October 31, 2022

Submitted via email at splimpto@nsf.gov

Suzanne H. Plimpton
Reports Clearance Officer
National Science Foundation
2415 Eisenhower Avenue, Suite E7400
Alexandria, Virginia 22314

Re: National Science Foundation (NSF) Request for Public Comment on Common Disclosure Forms for the Biographical Sketch and Current and Pending (Other) Support Sections of a Research Application On Behalf of the National Science and Technology Council’s (NSTC) Research Security Subcommittee

Dear Officer Suzanne H. Plimpton:

Asian American Scholar Forum (AASF) respectfully submits this comment in response to the request for public comment on common disclosure forms for the biographical sketch and current and pending (other) support sections of a research application on behalf of NSTC’s Research Security Subcommittee. We write to provide our recommendations and express our concerns about overbroad language and the potential for profiling and discriminatory investigations and prosecutions of Asian American and Asian immigrant scientists, researchers, and scholars, particularly of Chinese descent. Our research indicates a broad chilling effect on the Asian American and Asian immigrant community that would only worsen should the disclosure form and supporting documents fail to address issues, such as lack of specificity, shared in this comment. We offer recommendations to assist in addressing these concerns.

Asian American Scholar Forum is a national non-profit, non-partisan organization that works to promote academic belonging, openness, freedom, and equality for all. AASF accomplishes this through education and research, advocacy, and building up leaders within the Asian American scientific and academic community. AASF was founded last year when MIT professor Dr. Gang Chen was among a number of Chinese American scientists and scholars in U.S. universities who were subjected to heightened scrutiny or targeted by the federal government. These injustices ushered in historic efforts to bring a unified voice to the many Asian American and immigrant scientists, researchers, and scholars impacted. AASF was established to combat these injustices against Asian Americans and immigrants, particularly at a time of increasing anti-Asian sentiment and targeting of scientists, researchers, and scholars of Asian descent.

AASF is one of the leading Asian American national civil rights organizations on science and research security policy as it relates to the Asian American community including profiling concerns. Our membership includes the National Academy of Engineering, the National Academy of Medicine, the National Academy of Science, and the American Academy of Arts & Sciences members as well as past and current university presidents, provost, vice provosts,
deans, associate deans, and past and current department chairs. We represent over 7,000 scientists, researchers, and scholars in the United States through our 11 partnering associations.

We appreciate this opportunity to comment on the common disclosure forms for the biographical sketch and current and pending (other) support, and to share our data and research on the chilling effect on Asian Americans and Asian immigrants as a result of actions by the federal government. The Asian American community has a history of being targeted and scapegoated as national security threats based on our race, ethnicity, religion, or ancestry. During World War II, President Roosevelt issued Executive Order 9066, authorizing the removal of people of Japanese ancestry from their homes and communities. Over 120,000 U.S. residents of Japanese ancestry were rounded up, forced to leave their homes, and incarcerated in remote detention camps in the name of “national security” in what was one of the darkest stains in our nation’s history. The racist rationale behind this measure was concern that any people of Japanese descent were more prone to acts of espionage or sabotage. People were reduced to numbers on tags and treated as the enemy based on their background. It did not matter that around a third of those incarcerated were children or that around two-thirds were U.S. citizens. Many died in incarceration from causes including infectious diseases, bad sanitation, or even shooting by guards. Congress eventually acknowledged that “these actions were carried out without adequate security reasons and without any acts of espionage or sabotage documented by the Commission [on Wartime Relocation and Internment of Civilians], and were motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership.” It was not until 1988 that the government issued this formal admission of failure.

Decades after the incarceration of Japanese Americans, Fred Korematsu, who was incarcerated and challenged the executive order, warned: “No one should ever be locked away simply because they share the same race, ethnicity, or religion as a spy or terrorist. If that principle was not learned from the internment of Japanese Americans, then these are very dangerous times for our democracy.” Yet history continues to repeat itself. In the past decade, we have had programs within federal agencies that have raised concerns and fears that race, ethnicity, national origin, and/or religious beliefs were being used to profile and target Asian Americans, particularly Chinese American scientists, researchers, and scholars. This intensified under the Justice Department’s now-defunct “China Initiative,” allegedly intended to combat economic espionage and trade secret theft. While there are legitimate concerns about the activities of the People’s Republic of China (PRC) government, the increasing pressure on federal agencies to scrutinize scientists, researchers, and scholars; along with rising xenophobic and anti-China rhetoric from U.S. government officials, have further fueled anti-Asian sentiments at home and instigated a new wave of fear, profiling, and violent targeting of our communities. The result is a loss not just for the Asian American community but for our country as a whole.

