

## **2019 Research Ethics Cases – Study Guide**

The following are suggested responses to the three cases studies, for use by facilitators and PIs leading the case studies. We recommend that discussion leaders read through the introductory material that is provided for each of the three cases, the case itself, and then review this study guide, prior to meeting with trainees. In this Guide, potential appropriate responses are highlighted in yellow.

- **Case 1** - Gender Harassment, Sexual Harassment, and Inappropriate Conduct (p. 2)
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## CASE #1 - Gender Harassment, Sexual Harassment, and Consenting Relationships

Dr. Kathleen Ilaazo-Firoria is a newly hired tenure-track (TT) investigator at NIH, and she is excited about starting her research program in an environment that has excellent first-class collaborators in her field, outstanding animal facilities, and a genomics bioinformatics core, which she will need for her projects. She had some concerns about joining the Institute since the senior leadership, including the SD and lab chiefs, as well as the search committee, have very few women and no members of underrepresented minorities (URM). However, the leadership of her institute as well as NIH as a whole has recently instituted a new anti-harassment policy and program, indicating their commitment to a culture change, which she found encouraging.

Shortly after arriving, Dr. Ilaazo-Firoria is invited to join the Trans-NIH Mentoring Committee. At her first meeting, she was struck by the lack of diversity among the members, and that while the PIs and chiefs (all male) are introduced as Dr. Smith, etc., she is introduced as “Kathleen, a new TT scientist in Institute X”, a pattern she has noticed in her building. While this bothers her a bit, she wonders if it is just because her longer surname is difficult to remember and pronounce, but she worries that she might appear pretentious if she brings it up and decides to say nothing. At one point, the chair asks her to present a ‘different perspective’ on mentoring, and she is not sure if this related to her being a TT scientist or a woman (or both), or possibly from her recent experience in academia. The meeting is scheduled for 4-5:30pm, and at 5:15pm members are engaged in an animated discussion over a contentious point, and there are still two agenda items that have not been addressed. She becomes increasingly anxious since she is a single mother and her children must be picked up from day care by 6:00pm, so at 5:40 she interrupts the discussion to excuse herself and she departs hastily. Unfortunately, there is heavy traffic and she gets to the center a few minutes late, which costs her \$50.

### **Questions:**

1. **Why do you think that Dr. Ilaazo-Firoria is called Kathleen frequently? This is potentially a case of implicit bias. It has been documented that professional women and URM's are frequently not given the same level of respect for their education/accomplishments as nonminority men (see <https://www.sciencedaily.com/releases/2017/12/171213130252.htm>)**
2. **A senior member of the IC, who also serves on the Mentoring Committee noticed that she was not fully engaged in the discussion and that she left the meeting early. He later mentions to her that being asked to join this group can help her network with important people at NIH and that he thinks she should not have departed early. How should she respond? There is no clear answer for this one—it should just be discussed.**
3. **Dr. Ilaazo-Firoria is told by a colleague that another TT hire, Dr. Stan Brown, has said that even though she is on the ‘mommy track’, she doesn’t need to worry about tenure since the institute is all about diversity and resolving gender inequity. Should she respond? Should the colleague respond? How? This is a case of gender harassment. As a bystander, the colleague could ask Dr. Brown what he means by ‘mommy track’ and point out how this statement is disrespectful. The bystander can**

probably have a much bigger impact on Dr. Brown than if Dr. Illaazo-Firoria defends herself.

4. **Do these comments constitute gender harassment? Why or why not? How do they affect Dr. Illaazo-Firoria, and other women and URM's in the labs? How do they affect the workplace in general?** Implicit bias and gender (or other types of harassment) create a work environment in which diverse people do not feel included. Studies have shown that while diversity and inclusion promote productivity, diversity without inclusion can be worse than no diversity at all (see <https://hbr.org/2017/02/diversity-doesnt-stick-without-inclusion>).

Dr. Illaazo-Firoria's research starts off slowly because of a problem in the mouse facility that killed most of her animals. In addition, her younger child developed a serious medical problem that required many absences from the lab for about 6 months. However, after a rough first 18 months, her lab has become productive with some potentially exciting results. At her first BSC site visit, the reviewers comment that her research is promising and potentially quite impactful, and she also receives outstanding marks for her mentorship. But concerns are raised about her not having sufficient high impact publications when she comes up for tenure.

