

Cynthia Bower  
Appeals Hearing (Docket # B 10 2533)  
October 2010

*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)*

## **Exhibit 2**

The ARS imposes a subjective (discriminatory) system that influences the payment of wages between the sexes

The RGEG system is the only method available for ARS research scientists seeking promotion. Detailed information about this process can be found at <http://www.opm.gov/fedclass/gsresch.pdf>. The system itself is based entirely on subjective, unmeasurable criteria, where the higher grade levels (consisting overwhelmingly of men) are allowed to decide the grade levels of the other research scientists. Statistics show that under this biased system, the women scientists in ARS are not being recruited, promoted, and/or retained at the same (high) GS levels as the men scientists.

The following email exchange documents the method used in Alaska to hide the disparate treatment of women research scientists in order to decrease their chances of promotion.

A reasonable person would be justified in terminating employment with an agency that relies upon a biased system for promotion of its research scientists, especially when the system results in statistical anomalies between equally-competent scientists based solely on gender.

From: "Cindy Bower" <Cindy.Bower@ars.usda.gov>  
 Subject: Position Review Notice (Bower)  
 Date: Sun, July 18, 2010 9:07 pm  
 To: "Whalen, Maureen" <Maureen.Whalen@ars.usda.gov>

---

Dr. Whalen,

My RPES writeup is due to my supervisor, Alberto Pantoja, on July 23rd, 2010. As you are aware, I filed numerous grievances and EEO complaints against Dr. Pantoja, all of which remain unresolved. A major issue in my current EEOC complaint revolves around Dr. Pantoja's negative role in my previous two RPE attempts.

Given the EEO history associated with Dr. Pantoja's leadership, I'm sure you'll agree that his review of my current writeup would represent a significant conflict of interest for the agency.

Consequently, I am requesting that my writeup be reviewed within another ARS Unit, preferably by someone who is impartial.

P&P 431.3-ARS (Research Position Evaluation System), Section 8" states that "Disagreements on writeup content should be resolved at the lowest level possible. If agreement cannot be reached, the version submitted will appear as the AD directs, and a signed statement of disagreement from subordinate and/or supervisor may be attached".

If I am forced to submit my writeup to Dr. Pantoja, it is a certainty that the AD will be involved in the ensuing disagreements. In the interest of efficiency, I am attaching my writeup and exhibits with this email with the hope that I will finally be accorded the same support and positive career feedback that other ARS scientists have been receiving when they submit their writeups for review.

Thank you for considering my request.

\_\_\_\_\_  
 Cindy Bower, Ph.D.  
 Fishery Industrial Technology Center  
 118 Trident Way  
 Kodiak, AK 99615  
 (907) 486-1534  
 Email: [Cindy.Bower@ars.usda.gov](mailto:Cindy.Bower@ars.usda.gov)

---

**Attachments:**

<b>untitled-[1.2]</b>	
Size:	1.8 k
Type:	text/html
<b>Bower RPESWriteup.doc</b>	
Size:	149 k
Type:	application/msword
<b>Ex 1A 1.pdf</b>	
Size:	189 k
Type:	application/octet-stream

From: "Bower, Cindy" <Cindy.Bower@ARS.USDA.GOV>  
Subject: FW: Position Review Notice (Bower)  
Date: Thu, July 22, 2010 2:02 pm  
To: bower@sfos.uaf.edu,ckbower319@gmail.com,ckbower@cmug.com

---

From: Whalen, Maureen  
Sent: Thursday, July 22, 2010 1:59 PM  
To: Bower, Cindy  
Cc: Robinson, Alan; McLellan, Don; Hammond, Andrew; Pantoja, Alberto;  
Sichel, Fran; Laird, Veronica  
Subject: RE: Position Review Notice (Bower)

Dear Cindy,

Unless we hear otherwise from Alan Robinson (ER) or Don McLellan (ODEO), we will follow the normal procedure in PWA for your RPES case review. The RL has several specific responsibilities in the RPES process, which includes assisting scientists in preparing case write-ups, and reviewing and certifying case write-up accuracy and completeness.

If you and your RL should have a dispute about the content of your write-up, PWA will follow ARS policy. ARS policy provides for resolution in Policy and Procedure (P&P) 431.3, Research Position Evaluation System, dated September 24, 2009, as you have mentioned. The P&P states, "Disagreements on write-up content should be resolved at the lowest level possible. If agreement cannot be reached, the version submitted will appear as the AD directs, and a signed statement of disagreement from subordinate and/or supervisor may be attached."

I look forward to reviewing your case, when it is submitted to area office.

