiscal year 2015. From fiscal year 2015 through 2019, four of the five agencies received few complaints—including sexual harassment—under Title IX from individuals at universities. Inconsistent with federal regulations implementing Title IX, two of the agencies—the Departments of Energy (DOE) and Agriculture (USDA)—lack finalized procedures for complaints and thus cannot ensure they are consistently handling complaints. Sex-discrimination concerns—including sexual harassment—can also be raised by individuals outside of the Title IX complaint process (see table). However, only two agencies—the National Science Foundation (NSF) and Department of Health and Human Services (HHS)—publicly communicate the option to notify them of concerns. The other three—DOE, the National Aeronautics and Space Administration (NASA), and USDA—received no concerns in fiscal year 2019 and may be missing opportunities to obtain information for Title IX oversight.

Number of Title IX Complaints and Sex Discrimination Concerns Received by Agencies						
Agency	DOE	HHS	NASA	NSF	USDA	Total
Title IX Complaints, FY 2015-2019	2	1	3	33	1	40
Sex Discrimination Concerns, FY 2019 ^a	0	93 ^b	0 ^c	47	0	140

Source: GAO analysis of information for fiscal years (FY) 2015 through 2019 from Department of Energy (DOE); Department of Health and Human Services (HHS); NASA; National Science Foundation (NSF); and Department of Agriculture (USDA) as well as interviews with agency officials. | GAO-20-187

Note: In fiscal years 2018 and 2019, three agencies received the same complaint. GAO counted it as a complaint for all three agencies.

^aAgencies receive sex-discrimination concerns—including sexual harassment—outside of the Title IX complaint process.

^bHHS's National Institutes of Health receives sex discrimination concerns—information not processed or investigated under Title IX—including sexual harassment concerns.

^cOfficials stated that NASA received one concern in FY 2019; however, it did not involve a university.

All five agencies have established grantee sexual harassment prevention efforts beyond those required by Title IX. However, none of the agencies have goals and plans for all of their efforts, and thus they lack clear ways to evaluate how well these efforts are working and to identify any needed improvements. They may also be missing opportunities to coordinate and integrate prevention activities.

Additionally, the Department of Justice (DOJ) reconstituted an interagency discussion group on Title IX in 2016, where all five agencies share information about their activities. However, DOJ has not fully adopted two leading practices for collaboration: agreeing on agency roles and responsibilities and developing mechanisms to monitor, evaluate, and report collaborative efforts. Officials at one agency said clarifying agencies' roles and responsibilities would improve the group. Adopting leading practices would help enhance and sustain collaboration.

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Abbreviations

DOE	Department of Energy
DOJ	Department of Justice
Education	Department of Education
HHS	Department of Health and Human Services
HHS-NIH	Department of Health and Human Services, National Institutes of Health
HHS-OCR	Department of Health and Human Services, Office for Civil Rights
NASA	National Aeronautics and Space Administration
NASEM	National Academies of Sciences, Engineering, and Medicine
NIFA	National Institute of Food and Agriculture
NSF	National Science Foundation
STEM	Science, technology, engineering, and mathematics
Title IX	Patsy Takemoto Mink Equal Opportunity in Education Act
USDA	Department of Agriculture

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March 19, 2020

The Honorable Eddie Bernice Johnson
Chairwoman
The Honorable Frank Lucas
Ranking Member
Committee on Science, Space, and Technology
House of Representatives

Not only is sexual harassment degrading and illegal, but studies show it has a negative effect on the ability of women to engage in research at the same level as men.¹ The National Academies of Sciences, Engineering, and Medicine (NASEM) reported that, in 2017 alone, the media covered more than 97 allegations of sexual harassment at institutions of higher education, with some of the most high-profile cases occurring in the fields of science, engineering, and medicine.² Title IX of the Education Amendments of 1972 is the primary federal law that prohibits discrimination on the basis of sex, including sexual harassment, in education programs and activities receiving federal financial assistance.³ Federal agencies are responsible for enforcing Title IX compliance at the universities they fund.⁴ In fiscal year 2018, the most recent year for available data during our review, U.S. universities were awarded about

¹According to the Equal Employment Opportunity Commission, in regard to sexual harassment, both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.

²National Academies of Sciences, Engineering, and Medicine. *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine*. (Washington, DC: The National Academies Press, 2018).

³Title IX of the Education Amendments of 1972. Pub. L. No. 92-318, tit. IX, § 901, 86 Stat. 235, 373, codified at 20 U.S.C. §§ 1681-1688. In 2002, Title IX of the Education Amendments of 1972 was renamed the Patsy Takemoto Mink Equal Opportunity in Education Act. Pub. L. No. 107-255, 116 Stat. 1734 (2002). For purposes of this report, we refer to this Act as Title IX. Sexual harassment can constitute sex discrimination under Title IX if, among other things, the harassment is “so severe, pervasive, and objectively offensive that it effectively bars the victim’s access to an educational opportunity or benefit.” *Davis v. Monroe County Board of Education*, 526 U.S. 629, at 633 (1999).

⁴20 U.S.C. § 1682. Title IX applies to entities that receive federal financial assistance for education programs or activities. 20 U.S.C. § 1681. This includes but is not limited to universities that receive federal STEM research grant funding. Agencies enforce Title IX by investigating complaints of discrimination and initiating Title IX compliance reviews—an agency’s assessment of whether a grantee is complying with the law.

\$27 billion in federal grant funding for science, technology, engineering, and mathematics (STEM) research.⁵

You asked us to review federal agencies' Title IX efforts, policies for university grantees related to sexual harassment,⁶ and information sharing among federal agencies. This report examines: (1) the extent to which selected federal agencies reviewed compliance with Title IX at universities they funded for STEM research from fiscal year 2015 through 2019;⁷ (2) how selected federal agencies receive, investigate, and resolve Title IX complaints; (3) the extent to which selected federal agencies have established an overall plan for their sexual harassment prevention efforts for university grantees, including for communicating and evaluating these efforts; and (4) the extent to which selected federal agencies share information and collaborate on efforts to prevent sexual harassment at universities they fund for STEM research.

For all four objectives, we selected five federal research grant-making agencies that together funded approximately 80 percent of the federal government's basic and applied extramural research in STEM fields from

⁵For ease of reporting, we use the term "universities" to refer to all institutions of higher education. In addition, during our review, only fiscal year 2018 preliminary federal grant funding data were available. Federal grant funding data for fiscal year 2019 (preliminary data) and fiscal year 2018 (final data) became available in January 2020. This report focuses on federal grant funding for research at universities in the core STEM fields of engineering, life sciences (e.g., agricultural, biological, and environmental sciences), physical sciences (e.g., chemistry, earth sciences, and physics), computer and information technology, and mathematics and statistics. We focused on core STEM fields in this report because data show women continue to be underrepresented in the majority of these fields. NSF considers life sciences—a core STEM field—to include medical sciences, such as research at medical colleges. Other definitions of STEM may include healthcare fields such as health practitioners and technicians, STEM educators, and researchers in other fields such as the social sciences, psychology, and multidisciplinary fields.

⁶Title IX applies to educational programs or activities receiving federal financial assistance. For the purposes of this report, which generally pertains to universities receiving research grant funds from federal agencies, we will refer to recipients as "grantees" or "university grantees."

⁷We chose fiscal year 2015 to focus on Title IX reviews completed since our prior work published in December 2015 and fiscal year 2019 because it represents the most recent available data on Title IX compliance reviews. See: GAO, *Women in STEM Research: Better Data and Information Sharing Could Improve Oversight of Federal Grant-making and Title IX Compliance*, [GAO-16-14](#) (Washington, D.C.: Dec. 3, 2015).

fiscal year 2015 through 2018.⁸ Our findings are not generalizable to all agencies but provide illustrative examples of these agencies' efforts to prevent sexual harassment at universities they fund for STEM research. The five federal agencies are:⁹

- Department of Agriculture, including the National Institute of Food and Agriculture (USDA-NIFA)
- Department of Energy (DOE)
- Department of Health and Human Services (HHS), including the National Institutes of Health (HHS-NIH)¹⁰
- National Aeronautics and Space Administration (NASA)
- National Science Foundation (NSF)

We also reviewed documentation and interviewed officials from the Department of Education (Education) and the Department of Justice (DOJ) regarding their roles in providing technical assistance and guidance for Title IX enforcement and information sharing to the five federal agencies.

⁸Research is classified as either basic or applied, according to the objectives of the sponsoring agency. Basic research is defined as experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts. Basic research may include activities with broad or general applications in mind, but should exclude research directed towards a specific application or requirement. Applied research is defined as original investigation undertaken in order to acquire new knowledge. Applied research is, however, directed primarily towards a specific practical aim or objective. Extramural research is conducted by organizations outside the federal sector with federal funds under contract, grant, or cooperative agreement. See National Science Foundation, National Center for Science and Engineering Statistics, *Survey of Federal Funds for Research and Development: Fiscal Years 2017-18*. In addition, fiscal year 2018 data are the latest available for the federal government's basic and applied extramural research funding in STEM fields. For this report, we did not include the Department of Defense because the agency is working to implement the Title IX compliance review recommendation from our December 2015 report. See [GAO-16-14](#).

⁹For ease of reporting, we use the term "agencies," even in cases where the agency is relying on a department-implemented policy or process. We are focusing on the core STEM fields—excluding social science and health-care fields—and on university graduate, postgraduate, and professor-level research in STEM fields.

¹⁰For ease of reporting, we use the term "HHS-NIH" whenever referring to the National Institutes of Health and not generally referring to HHS as an agency. We separately use the term "HHS-OCR" whenever referring to the Office for Civil Rights—the HHS office with Title IX enforcement authority—and not generally referring to HHS as an agency.

For objective one, we reviewed relevant laws and regulations on the five agencies' requirements for compliance reviews: (1) Title IX of the Education Amendments of 1972, (2) Title IX Common Rule,¹¹ (3) Title VI of the Civil Rights Act of 1964,¹² (4) the America COMPETES Act,¹³ and (5) NASA Authorization Act of 2005.¹⁴ We also reviewed Title IX compliance reviews completed by these agencies from fiscal year 2015 through fiscal year 2019, as well as summaries and lists of Title IX compliance reviews. We reviewed documentation, such as compliance review templates and guidance, and interviewed officials about how agencies met the Title IX compliance review requirement, selected universities for reviews, and conducted Title IX compliance reviews. We compared agencies' Title IX compliance reviews and summaries of reviews to relevant laws and regulations to report whether agencies met review requirements.

For objective two, we reviewed relevant laws and regulations—Title IX of the Education Amendments of 1972 and Title IX Common Rule. We reviewed documentation—descriptions of the complaint process, complaint procedures, and guidance on investigating complaints—on the five agencies' Title IX complaint reporting process and investigation procedures and compared them to relevant requirements. In addition, we reviewed these agencies' grant terms and conditions, including any reporting requirements for universities. We also reviewed agencies'

¹¹The Department of Justice and 20 other participating agencies, including DOD, NASA, and NSF published a final Title IX Common Rule on August 30, 2000. 65 Fed. Reg. 52857 (2000). The purpose of the Common Rule was to provide for the enforcement of Title IX of the Education Amendments of 1972, as it applies to educational programs or activities operated by recipients of federal financial assistance from the participating agencies. The regulations were presented as a Common Rule because the standards established for the enforcement of Title IX are the same for all of the participating agencies. The procedures for how an agency will enforce Title IX, including the conduct of investigations and compliance reviews, also follow the same structure. The final Common Rule was adopted by each agency, and is codified in that agency's portion of the Code of Federal Regulations. In 2001, DOE replaced its regulations with the provisions of the Common Rule. 66 Fed. Reg. 4630 (2001).

¹²Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. 42 U.S.C. § 2000d *et seq.* Agencies' Title IX regulations have adopted and applied the investigative, compliance, and enforcement procedural provisions of Title VI.

¹³The America COMPETES Act contained a Sense of Congress provision that DOE should also conduct Title IX compliance reviews of a minimum of two grantees per year. Pub. L. No. 110-69, § 5010, 121 Stat. 572, 620 (2007).

¹⁴NASA Authorization Act of 2005, Pub. L. No. 109-155, § 619, 119 Stat. 2895, 2935, codified at 51 U.S.C. § 40909.

websites for information on the Title IX complaint process. We requested and obtained the total number of formal Title IX complaints received by agencies from fiscal years 2015 through 2019 and the total number of sex discrimination concerns, including sexual harassment—information from individuals to notify the agency of an issue without pursuing the formal complaint process or complaint investigation—received in fiscal year 2019.

For one agency that requires information from university grantees on sexual harassment findings, we requested and obtained the total number of findings received in fiscal year 2019. For another agency that collects information from university grantees on sex discrimination complaints, we requested and obtained the total number of complaints received in fiscal year 2019. We also interviewed officials from the five agencies about how complaints are received, investigated, and resolved, as well as the process for receiving concerns and other information. We interviewed Education officials about Title IX complaints and any assistance provided to the five agencies for investigating complaints. We determined whether these agencies met requirements for establishing and publishing procedures for the prompt processing and disposition of complaints, as outlined in DOJ's regulations.

To determine the reliability of reported data and information on Title IX complaints, sex discrimination concerns, and Title IX compliance reviews, we reviewed documents describing how the agencies collected this information and interviewed officials who were familiar with the information. We contacted agency officials to reconcile any discrepancies in the data. We determined these data were sufficiently reliable for the purposes of our reporting objectives.

For objective three, we reviewed the sexual harassment prevention activities the five agencies employ with their grantees, including policies and procedures to grantees on preventing sexual harassment, communication of these policies (e.g. agency websites), grant requirements, agency goals related to Title IX, and evaluation methods. We interviewed officials from these agencies about their policies and procedures, communication of policies, and any goals and overall plans for them.

For objective four, we reviewed Executive Order 12250—Leadership and Coordination of Nondiscrimination Laws (1980)¹⁵—and documentation on DOJ’s Quarterly Title IX STEM discussion group, such as meeting agendas. We interviewed officials from DOJ and the five agencies about interagency collaboration within the group. We compared the activities of the group to relevant federal interagency collaboration leading practices.¹⁶ We reviewed documentation on other collaboration efforts of these agencies. We also reviewed documentation from the Office of Science and Technology Policy and interviewed officials about the federal interagency Safe and Inclusive Research Environments Subcommittee that was created in May 2019.

For three objectives, we compared federal agencies’ actions related to Title IX compliance reviews, Title IX complaint process, and sexual harassment prevention such as anti-sexual harassment policies and procedures against various controls from *Standards for Internal Control in the Federal Government*.¹⁷ For all four objectives, we reviewed our prior work related to sexual harassment and Title IX,¹⁸ the 2018 NASEM study on sexual harassment,¹⁹ and the Equal Employment Opportunity

¹⁵Executive Order 12250 – Leadership and Coordination of Nondiscrimination Laws 45 Fed. Reg. 72995 (1980).

¹⁶GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005). While [GAO-06-15](#) identifies eight interagency collaboration leading practices, for the purposes of this report, we did not review DOJ’s adoption of two practices—agency accountability and individual accountability—because these practices focus on incorporating collaboration into agency strategic plans and individual performance plans which is outside the scope of the group.

¹⁷GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 10, 2014).

¹⁸[GAO-16-14](#). GAO, *Sexual Harassment in STEM Research: Preliminary Observations on Policies for University Grantees and Information Sharing among Selected Agencies*, [GAO-19-583T](#) (Washington, D.C.: June 12, 2019), GAO *Sexual Violence: Actions Needed to Improve DOD’s Efforts to Address the Continuum of Unwanted Sexual Behaviors*, [GAO-18-33](#) (Washington, D.C.: December 18, 2017), GAO, *High School Sports: Many Schools Encouraged Equal Opportunities, but Education Could Further Help Athletics Administrators under Title IX*, [GAO-18-425](#) (Washington, D.C.: May 10, 2018). GAO, *Gender Issues: Women’s Participation in the Sciences Has Increased, but Agencies Need to Do More to Ensure Compliance with Title IX*, [GAO-04-639](#) (Washington, D.C.: Jul. 22, 2004).

¹⁹National Academies of Sciences, Engineering, and Medicine. *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine*. (Washington, DC: The National Academies Press, 2018).

Commission 2016 report on harassment.²⁰ We also interviewed officials at NASEM about its 2018 study.

We also interviewed Title IX officials at two universities and the university system of one of the two universities to provide illustrative examples of processes for Title IX compliance reviews and complaints, as well as university views on agencies' efforts to prevent sexual harassment. We chose two universities that received funding from multiple agencies and were the subject of a Title IX compliance review conducted by at least one of the five agencies we reviewed. The views of these university officials are not generalizable.

In addition, to better understand sexual harassment in STEM research, we interviewed various stakeholders: (1) academia—two college professors, (2) university administration—one former administrator, and (3) international scientific and national educational associations—one group representing professional scientific fields and one group representing university administrators. We selected officials who were knowledgeable about the federal role in STEM research, the prevalence of sexual harassment in STEM research, and administration of Title IX compliance activities at universities receiving federal grants for STEM research. We identified them from prior GAO work, referrals from federal agencies and NASEM, and a recent public forum on sexual harassment. The views of these officials are not generalizable.

We conducted this performance audit from August 2018 to March 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

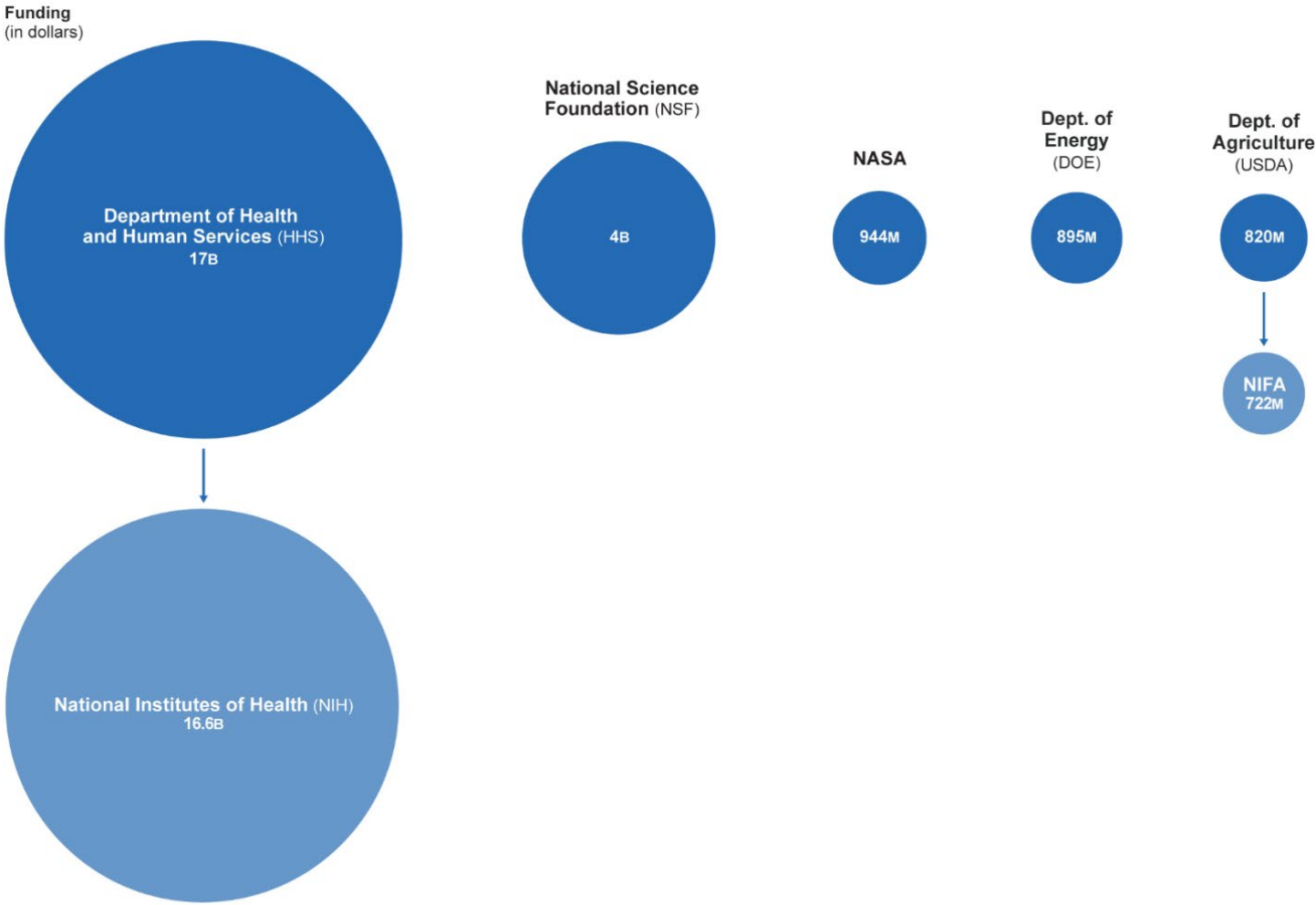
Background

Funding for university STEM research. The five federal agencies included in our analysis provide billions of dollars annually for university research in STEM fields, with HHS-NIH providing more than the other four agencies combined. Figure 1 details the total amount of basic and applied STEM research funding provided to universities by each agency

²⁰U.S. Equal Employment Opportunity Commission, *Select Task Force on the Study of Harassment in the Workplace*, June 2016. https://www.eeoc.gov/eeoc/task_force/harassment/upload/report.pdf (last accessed on Oct. 4, 2019).

in fiscal year 2018, these data are preliminary and the most current data available during our review.

