



United States Department of Agriculture
Research, Education, and Economics
Agricultural Research Service

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)

July 29, 2008

[Redacted]
Fairbanks, Alaska 99712

Dear [Redacted]

Enclosed is a copy of the report regarding your informal complaint for informal case# 08-24 filed on March 31, 2008. If you have any questions, please contact the Office of Outreach, Diversity & Equal Opportunity at (202) 720-3410 or 1 800 340-4289.



Office of the Administrator
Office of Outreach, Diversity & Equal Opportunity
1400 Independence Avenue, SW
Rm. 3913-S
Washington, DC 20250-0304
An Equal Opportunity Employer

**REE MISSION AREA - AGRICULTURAL RESEARCH SERVICE
EEO COUNSELOR'S REPORT**

EEO COUNSELOR: Shirley Fletcher
CASE NUMBER: 08-24
EEO/ADR MEDIATION PROGRAM: No
AGENCY: Office of the Administrator
USDA, Agricultural Research
Service
Office of Outreach, Diversity, &
Equal Opportunity
1400 Independence Ave., SW
Room 3913 - South Building
Washington, DC 20250-0304
TELEPHONE NUMBER: (202) 720-3410
FAX: (202) 690-0094

PART I. INFORMATION ABOUT THE COMPLAINANT

Name:
Title/Series/Grade: Res Plant Pathologist GS-13
Area: PWA
Org. Unit: Sub Arctic Ag. Res. Unit
Status: Permanent
Work Address: University of Alaska Fairbanks
P.O. Box 757200
Fairbanks, AK 99775
Work Telephone: (907) 474-1135
Home Telephone: (907) 374-8925
Fax: (907) 474-7527

E-Mail: _____@uaf.edu
Anonymity: N/A
Union: N/A
Complainant Representative: N/A
Address & Telephone Number: _____
Fairbanks, Alaska 99712

Fax:

E-Mail:

PART II. CHRONOLOGY OF EEO COUNSELING:

Date of Initial Contact with EEO Office: 03/31/08

Date of Initial Contact with Counselor: 04/10/08

Date of Alleged Discriminatory Event: 02/26/08

45th Day After Event: 04/11/08

Reason for Delay Contact beyond 45 days, if applicable:

Extension Granted: 05/01/08

Expiration Date of Extension: 05/30/08

Date Notice of Right to File Issued: 05/20/08

Date OCR Requested Counselor's Report:

Date Counselor's Report Issued to OCR:

PART III. BASIS (ES) FOR ALLEGED DISCRIMINATION:

The complainant alleges discrimination on the bases of sex (Female) and reprisal (Previous Complaint Filed). In February 2008, the complainant filed an Administrative Grievance against Dr. Pantoja pertaining to her performance appraisal.

PART IV. PRECISE DESCRIPTION OF THE ISSUE (S) COUNSELED:

Complainant alleges harassment on the basis that her immediate supervisor, Dr. Alberto Pantoja, subjected her to a Hostile Work Environment. The complainant stated that on a continuous basis, Dr. Pantoja exhibited disrespectful behavior towards her, made verbal threats of termination to her; subjected her to public humiliation and exhibits inequitable treatment towards her daily. In addition, the complainant stated that on February 26, 2008, she was given an unjustified Letter of Caution.

REMEDY REQUESTED:

The counselor meant to use the word "rescind".

To work in a stress free environment, to be treated equal as her male counterparts, resend the letter of caution, given the opportunity to act as her male counterparts, rewrite parts of her performance standards in order for them to be obtainable, change her performance rating to a well deserved higher level, and for an independent investigation to be conducted in Alaska regarding the egregious behavior of Dr. Pantoja.

PART V. INFORMATION ABOUT THE RESPONDING OFFICIALS:

Name/Title:	Dr. Alberto Pantoja
Address:	P. O. Box 757200 University of Alaska Fairbanks 362 O'Neill Building, UAF 905 Koyukuk Fairbanks, AK 99775
Telephone:	907 474-7536
Relationship to Complainant:	Supervisor
Name, Title, Work Address, Telephone Number and Nature of Involvement of Others in the Case:	(907) 474-1898, (907) 746-9465 (907) 474-6732 362 O'Neill Building 905 Koyukuk Fairbanks, AK 99775

THE COUNSELOR ADVISED THE AGGREIVED PERSON IN WRITING OF RIGHTS AND RESPONSIBILITIES:

YES

The counselor meant to say 2004, (the year the Complainant was hired).

PART VI. SUMMARY OF COUNSELOR'S INQUIRY:

The complainant states that she has been subjected to Dr. Pantoja's disrespectful behavior as far back as 1994. She stated that the office environment is at a point of collapsing. The complainant stated on February 26, 2008, she received a letter of caution from Dr. Pantajo indicating misconduct because she communicated with Ms. Cindy Pruja, Human Resource Specialist about the technician position. Allegedly, as a result of her communication with Ms. Pruja the position was upgraded from a GS-6 to a GS-7.