Maureen Whalen

Maureen C. Whalen

Assistant Area Director

Pacific West Area

From: "Cindy Bower" <Cindy.Bower@ars.usda.gov>  
Subject: Re: Position Review Notice (Bower)- action needed July 28  
Date: Tue, July 27, 2010 7:16 am  
To: "Pantoja, Alberto" <Alberto.Pantoja@ars.usda.gov>  
Cc: "Hammond, Andrew" <Andrew.Hammond@ars.usda.gov>,"Matteri, Robert"  
<Robert.Matteri@ars.usda.gov>,"Whalen, Maureen"  
<Maureen.Whalen@ars.usda.gov>,"McLellan, Don" <Don.McLellan@ars.usda.gov>

---

Alberto,

I received your email that suggested my case write-up was non-compliant with <sup>3</sup>RPES Case Writeup Preparation and Guidance for Panelists Manual 431.3-ARS, dated September 24, 2008<sup>2</sup>. I assume you're referring to the manual's typographical error in Chapter 2 <sup>3</sup>General Guidance<sup>2</sup>:

<sup>3</sup>No information is to be included in RPES case writeups mentioning prior, ongoing, or possible future Equal Employment Opportunity complaints, Merit System Protection Board appeals, position classification appeals, administrative grievances, or other similar complaint, grievance, or appeal processes. Such matters are irrelevant to RGEG application.<sup>2</sup>

Their statement is clearly false, since decreased resources (e.g. technical personnel, equipment purchases, collaborative agreements, and funding for travel), when combined with denied opportunities, very much affect how an RPES panel might judge a scientist's career. I'm surprised that this typographical error was not caught by alert ARS administrative personnel who are familiar with the number and variety of EEO complaints currently challenging the Agency's unlawful practices. If EEO matters were truly irrelevant in the RPES process, the Agency would not require all scientists to include the long, verbose paragraph in section E (Supervisory Responsibilities), which extols on the <sup>3</sup>presumptive<sup>2</sup> virtues of even the most prolific of EEO offenders currently employed (and protected) by ARS. In any case, you're correct that I did not comply with the manual's false statement. I certainly hope that my case writeup will not be rejected on that basis.

Of note, Factors 1 through 3B describe the person on the job. We had this discussion back in 2007. The tone of your email suggests that we will continue to disagree.

PWA indicated that your job as RL is to review and certify case write-ups for accuracy and completeness. If you disagree on either accuracy or completeness, please address those issues specifically rather than just referring me to volumes of ARS regulations that may or may not be relevant. I have already offered proof that I have read the manuals more carefully than most, since I am perhaps the first scientist to detect the error, which (falsely) suggests that intentionally decreased resources for some scientists are irrelevant to the scientist's ability to compete fairly with other (more favored) scientists,

It's my understanding that this disagreement can be resolved through ARS Policy and Procedure (P&P) 431.3, which states, <sup>3</sup>Disagreements on write-up content should be resolved at the lowest level possible. If agreement cannot be reached, the version submitted will appear as the AD directs, and a signed statement of disagreement from subordinate and/or supervisor may be attached.<sup>2</sup> Please request guidance from the AD and notify me of his decision so that I can begin preparing my signed statement.

To the best of my knowledge, my case write-up is accurate. If you find the truth about ARS discriminatory practices to be unflattering, please work with me to change the agency into an organization that we can both be proud of.

Cindy

On 7/26/10 8:55 PM, "Pantoja, Alberto" <[Alberto.Pantoja@ARS.USDA.GOV](mailto:Alberto.Pantoja@ARS.USDA.GOV)> wrote:

> Cindy  
>  
> This message acknowledges receiving your Case write up (CWU).  
> Instructions/guidance to complete the CWU were emailed on 5-04-2010 and  
> 5-06-2010. The CWU, as received does not follow PWA and RPES guidance. As per  
> <sup>3</sup>RPES Case Writeup Preparation and Guidance for Panelists Manual 431.3-ARS,  
> dated September 24, 2008<sup>2</sup>, noncompliant CWU will not be accepted by the Area  
> Office. Please review the CWU following Manual 431.3-ARS; page 7 of the manual  
> provides details on the type of information considered irrelevant to the RGES  
> process and RPES. Factors 1 through 3B constitutes the official position  
> description; please review sections 1 through 3B, as per Manual 431.3-ARS and  
> the official position description. If need, the unit's secretary, Juli  
> Philibert, can provide an additional copy of your position description.  
> Remember, undue detail, verbosity, and needless repetition will weaken rather  
> than strengthen your CWU. The panel is looking for the incumbent documented  
> contributions and accomplishments, not potential contributions.  
>  
> The deadline for receiving the CWU as per instructions detailed on emails  
> dated 05-04-2010 and 05-06-2010 was July 23rd, 2010; please review Manual  
> 431.3-ARS and provide a revised copy ASAP but no later than noon July 28,  
> 2010.  
>  
> Let us know if you need assistance.  
>  
> alberto  
>  
>  
>  
> From: Bower, Cindy  
> Sent: Friday, July 23, 2010 11:36 AM  
> To: Pantoja, Alberto  
> Cc: Philibert, Juli  
> Subject: Re: Position Review Notice (Bower)  
>  
> Alberto,  
> As mandated by PWA, I have attached the files for my RPES writeup. Please let  
> me know if you have any questions.  
>  
> Cindy  
>  
>  
>  
> On 5/6/10 8:12 AM, "Pantoja, Alberto" <[Alberto.Pantoja@ARS.USDA.GOV](mailto:Alberto.Pantoja@ARS.USDA.GOV)> wrote:  
> Cindy  
>  
> RE: Request for Extension RPES, Case write Up