Figure 1: Preliminary Fiscal Year 2018 Federal Obligations from Five Agencies for Selected Areas of Basic and Applied Science, Technology, Engineering, and Mathematics (STEM) Research Performed at Universities and Colleges



Key to acronyms
B: Billion
M: Million
NASA: National Aeronautics and Space Administration
NIFA: National Institute of Food and Agriculture

Source: National Science Foundation, National Center for Science and Engineering Statistics, Survey of Federal Funds for Research and Development, fiscal year 2018 (preliminary). | GAO-20-187

Notes: These funding figures are drawn from the fiscal year 2018 NSF Survey of Federal Funds for Research and Development and therefore may differ from agency figures reported elsewhere. Preliminary fiscal year 2018 figures include only basic and applied research obligations in fields that fall within the scope of our review: computer sciences and mathematics, engineering, environmental sciences, life sciences, physical sciences, and other sciences not elsewhere classified, such as multidisciplinary or interdisciplinary projects that cannot be classified within one of these broad science fields. These may differ from total agency research funding obligations for fiscal year 2018. For example, NSF's total STEM research obligations include funding for additional STEM fields such as psychology and social sciences.

Sexual harassment. While sexual harassment is not a defined term in Title IX, it can constitute sex discrimination under Title IX in some circumstances if, among other things, the harassment is “so severe, pervasive, and objectively offensive that it effectively bars the victim’s access to an educational opportunity or benefit.”²¹

Some federal agencies and NASEM define sexual harassment based on specific behaviors. Specifically, according to NASEM, sexual harassment encompasses three types of behavior:²²

- Sexual coercion: Favorable treatment conditioned on sexual activity.
- Unwanted sexual attention: Verbal or physical sexual advances that are unwelcome, including sexual assault.
- Gender harassment: Sexist hostility and crude behavior.

The most common form of sexual harassment is gender harassment, which generally involves behavior that conveys hostility, objectification, exclusion, or second-class status about a person’s gender.²³ According to the Consultant Report on the University of Texas System Campus Climate Survey for NASEM, female medical and engineering students enrolled in the University of Texas System were more likely to experience

²¹Davis v. Monroe County Board of Education, 526 U.S. 629, at 633 (1999).

²²We adopt this definition for purposes of this report. National Academies of Sciences, Engineering, and Medicine. *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine*. (Washington, DC: The National Academies Press, 2018).

²³National Academies of Sciences, Engineering, and Medicine. *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine*. (Washington, DC: The National Academies Press, 2018).

sexual harassment by faculty or staff compared with students enrolled in other majors.²⁴

Title IX enforcement responsibilities. Title IX of the Education Amendments of 1972 is the primary federal law that addresses sex discrimination under education programs or activities receiving federal financial assistance, including federally funded grant programs at educational institutions, such as universities. Under Title IX, federal agencies that award grants to educational institutions, including universities, have enforcement responsibilities to ensure such institutions do not discriminate based on sex.²⁵ Enforcement responsibilities fall under four main areas:

1. **Issuing regulations.** Title IX requires that agencies promulgate regulations to provide guidance on Title IX enforcement to recipients of federal financial assistance who administer education programs or activities.²⁶
2. **Obtaining assurance from university grantees that they are in compliance with Title IX.** Most of the agencies we reviewed require grantees to submit an “assurance of compliance” form as part of their

²⁴According to NASEM officials, this finding comes from aggregated data when all disciplines are averaged together and compared to science, technology, engineering, and medical disciplines. It may not highlight differences in the incidence of sexual harassment across sub-disciplines of each field, according to NASEM officials.

²⁵20 U.S.C. § 1682.

²⁶20 U.S.C. § 1682. HHS’s regulations are codified at 45 C.F.R. Part 86. USDA’s regulations are codified at 7 C.F.R. Part 15a, and DOE’s regulations are codified at 10 C.F.R. Part 1042. A Title IX Common Rule was published in 2000 to implement regulations for 21 agencies, including DOJ, DOD, NASA, and NSF (65 Fed. Reg. 52,858, Aug. 30, 2000). In 2001, DOE replaced its regulations with the provisions of the Common Rule (66 Fed. Reg. 4630, Jan. 18, 2001). The Title IX regulations for all agencies that we examined are substantially the same and for purposes of this report, any reference to a regulatory requirement is applicable to all five agencies. All agencies’ Title IX regulations also incorporate the respective procedural regulations, including complaint procedure requirements of the Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin in any program or activity receiving federal financial assistance.

grant application or award to attest compliance with anti-discrimination laws, including Title IX.²⁷

3. **Conducting periodic compliance reviews of funding recipients.** Grant funding agencies are required to conduct periodic Title IX compliance reviews of university grantees. A Title IX compliance review is an agency's assessment of whether a grantee is complying with the law. According to DOJ's Title IX legal manual, federal agencies have broad discretion in determining which grantees to review for compliance.²⁸ Federal agencies may conduct these reviews on-site at a university (grantee) or via a desk audit. In both types of review, agency officials, among other things, review documentation that indicates compliance, such as the universities' policies and procedures for receiving, investigating, and resolving Title IX complaints. During on-site reviews, officials interview staff, faculty, and students about their awareness of Title IX and any issues of potential sex discrimination that they have encountered.
4. **Investigating written complaints of sex discrimination against recipients in a timely way.** Federal agencies are required to establish and publish procedures for the prompt processing and disposition of complaints.²⁹ An individual alleging discrimination on the basis of sex by a university can file a discrimination complaint with multiple entities, including the university or one of the federal agencies that provides funding to the university, which could include Education or another funding agency.

²⁷NSF has regulations that require the assurance of compliance. However, NSF does not use this "assurance of compliance" form. Instead, NSF outlines Title IX requirements in its grant terms and conditions, and notes that when a grantee signs a proposal, they are providing the required compliance certification.

²⁸U.S. Department of Justice, Civil Rights Division, Title IX Legal Manual, January 11, 2001 (Washington, D.C.). The five agencies we reviewed use similar criteria to choose grantees for review, including the amount of funding the agency provides to the grantee and how recently a federal agency reviewed the grantee for Title IX compliance. The agencies also consider any suspected Title IX compliance issues at the grantee—such as complaints raised by individuals. According to NSF officials, the agency also considers university findings of sexual harassment when selecting grantees for compliance review.

²⁹28 C.F.R. § 42.408(a).

In 2015, we reported on six federal agencies' grant making to women in STEM research, including their Title IX compliance activities.³⁰ We found that the Departments of Defense, and Health and Human Services were not conducting required Title IX compliance reviews at universities they funded and recommended that they periodically do so.³¹ In response to our recommendation, HHS conducted three Title IX compliance reviews in 2018 and according to officials, the agency initiated additional Title IX compliance reviews in 2019 and 2020.

Education and DOJ also have responsibilities for administering Title IX. Education plays a key role in ensuring compliance with Title IX as it provides funding to most universities in the United States.³² DOJ's Civil Rights Division is responsible for enforcing federal statutes prohibiting discrimination of protected classes, including Title IX. Under Executive Order 12250, DOJ also has the responsibility for playing a leadership role in coordinating the "consistent and effective implementation" of several civil rights laws, including Title IX.³³

In 2015, we reported that DOJ had no formal information-sharing process for federal agencies to exchange best practices on Title IX compliance activities, and we recommended that it establish such a process. In response to our recommendation, DOJ reconstituted the Quarterly Title IX STEM discussion group in February 2016 to facilitate information sharing across the six major STEM grant-making federal agencies.³⁴

³⁰GAO-16-14. We reported on these six federal agencies: the Department of Defense, Department of Energy, Health and Human Services' National Institutes of Health, National Aeronautics and Space Administration, National Science Foundation, and the Department of Agriculture, including the National Institute of Food and Agriculture.

³¹As previously mentioned, for this report, we did not include the Department of Defense because the agency is working to implement the Title IX compliance review recommendation from our December 2015 report.

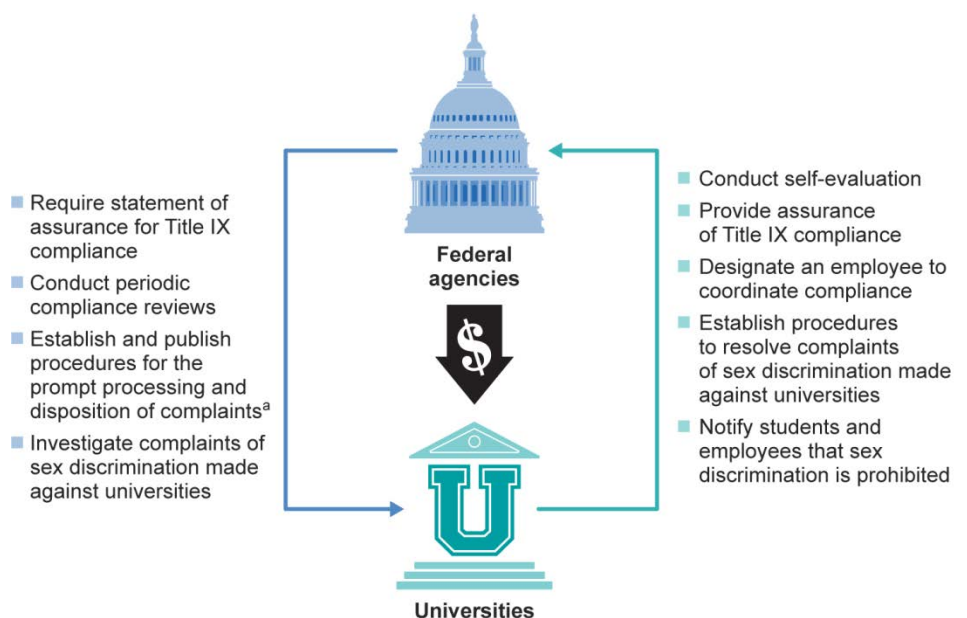
³²As we reported in December 2015, in the context of Education's review of HHS's Title IX compliance review program, Education officials told us they are unable to conduct compliance reviews on behalf of other federal agencies without a formal delegation agreement on file.

³³Exec. Order No. 12250, 45 Fed. Reg. 72995 (Nov. 2, 1980).

³⁴GAO-16-14. The six major STEM grant-making federal agencies are the Department of Defense, the Department of Energy, HHS' National Institutes of Health, the National Aeronautics and Space Administration, the National Science Foundation, and the Department of Agriculture, including the National Institute of Food and Agriculture.

Recipients of federal assistance—in this case, university grantees—also have Title IX compliance responsibilities. Specifically, universities are responsible for ensuring Title IX compliance, designating an employee to coordinate compliance (e.g., a Title IX coordinator), establishing procedures to promptly and equitably resolve student and employee complaints of sex discrimination made against the university, and publishing a notice stating that they do not discriminate on the basis of sex. Figure 2 outlines the various compliance activities required under Title IX and the entity responsible for carrying out each activity.

Figure 2: Key Title IX Compliance Requirements for Federal Funding Agencies and Universities



Source: GAO analysis of federal laws and regulations. | GAO-20-187

^aFederal funding agencies are required to establish and publish complaint procedures in accordance with 28 C.F.R. § 42.408(a).

Offices and their responsibilities for Title IX and grant management.

Among the federal agencies we reviewed, different offices handle various aspects of Title IX and grant compliance activities. Generally, each agency's civil rights or diversity office conducts Title IX compliance reviews, develops policies and procedures for grantees, and investigates allegations and complaints involving university researchers supported by their agency's federal STEM grants. All five agencies (DOE, HHS, NASA,

NSF, and USDA-NIFA) primarily address Title IX complaints, including sexual harassment complaints, through their civil rights or diversity offices.³⁵ However, these offices are responsible for more than just addressing complaints and preventing sexual harassment at grantees, including universities; these offices oversee a number of civil rights, diversity, and inclusion efforts for the entire agency. Moreover, most of these offices also address internal employee sexual harassment complaints and other discrimination issues.

The agency office that awards grants generally creates and modifies grant terms and conditions for universities receiving funding from the agency. Table 1 outlines each agency’s Title IX and grant management responsibilities by office.

Table 1: Agencies’ Key Responsibilities for Title IX Enforcement, Grant Management, and Policymaking by Office	
Agency, Component, and Office	Type of Responsibility
Department of Agriculture (USDA)	
Office of the Assistant Secretary for Civil Rights	Title IX enforcement (complaints) and policymaking
National Institute of Food and Agriculture (NIFA)	
Office of Director	Title IX enforcement (compliance reviews)
Office of Grants and Financial Management	Grant management
Department of Energy (DOE)	
Office of Civil Rights and Diversity within the Office of Economic Impact and Diversity	Title IX enforcement and policymaking
Research and Development Program Offices	Grant management and policymaking
Department of Health and Human Services (HHS)	
Office for Civil Rights (HHS-OCR)	Title IX enforcement and policymaking
National Institutes of Health (HHS-NIH)	
Office of Extramural Research within the Office of the Director	Grant management

³⁵NIH is a component of HHS that manages the majority of HHS’s STEM research grants to universities, while HHS’s Office for Civil Rights manages Title IX compliance and investigates Title IX complaints for all HHS components, including NIH.

Agency, Component, and Office	Type of Responsibility
Office of Science Policy within the Office of the Director	Polymaking
National Aeronautics and Space Administration (NASA)	
Office of the Chief Financial Officer	Grant management
Office of the Chief Scientist	Polymaking
Office of Diversity and Equal Opportunity	Title IX enforcement and polymaking
Science Mission and Space and Human Exploration Mission Directorates	Grant management and polymaking
National Science Foundation (NSF)	
Office of Budget, Finance, and Award Management	Grant management
Office of Diversity and Inclusion	Title IX enforcement and polymaking
Research and Education Directorates and Offices	Grant management and polymaking

Source: GAO analysis of DOE, HHS, NASA, NIFA, NIH, NSF, and USDA documents and interviews. I GAO-20-187

Note: Title IX enforcement responsibilities include conducting periodic Title IX compliance reviews of university grantees and investigating sex discrimination (Title IX) complaints. Grants management includes awarding, managing, and administering grants to universities. Polymaking includes developing anti-sexual harassment policies and procedures for grantees and may include establishing and revising grant terms and conditions.

All Five Agencies Conducted Compliance Reviews, and Two Published Promising Practices for Universities

All five agencies conducted periodic Title IX compliance reviews, as required by federal laws and regulations, from fiscal years 2015 through 2019, and three completed joint compliance reviews. Two agencies publicized promising practices from Title IX compliance reviews on their websites and did so to assist all grantees with Title IX compliance.³⁶ The other three agencies have not clearly publicized such practices from their Title IX reviews on their websites.

³⁶Promising practices—grantee actions that have the potential to advance equal opportunities, diversity, and inclusiveness for program participants regardless of sex—may be considered, adopted, and replicated by other grantees, according to NASA and NSF officials.

All Five Agencies Conducted Required Title IX Compliance Reviews from Fiscal Year 2015 through 2019

The five agencies we reviewed conducted periodic Title IX compliance reviews, as required by federal laws and regulations.³⁷ From fiscal year 2015 through 2019, DOE, HHS, NASA, NSF, and USDA-NIFA officials reported that their agencies met the requirement for conducting periodic reviews. During this period, the agencies conducted between 4 and 11 Title IX compliance reviews among hundreds of grantees. No agency completed more than three reviews in a fiscal year.³⁸ Two agencies—DOE and NASA—have requirements to conduct a minimum of two Title IX compliance reviews annually.³⁹ DOE and NASA meet their statutory requirements by starting at least two Title IX compliance reviews each year, according to officials. HHS, NSF, and USDA do not have an annual minimum requirement and are not required to have one, according to officials.⁴⁰

Agencies conducted visits to universities to assess compliance and developed written compliance reports. In the compliance report, agencies can recommend a grantee take action to improve existing compliance efforts to prevent sex discrimination and may highlight promising practices by grantees. For example, NASA recommended in a written

³⁷We obtained the five agencies' Title IX compliance reviews as well as summaries and lists of reviews from fiscal year 2015 through 2019 and verified that agencies conducted and completed more than one review during the time period. We defined "conducted" when the agency initiated a review such as an on-site visit and we defined "completed" when the agency began developing or published a compliance review report or summary letter.

³⁸The agencies typically conduct Title IX compliance reviews at colleges and universities—institutions that generally have well-developed Title IX infrastructure, according to NSF officials. However, according to NSF officials, there are a number of other educational institutions—research institutions, observatories, and museums—that receive funding for research and educational programs. Therefore, NSF will conduct compliance reviews at these institutions to better understand their Title IX compliance infrastructure, according to officials.

³⁹The NASA Reauthorization Act of 2005 required NASA to conduct Title IX compliance reviews of at least two grantees per year. Pub. L. No. 109-155, § 619, 119 Stat. 2895, 2935 (codified at 51 U.S.C. § 40909). Similarly, the America COMPETES Act contained a Sense of Congress provision that DOE should also conduct Title IX compliance reviews of a minimum of two grantees per year. Pub. L. No. 110-69, § 5010, 121 Stat. 572, 620 (2007).

⁴⁰USDA officials stated that in fiscal year 2020, its Office of the Assistant Secretary for Civil Rights is committed to completing two Title IX compliance reviews—a collaboration with NIFA and other agencies within DOJ's Quarterly Title IX STEM discussion group—in addition to the four compliance reviews that NIFA plans each year. DOE officials stated that their Director has requested the Office of Civil Rights to conduct four Title IX compliance reviews in fiscal year 2020.

compliance report that a grantee provide more targeted Title IX training geared toward STEM students and faculty, noting that such training should focus on subtle forms of gender bias that pervade STEM programs as well as on more egregious examples of sexual harassment. Similarly, HHS made recommendations in three of its compliance reviews for grantees to notify students and faculty of their right to file a Title IX complaint with the HHS Office for Civil Rights. University grantees are not required to implement the agency's recommendations, but they must take corrective actions to resolve findings of Title IX noncompliance, according to DOE, HHS-OCR, NASA, and NSF officials.

