[RedactedProjectName] Action Plan for Response to Illegal NSF Grant termination

This document - with **Background**, **Action Plan**, & **Appeal Letter** - was compiled by a fellow researcher appealing their NSF grant termination - NOT legal advice, but just hope it helps!*

Background: On April 18th, NSF implemented a large-scale termination of 400-500 active grants. A second round happened on April 25th. The termination letters were non-specific, saying "NSF is issuing this termination to protect the interests of the government pursuant...on the basis that they no longer effectuate the program goals or agency priorities." Three days later, NSF posted an update to their policies, which may be intended to provide a fig leaf of cover for the terminations. Scientists with canceled grants have been working to band together, track cancellations, share resources, and advice, to support appeals and/or potential litigation.

Based on other lawsuits over grant terminations at NIH, HHS, DOE, and EPA, there are many reasons why these terminations are probably illegal (see this AAUP overview for the hierarchy of laws and policies at play). First, normal procedures to terminate contracts were not followed. Second, the process for determining which grants would be cut is entirely unclear - rumors and information gleaned from candid program officers of the process range from the Ted Cruz list last year to DOGE showing up days before the terminations. In any case, government agencies in general are required to not act in ways that are “arbitrary and capricious”, or be coerced by agencies with inappropriate authority (e.g., OMB, or DOGE). All of these issues have arisen in other court cases. It’s important to participate in efforts to track cancellations, challenge what (and if any) process was followed, and explore all appeal/objection options, because they may support later reversals and/or lawsuits (even if individual chances of relief are very low).

Agencies differ from each other, too. Since at least 2010, NSF is congressionally mandated to create criteria and evaluate programs to promote “Broader Impacts”. So, it is literally law that NSF must have policies and criteria for “Broader Impacts” (see especially section 526 and 527 of the 2010 America Competes Act). Prior to 2010, NSF also spent several decades creating and refining broader impacts criteria, so it’s a long-established part of the agency as well as legally required by Congress. Many of the projects that were terminated - including [RedactedProjectName] - are not only aligned with but even spring from longstanding agency priorities related to broader impacts. We submitted this grant to NSF because it was the type of work that NSF has spent decades telling scientists that they want to fund.

Despite the likely illegality, options for relief are limited. Lawsuits take time, and ultimately may not be successful on the merits, let alone providing relief anytime soon. And, of course, right now all of our time is being taken up in surviving things like mass layoffs, other grant and funding cuts, and doing what we can to preserve democracy. So, to move forward, the [RedactedProjectName] team has compiled our “action plan” to 1) take advantage of and support collective efforts by thousands of scientists impacted by NSF (and other agency) cuts, 2) follows practical options for appeal, objection, and resistance, and 3) creates a way for our [RedactedProjectName] network to contribute. Hopefully we can turn our collective tragedy into a spark that feeds the fire of resistance and change.

Response Plan for [RedactedProjectName] **team/network:**

1. Report the termination to the NSF Grants Termination Tracker
2. Get all invoices submitted/paid for ***any*** work/costs through the termination date
3. Submit an appeal to NSF through your Office of Sponsored Programs (OSP), using any format/template/guidance they require [Note: they may have internal deadlines, so don't wait!!].
4. Ask your OSP and/or unions about possible legal challenges; ask if your institution or OSP is coordinating with the state Attorney General
5. Contact the state Attorney General to offer information about your termination, inquire and/or encourage state-level lawsuit(s) - apparently CA is considering this, which other states could join, similar to what was done for NIH cuts. [Note: inquiries to your Attorney General are public record, so only include information you wouldn't mind being public]
6. Outreach and messaging - **always include a call to action**!
    a. Write op-ed and/or letters to the editor to local papers. ScienceHomecoming has a great search feature to find your local papers, and offer editing help.
    b. Create a social media post about the research
    c. Ask colleagues, family, friends to write or call Congressional reps about NSF and other grant terminations - mention the specific project and the impact of the termination. Give people a script.
    d. If presenting at a conference, spend a couple slides on this story

GENERIC APPEAL LETTER*, BASED ON INFO IN THE NUMBERED RESOURCES

NOTE: YOUR INSTITUTION MAY HAVE A SPECIFIC TEMPLATE OR FORMAT THAT THEY WILL WANT YOU TO USE, SO BE SURE TO CHECK WITH THEM ASAP

1. **From AAUP Action Report #6**
2. **Especially good thread by David Miller (he has some others too)**
3. **Advice from Julie Libarkin**
4. **A consolidated document of advice/tips for NEH terminations**
5. **NSF PAPPG Chapter XII: Award Administration Disputes**
6. **How this grant effectuates (updated) NSF priorities**

Dear [],

On April ____, 2025, our Office of Sponsored Programs received a letter terminating our NSF Award #_____, titled "_____". The reasons advanced in the letter for the termination were that some awards were being terminated because they were (i) "not in alignment with current NSF priorities" and (ii) "to protect the interests of the government pursuant to NSF Grant General Conditions (GC-1) term and condition entitled 'Termination and Enforcement,' on the basis that they no longer effectuate the program goals or agency priorities". We were then advised that (iii) there was no basis for appeal. In this letter, we

wish to appeal our termination by providing evidence against points (i) - (iii). We also further appeal this termination based on our belief that (iv) NSF is acting outside its authority in determining the award does not effectuate program priorities.

