

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)

14 March, 2008

Response to Formal Grievance

Sent from:

Dr. Andrew Hammond
Acting Area Director
Pacific West Area
Agricultural Research Service



United States Department of Agriculture

Research, Education and Economics
Agricultural Research Service

March 14, 2008

SENT VIA FEDERAL EXPRESS (Tracking #7909 6086 5544)

SUBJECT: Response to Formal Grievance

TO: Cynthia K. Bower
Research Food Technologist

FROM: Andrew C. Hammond
Acting Area Director

A handwritten signature in blue ink, appearing to read "Andrew C. Hammond".

This memorandum is in response to your Formal Grievance dated February 4, 2008, concerning your allegations of a "hostile work environment." Your formal grievance was filed under the Agricultural Research Service (ARS), Administrative Grievance System, Policies and Procedures (P&P) 463.2, dated June 4, 2001.

In your Informal Grievance as relief you requested: (1) to be "supported in [your] career by the GS-15 level males in [your] Unit;" (2) an "investigator be sent to SARU to collect statements;" (3) "the EEO-unfriendly ARS leadership decisions...be immediately remedied;" (4) "re-training for the In Depth Reviewer who served on [your] RPES panel;" (5) "assurance that [you are] employed within a fair and equitable agency, which adheres to USDA written EEO statements;" (6) "clear guidelines be provided to [you] describing how [you] can meet and exceed expectations for [your] 2008 annual performance appraisal;" and (7) "permission to prepare an article for the popular press describing the abusive situation that has evolved for ARS female scientists in Alaska." However, in your Formal Grievance, you requested additional relief that was not previously stated in your Informal Grievance. The Administrative Grievance System, Policies and Procedures (P&P) 463.2, clearly states "the formal grievance may not concern any matter that was not presented as part of the informal grievance." Thus, the additional relief and newly presented issues raised in your Formal Grievance will not be considered.



Pacific West Area - Office of the Director

800 Buchanan Street • Albany, CA 94710-1105

Voice: 510.559.6060 • Fax: 510.559.5779 • E-mail: Andrew.Hammond@ars.usda.gov

An Equal Opportunity Employer

In your Formal Grievance, you stated that "the response to [your] informal grievance was unacceptable, since it did not adequately address the issues [you] raised." Thus, I will review the issues raised and relief requested as stated in your Informal Grievance. In your Informal Grievance, you stated that you are requesting "relief from the extremely hostile environment for women" and "career-damaging events that have been occurring [at your location] on a routine basis for many years." Article 5 of the Administrative Grievance System, Policies and Procedures (P&P) 463.2 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, these issues are nongrievable matters.

As previously stated, you alleged that the issues you raised "have been occurring [at your location] on a routine basis for many years." Article 9 of the Administrative Grievance System, Policies and Procedures (P&P) 463.2 states:

Employees must submit an informal grievance within 15 days of the act or occurrence that is the basis of the grievance or within 15 days of the date the employee became aware of the act or occurrence.

Thus, the Informal Grievance was untimely filed because the basis of your grievance, as you contend in your Informal Grievance, "[has occurred at your location] on a routine basis for many years."

ARS considers allegations of discrimination very seriously. On January 18, 2008, Dr. Edward B. Knipling, Administrator, provided all employees with the 2008 Diversity/Equal Employment Opportunity Policy Statement. This policy states that "conduct or behavior that indicates discrimination, harassment (sexual or non-sexual), or retaliation will not be tolerated." Thus, we have a zero tolerance policy for discrimination of any kind in the workplace that is defined by the Equal Employment Opportunity Commission. The Pacific West Area (PWA) management as well as ARS does not support discriminatory acts. On January 25, 2008, as Acting Area Director, I provided all PWA employees with the 2008 Pacific West Area Diversity/Equal Employment Opportunity Policy Statement. Further, we thoroughly investigate complaints of discrimination. As you mentioned in your Formal Grievance, Dr. Matteri investigated your complaint. He did not find any evidence to support your complaint. Thus, your request "that the claims of harassment by SARU's

three female SYs are taken seriously" were taken seriously, investigated, and addressed by Dr. Matteri in his Response to your Informal Grievance.

Relief

After careful review of your Formal Grievance and attachments, the Response to your Informal Grievance, your Informal Grievance and attachments, the Administrative Grievance System, Policies and Procedures (P&P) 463.2, and the ARS 2008 Diversity/Equal Employment Opportunity Policy Statement, I have concluded that the issues you raised in your Informal Grievance are nongrievable matters as defined by Article 5 of the Administrative Grievance System, Policies and Procedures (P&P) 463.2. In addition, your Informal Grievance was untimely filed as defined by Article 9 of the Administrative Grievance System, Policies and Procedures (P&P) 463.2. Finally, the new issues and additional relief you raised and requested in your Formal Grievance are prohibited from consideration as defined by Article 9 of the Administrative Grievance System, Policies and Procedures (P&P) 463.2. Further, Article 9 states:

Grievances can be rejected if they:

- **are filed untimely,**
- **concern a matter excluded from coverage,**
- are filed by employees excluded from coverage,
- concern a matter over which the DO has no control,
- do not conform to the filing requirements of a formal grievance, or
- fail to request personal relief.

Consequently, your Grievance is rejected and your requests for relief are denied.

If the matter has not been resolved to your satisfaction, you have a right to a final decision by the Administrator, Agricultural Research Service, with or without review by a Departmental Factfinder (Grievance Examiner). If you wish to pursue your grievance further, you must submit a written request for further review by a Departmental Factfinder or a final decision by the Administrator, without fact finding, within 15 calendar days of receipt of this proposed disposition. You must indicate in the request which items remain unresolved, the corrective action being sought, and any additional arguments and evidence which you wish to have considered.

If you do not request a final Agency decision with or without a Factfinder within 15 calendar days, this proposed disposition will be adopted as the final Agency decision on the grievance and the grievance will be closed. A request for a final Agency decision with or without a Departmental Factfinder should be addressed to:

Dr. Edward B. Knipling, Administrator
USDA, Agricultural Research Service
c/o HRD, Employee Relations Branch
5601 Sunnyside Avenue, Stop 5102
Beltsville, MD 20705-5102
Attn: LaFondra Lynch

The Cooperative Resolution Program (CRP) was developed in the Research, Education, and Economics (REE) mission area to assist employees and managers in recognizing potential concerns or issues and to resolve them at the earliest possible stage. This program is completely voluntary. As Dr. Matteri stated in the Response to your Informal Grievance, Dr. Pantoja is willing to participate in this program if this is something that would help both of you to resolve any current or future misunderstandings. However, to begin this process, you must contact the CRP by calling 301-504-1460.

The Employee Assistance Program (EAP) can help in a variety of situations. If you believe that EAP can be of assistance, you are urged to call the EAP office at 1-888-290-4327.

If you have any questions concerning this decision, you may contact LaFondra Lynch, Human Resources Specialist (Employee Relations), at 301-504-1409, during normal business hours.

You are requested to sign and date the acknowledgement copy of this letter as evidence that you have received it. Your signature does not mean you agree or disagree with the contents of this memorandum. However, your failure to sign the acknowledgement copy will not void the contents of the memorandum.

cc:

E. Knipling, ARS

L. Lynch, HRD

I acknowledge receipt:

Cynthia K. Bower

Date