Agencies are required by law to seek voluntary compliance for Title IX violations. If an agency finds that a grantee has violated Title IX (noncompliance), it first seeks to establish voluntary compliance through a resolution agreement—an agreement with the agency and grantee outlining corrective actions for the grantee. If the agency is unable to achieve voluntary compliance in a Title IX case, it may initiate proceedings to suspend or terminate federal funding, or refer the case to DOJ for possible litigation.⁴¹ According to officials, the five agencies we reviewed have not suspended or terminated funding to enforce Title IX, including sexual harassment. Instead, according to agency officials, their reviews have found that most grantees are in compliance with Title IX from fiscal year 2015 through 2019, except for one grantee, where the agency worked with the grantee to achieve voluntary compliance.⁴²

To leverage limited resources, three of the five agencies—DOE, NASA, and NSF—conducted joint Title IX compliance reviews. These reviews occur when two agencies providing funding to the same grantee jointly assess whether the grantee is complying with the law. DOE and NSF conducted three joint compliance reviews in fiscal years 2015 and 2016, while NASA and NSF conducted a joint review in fiscal year 2019. These joint reviews helped agencies leverage resources.

⁴¹According to DOJ's Title IX legal manual, the primary means of enforcing Title IX compliance is through voluntary agreements with the grantees, and suspension or termination of funding is a means of last resort.

⁴²In August 2019, HHS Office for Civil Rights entered into a voluntary resolution agreement with Michigan State University after the agency conducted a Title IX compliance review to address sexual abuse of gymnasts and others by a health team physician.

Two Agencies Publicized Promising Practices for Title IX Compliance to Assist All Grantees, but the Other Three Agencies Have Not Clearly Publicized Practices from Title IX Reviews on Their Websites

NASA and NSF publicized on their websites a list of promising practices identified as part of their compliance reviews to assist grantees with Title IX compliance. Promising practices—grantee actions that have the potential to advance equal opportunities, diversity, and inclusiveness for program participants regardless of sex—may be considered, adopted, and replicated by other grantees, according to NASA and NSF officials.⁴³ Some actions may go beyond meeting Title IX compliance requirements. NASA identifies promising practices to provide grantees with information and examples on practices they may wish to consider replicating to help enhance or supplement their equal opportunity efforts, according to officials. For example, NASA noted a promising practice in which a grantee presents campus training sessions on Title IX at which participants develop bystander behavior skills, discuss consent and sexual respect, and learn how to encourage and support reporting of sexual misconduct. In addition, this university grantee facilitates the workshop using clickers to allow real-time, anonymous audience response, enabling the facilitators to measure learning progress and see attitudinal shifts in real time. According to NASA, since the inception of its Title IX compliance program, the agency has followed a philosophy of providing meaningful technical assistance to universities, including identifying and reporting on promising practices of the universities that the agency reviews. NASA officials told us this approach mitigates the fact that the agency only has the resources to conduct compliance reviews at a few of its hundreds of grantees annually.

NSF takes a similar approach. For example, NSF's webpage for promising practices has a link to a university's complaint resolution flow chart as an example for others to draw on. According to NSF officials, the agency values opportunities to learn about practices that have the potential to make significant and meaningful impacts on grantees' efforts to create and maintain research environments that are safe and free from sexual and gender-based harassment. Moreover, according to officials, NSF grantees have expressed gratitude to the agency for sharing what other universities are doing that is working well.

In contrast, while DOE, HHS, and USDA identified promising practices in some of their Title IX compliance reviews, they have not clearly publicized a list of these practices to the broader grantee community.

⁴³NSF officials further stated that any grant awardee, such as a research lab, may have promising practices in place, therefore promising practices are not limited to university grantees.

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- DOE has posted reports of Title IX compliance reviews, but no list of promising practices. As a result, grantees who want to learn from other universities would need to review individual compliance reports and search for promising practices. DOE does plan to develop a publication that identifies promising practices and lessons learned from its Title IX compliance reviews in fiscal year 2020, according to officials. The agency did not provide any plans or timeframes because officials stated that DOE's Office of Civil Rights is determining the best approach for this project.
 - USDA-NIFA is planning to create mechanisms to publicize best practices, according to officials, but it has not yet done so. According to USDA officials, the agency is discussing and determining the best promising practices from compliance reviews to publicize; however, recent staff changes have delayed this effort. As a result, USDA did not provide further details about how and when it will publicize promising practices.
 - In October 2019, HHS's Office for Civil Rights (HHS-OCR) updated its Title IX webpage to include a section dedicated to sexual harassment, including links to resources, guidance, and effective practices (also called promising practices) from other agencies, as well as a written resolution agreement between HHS and a university grantee that resolved findings of sex-based harassment. While a dedicated webpage for sexual harassment is a positive step, HHS's webpage includes promising practices from other federal agencies—Equal Employment Opportunity Commission and NSF—but not HHS. HHS-OCR officials told us that promising practices are similar across federal agencies. However, HHS Title IX compliance reviews cover grantees that may be different from other federal agencies, such as medical colleges, and these grantees may face unique challenges in complying with Title IX.

For example, according to the 2018 NASEM report, women students, trainees, and faculty in academic medical centers experience sexual harassment by patients and patients' families, in addition to the harassment they experience from colleagues and those in leadership positions. HHS-OCR officials told us that the resolution agreement lists corrective actions that may be considered promising practices. However, a grantee who wanted to learn about these practices would need to know that they exist in the agreement and then review the document to find them. The agency has already identified potential promising practices in

some its completed Title IX reviews.⁴⁴ Therefore, publishing a separate list of these practices and corrective actions from resolution agreements on its website would require few resources and could benefit grantees.

According to *Standards for Internal Control in the Federal Government*, management should use quality information to achieve its objectives and externally communicate such information to achieve objectives.⁴⁵ The vast majority of grantees are reviewed for Title IX compliance infrequently by the five agencies and therefore receive little to no information on such compliance from these agencies. Moreover, while grantees can access completed Title IX reviews on some agencies' websites, this endeavor would still require grantees to review the written reports in detail to uncover any promising practices. Without clearly publicizing promising practices to the broader grantee community, such as a stand-alone list of practices, DOE, HHS-OCR, and USDA are missing an opportunity to provide quality information to grantees about how best to ensure compliance with Title IX requirements and reduce the likelihood of sexual harassment.

Agencies Vary in their Efforts to Address Allegations of Sexual Harassment

The five agencies we reviewed received Title IX complaints, but varied in their efforts to address sexual harassment allegations, including: 1) finalizing procedures for processing Title IX complaints, 2) communicating complete information about the complaint process to grantees, and 3) addressing allegations outside of the Title IX process. Four agencies received three or fewer formal Title IX complaints total from fiscal year 2015 through 2019. Two of the five agencies do not have written procedures for the prompt processing and disposition of Title IX complaints—including allegations of sexual harassment—as required by federal regulations.⁴⁶ According to agency officials, all five agencies use their websites as the primary means of communicating Title IX complaint information to grantees and individuals at universities; however, one of

⁴⁴In October 2019, HHS-OCR posted its completed Title IX reviews and voluntary resolution agreement on its website.

⁴⁵See [GAO-14-704G](#).

⁴⁶28 C.F.R. § 42.408. According to officials, four of the five agencies we reviewed consider all information on sex discrimination received to be “complaints,” and may not differentiate between, for example, formal complaints and concerns. However, for the purposes of this report, we use “formal complaints” to refer to complaints with the agency filed under Title IX—including those that undergo evaluation for investigation eligibility. Moreover, while Title IX includes sexual harassment, it also includes various other aspects of sex discrimination such as gender harassment.

the five agencies' websites does not provide clear guidance for grantees on the basics of the complaint filing processes—such as who can file. Additionally, two agencies have gone beyond the formal Title IX complaint process and also review sex discrimination concerns—including sexual harassment—as a means of improving agency Title IX oversight of university grantees.⁴⁷

Four Agencies Received Few Formal Title IX Complaints

Title IX affords individuals the ability to file formal complaints of Title IX violations directly to the federal agency providing funding for the program.⁴⁸ According to agency officials, the five agencies generally define formal complaints as those that:⁴⁹

- Are submitted in writing;⁵⁰
- Are filed within 180 days of the incident—or if ongoing, within 180 days of the last incident—to be considered timely;⁵¹
- Provide the name and contact information of the person who is alleging discrimination;
- Provide a general description of the person or people injured by the alleged discriminatory act(s) (names of those injured are not required); and

⁴⁷“Concerns” refer to information provided to the agency to notify officials of a concern of sex discrimination—including sexual harassment—outside of the formal Title IX process. Some agencies also refer to concerns as communications or inquiries.

⁴⁸Title IX does not specify the term “formal” complaints. 20 U.S.C. § 1681 *et seq.* However, agency regulations implementing Title IX provide that agencies must investigate timely written complaints of sex discrimination. DOE, 10 C.F.R. § 1040.104; HHS, 45 C.F.R. § 80.7(c); NASA, 14 C.F.R. § 1250.106(c); USDA, 7 C.F.R. § 15.6; NSF 45 C.F.R. § 611.7(c).

⁴⁹Within HHS, the Office for Civil Rights (OCR) has the enforcement authority to investigate formal Title IX complaints for HHS as a whole. HHS-NIH does not have this authority.

⁵⁰According to NASA officials, a complaint does not need to be written to be considered formal. NASA also does not use the term “formal” to describe complaints, but rather considers a complaint “complete” if it meets the criteria, according to agency officials.

⁵¹According to NSF’s Program Complaint Processing Manual, the agency has a 90-day timeliness requirement. For all five federal agencies, the complainant can request a waiver of the time frame restriction if circumstances prevented the reporting of the complaint within the required time frame. For example, agencies may waive the time requirement if the complainant was unable to file due to an incapacitating illness or circumstance, or if the complaint was alleged with another entity—such as another federal, state, or local civil rights enforcement agency—within the required time frame.

- Provide a description of the alleged discriminatory act(s) in sufficient detail to enable the agency to understand what occurred, when it occurred, and the basis for the alleged discrimination (sex discrimination in the case of Title IX).

All five agencies accept formal Title IX complaints in multiple ways—including at minimum through email and postal mail.

From fiscal year 2015 through 2019, four agencies received three or fewer formal complaints (see table 2).

Table 2: Number of Formal Title IX Complaints Received by Five Federal Agencies from Fiscal Year 2015 through Fiscal Year 2019

	Agency					Total
	DOE	HHS	NASA	NSF	USDA	
Number of formal Title IX complaints	2	1	3	33	1	40

Source: GAO analysis of agency information and interviews with agency officials from the Department of Energy (DOE), Health and Human Services (HHS), National Aeronautics and Space Administration (NASA), National Science Foundation (NSF), and Department of Agriculture (USDA) National Institute of Food and Agriculture (NIFA). I GAO-20-187

Note: HHS's and USDA's civil rights departments have the authority to receive and investigate formal Title IX complaints for all components within their respective agencies—including HHS's National Institutes of Health and USDA's NIFA. In fiscal year 2018 and 2019, DOE, NASA, and NSF received the same complaint alleging violation of Title IX—discrimination on the basis of sex—against a university; counting as a formal complaint for each agency. According to officials from the three agencies, NSF took the lead on the investigation.

Agency officials provided several reasons why they believe agencies receive few formal Title IX complaints:

- Complaints are more commonly filed with the university or with Education and are rarely directly reported to the agency;⁵²
- Individuals may be unaware of their right to file complaints directly with the agency or how to file such a complaint; and

⁵²According to agency officials, in fiscal year 2019, Education received 311 Title IX complaints alleging sexual harassment, sexual violence, and gender-based harassment at postsecondary education institutions, according to officials. This number encompasses all Title IX complaints reported to Education and is not specific to Title IX complaints filed by individuals involved in grants funded by the five agencies in this report.

Retaliation

At a state university, a graduate student reported her advisor for sexual harassment. The university substantiated her claim and the professor left the university. According to the victim, fellow students upset at the impact of the professor's departure on their own research and academic careers, retaliated against her. Student-centered retaliation included taking her lab equipment without permission, ostracizing her from social events, and withholding critical information and resources necessary for her research. This retaliation caused her to move her workspace and lose progress on her own work.

Source: Higher education news article. | GAO-20-187

- Individuals may fear retaliation or a negative impact on their scientific career (see sidebar).⁵³

Officials from DOE, NASA, HHS-NIH, and NSF stated they usually learn about instances of sexual harassment from other sources (e.g. media reports) and rarely from voluntary reporting from universities or other federal agencies. Title IX officials at two universities we interviewed agreed with agency officials about why few formal complaints are filed with agencies. For example, one Title IX official stated that concerns about retaliation for filing a complaint are amplified when there is an agency involved due to concerns over risk to the funding. Officials from NSF, which received the most formal Title IX complaints of the five agencies from fiscal year 2015 through 2019, stated that complaints to their agency have increased in recent years.⁵⁴ They could not state definitively the reason for the recent increases, but said it may stem from the increased publicity of sexual harassment cases in STEM—including a Twitter movement known as #MeTooSTEM—along with NSF's revised grant terms and conditions.⁵⁵

Two Agencies Lack or Have Outdated Title IX Complaint Procedures

DOJ's regulations provide that federal agencies must establish and publish procedures for the prompt processing and disposition of complaints. While all five agencies specify general requirements for a formal complaint, two do not have clear or updated written procedures for processing and disposing of formal Title IX complaints. Specifically:

- While DOE's agency regulations stipulate that the agency will investigate allegations of discrimination under Title IX, agency officials

⁵³Agencies' regulations prohibit "intimidatory or retaliatory acts." See, e.g., 28 C.F.R. § 42.107(e). These regulations provide that, "[n]o recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by [Title VI], or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this subpart." See, e.g., 28 C.F.R. § 42.107(e).

⁵⁴Due to agency-identified challenges with staffing, NASA, DOE, NSF, and USDA officials voiced concerns about their agencies' ability to handle any increase in formal Title IX complaints. As we reported in June 2019, as agencies continue to strengthen grantee policies or requirements, it may affect the number of complaints an agency receives from individuals at university grantees, as well as the amount of resources an agency needs to address them. [GAO-19-583T](#).

⁵⁵#MeTooSTEM is a Twitter movement focused on advocacy, support, and outreach for whistleblowers and survivors of sexual misconduct. Users can publish and share stories of harassment using the hashtag. NSF recently implemented several policy changes, including revised grant terms and conditions, which require universities to notify the agency of findings of sexual harassment.

stated that DOE does not currently have written Title IX complaint procedures. In November 2019, the agency provided a preliminary draft outline of its procedures, but officials stated that the agency does not have a timeline for when they may be finished. This is because the agency is devoting its resources to investigating current complaints, according to DOE officials.

- The website for USDA’s Assistant Secretary for Civil Rights—the office handling complaints across the agency—contains a summary of procedures used to process and investigate discrimination complaints, but a USDA official stated that the procedures need more clarity with regard to the university and research environment. In November 2019, USDA officials highlighted a 1999 USDA Departmental Regulation that addresses processing administrative complaints of discrimination filed against any program or activity receiving financial assistance from USDA. Officials stated that this regulation was revised in fiscal year 2019 and is currently under review for approval.⁵⁶ The Departmental Regulations as they stand are outdated, referencing out-of-date organizational responsibilities and department names.⁵⁷

Despite the absence of formal complaint procedures for DOE and outdated procedures for USDA, both agencies have evaluated formal Title IX complaints to determine if they meet the necessary criteria for investigation. Specifically, according to agency officials, USDA evaluated and investigated a formal Title IX complaint in fiscal year 2017, and DOE is currently evaluating a complaint to determine if it meets the criteria for a formal complaint.⁵⁸ However, without clear and specific guidance for the processing and disposition of complaints, DOE is not complying with DOJ’s regulations—which require federal agencies to establish and publish complaint procedures—and may not be able to consistently and efficiently handle formal Title IX complaints. Moreover, under *Standards*

⁵⁶USDA’s complaint procedures for discrimination—including Title IX sex discrimination—are contained in the 1999 version of DR4330-002. USDA Civil Rights officials expect to submit the draft regulation to the USDA Office of the Secretariat for approval by the end of calendar year 2019, and officials provided us with a draft copy.

⁵⁷For example, the 1999 Departmental Regulations assign the Assistant Secretary for Administration the responsibility of oversight for all civil rights functions within USDA. The Office of the Assistant Secretary for Civil Rights is currently responsible for this function. See Section 10704 of the Farm Security and Rural Investment Act of 2002, Public Law 107-171.

⁵⁸USDA did not find non-compliance with Title IX during its investigation of the 2017 complaint, according to officials.

for Internal Control in the Federal Government, management should implement control activities through policies.⁵⁹ For example, management should periodically review procedures for continued relevance and effectiveness in achieving the entity's objectives or addressing related risks. Without updated complaint procedures, USDA does not have procedures that are aligned with the current structure and oversight responsibilities of the agency.

In contrast, NASA, NSF, and HHS-OCR have developed written procedures for how the agency receives, investigates, and resolves formal Title IX complaints.⁶⁰ As seen in appendix I, the formal complaint process is extensive and complex, with evaluative benchmarks to be met prior to investigation.

USDA's Complaint Website Is Unclear on Who Can File Title IX Complaints

According to officials, all five agencies use websites as the main mechanism for communicating information about Title IX complaints to individuals at university grantees. However, USDA's website is not clear about who can file a Title IX complaint. NASA, HHS-OCR, NSF, and DOE each have a website intended to provide information about filing complaints specifically to individuals involved with agency-funded grants. On these websites, the agencies state that they accept Title IX complaints or sex discrimination complaints, among other types.

In contrast, USDA communicates information on its complaints process via a general discrimination website that is not specific to Title IX complaints or to individuals on agency-funded grants, making it unclear

⁵⁹See [GAO-14-704G](#).

⁶⁰NASA's procedural requirements for nondiscrimination in federally-assisted and conducted programs contain specific guidance for NASA staff on how to receive, process, and resolve Title IX complaints. NSF recently drafted new complaint procedures, which the agency intends to send to DOJ's Civil Rights Division for review and comment by the end of calendar year 2019, according to agency officials. According to NSF officials, the agency revised its complaint procedures to ensure the agency had the right expertise for conducting their own investigations. According to agency officials, HHS's Office for Civil Rights—the component within HHS responsible for Title IX enforcement, including Title IX complaints—houses its complaint processing information and guidance on an internal worksite. Unlike NSF and NASA, HHS did not produce its written procedures; however, it provided a detailed explanation of its complaint processing procedures and examples of tools HHS uses to resolve cases.

who can file Title IX complaints.⁶¹ Specifically, USDA provides information about complaint resolution through its Office of Assistant Secretary for Civil Rights website, but grantees wishing to file a formal complaint would need to do so as a “customer,” a term that is not defined on the agency’s website and that individuals on agency-funded grants may not recognize as including them.⁶² A USDA official acknowledged that such individuals may not realize that they can file through the website. USDA officials told us that the agency would consider revising its website to make clear that individuals on USDA grants can file a formal discrimination complaint with the agency.

If USDA does not revise its website, the lack of clarity about who is a customer that can submit a complaint may inhibit its ability to obtain information necessary for Title IX oversight. Under *Standards for Internal Control in the Federal Government*, management should externally communicate the necessary quality information to achieve the entity’s objectives.⁶³ For example, management may communicate and receive information through established reporting lines, such as websites, from external parties that can help the agency achieve its objectives, such as oversight of Title IX. The lack of clear communication of quality information may reduce the effectiveness of USDA’s Title IX enforcement.