We encourage the Office of Science & Technology Policy (OSTP), NSF, and other federal agencies to consider our recommendations and engage in further discussion with AASF and other Asian American civil rights and community organizations to help foster a climate of trust with the Asian American and immigrant community.
I. **Anti-Asian Climate & Government Actions Have Resulted In A Chilling Effect on Asian American and Immigrant Community, Particularly of Chinese Descent**

The Asian American and immigrant community are currently living in a climate of fear. AASF conducted a national academic climate survey between December 2021 and March 2022, in collaboration with 11 Asian American professional organizations, and collected responses from around 1300+ faculty members nationwide.\(^1\) Although an overwhelming majority of the survey respondents (89%) would like to contribute to the US leadership in science and technology, many feel unsafe (72%) and fearful of conducting research (42%) in the US, especially engineering and computing science faculty, life science faculty, federal grant awardees, and senior faculty. Around 61% of the survey respondents feel pressure to leave the US, especially junior faculty and federal grant awardees, and 45% intend to avoid federal grant applications, especially engineering and computing science faculty and senior faculty due to fear.

In particular, Chinese-origin American faculty in the US now feel the chilling effect of potential federal investigation and prosecution related to the China Initiative, and the pressure to leave the country and/or to avoid federal grant applications. This has been exemplified by the recently significant rise over the last few years of Chinese-origin scientists returning to China. This is extremely concerning considering that the US leadership in science and technology (S/T) has benefitted significantly from immigrants by attracting the best and brightest scientists and engineers from around the world. Around 46% of PhD students in S/T fields in 2020 were from abroad. Chinese students account for the largest of this group (37%), with 87% of them having stayed in the US, constituting a significant part of the American S/T labor force.

Overall, these findings reveal that the widespread fear of conducting routine research and academic activities, along with the significant risks of losing talent culminated in hesitancy to remain in the US and contributing to federal sponsored research in science and technology. Addressing the fears of scientists of Chinese origin and making the academic environment welcoming and attractive for all will not only help retain and attract scientific talent, but also help ensure that our government lives up to our American values.

II. **Recommendations**

Considering the above considerations, we have provided the following recommendations to OSTP, NSF, and other federal agencies. We ask the federal government to take appropriate measures with input from community members to address the concerns of Asian Americans and Asian immigrants.

1) **We urge OSTP, NSF, and federal grant agencies to consider the concerns and issues that impact Asian Americans and immigrants as they implement NSPM-33.** We ask that they engage consistently with Asian American Scholar Forum and other Asian American civil rights and community organizations. Further engagement with Asian American civil rights and community organizations will allow for greater insights and

\(^1\) See attachment.
prevention of racial bias permeating the implementation period during a time of increasing anti-Asian sentiment.

2) **Grantmaking agencies should clarify what the administrative and civil consequences are for failure to adhere to requirements or non-compliance.** While we recognize that there are legitimate threats from China’s government, there are serious concerns of profiling Asian Americans and Asian immigrants and criminalizing integrity issues. Federal agencies need to further clarify and create boundaries on what activities are considered a research integrity issue as opposed to action that should lead to criminal consequences.

3) **The common disclosure forms for the biographical sketch and current and pending (other) support sections of a research application has certain terms and sections that are vague or lack appropriate boundaries that needs further clarity and specificity.** The result of overbroad or vague language is that scientists, researchers, and scholars will be unable to technically complete the form, which does not benefit federal grant agencies and opens Asian Americans and immigrants to unjust and unfair treatment or prosecutions. The following terms or sections needs to be further defined and provided with more boundaries:

   o The term “appointment” needs to be clarified, particularly on whether it refers to paid or unpaid appointments. A list or examples of what appointments would be considered required for disclosure would benefit individuals filling out this form.

   o The form fails to provide a time period that it covers. Without this time period, the document becomes not only overly burdensome making individuals more prone to mistakes and raises the question of whether it is possible for the form to be technically completed. A timeline of when disclosure is needed is essential. We propose that the timeline for disclosure be after 2017. Additional clarity and support in this section is crucial.

   o Throughout the document, certain terms, such as “all” and “relevant” is used without providing any clarification or restriction. There needs to be more specificity on what needs to be disclosed. Failing to provide specificity and relying on overbroad terms does not set up scientists, researchers, and scholars up for success.

   o The current form provides no minimum value on in-kind contributions. We suggest $10k as the threshold for in-kind contributions. Without a minimum value, this becomes overly broad.