From: "Bower, Cindy" <Cindy.Bower@ars.usda.gov>  
Subject: RE: Position Review Notice (Bower)  
Date: Thu, July 22, 2010 3:17 pm  
To: "Whalen, Maureen" <Maureen.Whalen@ars.usda.gov>  
Cc: "Robinson, Alan" <Alan.Robinson@ars.usda.gov>, "McLellan, Don" <Don.McLellan@ars.usda.gov>, "Hammond, Andrew" <Andrew.Hammond@ars.usda.gov>, "Sichel, Fran" <Fran.Sichel@ars.usda.gov>, "Laird, Veronica" <Veronica.Laird@ars.usda.gov>, "Matteri, Robert" <Robert.Matteri@ars.usda.gov>, "Knipling, Edward" <Edward.Knipling@ars.usda.gov>

---

Dr. Whalen,

Thank you for your reply, in which you instructed me to submit my RPES case review to my supervisor, despite the blatant conflict of interest involved in such an action.

I agree that the Research Leader has specific responsibilities in assisting scientists in the RPES process. However, in Alaska's ARS unit, the evidence overwhelmingly shows that 100% of the women research scientists were excluded from (non-malicious) assistance. How many more data points does the ARS need to see the trend of abuse? Since you doubt the veracity of my statement, please contact Dr. Nancy Robertson and Dr. Lori Winton. They will confirm that our case writeups became the source

of great stress when they were challenged, falsely edited, and altered so as to weaken our accomplishments.

Although you were unwilling to stop the upcoming conflict that will occur when Dr. Pantoja begins editing my writeup, I am truly amazed that you would openly cc Dr. Pantoja into the email thread. You have dealt me a serious blow by setting me up for further retaliation. Please contact Dr. Nancy Robertson, Dr. Lori Winton, and Dr. Jeff Conn if you don't believe that retaliation against the scientists is occurring in Alaska. Each of us has an EEOC complaint pending.

I sought PWA assistance to avoid further harm while waiting for the EEOC to rule on the merits of my case.

Your message (and actions) are clear that you do not wish to assume any responsibility for these ongoing EEO issues. Message received: in the future I will avoid involving you.

Sincerely,

\_\_\_\_\_  
Cindy

Cindy Bower, Ph.D.

Fishery Industrial Technology Center

118 Trident Way

Kodiak, AK 99615-7401

Phone: (907) 486-1534

Email: [Cindy.Bower@ars.usda.gov](mailto:Cindy.Bower@ars.usda.gov)

From: Whalen, Maureen

Sent: Thursday, July 22, 2010 1:59 PM

To: Bower, Cindy

Cc: Robinson, Alan; McLellan, Don; Hammond, Andrew; Pantoja, Alberto;

Sichel, Fran; Laird, Veronica

Subject: RE: Position Review Notice (Bower)

Dear Cindy,

Unless we hear otherwise from Alan Robinson (ER) or Don McLellan (ODEO), we will follow the normal procedure in PWA for your RPES case review. The RL has several specific responsibilities in the RPES process, which includes assisting scientists in preparing case write-ups, and reviewing and certifying case write-up accuracy and completeness.

If you and your RL should have a dispute about the content of your write-up, PWA will follow ARS policy. ARS policy provides for resolution in Policy and Procedure (P&P) 431.3, Research Position Evaluation System, dated September 24, 2009, as you have mentioned. The P&P states, "Disagreements on write-up content should be resolved at the lowest level possible. If agreement cannot be reached, the version submitted will appear as the AD directs, and a signed statement of disagreement from subordinate and/or supervisor may be attached."

I look forward to reviewing your case, when it is submitted to area office.

Maureen Whalen

Maureen C. Whalen