Unlike USDA, both HHS-OCR and DOE recently took action to improve website clarity on who can file a Title IX complaint. Specifically:

- HHS-OCR’s website provides information on filing formal complaints for multiple forms of discrimination—such as race, age, and sex discrimination—and allows formal complaints from all who feel they have been discriminated against by a program or activity that receives funding from any part of HHS. In part due to issues raised during the course of our study, HHS-OCR published several new or updated websites in October 2019—including a Title IX page with university-based examples of entities covered under Title IX and a website on sex-based harassment outlining definitions and examples of what

⁶¹HHS-OCR also communicates information on complaints via a general discrimination website; however, in October 2019, the agency updated its civil rights website to include Title IX and sex discrimination pages, reducing the lack of clarity around who can file Title IX complaints with the agency.

⁶²Although “customers” is not defined on USDA’s website, agency officials told us that “customers” refers to everyone who uses USDA services—such as campers in National Parks, food stamp recipients, and individuals working on USDA-funded grants.

⁶³See [GAO-14-704G](#).

constitutes sex discrimination under Title IX. Before this update, it was not clear if individuals working on HHS-funded grants could file formal Title IX complaints via HHS-OCR's website.

- In October 2019, DOE updated its Title IX website to include clear information on the multiple ways individuals can file a formal Title IX complaint with the agency, after we pointed out that this information was missing from DOE's website, according to officials. The updated website specifies that individuals can notify the agency of a Title IX complaint in person, by email, fax, or mail. Prior to this update, the website only provided information on how to mail the agency a Title IX complaint.

Two Agencies Communicate Other Reporting Options for Concerns

In addition to investigating Title IX complaints as required by Title IX, two agencies—HHS-NIH and NSF—go beyond this requirement by also reviewing concerns of sex discrimination—including sexual harassment—and publicly communicating the option for individuals to notify the agency of such concerns outside of the formal Title IX complaint process.⁶⁴

“Concerns” are generally defined as information from individuals seeking to inform or notify the agency that sex discrimination has occurred or is occurring, but information is not intended to be a formal Title IX complaint. For example, HHS-NIH established a website, email, and online portal specifically for concerns of sexual harassment, publicly communicating this effort not only on the website, but also in public presentations and official statements.⁶⁵ NIH officials stated the agency began reviewing concerns to provide clear channels of communication to NIH.

HHS-NIH also developed internal guidance, which is still evolving, for agency staff on how to process concerns from individuals at university grantees through coordination with the grantee. While formal Title IX complaint investigations are agency-led, investigations of sex discrimination concerns, including sexual harassment, filed with HHS-NIH are university-led, with HHS-NIH assessing the university grantee's response to the allegation to ensure appropriate action is taken to ensure a safe research environment (see appendix II for more details). NSF also publicly communicates the option to notify the agency of concerns of sex

⁶⁴According to NSF officials, the agency neither accepts nor dismisses communications—what we call concerns—but does review all of them. HHS-NIH and NSF specifically state on their websites that they accept information from individuals at grantee institutions who wish to only notify the agency of a concern and understand this is not a formal complaint.

⁶⁵HHS-NIH officials stated that the agency accepts all concerns of sex discrimination despite the website being specific to sexual harassment.

discrimination via their Awardee Civil Rights website.⁶⁶ In addition to providing details on who should file a formal complaint and how, NSF also provides information on how to notify the agency of concerns and what is done with this information.⁶⁷ For example, NSF has initiated a Title IX compliance review for fiscal year 2020 based in part on information contained in a concern it received, according to officials.

In fiscal year 2019, HHS-NIH received 93 concerns of sex discrimination and NSF received 47, according to officials from each respective agency (see table 3).⁶⁸

Table 3: Number of Sex Discrimination Concerns Received by Five Agencies in Fiscal Year 2019

	Agency and Components						Total
	HHS		DOE	NASA	NSF	USDA	
	NIH	HHS-OCR					
Number of concerns	93	^a	0 ^b	0 ^c	47	0	140

Source: GAO analysis of agency information and interviews with officials from the Department of Health and Human Services (HHS)—including HHS’s National Institutes of Health (NIH), and HHS’s Office for Civil Rights (OCR), Department of Energy (DOE), National Science Foundation (NSF), National Aeronautics and Space Administration (NASA), and the Department of Agriculture (USDA).¹ GAO-20-187

⁶⁶See NSF’s Awardee Civil Rights website for more information. https://www.nsf.gov/od/odi/awardee_civil_rights/index.jsp. This website was last accessed 10/29/2019.

⁶⁷NSF has written guidance specifying types of reporting considered to be informal—such as concerns from individuals who do not want to participate in a formal investigative process—and possible ways information regarding concerns of sex discrimination, including sexual harassment, may be used. According to agency officials, NSF does not notify university grantees of concerns received by the agency although it may use concerns, if warranted, to determine whether an NSF grantee is required to submit a harassment notification in accordance with the grant terms and conditions. According to NSF officials, the agency may also use concerns—referred to as communications—for Title IX compliance review site-selection purposes in addition to determining if a harassment notification needs to be submitted.

⁶⁸HHS-NIH officials, for example, stated that in fiscal year 2019 the agency had been contacted over 90 times by individuals with concerns of sex discrimination, including sexual harassment, across approximately 50 universities, with about 10 of these concerns involving a single university. HHS-NIH officials noted that the agency created the email address for submission of concerns in March 2019 and the web-based form in June 2019; therefore this number of concerns realistically represents six months of concerns rather than a full year. As a result of concerns reviewed in fiscal year 2018, HHS-NIH worked with universities to take action—including removing key grant personnel as necessary.

Note: Sex discrimination includes sexual harassment.

^aHHS-OCR does not keep a log of communications received via email or phone, and therefore could not provide data on the number of sex discrimination concerns, including sexual harassment, received, according to officials.

^bDOE received one concern in the first month of fiscal year 2020, according to officials. The agency does not currently keep track of these concerns, as officials stated this is the first they have received. However, the agency is currently discussing the best path forward for handling concerns.

^cNASA officials stated that NASA received one concern regarding sexual harassment in fiscal year 2019; however, this concern came from an individual at a research institution and fell under Title VII rather than Title IX.

In contrast, the remaining agencies—NASA, USDA, DOE, and HHS-OCR—do not publicly communicate the option to notify the agency of concerns of sex discrimination or sexual harassment.⁶⁹ Although these agencies stated that they do review all information received—including information from those seeking to notify the agency of concerns—the review is primarily to determine if the information provided meets the agency’s criteria for a formal complaint. Those complaints meeting the criteria for a formal complaint are processed by the agency following the legally required Title IX complaint process. According to officials, the agencies may use the information from concerns to help select a site for a Title IX compliance review.⁷⁰ As shown in table 3 above, officials from DOE, USDA, and NASA stated their respective agencies received no concerns of sex discrimination in fiscal year 2019, and HHS-OCR does not track concerns—referred to as communications—that the agency cannot investigate under Title IX, according to HHS-OCR officials. DOE officials stated that the agency received its first sex discrimination concern in fiscal year 2020 and therefore DOE was not aware individuals were looking to notify the agency of concerns. While these agencies accept concerns, they have received few or no concerns and have not publicly communicated that individuals may send concerns to them.

The 2018 NASEM report, agency officials, and stakeholders we interviewed all noted the importance of informal ways for individuals to report concerns outside of formal complaint processes. The NASEM

⁶⁹NASA officials stated that contact information for NASA’s Anti-Harassment and Discrimination Coordinator is provided on the MissionSTEM website to allow people to contact him and NASA’s MissionSTEM website does state that “you may also raise questions or concerns [to] NASA by telephone;” however, it does not explicitly publicize that NASA will accept and review concerns in lieu of filing a formal Title IX complaint.

⁷⁰According to officials, USDA’s Office of the Assistant Secretary for Civil Rights notifies the university grantee of formal complaints or concerns, as well as the department within USDA responsible for the grant—such as NIFA—which may work with the Title IX coordinator at the university to determine actions regarding the complaints or concerns.

report states that formal reporting procedures can re-victimize targets of harassment, and informal procedures—including the acceptance of anonymous complaints—may let them bring concerns forward without fear of retaliation. A stakeholder we interviewed pointed out the arduous nature of agencies’ formal complaint processes, and multiple stakeholders highlighted the difficulty of meeting the federal standard for a Title IX violation. All five agencies agreed that informal information—such as concerns—is helpful in providing the agency with additional information about the research environment on campus. Of the 140 total concerns of sex discrimination received in fiscal year 2019 by the agencies in our study, all were filed with either NSF or NIH. A comparison of the number of concerns and formal complaints received by the agencies shows that the five agencies as a whole received more than three times as many concerns in 1 year as they did formal complaints in 5 years.

Title IX specifies federal agencies’ Title IX oversight responsibilities—including enforcing Title IX compliance at the universities they fund. Under *Standards for Internal Control in the Federal Government*, management should externally communicate the necessary quality information to achieve the entity’s objectives.⁷¹ For example, management may communicate and receive information through established reporting lines from external parties—in this case, through formal complaints and concerns—which can help the agency achieve its objectives, such as oversight of Title IX. By publicly communicating to individuals that they may notify the agency of a concern of sex discrimination outside of the formal Title IX complaint process, NASA, USDA, DOE, and HHS-OCR could receive additional information necessary for appropriate Title IX oversight. According to NSF officials, concerns not only reveal potential issues with the climate at an awardee university, they also aid in Title IX oversight by alerting the agency to possible Title IX violations a university may need to notify the agency of under the grant terms and conditions.

In addition to reviewing concerns of sex discrimination from individuals at university grantees, NSF receives notifications directly from university

⁷¹See [GAO-14-704G](#).

grantees.⁷² In 2018, NSF modified its grant terms and conditions to require university grantees to notify the agency if there is a finding of sexual harassment against a principal investigator (PI) or co-PI on an NSF-funded grant, or if administrative action was taken against a PI or co-PI due to an allegation or complaint of sexual harassment.⁷³ In 2019, NSF established written procedures to review these notifications from university grantees to determine if the university handled the matter adequately and appropriately, and if further action is needed by NSF. NSF received 13 notifications from university grantees through the new grant terms and conditions in fiscal year 2019, according to agency officials.⁷⁴ NASA, similar to NSF, proposed changes to its grant terms and conditions. NASA published its notice of the proposed change in July 2019. However, according to NASA officials, the Office of Science and Technology Policy requested that NASA consult with the National Science and Technology Council's joint committee's subcommittees—Safe and Inclusive Research Environments Subcommittee and Coordinating Administrative Requirements for Research Subcommittee—prior to moving forward with finalizing the terms and conditions. NASA consulted with the Office of Science and Technology Policy in December 2019 and received concurrence to move forward with finalizing the change to its terms and conditions, according to NASA officials. On March 10, 2020, NASA published a final notice of its new terms and conditions for grants.⁷⁵ Upon implementation, the new terms and conditions requires, among other things, grantees to report to NASA any findings or determinations of sexual harassment, other forms of harassment, or sexual assault regarding a NASA funded PI or co-PI. The reporting requirement will be applied to all new NASA awards and funding amendments to existing awards made on or after the effective date—30 days from the date of the publicized notice.

⁷²“Notifications” are information given to the agency directly from the university grantee as part of a required process. According to agency officials, NASA also receives information from universities on allegations and findings of discrimination—including sexual harassment—triennially through its Assurance of Civil Rights Compliance Form, and stores this information in a database for use along with concerns from individuals to identify possible grantees for compliance reviews. NASA received 1,826 notifications of sex discrimination—including sexual harassment—from universities and colleges in fiscal year 2019, according to officials.

⁷³83 Fed. Reg. 47940 (Sept. 21, 2018).

⁷⁴NSF received two notifications in October 2019 (fiscal year 2020), according to officials.

⁷⁵85 Fed. Reg. 13934 (Mar. 10, 2020).

HHS Components Do Not Share Information on Complaints and Concerns

HHS differs from the other four agencies in that formal complaints and concerns are handled by two different components, which do not communicate with each other regarding information on sexual harassment, according to officials from both HHS-OCR and HHS-NIH. HHS-OCR—the enforcement authority of the agency—has the authority to conduct Title IX compliance reviews and investigate formal Title IX complaints. However, as previously mentioned, HHS-NIH—the grant-making component—has independently developed its own avenue for receiving concerns of sex discrimination, including sexual harassment.

The *Standards for Internal Control in the Federal Government* state that management should internally communicate the necessary quality information to achieve its objectives. This communication includes conveying information down and across reporting lines to allow staff to perform key roles in achieving objectives and addressing risks.⁷⁶ There are no formal procedures within HHS for communicating information across the agency components regarding Title IX complaints, concerns of sex discrimination including sexual harassment, or Title IX compliance, according to officials from both HHS-NIH and the HHS-OCR. An official from HHS-OCR stated that the department already shares broad information about findings of Title IX violations and completed Title IX compliance reviews via a listserv to HHS employees and stakeholders who subscribe, but HHS-NIH officials stated they were not aware of this information.⁷⁷ HHS-NIH officials also stated they do not share information with HHS-OCR regarding concerns of sex discrimination, including sexual harassment, received by HHS-NIH or actions taken in response to these concerns. According to HHS-NIH officials, grantees are expected to provide safe and healthy working conditions—a term and condition of the grant—and therefore if harassment threatens the research environment, this is a potential violation of grant terms and conditions and officials stated that HHS-NIH has the authority to handle it.

Establishing procedures for communicating grantee sexual harassment findings could improve efforts by both HHS-NIH and HHS-OCR to prevent sexual harassment at universities. For example, HHS-OCR could use HHS-NIH data to aid in selecting grantees for Title IX compliance reviews. Additionally, HHS-NIH could use HHS-OCR's compliance review findings to inform oversight of NIH grants—including modifying university

⁷⁶GAO-14-704G.

⁷⁷In October 2019, HHS-OCR updated their external website to include information on findings of Title IX violations and completed Title IX compliance reviews.

grantees' grant terms and conditions if there were findings of non-compliance. Officials from HHS-OCR agreed that information on concerns of sex discrimination, including sexual harassment, from HHS-NIH would be helpful. HHS-NIH officials also agreed that information sharing may be useful for cross agency awareness, but HHS-NIH officials asserted that a formal agreement would be necessary to ensure privacy when sharing information. HHS-NIH officials did not provide any further details on what should be included in a formal agreement for sharing information on sex discrimination concerns, including sexual harassment.⁷⁸

Agencies Have Established and Communicated New Grantee Sexual Harassment Prevention Policies but Lack an Overall Plan

All five agencies have taken additional steps beyond Title IX compliance requirements to address sexual harassment by university grantees. As we reported in June 2019, all five agencies have developed and communicated grantee sexual harassment prevention policies, with some providing more detailed guidance than others.⁷⁹ All five agencies have also established grantee sexual harassment prevention efforts beyond those required by Title IX, to varying degrees. For example, as we noted above, HHS-NIH launched a website to receive concerns of sex discrimination including sexual harassment, and NSF and NASA have modified grant terms and conditions that require universities to report findings of sexual harassment. All of the agencies we reviewed established and communicated their sexual harassment prevention efforts to grantees within the last 3 fiscal years, and most of them have continued to update and communicate them since we last reported on their efforts in June 2019 (see sidebar for an agency example and appendix III for more information on agencies' efforts).

⁷⁸ According to HHS-NIH officials, there are a number of considerations with regard to sharing information with HHS-OCR including ensuring the privacy of an individual sending a concern.

⁷⁹ See [GAO-19-583T](#).

**Department of Agriculture (USDA)
“And Justice for All” Poster**



USDA created a poster for grantees that describes how the agency prohibits discrimination in all forms, including discrimination on the basis of sex. The poster also provides information on how to file a discrimination complaint with USDA by phone, mail, fax or email.

USDA requires all grantees to prominently display the poster in all offices where there is a USDA presence and where it may be read by customers. USDA also requires that the poster be a specific size.

Source: USDA website and USDA official. | GAO-20-187

Agencies have taken steps to create goals for and evaluate some of their individual grantee sexual harassment prevention efforts. However, four of the five agencies have not created goals for all prevention efforts. In addition, none of the five agencies have a plan designed to assess progress toward achieving those goals, including methods to regularly monitor and evaluate their various grantee sexual harassment prevention efforts together—both those that are required by Title IX and those that go beyond these requirements.

Most Agencies Do Not Have Goals for All Grantee Sexual Harassment Prevention Efforts

NSF and USDA-NIFA do not have goals for all of their grantee sexual harassment prevention efforts, according to officials. In addition, NASA and DOE have or are in the process of establishing goals for some prevention efforts related to Title IX requirements, while HHS-NIH has created goals for all of their grantee sexual harassment prevention efforts. NASA and DOE have goals or plan to establish goals for sexual harassment prevention efforts required by Title IX—such as compliance reviews—but they lack goals that include all other sexual harassment prevention efforts for university grantees. For example, according to NASA officials, NASA’s strategic plan has goals for equal opportunity and diversity and inclusion for the NASA workforce and grantees, and it includes a goal for the agency to promote equal opportunity for grantees and to encourage them to use best practices identified by NASA. To measure progress toward this goal, NASA officials told us that the agency plans to establish a timeline to track the percentage of Title IX compliance activities completed by grantees. However, NASA has not established goals for its other grantee sexual harassment prevention initiatives. In addition, DOE officials told us that they are in the process of establishing a goal for the number of Title IX compliance reviews they conduct each year, but DOE does not have goals or a plan for evaluating other DOE grantee sexual harassment prevention initiatives.

In contrast, HHS-NIH’s Working Group of the Advisory Committee to the NIH Director has created goals for HHS-NIH’s various grantee sexual harassment prevention efforts and steps to achieve them.⁸⁰ These goals include assessing the current state of sexual harassment allegation investigation, reporting, remediation, and disciplinary procedures at NIH-funded organizations; advising grantees on oversight, accountability, and reporting measures that will encourage a reduction in, and prevention of sexual harassment; and developing strategies for encouraging research on anti-harassment policies, procedures and training, and measures and evaluations of their effectiveness.⁸¹ HHS-NIH developed recommendations for the steps needed to achieve these goals, including immediate, actionable efforts and longer-term efforts to change the culture within NIH and at universities to end sexual harassment. HHS-NIH

⁸⁰HHS-NIH’s Working Group of the Advisory Committee to the NIH Director was created in January 2019 to review HHS-NIH’s plans and recommend further action to address sexual harassment at HHS-NIH, institutions funded by HHS-NIH, and anywhere where HHS-NIH research activities take place.

⁸¹HHS-OCR is responsible for investigating Title IX complaints. According to HHS-OCR officials, HHS-NIH does not have authority to address “sexual harassment allegation investigation” under Title IX.

officials published a final report and recommendations in December 2019. The report recommended that HHS-NIH establish a hotline and a web-based form for reporting sexual harassment and inappropriate behavior by any principal investigator or key personnel funded by HHS-NIH, and that HHS-NIH also conduct an analysis of the prevalence and antecedents of sexual and gender harassment in order to develop interventions that address goal-specified gaps, among others.

Agencies Do Not Have an Overall Plan to Regularly Monitor and Evaluate All Grantee Sexual Harassment Prevention Efforts

In addition to most of the agencies not having goals for all of their grantee sexual harassment prevention efforts, none of the five agencies have a plan to measure progress toward achieving those goals, including methods to regularly monitor and evaluate them all. Some of the agencies have taken steps toward conducting evaluations of some—but not all—of their grantee sexual harassment prevention efforts:

- Evaluations of policies and procedures. Three agencies—NASA, NSF, and DOE—have evaluated or are beginning to evaluate some of their sexual harassment policies and procedures for university grantees. NASA officials said they conduct evaluations every five years for all of their agency’s civil rights compliance and complaints procedures, including their Title IX compliance review procedures.⁸² NSF is also developing an evaluation plan for its new sexual harassment reporting requirements and how they have affected grantees. NSF officials said that they have an evaluation team in place, which has outlined an approach for evaluating the new grant terms and conditions and has begun gathering information from universities.⁸³ In addition, DOE officials told us that they are currently reviewing other agencies’ policies and using them as a benchmark as they draft their own grantee policies.