(i) That our award is "not in alignment with current NSF priorities": When we first submitted this research in ____, it was already based on several years of research by members of our project team (citations). Our research activities were strongly aligned with the National Science Foundation's Intellectual Merit and Broader Impacts criteria. NSF's Broader Impacts criteria is Congressionally mandated as part of the NSF Act of 1950 and more specifically in the 2010 America Competes Act (Sec. 526). Like all NSF proposals, ours was peer-reviewed against the program priorities of the NSF _____ Program, and was found to be in alignment with the _____ Program aims to _____.

[In this section, can summarize your project goals, your progress as of the termination, and the impact of the termination on your ability to complete the research and achieve the outcomes. We had two paragraphs summarizing these things in here, and emphasized how the project met the NSF program priorities and the - albeit scanty information - in the updated NSF Policies.]

(ii) that our award "no longer effectuate[s] the program goals or agency priorities": Our project is in alignment both with NSF's overall Broader Impacts criteria, and the updated NSF policy ("Updates of NSF Policies", dated April 22, 2025) that research "must aim to create opportunities for all Americans everywhere". Nor does our work in any way violate the April 22nd policy update against research that "preference[s] some groups at the expense of others, or directly/indirectly exclude individuals or groups", or is "limited to subgroups of people based on protected class or characteristics". Our research specifically aims to improve _____ outcomes and processes for the benefit of **all** scientists, and therefore we see no justification that our work "does not effectuate NSF priorities", based on any NSF criteria or policy.

(iii) that "we are not entitled to appeal". The NSF has not followed proper procedures in terminating this award. Per the PAPPG Chapter XII.A.2, action to terminate an award will normally be taken only after informing the recipient of any deficiency, and giving the recipient an opportunity to correct it. Obviously, we were not notified of any deficiency, nor given any opportunity or time to correct anything. Across all federal agencies, 2 CFR 200.339 also requires that agencies must first determine that noncompliance cannot be remedied by imposing "specific conditions". More generally, per 2 CFR 200.342, federal agencies must provide the recipient with an opportunity to object and provide information challenging agency actions such as disallowed costs, corrective action plans, or terminations. In asserting that we are not entitled to appeal, NSF is not following its own policies and procedures per the PAPPG, nor the broader federal policies guiding noncompliance.

(iv) NSF is acting outside its authority in determining the award does not effectuate program priorities. Lastly, we dispute this termination based on our belief that NSF - in determining that our award no longer effectuates the program goals or agency priorities - is

acting beyond “the greatest extent authorized by law” [(PAPPG Chapter XII.A.2(i)(b)]. We have already shown above that our specific project **is** fully aligned with current NSF priorities. However, NSF is subject to federal statutes and regulations that also constrain the terms “program goals” and “agency priorities.” Per 2 CFR 200.202, program goals refer to the goals that an agency has defined for a specific funding program. Per Appendix I to 2 CFR 200, the ***notice of funding opportunity*** must define the “program goals” and “agency's funding priorities” in a required section titled “Program Description”. By claiming a change to the agency priorities from those outlined in the original notice of funding opportunity, NSF is operating outside of federal policy and procedures.

Furthermore, NSF is under Congressional mandate to enact its programs per guidance in legislation, including the NSF Act of 1950 and the 2010 America COMPETES Reauthorization Act. In particular, the COMPETES act stipulates multiple criteria for NSF, crucially among these Sec. 526 which: *[(Sec. 526) Directs NSF to implement a policy for a specified broader impacts review criterion, including goals to* ***achieve increased U.S. economic competitiveness, development of a globally competitive STEM workforce, and increased national security****. Requires the Director to implement a policy for the criterion that takes certain actions with respect to NSF professional staff, merit review panels, grant applicants and recipients and principal investigators involving NSF research grants.].* On January 31, 2025, a federal order relating to a claim of presidential priorities superseding agency priorities found that was “constitutionally flawed”, noting “The executive branch has a duty to align federal spending and action with the will of the people as expressed through congressional appropriations, not through ‘presidential priorities’” (emphasis in original).

NSF has spent decades establishing and communicating their Broader Impacts criteria to the scientific community (Watts et al. 2015), and our project - like many others - was and is designed to reflect and effectuate the Congressional intent and mandate of Broader Impacts criterion. The process by which NSF made these award termination decisions was not transparent, but overall terminations overwhelmingly targeted work - like ours - that is strongly aligned with the Congressional intent (Sec 526) AND NSF’s historical guidance related to Broader Impacts. By targeting and terminating work that is intended to fulfill Congressional mandates, Congressional appropriations, and Program Description guidance in the notice of funding opportunity, NSF is acting outside the extent authorized by law.

[Close with the specific request of what you want them to do (e.g., review of the termination, follow the actual process to terminate a contract, reverse the termination)]

References

Watts, S. M., George, M. D., & Levey, D. J. (2015). Achieving broader impacts in the national science foundation, division of environmental biology. *BioScience*, *65*(4), 397-407.