**Questions:**

5. **Are there options available to help Dr. Illaazo-Firoria with these issues? If so, what are they?** Many options (see nih-workplace-flexibilities-matrix-10.04.18). In addition, a new work flexibility option in the face of life-altering events is being considered at NIH.
6. **Do you think that Dr. Illaazo-Firoria might be reluctant to use these options? Why?** Yes, many times people are reluctant to use flexibility options because they are concerned that their colleagues or the Central Tenure Committee will see them as 'weak'. However, seeking help when one needs it is a sign of strength, not weakness.

The lab chief, Dr. Fennett, has always been eager to mentor the TTs in his lab and he meets with Dr. Illaazo-Firoria and Dr. Brown frequently, sometimes inviting one or the other to meet with him at the end of the day to discuss their research progress and careers over espressos that he makes in his office. In addition, Dr. Fennett and Dr. Illaazo-Firoria have just established a new collaboration with new post-docs from each lab so they are now meeting regularly. Dr. Illaazo-Firoria notices that at times the discussions are personal. Dr. Fennett sometimes mentions problems in his marriage and asks her for advice. Dr. Illaazo-Firoria survived a stressful divorce herself and is more than happy to help her mentor/colleague. During the next year, Dr. Fennett's marriage dissolves and the friendship between Dr. Fennett and Dr. Illaazo-Firoria evolves into a romantic relationship. They decide to remain discrete since both are cognizant of the need to maintain a professional relationship in the workplace.

**Questions:**

7. **Are Dr. Fennett's frequent meetings with his TT investigator(s) appropriate? What are the circumstances that would influence your opinion?** Such meetings are not only appropriate, they are Dr. Fennett's obligation as a lab chief, who needs to mentor the TT's

in his department through the process. However, it is crucial that Dr. Fernet has the same policy for all the TTs and that he keeps these meetings professional.

8. Is the decision to remain discrete appropriate? What are the obligations for revealing this relationship to the institute? Why is that necessary or not? At what point in the relationship should this relationship be revealed? No, ‘discreteness’ or ‘secrecy’ is a clear violation of the NIH relationship policy, which states:

*“Personal relationships (including romantic and/or sexual) between individuals in inherently unequal positions, where one party has real or perceived authority over the other in their professional roles, may be inappropriate in the workplace and are strongly discouraged. If such a relationship exists or develops, it must be disclosed. This applies to all individuals in the NIH community, including employees, contractors, students, trainees, and fellows and includes anyone who holds a position of authority or perceived authority over another individual from a scientific or administrative perspective.”*

The relationship needs to be revealed to the person within the institute who is in charge of making sure that such relationships are mediated. This needs to be revealed as soon as the parties are in a romantic relationship.

9. What are the consequences for the other members of the two labs? How could the relationship affect the post-docs working within the collaboration? Other members of the lab could be impacted if there is differential treatment (preferential or punitive) of Dr. Ilaazo-Firoria’s lab members by Dr. Fernet because he is the lab chief. Even the perception of differential treatment can cause problems, which is why the relationship must be transparent and mediated by the IC.

After 5 more years, it is time for Dr. Ilaazo-Firoria to come up for tenure. Dr. Brown, who started 1½ years after her, is coming up at the same time, in part because Dr. Ilaazo-Firoria was granted extra TT time because of her child’s health issues and the mouse colony disaster. Dr. Brown is somewhat resentful of this because his mother was quite ill during his tenure track and he feels that he had to work extra hard to help with his mom and keep the lab going. Dr. Brown, who is aware of the romantic relationship between Drs. Ilaazo-Firoria and Fernet, decides to file a formal complaint alleging that Dr. Ilaazo-Firoria received preferential treatment as a result of their relationship.

#### **Questions:**

10. Do you think that Dr. Ilaazo-Firoria should have been granted additional TT time? Why or why not? Were there options available to Dr. Brown to grant him more time because of his personal family situation? If so, why did he not take them?  
Serious life-altering events happen to everyone at some point in their careers. It is helpful to both the affected worker and the institute to work out a plan that maintains lab productivity. No one should feel reluctant to ask for this accommodation in the face of a

serious life event. Both Dr. Ilaazo-Firoria and Dr. Brown appear to have good cases for asking for additional time.

**11. Do you think that Dr. Brown has a legitimate complaint? If so, whom should he contact?**

Yes, he should begin by discussing his situation with his supervisor, Dr. Fernet.

At this point, both candidates have similar packages in terms of numbers of publications, although their fields are very different. Dr. Ilaazo-Firoria knows that Dr. Fernet thinks very highly of Dr. Brown's research. To make matters worse, within the past year, the relationship between Dr. Fernet and Dr. Ilaazo-Firoria has soured. Dr. Ilaazo-Firoria decided that the relationship was not working, and despite Dr. Fernet's repeated attempts to reconcile, they have not. Dr. Fernet is quite bitter about the break-up and privately tells Dr. Ilaazo-Firoria that she 'needs to think carefully' about how he can influence the tenure decision. He is a major player in the field and reminds her that he is good friends with many of the scientists she will want to have write letters for her tenure package. Dr. Ilaazo-Firoria is rattled by his comments and tells Dr. Jones, a tenured PI within the lab, what Dr. Fernet said.