However, agencies have not periodically evaluated all of their own sexual harassment policies and procedures related to university grantees. Agencies provided examples of evaluations of grantee or employee prevention policies, rather than an evaluation of their own policies created for university grantees. It is unclear why agencies have not yet established methods to evaluate all of their sexual

⁸²NASA officials said that their current civil rights compliance and complaint procedures are set to expire in May 2020. As part of the procedure renewal process, NASA officials said they will be closely reviewing all procedures to determine whether there is a need for further extensive or more targeted updates and revisions.

⁸³NSF officials said that they are also evaluating how they could use other internal funding mechanisms, such as travel funds and career awards, to help make a difference with addressing sexual harassment by university grantees.

harassment prevention efforts for university grantees, and we recognize the challenge in doing so. Yet agencies have found ways to evaluate the policies of other entities. For example, officials from HHS-OCR told us that they use information from past compliance reviews to improve their compliance review and resolution requirements for grantees. However, compliance reviews are an evaluation of the university grantee's sexual harassment prevention policies and procedures, not HHS's. In addition, when asked whether HHS-NIH evaluates its grantee sexual harassment policies, HHS-NIH officials did not give any examples of evaluations of their own policies created for university grantees. Instead, they gave an example of a climate survey they administered to their employees for work-life climate and harassment. Title IX officials from two universities and one university system all said none of the five agencies had asked for their opinions on how effective the agencies' sexual harassment prevention policies for grantees are. Nor had they requested suggestions for improvement, even though at least one of the five agencies had been in direct contact with two of these officials for a recent compliance review.

- Evaluations of communication mechanisms. None of the five agencies periodically evaluate the mechanisms for how they communicate their sexual harassment prevention policies and procedures to individuals at universities receiving federal grants. Instead, agencies rely on general efforts to evaluate their website or are developing plans for such an evaluation. As a result, the agencies do not know the extent to which their various communication mechanisms are working and whether students, researchers, faculty, and university officials are getting the information they need from these mechanisms.

For example, as previously stated, all five agencies use their website as the main mechanism to communicate information about Title IX complaint procedures to individuals at universities receiving federal grants. While agencies have taken steps to add more information to their websites for individuals at universities receiving federal grants, we found some of the agencies' websites difficult to navigate.⁸⁴ Even when key content existed, it was sometimes spread across multiple sections of the website or buried in supplemental materials, or in one case, associated with an incorrect destination page. For example, NSF officials stated that they prefer formal Title IX complaints be filed via their online complaint portal. However, this tool is not linked to the tab of the website discussing how to file complaints. Additionally,

⁸⁴NASA updated its website during the course of our audit to update dated information and add more content.

HHS-OCR's newly-developed Title IX and sex-based harassment websites are not referenced or linked to the information on laws and regulations enforced by HHS-OCR or the complaints page. Rather, from the HHS-OCR home page, one would have to know to click on the "Special Topics" link to find links to the two new websites or find the link to the "Sex-based Harassment" page embedded within the new Title IX website. All of the agencies acknowledged issues with their websites. For example, NSF officials acknowledged that their agency's website may not be user-friendly to individuals at universities—such as students—and is in the process of revising the website to increase ease of use.

None of the five agencies have periodically evaluated this key communication tool at this time. NASA officials said that they evaluate their website for grantees, but these evaluations are not systematic and have not specifically focused on their sexual harassment prevention efforts for grantees.⁸⁵ HHS-NIH officials said that they receive some feedback on the agency's webpages, and the agency keeps track of website user satisfaction to improve their quality in general, but this effort is not specific to evaluating how HHS-NIH communicates information on sexual harassment prevention to grantees. NSF officials said they are planning to conduct an evaluation on the effectiveness of their communication efforts with their grantee community and will include actions that result from that evaluation in NSF's corrective action plan. As previously mentioned, HHS-OCR and DOE recently took action to improve website clarity on who can file a Title IX complaint, in part due to issues raised during the course of our study.

Evaluating the effectiveness of their communication mechanisms is important, as agencies may not be clearly communicating their sexual harassment prevention policies and procedures to their intended audiences. Nor can they be sure these policies and procedures are reaching the right university officials. For example, Title IX officials from two universities and one university system said that they had not received any information from the five agencies on their sexual harassment prevention policies for grantees. Two Title IX officials stated that, even if this information is already provided to the university departments or offices conducting scientific research, it should also be given to the university's Title IX office, with one official noting they are the part of the university responsible for overseeing

⁸⁵According to NASA officials, NASA's MissionSTEM website is the main means through which NASA communicates its policies and procedures under Title IX and related civil rights laws, as well as promising practices for its grantees.

compliance with sexual harassment policies and procedures under Title IX. Title IX university officials also told us that the federal agencies providing their grants had never provided them with information on agencies' policies and procedures for how individuals at their institutions could file sexual harassment complaints. One Title IX university official described how they would not know how to tell someone to proceed if they wanted to file a complaint with the agency funding their research project.

Officials from all five agencies acknowledged the value of evaluating their grantee sexual harassment prevention efforts and noted that they may be able to conduct such evaluations in the future. In addition, four of the agencies have a general goal to prevent sexual harassment by their university grantees, and all have recognized the need to move beyond their current grantee sexual harassment policies and procedures. As we reported in June 2019, their completed or planned actions include modifying current department-level or agency-wide policy statements to include more specific definitions and examples of sexual harassment and strengthening requirements for their university grantees to report on findings of sexual harassment.⁸⁶ The 2018 NASEM report also noted that, while it is clear that the agencies are concerned about sexual harassment in STEM, it is not yet apparent whether and how actions such as their new policy statements will translate into meaningful action.

Standards for Internal Control in the Federal Government state that management should define objectives clearly to enable the identification of risks and define risk tolerances; for example, in defining objectives, management may clearly define what is to be achieved, who is to achieve it, how it will be achieved, and the time frames for achievement.

Standards for Internal Control in the Federal Government also state that federal agencies should establish and operate monitoring activities to evaluate results, select and periodically evaluate methods of communication, and define objectives in specific and measurable terms.⁸⁷

We recognize that the agencies' civil rights or diversity offices are responsible for enforcing and overseeing a number of other civil rights laws, Executive Orders, regulations, and policy directives for grantees and their own employees, and that sexual harassment prevention efforts for grantees are just some of their many discrimination prevention initiatives. We also recognize that most agencies' grantee sexual

⁸⁶See [GAO-19-583T](#).

⁸⁷See [GAO-14-704G](#).

harassment prevention efforts are new, and in some cases, still under development. However, establishing goals and an overall plan to assess progress toward achieving those goals—including methods to regularly monitor and evaluate sexual harassment prevention policies and communication mechanisms— would better position the agencies to effectively coordinate and integrate such activities. It would also help them holistically evaluate all their efforts—both those that are required by Title IX and those that go beyond these requirements—to help grantees prevent sexual harassment at universities, determine whether their policies and procedures are reaching the populations they intend to receive the information, and allow them to more effectively target outreach if they find that there are deficiencies.

DOJ's Quarterly Title IX STEM Discussion Group Aids Collaboration but Has Not Fully Implemented Two Key Leading Practices

DOJ's Quarterly Title IX STEM discussion group provides a forum for the five agencies to collaborate and share information on Title IX compliance. While DOJ has implemented four of the six relevant leading practices on federal interagency collaboration, it has not fully implemented two key practices—agreeing on agency roles and responsibilities and developing mechanisms for monitoring, evaluating, and reporting collaborative efforts. Outside of the discussion group, the five agencies have taken collaborative steps to address the culture and climate for women in STEM.

DOJ's Quarterly Title IX STEM Discussion Group Facilitates Information Sharing across Agencies, but DOJ Has Not Fully Implemented Two Key Leading Practices on Collaboration

DOJ's Quarterly Title IX STEM discussion group facilitates collaboration and shares best practices on Title IX enforcement across the five agencies. Collaboration can be broadly defined as any joint activity that is intended to produce more public value than could be produced when organizations act separately. Since February 2016, after reconstituting the Quarterly Title IX STEM discussion group, DOJ has held quarterly group meetings to share information on Title IX enforcement.⁸⁸ According to DOJ officials, the agencies discuss several topics, including:

⁸⁸See [GAO-16-14](#). From 2005 to 2010, DOJ led a Title IX STEM initiative, including facilitating a Title IX interagency working group comprised of DOE, NASA, and NSF. In response to a recommendation from our 2015 report, in February 2016, DOJ reconstituted the Title IX group and included other federal agencies—Department of Defense, HHS, and USDA—and held quarterly meetings. According to DOJ officials, the agency has held 12 quarterly meetings since February 2016.

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- Strategies for conducting Title IX compliance reviews, including joint compliance reviews
 - Strategies for investigating Title IX complaints
 - General discussion of Title IX complaints, including sexual harassment
 - Title IX court cases and case history

Officials at the five agencies agreed the group is useful to coordinate and share information on Title IX, for example, by avoiding duplication in compliance reviews and complaint investigations. Indeed, when multiple agencies received the same Title IX complaint, the three agencies collaborated with DOJ to determine which one would handle the complaint, according to officials.⁸⁹ DOJ also provides technical assistance and training on Title IX enforcement, according to officials.

Some agency officials identified steps that could potentially improve collaboration within the group, including:

- Clarifying and documenting the group's purpose, scope, and roles and responsibilities to ease transition of new agency staff and leadership
- Incorporating more specific topics related to sexual harassment in meeting agendas⁹⁰
- Involving all federal agencies that fund STEM research at universities.⁹¹

Although agencies are not required to follow leading practices for interagency collaboration, doing so can enhance and sustain such

⁸⁹One agency is assisting another agency with evaluating the complaint by providing staff resources and conducting in-person interviews with university officials, according to agency officials.

⁹⁰Officials from two agencies told us more discussion on sexual harassment would be helpful. Officials at one agency further stated that sexual harassment is not a regular topic of discussion at quarterly meetings since the focus is primarily on Title IX enforcement, but this may change as sexual harassment cases and allegations increase. However, DOJ officials told us the working group discussed sexual harassment at almost every quarterly meeting it has held since 2016.

⁹¹Officials from one agency told us the Departments of Interior and Transportation should also be included in DOJ's group.

collaboration, thereby improving performance and results.⁹² DOJ officials told us the agency has adopted leading practices for interagency collaboration as part of the group. Based on information from DOJ, we found the agency’s actions were consistent with four out of six of the relevant leading practices we have identified for collaborating across agencies.⁹³ We also found that DOJ could take additional steps to fully adopt the remaining two leading practices, as shown in table 4.

Table 4: Leading Practices on Interagency Collaboration and Status of Department of Justice (DOJ) Implementation for the Quarterly Title IX Science, Technology, Engineering, and Mathematics (STEM) Discussion Group

Interagency Collaboration Leading Practices Generally Implemented by DOJ	
Define and articulate a common outcome	Executive Order 12250 ^a articulates, at a high level, the expected responsibilities and activities of DOJ, and serves as the rationale for using the group toward a common outcome of Title IX enforcement.
Establish mutually reinforcing or joint strategies	Agencies use common strategies for Title IX, in particular for compliance reviews—including mechanisms for selecting grantees for review, and sharing procedures and documents used for Title IX compliance reviews—as discussed at quarterly meetings.
Identify and address needs by leveraging resources	Agencies share information about Title IX compliance reviews at quarterly meetings and conduct joint compliance reviews.
Establish compatible policies, procedures, and other means to operate across agency boundaries	DOJ provides technical assistance and training to agencies on Title IX enforcement procedures as well as ensuring regular communication within the group, according to DOJ officials.
Interagency Collaboration Leading Practices Not Fully Implemented by DOJ	
Agree on roles and responsibilities	Executive Order 12250, Section 1-401 ^b , outlines agencies’ roles and the scope of DOJ’s role and responsibilities, according to DOJ officials ^c . However, the order only requires agencies to provide information at DOJ’s request and does not clearly lay out defined agency roles and responsibilities for information sharing or as part of the group. DOJ officials stated because the Order predates the creation of the interagency group, it does not specify each agency’s role and responsibility. Officials at one agency said clarifying agency’s roles would improve the group.

⁹²GAO, Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005).

⁹³While [GAO-06-15](#) identifies eight interagency collaboration leading practices, for purposes of this report, we did not review DOJ’s adoption of two practices—agency accountability and individual accountability—because these practices focus on incorporating collaboration into agency strategic plans and individual performance plans which is outside the scope of the group.

Develop mechanisms to monitor, evaluate, and report results of the collaborative effort	Since fiscal year 2010, DOJ has not requested Title IX enforcement reports from agencies to evaluate and report results. According to officials, DOJ suspended agency report submissions, in part, because of feedback from agencies about the substantial staff time to collect, compile, and review data for the annual submission. According to DOJ officials, agencies discuss Title IX enforcement during quarterly meetings. Moreover, DOJ knows that the group is achieving its goals because there has been a marked increase in interagency communication and collaboration on Title IX compliance reviews and requests for technical assistance from DOJ since the reestablishment of the interagency group, according to officials. However, this does not constitute systematic monitoring, evaluation, and reporting of results.
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Source: GAO analysis of Executive Order 12250, Department of Justice (DOJ) documents, and interviews with DOJ officials. | GAO-20-187

^aAccording to Executive Order 12250, “the Attorney General shall coordinate the implementation and enforcement by Executive agencies of various nondiscrimination provisions of ...Title IX of the Education Amendments of 1972.”

^bAccording to Executive Order 12250, Section 1-401, “each Executive agency shall cooperate with the Attorney General in the performance of the Attorney General’s functions under this Order and shall, unless prohibited by law, furnish such reports and information as the Attorney General may request.”

^cDOJ officials told us that these written requirements—Executive Order 12250, Title IX, and Title IX implementing regulations—outline the group’s responsibilities. Executive Order 12250 assigns specific tasks to DOJ—including, but not limited to: reviewing agencies’ existing and proposed rules, regulations, and orders of general applicability, and facilitating the sharing and exchange of information about agencies’ compliance records, findings, and supporting documentation. DOJ further explained that agencies are not authorized to modify the scope of these roles and responsibilities.

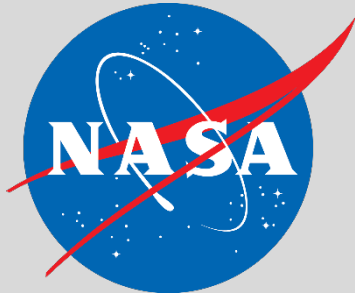
Without implementing the two interagency collaboration leading practices, DOJ is missing an opportunity to enhance and sustain collaboration among the five agencies we reviewed as they continue to address the problem of sexual harassment at universities.

Agencies Have Taken Steps to Address the Culture and Climate for Women in STEM

All five agencies reported taking collaborative steps with universities and federal agencies to address the culture and climate for women in STEM. For example, in 2019, HHS-NIH established a working group with university experts to collaboratively assess the current state of procedures for sexual harassment allegation investigation, reporting, remediation, and discipline at NIH-funded organizations. In December 2019, the working group made several recommendations. For example, it recommended that NIH require each principal investigator and key personnel on an NIH grant attest that they have not been found to have violated their institution’s code of professional conduct, including having a finding of sexual harassment, for a determined period of time. The working group also recommended that NIH create a parallel process to treat professional misconduct, including sexual harassment, as seriously as research misconduct.

In addition, DOE, NASA, NSF, and USDA collaborated with universities at conferences and meetings.

NASA 2016 Mission STEM Summit



For two days, experts in civil rights compliance and education discussed best practices for ensuring equal opportunity in science, technology, engineering, and mathematics (STEM), and exchanged ideas for tackling the challenges faced by grantee institutions and compliance officials. According to NASA, the summit helped to take NASA's civil rights technical assistance efforts relating to STEM to a new level by:

- Creating a forum in which to communicate NASA's future workforce needs;
- Sharing promising and emerging practices to help increase underrepresented and underserved populations at NASA and in STEM education and professions;
- Helping federally-funded STEM education programs address current civil rights issues in academic environments, such as sexual harassment, implicit bias, and non-inclusive climates; and,
- Assisting minority serving institutions to increase participation in NASA business and grant opportunities, and education programs.

Source: National Aeronautics and Space Administration (NASA) document and website. | GAO-20-187

- According to DOE officials, the agency attends the annual conference of university Title IX administrators, where participants discuss issues related to Title IX, sexual harassment, and sexual assault.
- In 2016, NASA held a conference to help universities address sexual harassment and share best practices to increase participation of underrepresented populations in STEM education (see sidebar). According to NASA officials, attendees included university presidents, deans, and provosts, as well as NASA leaders. The agency is planning another conference in 2020, according to NASA officials.
- NSF presented information on Title IX and their policies and procedures at numerous conferences and meetings in 2018 and 2019, according to officials.
- USDA-NIFA served on the planning committee and participated in a conference with public land grant universities to discuss diversity and inclusion in 2018. According to officials, USDA is considering participation in future events.

Such efforts to go beyond compliance reviews and to address the larger culture and climate of STEM research are consistent with the 2018 NASEM report, which states that “adherence to legal requirements is necessary but not sufficient to drive the change needed to address sexual harassment.”⁹⁴

The five agencies are also participating in a new group that may address the culture and climate of women in STEM research. In May 2019, the White House's Office of Science and Technology Policy established a joint committee under the National Science and Technology Council to

⁹⁴The 2018 NASEM report notes that “academic institutions and federal agencies should treat the legal obligations for addressing sexual harassment under Title IX law, as a floor, not a ceiling, and work to move beyond basic legal compliance to promote sustainable, holistic, evidence-based policies and practices to address sexual harassment and promote a culture of civility and respect.” See National Academies of Sciences, Engineering, and Medicine. *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine*. (Washington, DC: The National Academies Press, 2018).

address important issues related to America's research environment.⁹⁵ The joint committee also established the Safe and Inclusive Research Environments Subcommittee, in which DOE, HHS (including NIH), NASA, and NSF participate, along with other federal agencies and offices.⁹⁶ USDA-NIFA is a member of the joint committee but does not participate in the Safe and Inclusive Research Environments Subcommittee; instead, USDA's Agricultural Research Service participates in the subcommittee. The goals and planned actions of the joint committee and subcommittee have not been determined yet, according to Office of Science and Technology Policy officials. Office of Science and Technology Policy officials told us in December 2019 that its work plan is complete, but there are no plans to release it publicly since it is a deliberative document. The subcommittee is broadly focused on preventing harassment in research environments.

Conclusions

Sexual harassment in higher education is degrading and illegal. In 2017 alone, the media covered over 97 allegations of sexual harassment at institutions of higher education with some of the most high-profile cases occurring in the fields of science, engineering and medicine, according to the National Academies of Sciences, Engineering, and Medicine. Federal agencies, in connection with the billions of dollars in research funding they provide to universities and other institutions each year, are required to enforce Title IX—prohibiting sex discrimination, including sexual harassment—at these universities. As part of their enforcement responsibilities, all five agencies have conducted the required Title IX compliance reviews, but three agencies—DOE, HHS-OCR, and USDA—are missing an opportunity to share promising practices from their Title IX compliance reviews with the broader grantee community. Given that these agencies conduct compliance reviews at only a handful of the

⁹⁵The National Science and Technology Council was established by Executive Order on November 23, 1993. Exec. Order No. 12881, 58 Fed. Reg. 62491 (1993). This Council—chaired by the President, includes the Vice President, Cabinet Secretaries, and agency heads with significant science and technology responsibilities, and other White House officials—is the principal means within the Executive Branch to coordinate science and technology policy across the diverse entities that make up the federal research and development enterprise. As designated by the President, the Office of Science and Technology Policy Director serves as the chair of the Council and provides leadership across the National Science and Technology Council. OSTP, NIH, NSF, DOE, and the National Institute of Standards and Technology Directors were selected as joint committee chairs to engage with the academic and science community for policymaking insight and to convene interagency efforts.