4) **We should not only be incentivizing self-disclosures, but also provide support to scientists, researchers, and scholars to fulfill their disclosure requirements.** The proposed disclosure form increases the burden on scholars without providing adequate support from academic institutions or federal agencies. We propose creating a system and process that sets individuals up for success with adequate support and tools.

   o The disclosure form should not be considered complete until (1) the university reviews the document and co-signs the document confirming completion, and (2)
the federal grant agency provides notice of any errors and a period for correction. We suggest a correction period that ends prior to the award being granted and the date of disbursement of funds. The process for correction should be clearly outlined and available publicly for transparency. A commonsensical and collaborative approach that is transparent and open will help reduce any chilling effects.

- Scholars should be provided with tools and a support system to fill out these forms correctly. This can include lending technology used by federal grant agencies for scientists, researchers, and scholars to check their work, or a collaborative effort with federal grant agencies to make corrections using their own database or technological tools during a certain period of adjustment.

- As new and clearer guidelines are created, faculty, staff and scholars should have the opportunity to adjust their previous forms and provide any additional disclosures without being prosecuted or facing negative employment consequences.

- Faculty, staff, and scholars should be provided advance notice of when they have made any mistakes or errors and allowed to make corrections. Mistakes or errors should not be criminalized. Language on intention should be included in the draft disclosure form.

5) **The implementation of new disclosure requirements and other new rules or policies should be applied to conduct prospectively, as much as possible.** We recommend that researchers not be reprimanded or criminally prosecuted for not disclosing activities if disclosure was not required at the time of the grant application. If disclosure rules shift during a grant period, the guidance likewise should state that researchers will not be reprimanded or criminally prosecuted for not disclosing activities unless that researcher is provided with, and confirms receipt of, notice of the change in disclosure rules and, after a reasonable time for compliance, still does not disclose ongoing activities that fall within the scope of required disclosure.

6) **OSTP, NSF, and other federal agencies need to clarify what the purpose of the biosketch is. In the current version with the amount of information requested, the document is less of a biosketch and appears to ask for the same level of information as a full CV.** This needs to be clarified in order to set expectations for individuals filling out the form. Moreover, it is unclear whether the core motivation of the document is foreign influence and national security screening, or to determine whether a federal grant should be provided. There needs to be more clarity on the purpose/goal of the biosketch and how the requirements help to advance those goals.

7) **OSTP, NSF, and other federal agencies should consider this initial implementation of this disclosure form as a pilot and provide additional comment periods.** Following implementation, data and measurement of impact will further inform federal agencies and the community on areas of improvement.
8) **OSTP should establish a six-month report that measures the impact of the implementation and share with the public.** This report should include any chilling effects and deterring of Asian Americans and immigrants from certain activities such as immigration, studying, and/or working in the United States.

9) **Finally, we propose that the federal government consider positive efforts to attract and recruit talent to the United States.** Current actions only serve to further drive away the best minds and talents from our country, while fostering a climate of fear for Asian Americans and immigrants.

Thank you for the opportunity to submit this comment on the common disclosure forms for the biographical sketch and current and pending (other) support sections of a research application. Please do not hesitate to contact Gisela P. Kusakawa to provide further information on this comment. (*Signatories updated as up December 19, 2022.*)

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Asian American Scholar Forum

**Signatories:**

Asian Americans Advancing Justice | AAJC
Asian American Academy of Science and Engineering (AAASE)
Asian American Federal Employees for Non-Discrimination
Asian Pacific Partners for Empowerment, Advocacy and Leadership (APPEAL)
Chinese-American Planning Council (CPC)
Empowering Pacific Islander Communities
Japanese American Citizen's League
National Tongan American Society
New Mexico Asian Family Center (NMAFC)
Ohio Chinese American Association
Sikh American Legal Defense and Education Fund (SALDEF)
The Advocates for Human Rights
The Hidden Dream
University at Albany Asian Coalition of Professionals
Wind of the Spirit Immigrant Resource Center