

This material is part of a collection that documents the harassment, discrimination, and retaliation perpetrated against Alaska's women research scientists by their supervisor, with full knowledge (and arguably, "tacit approval") of their federal employer, the USDA Agricultural Research Service (ARS)

Division Chief, Employment Complaints Division
Office of Adjudication and Compliance
United States Department of Agriculture
1400 Independence Avenue, S. W.
Stop Code 9440
Washington DC 20250-9440

RE: USDA Complaint No.: ARS-2008-00696

December 6, 2008

Mr. Baisden,

I received a letter on December 2nd 2008 accepting and referring for investigation a portion of my USDA complaint (ARS-2008-00696), which was filed July 26th, 2008 and will therefore be eligible for EEOC on January 22nd 2009.

However, please be aware that the issues you accepted do not adequately reflect the discrimination complaints I filed with your agency. In the following section I have clarified the issues, each of which was either discussed with the informal Counselor (and documentation provided to the Counselor) or has occurred since the original complaint was filed.

#1

I was subjected to discriminatory treatment (Unfair Hiring Practices)

There is ample documentation of this event and there can be no genuine issue of material fact concerning the misconduct in hiring that occurred.

#2

I was subjected to discriminatory treatment (Denied on the Basis of Gender the Career-Building Opportunity of Serving as Acting Research Leader)

There is ample documentation of this event and there can be no genuine issue of material fact concerning the discrimination that occurred against all women scientists at the Subarctic Agricultural Research Unit (SARU) from 2003 until August 2008.

#3

I was subjected to discriminatory treatment (in Committee Assignments)

There is documentation of these events and there can be no genuine issue of material fact concerning the discrimination in committee assignments that occurred against the women scientists at SARU

#4

I was subjected to discriminatory treatment (Denied Program Resources)

There is documentation of these events and there can be no genuine issue of material fact concerning the discriminatory practices levied against women scientists in Fairbanks during the technician hiring process

#5

I was subjected to discriminatory treatment (Denied Supervisory Stature)

There is documentation of these events and there can be no genuine issue of material fact concerning the discriminatory practices levied against women scientists in SARU during the assignment of supervisory codes

#6

I was subjected to discriminatory treatment (Denied Support for Promotions)

There was verbal admission by the Research Leader, and additional documentation of this event can be compelled from witnesses (e.g. the in-depth reviewer of the ARS panel in charge of evaluating my research career, December 2007)

#7

I was subjected to discriminatory treatment (During Conflict Resolution Training in January 2008)

There were numerous witnesses to this discriminatory event against women scientists in SARU, including an ARS facilitator trained in conflict resolution

#8

I was subjected to reprisal discrimination (by Rating and Approving Officials who both knew they were listed by name on my Formal EEO complaint) resulting in a lower-than-warranted annual performance appraisal on November 5th 2008. The Research Leader failed to provide "objective measures" (in accordance with the ARS Performance Appraisal System, P&P 418.3) when preparing my performance plan. I twice asked the RL (in writing) for advice and guidance for exceeding on my annual performance rating. The informal EEO counselor made a similar request on my behalf as part of her Informal Resolution Attempt (Case # 08-40, attached to this letter). However, the RL refused to provide information and ultimately discounted my extra work in two elements, resulting in a lower appraisal than was warranted. This form of reprisal has had both professional stature and monetary impacts on my career.

- *The Research Leader of SARU discriminated against the women scientists in the unit (and direct evidence of this unlawful disparate treatment exists)*
 - *I engaged in a protected activity (grievance writing and EEO complaints)*
 - *The Research Leader and ARS administrative personnel were aware that I had participated in a protected activity (since many of them were listed by name)*
 - *During my annual appraisal the Research Leader rated me lower than was warranted (which constitutes an adverse action)*
 - *The adverse action was causally linked to the protected activity*
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Concerning your dismissal of a portion on my claim, which you mislabeled as a “spin-off “, you have misinterpreted MD 110 Chapter 5, Section IV, which deals with Agency processing of formal complaints of discrimination (e.g. a complaint through the ARS’s EEO office). It does not refer to administrative grievances filed within the ARS Administrative Grievance System (P&P 463.2) as you suggested and was therefore inappropriately dismissed, (nice try, though). Although MD 110 states that “there is no immediate right to appeal the partial dismissal”, I do have the right to correct an obvious error on your part.

However, your mention of 29 CFR § 1614.606 raises a relevant issue: “Complaints of discrimination filed by two or more complainants consisting of substantially similar allegations of discrimination or relating to the same matter may be consolidated by the agency or the Commission for joint processing after appropriate notification to the parties.”

I am surprised that the following three EEO complaints from Alaska’s ARS unit were not consolidated:

- Lori Winton (USDA Complaint # 542)
- Nancy Robertson (USDA Complaint # 647)
- Cindy Bower (USDA Complaint # 696)

Each claim was against the same management, concerning the same bases (Sex Discrimination and Reprisal), occurring within the same time frame, requesting the same witnesses, and stating similar facts and circumstances. Consolidation of these complaints would have conserved valuable Agency resources.

Please make the suggested corrections to my complaint.

Thank you.

Sincerely,
Cynthia Bower

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