⁹⁶The subcommittee also includes the Departments of Commerce, Defense, Homeland Security, Interior, Transportation, and State, along with the National Security Agency, the Office of Management Budget, and the Smithsonian Institution.

hundreds of grantees they fund in any given year, the vast majority of grantees receive little to no information on Title IX compliance reviews from these agencies.

Another tool federal agencies can use to address sexual harassment is the prompt processing and disposition of Title IX complaints from students and employees. Although all five selected agencies received Title IX complaints, DOE and USDA have not finalized and published complaint procedures, as required by DOJ's regulations. Furthermore, USDA does not provide clear information about the complaint process on its website—its primary means of communicating information to individuals and grantees. As a result, the agency may be missing the opportunity to better serve individuals seeking relief from sexual harassment at universities.

Federal agencies can also review information from individuals seeking to notify the agency of a concern related to sex discrimination—including sexual harassment—in an informal manner outside of the Title IX complaint process. However, only HHS-NIH and NSF communicate the option to submit concerns, and only HHS-NIH has a written process for reviewing such concerns. In a single year, these concerns outnumbered formal Title IX complaints received by all the agencies over 5 years. The 2018 NASEM report, agency officials, and stakeholders we interviewed noted the importance of informal ways for individuals to report concerns outside of formal complaint processes, which can protect an individual from retaliation, alert agencies to possible Title IX violations, and help agencies select sites for Title IX compliance reviews.

Two HHS components—NIH and OCR—do not share sexual harassment complaint information with each other. This poses the risk that HHS-NIH will be unaware of situations in which HHS-OCR finds non-compliance with Title IX and may approve a STEM research grant for that university. It also raises the possibility that NIH will receive concerns about a university that may warrant a Title IX compliance review, but the Office for Civil Rights may be unaware of these concerns.

Establishing clear goals and an overall plan can help agencies assess progress and manage change, including, in this case, the creation of new sexual harassment prevention efforts for grantees. Although all five agencies have established a variety of prevention efforts, they have done so without a plan, and without methods to evaluate their policies and how they communicate them. As a result, agencies do not have a way to measure progress toward preventing sexual harassment at their

university grantees, including how or whether these efforts are helping university grantees and individuals who have been subject to harassment.

Finally, interagency coordination can help improve the results of agency activities. DOJ has not fully adopted two key interagency collaboration leading practices for its interagency working group. Without doing so, the agency is missing an opportunity to enhance and sustain collaboration among agencies as they continue to address the problem of sexual harassment at universities.

Recommendations

We are making 17 recommendations, including four to DOE, one to DOJ, four to HHS, two to NASA, one to NSF, and five to USDA. Specifically:

- The Secretary of the Department of Agriculture should direct the Assistant Secretary for Civil Rights to publicize promising practices for Title IX compliance on its websites for their university grantees. (Recommendation 1)
- The Secretary of Energy should direct the Director of the Office of Economic Impact and Diversity to publicize promising practices for Title IX compliance on its websites for their university grantees. (Recommendation 2)
- The Secretary of the Department of Health and Human Services should direct the Director for the Office for Civil Rights to publicize a stand-alone list of promising practices for Title IX compliance on its websites for their university grantees. (Recommendation 3)
- The Secretary of Energy should direct the Director of the Office of Economic Impact and Diversity to finalize and publish Title IX complaint procedures, consistent with DOJ's regulations. (Recommendation 4)
- The Secretary of the Department of Agriculture should direct the Assistant Secretary for Civil Rights to finalize and publish revised Title IX complaint procedures. (Recommendation 5)
- The Secretary of the Department of Agriculture should direct the Assistant Secretary for Civil Rights to clarify on its website that individuals on USDA-funded grants can file Title IX complaints through the Assistant Secretary for Civil Rights—including clarifying who is considered “customers.” (Recommendation 6)
- The Secretary of the Department of Health and Human Services should direct the Director for the Office for Civil Rights to assess the feasibility of receiving and reviewing concerns of sex discrimination—including sexual harassment—and communicating to individuals on

agency-funded grants the option to notify the agency of these concerns, outside of the Title IX complaint process. (Recommendation 7)

- The Secretary of Energy should direct the Director of the Office of Economic Impact and Diversity to assess the feasibility of receiving and reviewing concerns of sex discrimination—including sexual harassment—and communicating to individuals on agency-funded grants the option to notify the agency of these concerns, outside of the Title IX complaint process. (Recommendation 8)
- The Administrator of NASA should assess the feasibility of receiving and reviewing concerns of sex discrimination—including sexual harassment—and communicating to individuals on agency-funded grants the option to notify the agency of these concerns, outside of the Title IX complaint process. (Recommendation 9)
- The Secretary of the Department of Agriculture should direct the Assistant Secretary for Civil Rights to assess the feasibility of receiving and reviewing concerns of sex discrimination—including sexual harassment—and communicating to individuals on agency-funded grants the option to notify the agency of these concerns, outside of the Title IX complaint process. (Recommendation 10)
- The Secretary of the Department of Health and Human Services should direct the Director for the Office for Civil Rights and the Director of NIH to develop and implement formal procedures for sharing relevant information about Title IX (compliance reviews, violations, and complaints) and sex discrimination concerns, including sexual harassment. For example, HHS components should internally share information regarding findings of Title IX violations, concerns of sex discrimination, including sexual harassment, and Title IX compliance review reports. (Recommendation 11)
- The Secretary of Energy should establish goals and an overall plan to assess all of the agency's sexual harassment prevention efforts for their university grantees, including methods to regularly monitor and evaluate its sexual harassment prevention policies and communication mechanisms (e.g. Title IX or sex discrimination websites). (Recommendation 12)
- The Secretary of the Department of Health and Human Services should establish goals and an overall plan to assess all of the agency's sexual harassment prevention efforts for their university grantees, including methods to regularly monitor and evaluate its sexual harassment prevention policies and communication

mechanisms (e.g. Title IX or sex discrimination websites). (Recommendation 13)

- The Administrator of NASA should establish goals and an overall plan to assess all of the agency's sexual harassment prevention efforts for their university grantees, including methods to regularly monitor and evaluate its sexual harassment prevention policies and communication mechanisms (e.g. Title IX or sex discrimination websites). (Recommendation 14)
- The Director of NSF should establish goals and an overall plan to assess all of the agency's sexual harassment prevention efforts for their university grantees, including methods to regularly monitor and evaluate its sexual harassment prevention policies and communication mechanisms (e.g. Title IX or sex discrimination websites). (Recommendation 15)
- The Secretary of the Department of Agriculture should establish goals and an overall plan to assess all of the agency's sexual harassment prevention efforts for their university grantees, including methods to regularly monitor and evaluate its sexual harassment prevention policies and communication mechanisms (e.g. Title IX or sex discrimination websites). (Recommendation 16)
- In consultation with DOE, HHS, NASA, NSF, and USDA, the Assistant Attorney General for the Department of Justice should direct the responsible Civil Rights Division sections to fully adopt two federal interagency leading practices—agree on agency's roles and responsibilities and develop mechanisms to monitor, evaluate, and report results of collaborative efforts, for its Quarterly Title IX STEM discussion group. (Recommendation 17)

Agency Comments and Our Evaluation

We provided a draft this report to DOE, DOJ, Education, HHS, NASA, NSF, the Office of Science and Technology Policy, and USDA for review and comment. We received written comments from the Departments of Agriculture, Energy, Health and Human Services, Justice, as well as NASA and NSF that are reprinted in appendixes IV through IX, and summarized below. Education did not have comments on the draft report, but it provided technical comments, which we incorporated as appropriate. The Office of Science and Technology Policy stated that it did not have comments on the draft report.

All six of the agencies and departments to which we made recommendations stated that they agreed with the recommendations and

most provided technical comments, which we incorporated as appropriate. The agencies' comments are summarized below:

- In the Department of Agriculture's written comments, reproduced in appendix IV, the department agreed with all five recommendations. USDA outlined actions for improving the complaint process and communication with university grantees. For example, the department stated that its regulation for processing complaints is currently in the clearance process for publication. In addition, USDA will reach out to other agencies within the quarterly Title IX STEM discussion group to assess best practices for monitoring and evaluating sexual harassment prevention policies and communication mechanisms.
- In DOE's written comments, reproduced in appendix V, the department agreed with all four recommendations. DOE plans to publicize a promising practice guide on its website, publish complaint procedures, and evaluate the feasibility of receiving and reviewing concerns of sex discrimination, including sexual harassment. The department estimates completion by the end of calendar year 2020. DOE will establish goals for prevention efforts and an overall plan by the end of January 2021 and August 2021, respectively.
- In HHS's comments, reproduced in appendix VI, the department agreed with all four recommendations. In response to one recommendation, HHS stated that HHS-OCR and HHS-NIH would review the current procedure, and develop and implement, as necessary, formal procedures for sharing relevant information about Title IX and sexual harassment concerns. However, the department also noted that it did not "share GAO's supposition that coordination of Title IX enforcement between HHS-OCR and HHS-NIH raises privacy concerns." Therefore, we removed this portion of our recommendation. As stated in the report, it was HHS-NIH officials who asserted that a formal agreement is needed to ensure privacy when sharing information, in particular sexual harassment concerns. For another recommendation, the department stated that HHS-NIH has established goals and will develop a plan to assess progress towards achieving these goals, and that HHS-OCR will also develop a plan for its Title IX enforcement and outreach efforts.
- In DOJ's written comments, reproduced in appendix VII, the department generally agreed with our recommendation. DOJ stated that the department is prepared to delineate the agencies' roles and responsibilities within the interagency group (quarterly Title IX STEM discussion group), as recommended. DOJ also plans to develop an enhanced process for evaluating, monitoring, and reporting on the

group's collaborations in enforcing Title IX that is achievable within its current resource allocation, or if more resources become available.

- In NASA's comments, reproduced in appendix VIII, the agency concurred with our two recommendations. NASA stated that the agency plans to assess the feasibility of receiving and reviewing concerns of sex discrimination and harassment and estimates completion by September 20, 2020. Through the interagency process, NASA will also adopt the policies and procedures developed by the National Science and Technology Council, overseen by the Office of Science and Technology Policy.
- In NSF's written comments, reproduced in appendix IX, the agency agreed with our recommendation for goals and an overall plan to assess sexual harassment prevention efforts. NSF is embarking on an assessment process to improve its policies and practices continually in order to achieve the goal of safe and inclusive research environments.

We are sending copies of this report to the appropriate congressional committees; the Secretaries of Agriculture, Education, Energy, and Health and Human Services; the Directors of the National Science Foundation and the Office of Science and Technology Policy; the Administrator of the National Aeronautics and Space Administration; the Attorney General for the Department of Justice; and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-6888 or neumannj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix X.



John Neumann
Managing Director, Science, Technology Assessment, and Analytics

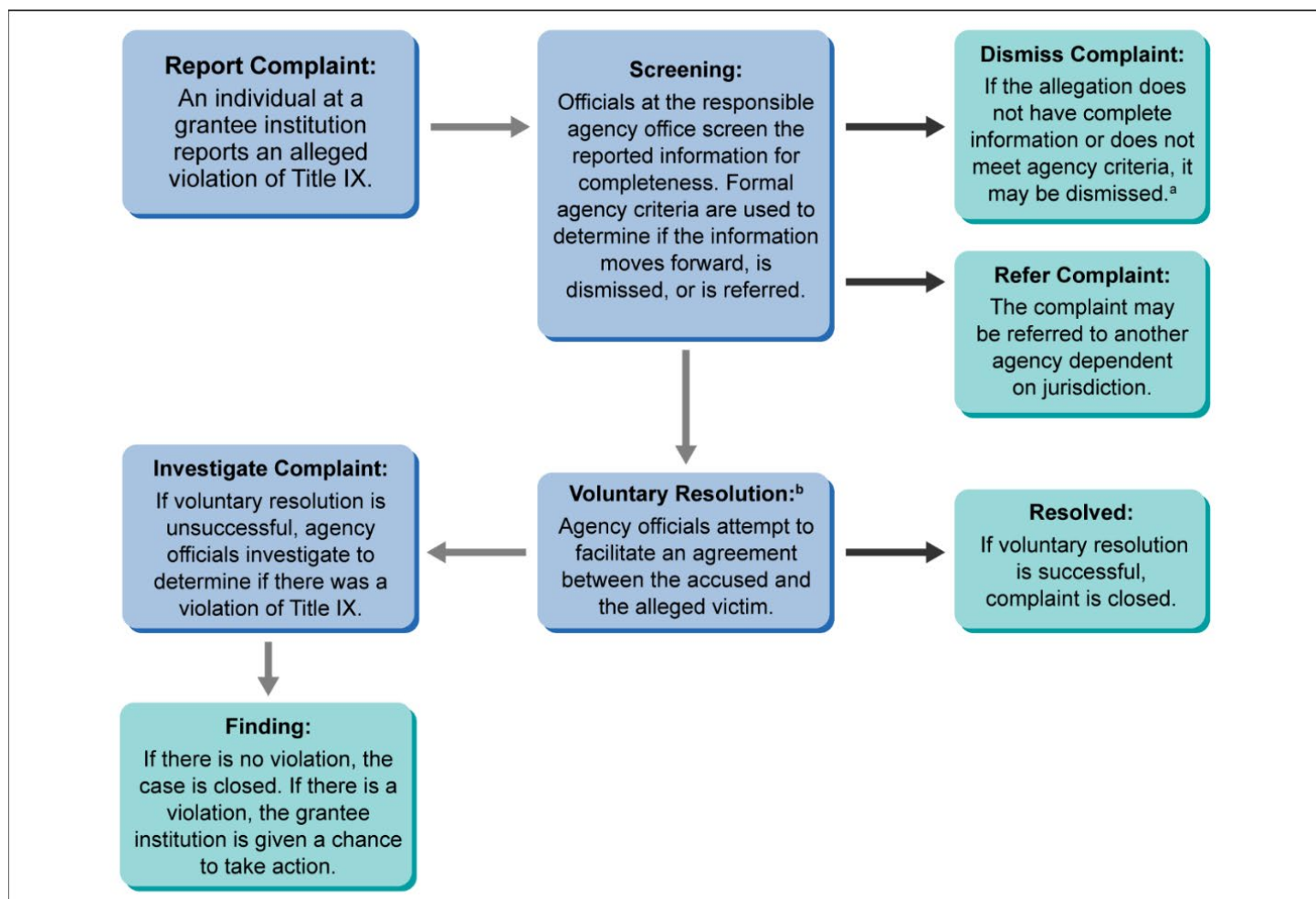
Appendix I: General Procedures for Evaluating and Investigating Formal Title IX Complaints at Five Agencies

While Department of Justice (DOJ) regulations require federal agencies to establish and publish complaint procedures, according to the DOJ Title IX Legal Manual, agency regulations with respect to procedures for the investigation of complaints of discriminatory practices are typically brief and lack details as to the manner or timetable for such an inquiry. The National Science Foundation (NSF) and the National Aeronautics and Space Administration (NASA) have developed complaint manuals in addition to the agencies' Title IX regulations. According to NSF and NASA officials, both agencies follow the same general processes as those published in DOJ guidance or the Department of Education's Investigative Manual for the prompt processing and disposition of complaints. Figure 3 is a visualization of the general Title IX complaint process described in NASA's and NSF's complaint manuals.¹

¹As previously stated, while the Department of Health and Human Services' Office for Civil Rights (HHS-OCR) provided a detailed explanation of its complaint process procedures and provided examples of tools HHS-OCR uses to resolve cases, HHS-OCR did not produce its written procedures. Therefore, its procedures are not included in figure 3.

Appendix I: General Procedures for Evaluating and Investigating Formal Title IX Complaints at Five Agencies

Figure 3: General Procedures for Evaluating and Investigating Formal Title IX Complaints at Two Agencies



Source: GAO analysis of agency information from the National Aeronautics and Space Administration (NASA) and the National Science Foundation (NSF). | GAO-20-187

^aAccording to NASA officials, if an allegation does not have complete information, the agency attempts to obtain the missing information before dismissal.

^bVoluntary resolution—referred to as Early Complaint Resolution or Voluntary Resolution Process by NASA and NSF respectively—would not be used for cases of sexual harassment or assault, rather for sex-based discrimination complaints—including gender harassment.

Formal complaints can conclude in one of four ways: 1) dismissed for a variety of reasons—such as untimeliness or lack of information; 2) referred to another agency based on jurisdiction or authority; 3) resolved through a voluntary resolution process; or 4) resolved via an investigation

**Appendix I: General Procedures for Evaluating
and Investigating Formal Title IX Complaints at
Five Agencies**

and formal finding—either supporting the allegation or not.² While the formal complaint may be alleging a discriminatory act against an individual, agency investigations focus on the university grantee’s compliance or non-compliance with Title IX. According to NASA and NSF officials, if there is a finding of non-compliance with Title IX, the onus is on the university grantee to take actions to come into compliance—which may include disciplinary action against the harasser.

²NASA has not used these procedures in their entirety, as no formal Title IX complaints have undergone investigation at this point, according to officials. Of the three formal complaints received by the agency, officials stated that one was closed for being untimely, having been filed more than a decade after the alleged incident; one was the joint complaint referred to NSF; and one was referred to Education after an unsuccessful voluntary resolution process. NASA officials stated that the complaint was referred to Education as the complainant had filed with Education as well and NASA does not investigate complaints already under review at other agencies. NSF also has not completed any Title IX investigations on the 33 complaints received during fiscal year 2015 to 2019. Of the 33 complaints, 14 complaints are under evaluation or active investigation as of November 2019, 8 were closed for failing to meet agency criteria—such as untimely or not providing sufficient information—and 11 were referred to, or have already been filed with other agencies or Federal court, according to officials. HHS-OCR officials stated that the one formal complaint the agency received was dismissed because it was filed years after the alleged incident, and also because the complaint had already been resolved through litigation. HHS-OCR officials stated that the department launched and concluded four sex discrimination compliance reviews to ensure that the lack of complaints does not result in lack of enforcement.

Appendix II: Department of Health and Human Services, National Institutes of Health Process for Responding to Concerns

In recent years, the National Institutes of Health within the Department of Health and Human Services (HHS-NIH) has publicly addressed the agency’s efforts to prevent sexual harassment in science and elevate the seriousness with which the agency takes this issue through action. While already receiving information of sex discrimination concerns, including sexual harassment, from relationships built with institutions—including universities, in March 2019, HHS-NIH launched an email address to receive concerns about sexual harassment directly from individuals involved in HHS-NIH funded projects at universities. Shortly after, in June 2019, HHS-NIH also created an online portal in response to user feedback requesting a method of anonymous reporting. HHS-NIH developed preliminary internal guidance for staff regarding the process for handling concerns (see figure 4).¹

Figure 4: Overview of the National Institutes of Health’s (NIH) Grantee Harassment Concerns Process



Source: GAO analysis of agency information and interviews with agency officials from the National Institutes of Health (NIH). | GAO-20-187

Note: According to NIH officials, this process is not static, but rather is adjusted and updated as needed.

^aAccording to NIH officials, additional information may include reviewing what position or association, if any, the alleged harasser has with NIH-funded grants and if the agency has received previous allegations for this individual.