**Questions:**

**12. Does Dr. Fernet's behavior constitute sexual harassment? Why or why not? Does Dr. Jones have a responsibility to report the incident? The definition of sexual harassment from EEOC (Equal Employment Opportunity Commission) is:**

*"Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment."*

This is sexual harassment since Dr. Fernet is threatening to sabotage Dr. Ilaazo-Firoria's career because she is unwilling to reconcile with him. A supervisor/manager is required to contact Civil if they witness harassment or receive a report of harassment. Civil is available to help a manager understand how best to proceed. Dr. Yu needs to report this immediately.

**13. What options are available to Dr. Ilaazo-Firoria? She has several options:**

She can contact Civil directly by calling the Civil main line (301-402-4845), by reporting online at <https://civilworkplace.nih.gov>, or by calling the NIH Anti-Harassment Hotline (833-224-3829). Hotline or on-line reporting can be done anonymously.

She can make a confidential report to the NIH Office of the Ombudsman (<https://ombudsman.nih.gov/>) or to the Employee Assistance Program (<https://www.ors.od.nih.gov/sr/dohs/HealthAndWellness/EAP/Pages/index.aspx>). These offices will provide a confidential setting to discuss and clarify her options.

**Should she pursue these options? Yes**

**14. How does the break-up affect the other members of these labs? What should they**

**do?** The other members of the lab likely have been and will continue to be caught up in the acrimony between Dr. Ilaazo-Firoria and Dr. Fernet. This can lead to working within a highly stressful environment, but perhaps also difficulty in getting resources that they need for experiments. They can seek advice from Civil, the office of the Ombudsman, Employee Assistance Program, or if they are a trainee, from OITE. In addition, this scenario highlights the need for trainees to have multiple mentors within their department so that they can reach out to them for support but also for reference letters/networking if the situation becomes so bad that the primary people involved are not doing this for them.

## **CASE #2 – Freedom of Expression and Civility in the Laboratory**

John and Jessica share the same workspace at the NIH, but that is about all they share. They have diametrically opposing social, religious and political views. They co-exist in the lab with a thin veneer of civility, but there is always some underlying tension between the two. Both are competent and valuable researchers in the lab. Both work exceptionally hard and both are high strung. One summer weekend day, Jessica comes into the lab wearing a T-shirt advocating for a particular social view while John and 3 other lab members are present. John approaches Jessica and bluntly tells her that he finds the T-shirt offensive. Jessica responds bluntly to John and things soon escalate into a yelling match. Although the interaction does not become physical, the entire episode makes everyone in the lab uncomfortable. The following Monday, one of the fellows in the lab who was present during the weekend exchange goes to the lab PI to tell her about the incident and how uncomfortable the exchange made the lab feel.

### **Question:**

- 1. How does the NIH define inappropriate workplace behavior?**

At the end of the day, the PI asks John and Jessica into her office, tells them their behavior is unacceptable. As a result, the PI reminds both John and Jessica of expectations regarding professional work attire.

### **Question:**

- 2. In the workplace there is always a balance between employee actions and accomplishing workplace goals. How might this balance be affected by employment in the NIH compared to a laboratory in the private sector? In this case do you think that the lab PI's actions were reasonable? What factors do you think are important in resolving this issue? If Jessica's comments were related to partisan politics, how might the Hatch Act affect this discussion? What resources are available to employees and PI's for conflict resolution?**

Going home after this meeting, Jessica feels he has been treated unfairly. She posts a picture of her shirt and a video on a social media site stating that her shirt neither contained graphic images or espoused violence or hate, but merely her honest beliefs on the subject. People with the same point of view as Jessica see her post and re-post it on their social media pages. Jessica's post goes viral overnight. The next afternoon, a reporter from a cable news network contacts the lab PI and the institute director, and requests interviews with them.

### **Question:**

- 3. How should the PI address this situation with Jessica? What issues should he explore in his conversation with her? In the workplace, how do you think NIH staff should deal with their beliefs regarding political and social issues? Who is responsible for assuring that civility moderates our discussion of such issues in our research environment?**

**There are no correct responses to these questions.**

## CASE #3 - Biases in Mentoring of Fellows and Sexual Harassment

Dr. North, a PI in the NIH intramural program, regularly receives letters advertising early career academic positions inside and outside NIH. He usually posts these on the laboratory bulletin board or distributes them to faculty or postdoctoral fellows via the lab email list, but occasionally gives a letter selectively to one postdoctoral trainee without posting it more widely.

