



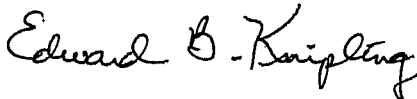
United States Department of Agriculture

Research, Education, and Economics
Agricultural Research Service

MAY 23 2008

SUBJECT: Final Agency Decision

TO: Cynthia K. Bower
Research Food Technologist
Subarctic Agricultural Research Unit

FROM: Edward B. Knipling 
Administrator

This memorandum is to inform you of the final Agency decision you requested on March 28, 2008, on your formal grievance concerning your allegations of a "hostile work environment." As relief, you requested to be "reclassified as GS 13" and the alleged "leadership failures existing within the PWA be dealt with appropriately." I have fully and carefully considered your grievance and the exhibits you have presented to support your position, as well as the material contained in the grievance file.

In your request for a final Agency decision, you stated the following issues remain unresolved: 1) "an extremely hostile environment for women," 2) "discriminatory treatment" resulting in your being "offered [your] job at lower GS and salary levels than the advertised position," and 3) "loss of promotion."

Your grievance centered on your allegations of discrimination. Article 5 of the Administrative Grievance System, Policies and Procedures 463.2, dated June 4, 2001, states:

"This Policies and Procedures issuance does not apply to . . . [a] dispute over a matter for which an employee has an entitlement to file an appeal, grievance, or formal challenge in some other forum. This includes matters that are reviewable by the Merit Systems Protection Board (MSPB), the Equal Employment Opportunity Commission (EEOC), the Office of Personnel Management (OPM), the Comptroller General (CG), the Federal Labor Relations Authority (FLRA), or the Federal Mediation Conciliation Service (FMCS)."

Thus, the three issues cited in your request are nongrievable matters. However, the Agricultural Research Service (ARS) does not support acts of discrimination nor will these acts be tolerated. Dr. Robert Matteri, Assistant Area Director, Pacific West Area, investigated your allegations.



No evidence was found to support your allegations of a hostile work environment or discrimination. In addition, Mr. Jeff Schmitt, Research, Education, and Economics Cooperative Resolution Program Office, visited your location from January 14-18, 2008, to discuss any issues or concerns you and the other scientists may have and attempt to resolve them. Mr. Schmitt did not report any evidence supporting your allegations.

In addition to your allegations of discrimination, you asserted you were “offered [your] job at a lower GS and salary levels than the advertised position.” Although this is not uncommon, Dr. Matteri consulted the Director of the ARS Human Resources Division (HRD), Karen Brownell, regarding this process and confirmed that for all Category 1 scientists, final classification decisions must be made by a peer panel through the Research Position Evaluation System (RPES) before HRD can issue a letter of offer. An RPES panel evaluated your application and determined you be classified as a GS-12. Thus, a job offer could not be made to you on the original recruitment announcement. Subsequently, the position was readvertised at the GS-12 level for which you applied, and you were hired under the new recruitment announcement. The supervisory selecting official, in your case Dr. Alberto Pantoja as Research Leader, does not have the authority to make formal offers of employment or to establish position grade levels for new hires or incumbent employees.

Dr. Pantoja, Research Leader, Subarctic Agricultural Research Unit (SARU), has arranged for Dr. Eric Jang, Research Leader, Tropical Plants Pest Research Unit, to deliver a presentation on the RPES process to all SARU employees on September 4, 2008. Please take this opportunity to fully understand the RPES position classification process and to ask additional questions about it.

This completes the grievance process and constitutes the final Agency decision in this matter. If you have any questions or concerns regarding this letter, please contact Ms. LaFondra Lynch, Human Resources Specialist, at 301-504-1409 during normal business hours.

cc:

L. Lynch, HRD