^bFor example, a concern may be forwarded to NIH’s Civil Program if it involves NIH employees.

^cIn addition to notifying the institution about the concern of sexual harassment, NIH asks for additional information—including what steps the institution has taken as a result of the concern.

^dNIH may reevaluate the grant terms and conditions depending on the specifics—including removing or changing key grant personnel.

^eThe NIH Center for Scientific Review receives all NIH grant applications and organizes the majority of reviews for scientific merit. Information on allegations is shared with this center to protect the impartiality and integrity of the review process through the removal of reviewers who may threaten the impartiality and integrity of the process.

¹Agency officials noted that this guidance is a living document and will continue to be revised as needed.

According to officials, in order to review a concern, HHS-NIH needs basic information about the allegation, including:

- First and last name of the person who may have committed harassment
- Institution that employs that person
- Brief description of the incident

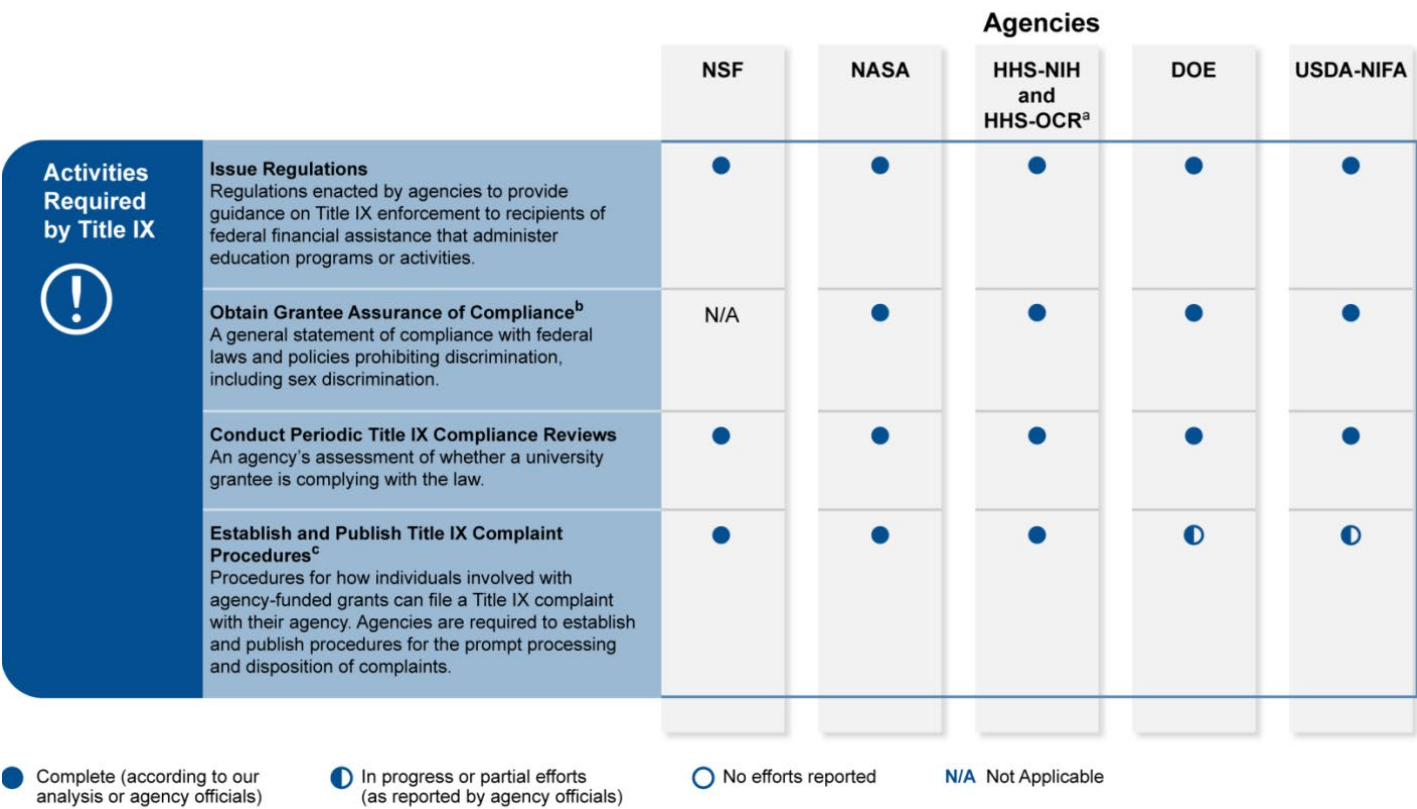
HHS-NIH notifies universities of the concern and may request details on the allegation and the university's response to the allegations, according to officials. As part of this process, HHS-NIH assesses the university grantee's response to ensure it is taking appropriate actions to ensure a safe research environment—altering the grant terms and conditions if needed to remove or replace key grant personnel. For example, in 2018, HHS-NIH followed up on sexual harassment-related concerns at more than 20 universities. According to a 2019 HHS-NIH Director Statement, this follow-up resulted in the replacement of 14 principal investigators named on NIH grant awards, disciplinary actions taken by awardee universities against 21 principal investigators—including termination of employment—and removal of 14 individuals from peer review.² According to HHS-NIH officials, in fiscal year 2019 HHS-NIH received 93 concerns regarding sexual harassment. HHS-NIH does not just review allegations against personnel already funded by HHS-NIH, but also assesses if the allegations are against applicants for HHS-NIH funding. If a principal investigator or co-principal investigator listed on an application for an HHS-NIH grant is named in an allegation, HHS-NIH works with the institution to gather more information about the allegation in the context of HHS-NIH funded research. While the institution is conducting an internal investigation into the allegations, they may request to change the principal investigator or remove a co-principal investigator listed on the application. This may be a temporary or permanent action depending on the circumstances and the institution's findings.

²According to HHS-NIH officials, the agency can restructure grant terms and conditions and—through appropriate procedures—rescind grant funding if desired. Agency officials stated that they do not often, if at all, rescind funding—as this affects all personnel on the grant. Instead, HHS-NIH works with the university to ensure a safe research environment, with disciplinary actions coming from the university. HHS-NIH may also remove individuals as peer reviewers based upon concerns of sex discrimination, including sexual harassment, if warranted, to protect the impartiality and integrity of the peer review process.

Appendix III: Five Agencies' Sexual Harassment Prevention Efforts for Grantees

This appendix contains a summary of the five agencies' sexual harassment prevention efforts for university grantees or individuals at universities receiving federal grants as of December 2019. This summary indicates the implementation status for each agency's efforts, and whether they were complete, in progress or partially implemented, or not reported. These efforts are grouped in three categories: 1) activities required by Title IX, 2) activities beyond those required by Title IX, and 3) evaluation activities (see figures 5, 6, and 7, respectively).

Figure 5: Agency Sexual Harassment Prevention Efforts for Grantees – Activities Required by Title IX



Source: GAO analysis of agency documents, websites, and interviews with agency officials from the National Science Foundation (NSF), National Aeronautics and Space Administration (NASA), Health and Human Services' Office for Civil Rights (OCR) and National Institutes of Health (NIH), Department of Energy (DOE), and Department of Agriculture (USDA) National Institute of Food and Agriculture (NIFA). | GAO-20-187

^aHHS's Office for Civil Rights (HHS-OCR) is responsible for enforcing grantee compliance with Title IX, and HHS's National Institutes of Health (HHS-NIH) has conducted sexual harassment prevention activities for grantees that go beyond Title IX compliance.


^bAccording to our analysis and interviews with agency officials, four of the five agencies require grantees to submit an assurance of compliance form as part of their grant application. In general, these forms do not provide detailed definitions of sexual harassment. However, according to NASA officials, NASA requires grantees to report findings and allegations of sexual harassment via their assurance of compliance forms every 3 years. In addition, NSF does not use this form. Instead, NSF

Appendix III: Five Agencies' Sexual Harassment Prevention Efforts for Grantees

outlines Title IX requirements in its grant terms and conditions, and notes that when a grantee signs a proposal, they are providing the required compliance certification.

^cFederal funding agencies are required to establish and publish complaint procedures in accordance with 28 C.F.R. § 42.408(a).

Figure 6: Agency Sexual Harassment Prevention Efforts for Grantees – Activities Beyond Those Required by Title IX

		Agencies				
		NSF	NASA	HHS-NIH and HHS-OCR ^a	DOE	USDA-NIFA
Activities Beyond Those Required by Title IX 	Publicize Promising Practices for Grantees from Title IX Compliance Reviews Documents or information on agency websites providing promising practices for grantee Title IX compliance.	●	●	ⓘ ^b	○	○
	Communicate Online Title IX Complaint Reporting Information for Grantees^c Information provided on agency websites describing how individuals involved with agency-funded grants can file Title IX sexual harassment complaints.	●	●	●	●	ⓘ
	Required Reporting of PI or co-PI Sexual Misconduct in Grant Terms and Conditions^d Terms and conditions apply to all awards and dictate grantee requirements to report sexual harassment to the agency.	●	●	○	○	○
	Department-level or Agency-wide Policy Statements on Preventing Sexual Harassment by University Grantees Agency officials' announcements or policy statements on preventing sexual harassment by grantees posted online.	●	●	●	ⓘ	ⓘ
	Develop Policy Documents Manuals or written requirements describing the agency's sexual harassment prevention policies and reporting requirements for grantees.	●	●	●	○	○
	Website Guidance on Agency's Grantee Sexual Harassment Prevention Policies and Procedures Descriptions of agency policies and requirements, FAQs, or definitions of sexual harassment.	●	●	●	●	○
	Outreach at Conferences on Agency Grantee Sexual Harassment Policies and Procedures Presentations or discussions on policies and procedures at conferences for science, technology, engineering, and mathematics (STEM) research associations, university grantees, or university Title IX officials.	●	●	●	●	●

● Complete (according to our analysis or agency officials) ⓘ In progress or partial efforts (as reported by agency officials) ○ No efforts reported

Source: GAO analysis of agency documents, websites, and interviews with agency officials from the National Science Foundation (NSF), National Aeronautics and Space Administration (NASA), Health and Human Services' Office for Civil Rights (OCR) and National Institutes of Health (NIH), Department of Energy (DOE), and Department of Agriculture (USDA) National Institute of Food and Agriculture (NIFA). | GAO-20-187

Appendix III: Five Agencies' Sexual Harassment Prevention Efforts for Grantees






















^aHHS's Office for Civil Rights (HHS-OCR) is responsible for enforcing grantee compliance with Title IX, and HHS's National Institutes of Health (HHS-NIH) has conducted sexual harassment prevention activities for grantees that go beyond Title IX compliance.




^bHHS-OCR's webpage includes promising practices from other federal agencies— the Equal Employment Opportunity Commission and NSF—but not from HHS.

^cAll five agencies use websites to communicate information about Title IX complaints, but USDA's website lacks clarity on who can file Title IX complaints. HHS, DOE, and NASA have all updated their websites during the course of our audit to add content or increase clarity. NSF officials stated they are in the process of updating the agency's website.

^dAll agencies are required to report when a principal investigator (PI) is put on administrative leave regardless of the reason. However, university grantees are not required to tell the agencies why a PI is put on administrative leave.

Figure 7: Agency Sexual Harassment Prevention Efforts for Grantees – Evaluation Activities

		Agencies				
		NSF	NASA	HHS-NIH and HHS-OCR ^a	DOE	USDA-NIFA
Evaluation Activities 	Goals for all Grantee Sexual Harassment Prevention Efforts Agency has established clear goals for all grantee sexual harassment prevention efforts, including: what is to be achieved, who is to achieve it, how it will be achieved, and the timeframes for achievement.		 ^b	 ^c	 ^d	
	Overall Plan for All Grantee Sexual Harassment Prevention Efforts^e Agency has established a plan to measure progress toward achieving goals for all grantee sexual harassment prevention efforts, including methods to regularly monitor and evaluate them all.					
	Periodic Evaluations of Grantee Sexual Harassment Policies and Procedures Agency has established and operated monitoring activities to evaluate results of all agency grantee sexual harassment policies and procedures.	 ^f	 ^f		 ^g	
	Periodic Evaluations of Communication Mechanisms Evaluations of all methods used by the agency to communicate information about their grantee sexual harassment efforts (e.g., websites).	 ^h	 ^h			

 Complete (according to our analysis or agency officials)
  In progress or partial efforts (as reported by agency officials)
  No efforts reported

Source: GAO analysis of agency documents, websites, and interviews with agency officials from the National Science Foundation (NSF), National Aeronautics and Space Administration (NASA), Health and Human Services' Office for Civil Rights (OCR) and National Institutes of Health (NIH), Department of Energy (DOE), and Department of Agriculture (USDA) National Institute of Food and Agriculture (NIFA). | GAO-20-187

^aHHS's Office for Civil Rights (HHS-OCR) is responsible for enforcing grantee compliance with Title IX, and HHS's National Institutes of Health (HHS-NIH) has conducted sexual harassment prevention activities for grantees that go beyond Title IX compliance.

Appendix III: Five Agencies' Sexual Harassment Prevention Efforts for Grantees

^bNASA's strategic plan has a goal for the agency to promote equal opportunity compliance by grantees and to encourage them to use best practices identified by NASA. To measure progress toward this goal, NASA has outlined data it can use on grantee Title IX compliance. However, NASA has not established goals or a plan for evaluating its other grantee sexual harassment prevention initiatives.

^cHHS-NIH's Working Group of the Advisory Committee to the NIH Director has created goals for HHS-NIH's various grantee sexual harassment prevention efforts and steps to achieve them.

^dDOE officials told us that they are in the process of establishing a goal for the number of Title IX compliance reviews they conduct each year, but DOE does not have goals or a plan for evaluating other DOE grantee sexual harassment prevention initiatives.

^eThe five agencies do not have a plan to measure progress toward achieving goals for all grantee sexual harassment prevention efforts, including methods to regularly monitor and evaluate them all. Some of the agencies have taken steps toward conducting evaluations of some—but not all—of their grantee sexual harassment prevention efforts.

^fNASA officials said they conduct evaluations every 5 years for their Title IX compliance review procedures.

^gDOE officials told us that they are currently reviewing other agencies' policies and using them as a benchmark as they are drafting their own grantee policies.

^hNASA officials said that they evaluate their website for grantees, but these evaluations are not systematic.

Appendix IV: Comments from the Department of Agriculture



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

Mr. John Neumann
Managing Director
Science, Technology Assessment, and Analytics
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Neumann:

Thank you for the opportunity to respond to the draft U.S. Government Accountability Office (GAO) Report to the House of Representative's Committee on Science, Space, and Technology entitled "Sexual Harassment in Stem Research: Agencies Have Taken Actions, but Need Complaint Procedures, Overall Plans, and Better Collaboration."

Background

The hallmark of my tenure as Secretary of the U.S. Department of Agriculture (USDA) is to do right and feed everyone. This pledge requires us to continually strengthen civil rights management functions across the Department. As a result, I appreciate the work GAO has done to review our Title IX complaint process and provide recommendations and guidance for strengthening the process.

USDA agrees with the recommendations of GAO regarding improvement to the complaint process and our communication with university grantees. After thoroughly reviewing the enclosed draft report, I have provided specific responses to each recommendation.

Recommendations and Responses

GAO's first recommendation for USDA is to publicize promising practices for Title IX compliance on our website for university grantees. I will ensure this information is posted to websites for the Office of the Assistant Secretary for Civil Rights (OASCR) and the National Institute of Food and Agriculture. Additionally, a notice will be sent to universities to ensure they are aware the information is available, along with specifics regarding access to the same.

GAO's second recommendation for USDA is to finalize and publish revised Title IX complaint procedures. USDA acknowledges this recommendation and agrees to finalize and publish Title IX complaint procedures. USDA's Departmental Regulation (DR) 4330-002, Nondiscrimination in Program and Activities Receiving Federal Financial Assistance from USDA, addresses processing Title IX administrative complaints filed with the Department in any program or activity receiving financial assistance from USDA. The DR was revised in 2019 and is currently in the clearance process for publication.

An Equal Opportunity Employer

Mr. John Neuman
Page 2

GAO's third recommendation for USDA is to explain how individuals in receipt of USDA-funded grants are included in the definition of customers on the OASCR website. OASCR will add language on its website to make clear recipients of USDA-funded grants are included in the definition of a customer and, as such, may file Title IX complaints through OASCR. Additionally, the requested information will be added to the Frequently Asked Questions section on OASCR's website.


GAO's fourth recommendation for USDA is to direct OASCR to assess the feasibility of receiving and reviewing concerns of sex discrimination (including sexual harassment) and including language in Agency-funded grants on the option to notify the Agency of harassment issues outside of the Title IX complaint process. The Office of the Mission Area Liaison within OASCR will assess the feasibility of creating a tracking system to capture inquiries and concerns outside of the Title IX complaint process. If feasible, the system will serve as a risk assessment tool to identify issues, potential violations, trends, risks, and areas prime for focused compliance review.

GAO's fifth recommendation for USDA is to establish goals and an overall plan to assess all of the Agency's sexual harassment prevention efforts for our university grantees, including methods to regularly monitor and evaluate sexual harassment prevention policies and communication mechanisms. USDA will consider developing language to include in university grantees' terms and conditions regarding allegations of sexual harassment. Additionally, OASCR will reach out to other agencies within the Title IX Quarterly Working Group to assess best practices for monitoring and evaluating sexual harassment prevention policies and communication mechanisms. Finally, USDA will increase its communication with university grantees and increase oversight through compliance reviews.

Conclusion

In summary, USDA acknowledges many of the concerns identified in the GAO draft report and will consider the appropriate action to respond to the recommendations. We are well on our way to responding to many of the challenges we face and have strategies in place to address the concerns brought forth by GAO. We look forward to reporting our progress to you as required.

Sincerely,



Stephen L. Censky
Deputy Secretary

Enclosure

Appendix V: Comments from the Department of Energy



Department of Energy

Washington, DC 20585

FEB 24 2020

Mr. John Neumann
Managing Director
Science, Technology Assessment and Analytics
U.S. Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Neumann:

The Department of Energy (DOE) appreciates the opportunity to provide a response to the Government Accountability Office (GAO) draft report titled, "*SEXUAL HARASSMENT IN STEM RESEARCH: Agencies Have Taken Actions, but Need Complaint Procedures, Overall Plans, and Better Collaboration (GAO-20-187)*." DOE has reviewed the draft report and concurs with the recommendations. The Department's response and detailed actions are in the enclosure, as well as technical comments.

GAO should direct any questions to Ms. Patricia Zarate, Deputy Director for Civil Rights and Diversity, Office of Economic Impact and Diversity, at (202) 586-2248, or via email at patricia.zarate@hq.doe.gov.

Sincerely,

A handwritten signature in cursive script, reading "Ann Augustyn for", is written above the typed name and title.

James E. Campos
Director
Office of Economic Impact and Diversity

Enclosures



Printed with soy ink on recycled paper

GAO Draft Report
Sexual Harassment in STEM Research (GAO-20-187)
Response to Report Recommendations

Recommendation 1: The Secretary of Energy should direct the Director of the Office of Economic Impact and Diversity to publicize promising practices for Title IX compliance on its websites for their university grantees.

Management Response: Concur

The Office of Civil Rights and Diversity (OCRD) has identified promising practices on an ongoing basis in its Title IX Compliance Review Reports. OCRD will develop and publicize a promising practices guide on the website for reference by university grantees.

Estimated Completion Date: June 1, 2020

Recommendation 2: The Secretary of Energy should direct the Director of the Office of Economic Impact and Diversity to finalize and publish Title IX complaint procedures, consistent with DOJ's regulations.