On April 9, 2008, Dr. Pantoja burst into her office without knocking. Leaving the door opened (about 3 inches), he informed her that she was interfering with university decisions, which was against ARS policy and unethical. He stated that it came to his attention that she supported Roseann Leiner for tenure and even offered to write her a letter. The complainant stated she was taking notes while Dr. Pantajo was talking due to his demeanor. Dr. Pantoja became upset and instructed her to pay attention, instead of taking notes. She replied by stating "so, I shouldn't be taking notes", and his reply was "you should be paying attention, do you understand". The complainant stated that Dr. Pantoja's entire demeanor was disrespectful, threatening and intimidating.

The complainant stated on another occasion, Dr. Pantoja reprimanded her in a public parking lot in front of two of her coworkers. She stated that he started yelling at her and was very upset. The two coworkers hurried away when Dr. Pantoja started yelling.

On January 15, 2008, during a staff meeting with Jeffery Schmidt, Dr. Pantoja attempted to publicly humiliate all three females on staff by asking them what the impact was, and then repeatedly attacked them when they answered. The complainant stated that his attack on her was so hostile that one of her male counterparts tried to intervene. However, the males were asked the questions, Dr. Pantoja mildly accepted what they stated.

On another occasion, program presentations were given during a staff meeting to the entire unit, Dr. Pantoja purposely attacked all three females. He was combative, aggressive in his speech and exhibited threading body language.

(According to the Complainant, the counselor meant to use the word "threatening").

The complainant stated that Dr. Pantoja has never allowed any female to act in his absence. He only provided acting opportunities to the male counterparts, even the ones who were at a lower grade level, had less work experience and less tenure. The complainant stated that the female employees are not allowed to interview potential employees without one or sometimes two male counterparts conducting the interviews with them.

The issue was Dr. Pantoja's unwillingness to allow women to act as Research Leader. [This form of discrimination is prohibited by Title VII of the Civil Rights Act of 1964, as amended in 1972 to apply to federal civilian Employment, 42 U.S.C. 2000e-16.]

Regarding the 2008 Performance Plan, the complainant stated that Dr. Pantoja inserted subjective, absolute and an unachievable specific goal. Element 3 Specific Goal 3. "Communication directly to the Research Leader all programmatically and operational aspects of the project; a monthly verbal update will satisfy this requirement."

The complainant stated that Dr. Pantoja would contact vendors in efforts to conduct team building type training sessions, however, the employees would not say too much, for fear of retaliation. She stated that Dr. Pantoja would never allow the trainers to meet the staff before he had a closed door session. Before he started having the closed door sessions, this particular vendor sent a communication survey over before the training. The results of the survey indicated that Dr. Pantoja's communication skills were poor. Dr. Pantoja cancelled the training.

The complainant stated that Dr. Pantoja's behavior towards her is intimidating, harassing, bullying, belligerent and aggressive. In addition, she stated that she do not feel safe to be alone with him.

Dr. Pantoja stated that he have never approached the complainant in a public environment. There was one incident many years back (2003) she was walking in the parking lot with co-workers; he called her to the side to talk with her. She never mentioned that it was offensive and no one heard his conversation. He stated that in regards to the discussion in her office, he did in-fact come into her office however the door was semi-closed. He received a letter from the Dean of the University expressing concern regarding the complainant's involvement of a potential hire. Dr. Pantoja stated that he was probably standing in front of the complainant's desk as he was speaking. He sometimes talks with his hands however he was not belligerent or intimidating.

This document contains many typographical errors, including this date, which precedes Complainant's employment with ARS and therefore cannot be accurate.

Regarding the letter of caution, Dr. Pantoja stated that the complainant contacted the HR office and informed them to raise the grade level of the Technician position to the GS- 7 level without approval. He and his supervisor had already signed off on the position and forwarded it to Human Resources, however the complainant contacted Cindy Prucha and had the position upgraded. Dr. Pantoja stated that Ms. Prucha stated she thought that the complainant had the authority to make the change.

Dr. Pantoja stated that he never threaten the complainant with termination. In fact he doesn't speak with her by himself. For two years now he has had his administrative assistant with him when meeting with the complainant. He stated that the only reason why he met with her in her office alone was due to the Dean's concern.

In regards to Dr. Pantoja not allowing any females to act in his absence, he stated "yea, what is the issue". His criteria for acting candidates are 1) by rank;

Despite his protestations to the contrary, "gender" was indeed Dr. Pantoja's sole criteria when appointing an Acting Research Leader in his absence, since no woman was ever allowed to serve regardless of rank, length of time (experience) in the unit, or probationary status.