Drs. Brian Smith and Kathy Jones are currently senior postdoctoral trainees in Dr. North's lab. During lunch, Dr. Smith learns that Dr. Jones has applied for a position at a prestigious medical center and is considered a good candidate. Dr. Smith had not seen this position posted. Furthermore, Dr. Jones reveals that North had provided the job announcement only to her. Upset, Dr. Smith confronts Dr. North who asserts a policy of dealing with such letters selectively, and states that "based on Kathy's skill set and work history, the position suits her better". Dr. North also points out that the position in question was widely advertised in scientific journals and thus available to everyone who reads those journals on a regular basis.

### **Questions:**

- 1. If you were a postdoctoral fellow in this laboratory, what would be your expectations about being given information regarding job opportunities? Why?**  
Fellows would naturally expect equitable treatment, career information flow, etc. from their mentors.
- 2. As a mentor, what would be your policy about position announcements? Why?**  
As a mentor, I would avoid favoritism in this regard and others, both for fairness and to avoid damage to lab morale, trust, etc. If I felt that only one of my fellows was actually qualified for the position, I could mention it to the other fellow and be open about what other skills, etc. would enhance their qualifications.

Dr. Jones is aware that the lab members feel she is singled out and favored by Dr. North. In the past, she was invited by Dr. North to attend a number of important meetings with him, and he included her on some publications where her contributions were viewed as "minimal" by Dr. Smith and some other staff in the lab. This apparent favoritism has fostered gossip and resentment among her peers and diminished the perception of her own contributions the lab's research.

### **Question:**

- 3. In what ways does favoritism (or the perception of it) negatively impact the lab environment? Does it matter that Dr. Jones is a woman?**  
It would be very natural for it to engender feelings including: unfairness, distrust of the PI, skills and competence are not meaningful, "some will advance but it won't be me", I want to find a better lab to work in.

Dr. Jones sings in a community choral group where Dr. North is also a member. Both Dr. Smith and Dr. North belong to the same wine-tasting club where Dr. Smith exhibits boorish and condescending behavior towards other members.

**Question:**

4. How can interactions between the mentor and fellows outside of the lab influence relationships? Could they lead to differences in treatment within the lab? How should Dr. Jones deal with what appears to be favoritism?

It can give the appearance of (or lead to actual) inappropriate behaviors. Could lead to real or perceived preferential treatment of the fellow. Jones should speak with North and ask that all study assignments, conferences, etc. be based only on her merits and qualifications (Note: this could be bold and difficult for a fellow to do)

Over beers one night, Dr. Smith comments to other fellows, both male and female, that perhaps he too could get special treatment if he wore a short skirt to lab meetings and volunteered to stay late and help with Dr. North's cell cultures. This is not the first time Dr. Smith had made disparaging remarks about Dr. Jones as well as other women formerly in the lab. These insinuations about her have fostered a growing unease among female lab members.

**Questions:**

5. Could this kind of gossip be considered sexual harassment? Could the lab now be viewed as a toxic work environment for women? How should this situation be defused?

Yes, such gossip is inappropriate and negative. North should make clear in a lab meeting that such comments and behaviors have no place in his lab and will not be tolerated (and will be reported to Civil).

6. In the end, both post-docs in the lab apply for the position. Dr. North provides a glowing letter of recommendation for Dr. Jones but feels unable to write an equally strong letter for Dr. Smith.

Being unable to write a positive letter for a fellow does happen and should be explained to the fellow by the PI. PI's are not obligated to write glowing letters for everyone. Postdocs should take advantage of help from the Training Director in their IC, or the Office of Intramural Training & Education (OITE) for additional career help.

7. Could Dr. Smith's behavior have biased Dr. North's recommendation for him?

What are Dr. North's responsibilities? What if Dr. Smith is a talented scientist?

Yes, Smith's behaviors could have influenced North's opinion of him. North should provide honest feedback to Smith about his comments and behaviors as part of a normal mentoring relationship. Smith should aim to be both a skilled/talented scientist and a respectful, pleasant member of the lab team.

*It is unlawful to harass a person because of that person's sex. Harassment can include "sexual harassment" or **unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature....** Harassment does not have to be of a sexual nature, however, and can include **offensive remarks about a person's sex.** For example, it is illegal to harass a woman by making offensive comments about women in general.... Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).*

-Equal Employment Opportunity Commission