Management Response: Concur

As noted in the GAO Draft Report, OCRD has developed a draft outline for the complaint procedures. OCRD is benchmarking against the National Aeronautics and Space Administration's and the National Science Foundation's external civil rights complaint procedures and will finalize and publish Title IX compliant procedures, consistent with the Department of Justice's regulations.

Estimated Completion Date: October 31, 2020

Recommendation 3: The Secretary of Energy should direct the Director of the Office of Economic Impact and Diversity to assess the feasibility of receiving and reviewing concerns of sex discrimination—including sexual harassment—and communicating to individuals on Agency-funded grants the option to notify the Agency of these concerns, outside of the Title IX complaint process.

Management Response: Concur

OCRD will evaluate the feasibility of receiving and reviewing concerns of discrimination, including sexual harassment, outside of the Title IX complaint process described in the Department of Energy Title IX regulations, as well as communicating this option to individuals on Agency-funded grants.

Estimated Completion Date: The estimated time of completion for evaluation of feasibility is December 31, 2020.

Appendix VI: Comments from the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation
Washington, DC 20201

FEB 26 2020

John Neumann
Director, Managing Director
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Neumann:

Attached are comments on the U.S. Government Accountability Office's (GAO) report entitled, *"SEXUAL HARASSMENT IN STEM RESEARCH: Agencies Have Taken Actions, but Need Complaint Procedures, Overall Plans, and Better Collaborations"* (GAO-20-187).

The Department appreciates the opportunity to review this report prior to publication.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sarah Arbes", is located below the word "Sincerely,".

Sarah Arbes
Acting Assistant Secretary for Legislation

Attachment

GENERAL COMMENTS FROM THE DEPARTMENT OF HEALTH & HUMAN SERVICES ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S DRAFT REPORT ENTITLED — SEXUAL HARASSMENT IN STEM RESEARCH: AGENCIES HAVE TAKEN ACTIONS, BUT NEED COMPLIANT PROCEDURES, OVERALL PLANS, AND BETTER COLLABORATION (GAO-20-187)

The U.S. Department of Health & Human Services (HHS) appreciates the opportunity from the Government Accountability Office (GAO) to review and comment on this draft report. HHS concurs with all the recommendations. With regard to recommendation 11, however, HHS does not share GAO's supposition that coordination of Title IX enforcement between HHS-OCR and HHS-NIH raises privacy concerns.

Recommendation 3

The Secretary of the Department of Health and Human Services should direct the Director for the Office for Civil Rights to publicize a stand-alone list of promising practices for Title IX compliance on its websites for their university grantees.

HHS Response

HHS-OCR concurs with GAO's recommendation.

As HHS-OCR reported to GAO during interviews for this audit, HHS-OCR has created a sex discrimination webpage and Title IX enforcement webpage. These webpages include enforcement information and technical assistance to help universities fully appreciate their obligations under Title IX and inform persons of their rights. Moreover, HHS-OCR posts all agreements to its civil rights webpage, including the latest agreement that resolved sex discrimination findings at a major university, which included provisions that in effect are effective practices¹ for preventing sexual harassment and other forms of discrimination. Some links take visitors to external sources that provide effective practices for complying with Title IX and providing an environment free of sex discrimination, including sexual harassment. HHS-OCR will incorporate effective practices from posted material and external sources in a stand-alone list of effective practices to help universities comply with Title IX.² HHS-OCR will also draw from its Title IX enforcement work to update the effective practices list on an ongoing basis.

Recommendation 7

The Secretary of the Department of Health and Human Services should direct the Director for the Office for Civil Rights to assess the feasibility of receiving and reviewing concerns of sex-discrimination-including sexual harassment-and communicating to individuals on agency-funded grants the option to notify the agency of these concerns, outside of the Title IX complaint process.

¹ HHS-OCR uses the term "effective practices" rather than "promising practices" to better indicate that the goal of initiating practices is to produce effective methods to ensure compliance with civil rights authorities.

² **Note:** Posting a stand-alone list of effective practices may give recipients the erroneous impression that adherence to the suggested practices will guarantee compliance with Title IX, which is not necessarily the case.

GENERAL COMMENTS FROM THE DEPARTMENT OF HEALTH & HUMAN SERVICES ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S DRAFT REPORT ENTITLED - SEXUAL HARASSMENT IN STEM RESEARCH: AGENCIES HAVE TAKEN ACTIONS, BUT NEED COMPLIANT PROCEDURES, OVERALL PLANS, AND BETTER COLLABORATION (GAO-20-187)

HHS Response

HHS concurs with GAO's recommendation.

HHS-OCR has launched a sex discrimination enforcement initiative to identify entities for sex discrimination compliance reviews, including review of sexual harassment allegations. Congress granted authority for this to HHS under Title IX (45 CFR Part 86). Under 45 CFR 86.8, covered entities must designate a responsible employee and adopt grievance procedures to coordinate the entities ability to receive complaints and comply with Title IX. Although Title IX does not require covered entities to direct complainants to HHS-OCR, entities have been asked to include information on their websites so complainants can file with HHS-OCR. Outside the Title IX enforcement process, HHS-OCR updated its sex discrimination web pages to inform persons on how to file complaints of discrimination directly with HHS-OCR, including complaints of sexual harassment. HHS-OCR has also incorporated information about Title IX rights and obligations in outreach material used on university campuses, including information addressing sexual harassment.

Recommendation 11

The Secretary of the Department of Health and Human Services should direct the Director for the Office for Civil Rights and the Director of HHS-NIH to develop and implement formal procedures for sharing relevant information about the Title IX (compliance reviews, violations, and complaints) and sexual harassment concerns-including formal procedures for protecting the privacy of shared information. For example, HHS components should internally share information regarding findings of Title IX violations, concerns of sexual harassment, and Title IX compliance review reports.

HHS Response

HHS concurs with GAO's recommendation.

In the context of Title IX enforcement, HHS-OCR and HHS-NIH already share information relevant to establish jurisdiction and set the scope for investigations and compliance reviews of programs that receive HHS-NIH funds. Moreover, HHS-OCR posts its findings on Title IX cases resolved by agreements on a publicly facing website that is accessible to HHS components and the public. HHS-OCR also issues announcements of Title IX agreements through its civil rights listserv, which is received by HHS components and many external stakeholders. HHS OCR and HHS-NIH will review the current procedure, and develop and implement (as necessary) formal procedures for sharing relevant information about Title IX and sexual harassment concerns. An action plan to address the recommendation will be provided in our 180-day letter response to Congress.

GENERAL COMMENTS FROM THE DEPARTMENT OF HEALTH & HUMAN SERVICES ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S DRAFT REPORT ENTITLED - SEXUAL HARASSMENT IN STEM RESEARCH: AGENCIES HAVE TAKEN ACTIONS, BUT NEED COMPLIANT PROCEDURES, OVERALL PLANS, AND BETTER COLLABORATION (GAO-20-187)

Recommendation 13

The Secretary of the Department of Health and Human Services should establish goals and an overall plan to assess all of the agency's sexual harassment prevention efforts for their university grantees, including methods to regularly monitor and evaluate its sexual harassment prevention policies and communication mechanisms (e.g. Title IX or sex-discrimination websites).

HHS Response

HHS concurs with GAO's recommendation.

GAO acknowledged that the NIH has created goals for all NIH grantee sexual harassment prevention efforts. The NIH will develop a plan to assess progress towards achieving those goals, including methods to regularly monitor and evaluate policies and communication methods. To the extent Title IX enforcement and outreach efforts may prevent sexual harassment, OCR will develop a plan for leveraging enforcement efforts and outreach communications to help HHS grantees implement prevention efforts. HHS will submit an action plan that fully addresses Department efforts regarding this recommendation in our 180-day letter response to Congress.

Recommendation 17

In consultation with DOE, HHS, NASA, NSF, and USDA, the Attorney General for the Department of Justice should direct the Principal Deputy Assistant Attorney General for the DOJ Civil Rights Division to fully adopt two federal interagency leading practices-agree on agency's roles and responsibilities and develop mechanisms to monitor, evaluate, and report results of collaborative efforts, for its Quarterly Title IX STEM discussion group.

HHS Response

HHS concurs in part with GAO's recommendation.

DOJ's interagency Title IX STEM Working Group is an appropriate venue for monitoring, evaluating, improving, and reporting results of collaborative sex discrimination enforcement, prevention and outreach efforts.

Appendix VII: Comments from the Department of Justice



U.S. Department of Justice
Civil Rights Division

*Federal Coordination and Compliance Section
950 Pennsylvania Ave, NW
Washington, DC 20530*

February 12, 2020

John Neumann
Managing Director
Science, Technology Assessment, and Analytics
Government Accountability Office
Washington, D.C. 20548

Dear Mr. Neumann:

Thank you for the opportunity to review the draft of the Government Accountability Office (GAO) report entitled "Sexual Harassment in STEM Research: Agencies Have Taken Actions, but Need Complaint Procedures, Overall Plans, and Better Collaboration." The Department of Justice greatly appreciates the efforts of your staff in examining federal agency enforcement of Title IX of the Education Amendments of 1972 and "the extent to which agencies collaborate to prevent sexual harassment at universities they fund for STEM research." (Report at Highlights.) We also appreciate the opportunity to work with your staff on these important issues. The Civil Rights Division (CRT) of the Department of Justice (DOJ), the component that participated in the GAO engagement, reviewed the draft report.

The draft report recommends that in consultation with the federal agencies that are the subject of this report, the Attorney General should direct the Principal Deputy Assistant Attorney General for the Civil Rights Division to fully adopt two federal agency leading practices: (a) agree on agency's roles and responsibilities and (b) develop mechanisms to monitor, evaluate, and report results of collaborative efforts for CRT's Quarterly Title IX STEM Discussion Group. While CRT agrees generally with GAO's recommendation and will examine ways to implement the recommended federal agency leading practices, we believe it is important to consider GAO's recommendation in the context of CRT's existing responsibilities with respect to Title IX.

Pursuant to Executive Order 12250, CRT is directed to coordinate the consistent and effective enforcement of Title IX of the Education Amendments of 1972 by federal agencies. This is because the Attorney General's pertinent authority under Executive Order 12250 has been delegated to the Assistant Attorney General for the Civil Rights Division. 28 C.F.R. §§ .51, 42.412(a). Therefore, GAO's recommendation for DOJ is appropriately directed to the Assistant Attorney General for the Civil Rights Division.

CRT maintains that Executive Order 12250 already establishes the scope of DOJ's and the other federal agencies' roles and responsibilities in enforcing Title IX. For example, Executive Order 12250 assigns specific tasks to DOJ including, but not limited to, facilitating the sharing and exchange of information about agencies' compliance records, findings, and supporting documentation. Exec. Order 12250 at § 1-206. The Executive Order also requires all agencies to support these DOJ functions by cooperating in information sharing. *Id.* at § 1-401.

**Appendix VII: Comments from the Department
of Justice**

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The Title IX regulations of each agency provide additional parameters, as do regulations coordinating civil rights enforcement across federal agencies. *See e.g.*, 28 C.F.R. Part 54 (DOJ Title IX Regulations); 28 C.F.R. §§ 42.401-42.415. Collectively, these regulations and Executive Order 12250 set forth the agencies' roles and responsibilities for enforcement of Title IX.

While we believe that these authorities sufficiently establish each agency's roles and responsibilities for Title IX enforcement, CRT is prepared to delineate the agencies' roles and responsibilities within the Quarterly Title IX STEM Discussion Group, as recommended by GAO's draft report. As CRT explained in its communications with GAO during this audit, CRT instituted the Quarterly Title IX STEM Discussion Group meetings as one way to facilitate information sharing and collaboration across the agencies that provide the majority of STEM grants. As acknowledged by GAO and the participating agency members, the CRT-led meetings provide a useful forum to discuss topics such as effective ways to evaluate Title IX compliance by entities receiving STEM grants, current Title IX compliance activities, and recent litigation and other developments related to Title IX and STEM. Per GAO's second recommendation, CRT is willing to develop an enhanced process for evaluating, monitoring, and reporting on the Group's collaborations in enforcing Title IX that is achievable within our current resource allocation, or if more resources become available.

CRT's comments on the draft report seek to provide a complete and accurate record to ensure a common understanding of CRT's facilitation of information sharing and collaboration by the agencies that GAO reviewed for this report. Thank you again for your staff's efforts to produce the report and the opportunity to work with them on these important Title IX issues.

Sincerely,



Christine Stoneman
Acting Chief
Federal Coordination and Compliance Section
Civil Rights Division

Appendix VIII: Comments from the National Aeronautics and Space Administration

National Aeronautics and Space Administration
Headquarters
Washington, DC 20546-0001



FEB 10 2020

Reply to Attn of: Office of Diversity and Equal Opportunity

Mr. John Neumann
Managing Director
Science, Technology Assessment, and Analytics
United States Government Accountability Office
Washington, DC 20548

Dear Mr. Neumann:

The National Aeronautics and Space Administration (NASA) appreciates the opportunity to review and comment on the Government Accountability Office (GAO) draft report entitled, "Sexual Harassment in STEM Research: Agencies Have Taken Actions, but Need Complaint Procedures, Overall Plans, and Better Collaboration" (GAO-20-187), dated January 14, 2020.

In the draft report, GAO makes two recommendations to NASA relating to the Agency's procedures and plans under Title IX of the Education Amendments of 1972.

Specifically, GAO recommends the following:

Recommendation 1: The Administrator of NASA should assess the feasibility of receiving and reviewing concerns of sex-discrimination – including sexual harassment – and communicating to individuals on Agency-funded grants the option to notify the Agency of these concerns, outside of the Title IX complaint process.

Management's Response: NASA concurs with this recommendation. We note in this regard that NASA has in place a process for receiving and processing Title IX complaints pursuant to Agency policy (NASA Procedural Requirements 2081.1A, "Nondiscrimination in Federally Assisted and Conducted Programs of NASA"). This process is well-disseminated through our MissionSTEM Web site page, "Reporting Harassment or Discrimination," as well as multiple brochures and publications on the MissionSTEM Web site, as well as periodic requests to grantee civil rights officials to assist in the dissemination of these materials in Agency-funded programs.

We recognize, however, that GAO is referring to those situations in which individuals do not wish to make a Title IX complaint but rather to express informal concerns relating to alleged discrimination or harassment. To address this recommendation, NASA will assess the feasibility of receiving and reviewing concerns of sex discrimination and harassment and communicating to individuals on Agency-funded grants the option to

report such concerns outside the Title IX complaints process. In conducting this feasibility assessment, we will benchmark with agencies that currently have this capability and examine internal resources to ensure successful implementation.

Estimated Completion Date: September 20, 2020.

Recommendation 2: The Administrator of NASA should establish goals and an overall plan to assess all of the Agency's sexual harassment prevention efforts for their university grantees, including methods to regularly monitor and evaluate its sexual harassment prevention policies and communication mechanisms (e.g., Title IX or sex-discrimination websites).

Management's Response: NASA concurs with this recommendation. NASA accepts its responsibility to establish policies and communications mechanisms to help our university grantees to prevent sexual harassment, and the Agency is committed to ongoing monitoring and evaluation of these efforts. The Agency is ultimately accountable to Congress and the American people for the success of these efforts. At the same time, the Agency judges that the most effective way to discharge these responsibilities is to adopt the approach now being developed by the National Science and Technology Council (NSTC). NASA will establish goals, plans, and methods pursuant to this recommendation by adopting the policies and approaches developed through the interagency process.

As the Federal science agencies share many of the same grant recipients, and as these agencies all have compliance and enforcement responsibilities relating to these grantees, a well-coordinated, unified approach among the agencies is critical to effective implementation of GAO's recommendation and would best accomplish GAO's intent.

We note in this regard that GAO made the same recommendation to NASA as well as each of the other science agencies that it reviewed. If each of the agencies were not to undertake the same uniform effort to plan and monitor its sexual harassment prevention strategies, individual grantees could face a confusing, redundant, and/or contradictory array of communications and requirements.

The Office of Science and Technology Policy (OSTP), National Science and Technology Council Joint Committee on Science and Technology has established a body, the Safe and Inclusive Research Environments (SIRE) Subcommittee, whose charge it is to establish a coordinated, Government-wide approach to harassment prevention in the STEM fields. NASA is a member agency of SIRE and is a full participant in the body's efforts to establish a coordinated Government-wide action plan on this vitally important civil rights issue.

NASA fully understands and embraces the responsibility for assisting our university grantees to prevent sexual harassment. The Agency judges that the most effective way for NASA to accomplish this goal is for the Agency to engage in the above-described

**Appendix VIII: Comments from the National
Aeronautics and Space Administration**

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Government-wide process and to adopt and implement the approaches developed through this process.

Estimated Completion Date: To be determined, based on timelines and milestones established by the OSTP SIRE Subcommittee.

We have reviewed the draft report for information that should not be publicly released. As a result of this review, we have not identified any information that should not be publicly released.

Once again, thank you for the opportunity to comment on the subject draft report. If you have any questions or require additional information, please contact Richard N. Reback on (202) 358-2180.

Sincerely,



Stephen T. Shih
Associate Administrator for Diversity
and Equal Opportunity

3

Appendix IX: Comments from the National Science Foundation



National Science Foundation
Office of the Director

John Neumann
Managing Director
Science, Technology Assessment, and Analytics
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Neumann:

Thank you for the opportunity to review and provide comments on the Government Accountability Office (GAO) draft report, *SEXUAL HARASSMENT IN STEM RESEARCH: Agencies Have Taken Actions, but Need Complaint Procedures, Overall Plans, and Better Collaboration* (GAO-20-187). The National Science Foundation (NSF) values the GAO staff's professionalism and many constructive interactions during this GAO engagement.

NSF will not tolerate sexual harassment, other forms of harassment, or sexual assault, within the agency, at awardee organizations, field sites, or anywhere science or education is conducted. NSF appreciates GAO's acknowledgement of agency efforts to take proactive steps beyond Title IX compliance requirements to address sexual harassment by awardee organizations. We are committed to ensuring the safety and security of the people our awards support and to maintaining nurturing environments supportive of all researchers. As you note in the report, NSF is embarking on an assessment process to continually improve our policies and practices in order to achieve the goal of safe and inclusive research environments.

NSF established an award term and condition regarding sexual harassment, other forms of harassment, and sexual assault. Almost all NSF awards have the sexual harassment notification term and condition. Two types of NSF awards do not include the term and condition: the small number of awards we make to individuals and the Small Business Innovation Research awards. We are working on determining appropriate language for those awards. Further, our conference policy requires that NSF-sponsored conferences must have a code of conduct, a procedure to report violations, and dissemination of both documents to conference participants.

2415 Eisenhower Avenue, Suite 19100 Alexandria, VA 22314

**Appendix IX: Comments from the National
Science Foundation**

NSF concurs with the recommendation made by GAO for additional actions the agency should take to establish goals and an overall plan to assess the agency's sexual harassment prevention efforts such as the term and condition and the conference policy.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact Veronica Shelley at vshelley@nsf.gov or 703-292-4384 if you have any questions or require additional information. We look forward to working with you again in the future.

Sincerely,

A handwritten signature in blue ink, appearing to read "France A. Córdova".

France A. Córdova
Director

Appendix X: GAO Contact and Staff Acknowledgments

GAO Contact

John Neumann, (202) 512-6888 or neumannj@gao.gov

Staff Acknowledgments

In addition to the individual named above, Mark Gaffigan (Managing Director), Melissa Emrey-Arras (Director), Robert Marek (Assistant Director), Michelle St. Pierre (Assistant Director), Nkenge Gibson (Analyst-in-Charge), Nora Adkins, Caitlin Cusati, Cindy Gilbert, Kristy Kennedy, Anika McMillon, Kristen Pinnock, Amanda Postiglione, Janay Sam, and Benjamin Shouse made key contributions to this report.

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