2) someone he can communicate with easily without chaperone, and 3) experience. The males selected to act in his absence are 1 GS-15, 1 GS-13, and 2 GS-12's. The female's employees are 2 GS-12's and 1 GS-13 (complainant).

Dr. Pantoja stated, in reference to the complainant's performance plan, she signed them. He stated that he treats the females the same as their male counterparts. He does not bully anyone; he is not threatening or intimidating. He stated that he was willing to meet the complaint half way regarding communication. He is always reaching out to see if the problems could be resolved.

Witness stated that she have been in Alaska for 9 years. Dr. Pantoja has been the Research Leader for five (5) years. Since his arrival, it has been horrible. She also has been treated the same way as the complainant. She has witnessed on several occasions Dr. Pantoja's demeaning, intimidating behavior. She stated that she filed a complaint about three years ago.

Witness stated that she never was provided the opportunity to act in Dr. Pantoja's absence. She stated that in January the staff was giving presentations. All the women were the first to present their programs. In addition their names were indented on the agenda. She stated that she was the first to present her program. As soon as she started, Dr. Pantoja started attacking her with his questions in an aggressive manner.

On another occasion Dr. Pantoja informed her that she did not receive a promotion. He said it very loud as if he was pronouncing it to the staff. It was embarrassing. In addition, [redacted] stated Dr. Pantaja informed her not to talk to or associate with the complainant. She filed five (5) grievances in the past and getting ready to initiate the sixth (6) grievance.

Anonymous Witness 1 – One male employee stated that he had observed specific females being targeted, in particular, the complainant and [redacted]. He also witnessed them being treated poorly. He stated that Dr. Pantoja is short tempered with them, very aggressive and has angry responses to their questions. His interaction with them could be considered threatening.

Anonymous Witness 2 – Another male employee stated he witnessed Dr. Pantoja yelling at the complainant in public. He noticed overtime that Dr. Pantoja treats the women much different then the men. He goes after the women for some unknown reason. None of the women are ever allowed to act in his absence. Once he witnessed in a staff meeting, Dr. Pantoja really went after the complainant, it was so bad that he had to stand up to defend her. The complainant was not treated fairly; she was put on three year probation.

The Counselor has misunderstood (and thereby misrepresented) the concept of the three-year probationary period, which is required for newly-hired scientists within the agency before they can become permanent employees. Probation (in the agency's lexicon) is not associated with any wrongdoing.

_____ stated that he witnessed Dr. Pantoja being disrespectful. There was a meeting where staff had to present programs. Dr. Pantoja went overboard with the women. He was so embarrassed to the point that he was going to say something. It made him very, very uncomfortable. Dr. Pantoja's English is not perfect. When he asks a question, it's usually loud and fast. If one of the women asks him to repeat it or did not understand it, he repeats it louder and faster. Sometimes, it's hard to deal with. Another thing he does frequently, if he doesn't like something and need to discuss it, he will come barging through your office door. There is a tremendous amount of stress and unhappiness within the unit.

After discussing the concerns of the witnesses with Dr. Pantoja and the additional concerns of the complainant (postponing meetings) enabling her to meet the communication standard, Dr. Pantoja stated that he did not believe that there was any harassment, he was not willing to allow the complainant to act in his absence, he was not willing to rescind the letter of caution, there was not harassment and her performance was being adequately handled.

PART VII. SUMMARY OF INFORMAL RESOLUTION ATTEMPT:

The counselor addressed the allegations of disparate treatment with Dr. Pantoja and suggested allowing the female employees to act in his absence, possibly toning down his voice when meeting with the female employees and including the females more in program operations. I discussed the possibility of removing the letter of caution due to the possibility of miscommunication between all parties.

Initially, Dr. Pantoja agreed with meeting the complainant half way, however after informing him of the complainant's additional concern and the witness's statements he was no longer willing to attempt resolution.

CLOSURE:

A Notice of Right to File a Formal Complaint was issued on May 20, 2008.

Shirley M. Fletcher
Name of EEO Counselor

6/4/08
Date

Shirley M. Fletcher
Signature of EEO Counselor

cc: Complainant
OCR

Attachments

"Delay" is a major tool in the USDA's toolbox. By law, the Informal EEO process must be completed within 30 days. An extension allows that deadline to be bypassed.

1. Notice of Right to File a Formal Complaint dated May 20, 2008.
2. Extension Letter dated May 1, 2008.
3. Letter of Caution dated February 26, 2008.
4. Performance Plan (rating period January 1, 2008 – September 30, 2008).
5. Request for Personnel Action to recruit Biological Science Technician dated April 12, 2007.
6. Position description for Biological Science Technician dated April 12, 2007.
7. Complainant's timeline of Interactions with A. Pantoja.