

January 31, 2011

The Honorable Barbara Mikulski
United States Senator
60 West Street, Suite 202
Annapolis, MD 21401

Re: Prohibited Personnel Practices and EEO Complaints at USDA's Office of Communications

Dear Senator Mikulski:

We are writing you today because we have no other recourse and the majority of us are Maryland residents. We have tried resolving issues within the U.S. Department of Agriculture (USDA) through grievances, EEO complaints or meetings with human resources, USDA leadership or USDA's Office for Civil Rights; however, we have been unsuccessful because of internal failures of the systems in place within USDA or the lack of cooperation and/or obstruction to those processes by the management of USDA's Office of Communications. A few of us have filed an OSC-11 "prohibited personnel practices" form with the U.S. Office of Special Counsel citing a violation of law, rule, or regulation, gross mismanagement and abuse of authority by the Schedule C USDA Communications Director, Chris Mather and the career SES USDA Communications Deputy Director David Black. To date, there are nine EEO complaints filed against Chris Mather, David Black and Amanda Eamich a career GS-15 Web Services director because of a hostile work environment, retaliation and/or prohibited personnel practice

We ask that any inquiry that you make on our behalf be done with the utmost care as we have been experiencing the backlash by the managers for quite some time whether it is through tighter controls, personnel actions or warnings. This is very serious and never in our entire careers have we encountered such egregious, mean and poor management. This management style we describe is equated more to a dictatorship than that of a relationship built upon mutual trust and respect between employees and their managers. And the latter part is an edict which Secretary Vilsack has been trying to build through USDA's cultural transformation. Unfortunately, the OC managers mentioned above which now include a new deputy director, Justin DeJong, are not following the Secretary's requirement to transform the culture of USDA. Instead, they are opting to railroad OC career Federal employees out of their jobs and not follow USDA Departmental guidelines or Federal regulations regarding performance management and other personnel practices.

Collectively, we are career public servants with more than 150 years of Federal service among us. And several of us have more than 10 to 25 years to go until we are eligible to retire without penalty. We each have decorated records, received awards and received superior or outstanding performance reviews. We range in General Schedule grades nine through 15 and our service ranges from careers entirely within USDA or at other cabinet agencies.

It is with heavy hearts and utter frustration at a system that is broken and does not favor the rights of employees that we must reveal the atrocities that are being inflicted upon career Federal staff in USDA's Office of Communications. In this letter we outline below examples of prohibited personnel practices and immediately following that is an outline of how we need your help. Specifically, the prohibited personnel practices and/or examples of collusion include:

Violation of OPM guidelines as well as 5 USC Section 6106-Time Clock; Restriction. Through several e-mails and conversations to OC employees, Chris Mather, David Black and Amanda Eamich have been requiring OC employees to "check in" and "check out" each day that they arrive in the office. They also developed an "OC Consolidated Performance Worksheet: Mission Results, Progress Reviews, and Self Assessments" which lists "Inform supervisor of

arrival and departure by stopping by supervisor's office," as a performance measure so that OC employees will be evaluated during their performance review on whether or not they physically checked in or out with their supervisor when they were in the office.

Violation of USDA Departmental Regulation #4040-430, Performance Management dated Oct. 1, 2007 and **Title 5, Code of Federal Regulations, Part 430 – Performance Management**. There are numerous OC employees who have not been provided with a performance work plan as required by these regulations within 30 days after the appraisal period started on Oct. 1. Several OC employees have not had a performance review for periods longer than two years; several OC employees have not been provided copies of their performance review once it was completed; and several OC employees were taken out of their existing job, not given a performance work plan or position description and still evaluated by the new supervisor while being given a lower performance rating. For those few OC employees who were rated, the majority of them got across the board lower performance ratings. In 2009, those employees who received an outstanding performance rating were awarded two days of annual leave or those who received a superior were awarded one day of annual leave because OC didn't have a budget for awards. However, OC has several million dollars available to pay a consultant, DeLoitte, over the past two years for reorganizing OC. Chris Mather also directed her administrative assistant to schedule the performance reviews for rating period Oct. 1, 2009 – Sept. 30, 2010 she and Justin DeJong, the newly promoted Deputy Director of Operations. Justin DeJong was NOT these OC employees immediate supervisor.

Denial of Individual Development Plans. Chris Mather and David Black have required employees to complete IDP's without being involved, and then routinely deny the OC employees the training or career enrichment opportunities identified in their IDP's. Often, lack of OC funding is cited for denial of training or on the job training via a meeting requiring travel.

Denial of Performance Work Plans. Chris Mather has not worked with those employees whom she immediately supervises on their performance work plan. These employees, if they have had a performance evaluation have either had one with a non-supervisor and/or without having a performance work plan in place at the beginning of the rating period.

Violation of Freedom of Information Act requests for information. Chris Mather knowingly ignored a FOIA request submitted by an OC employee for all personnel actions taken during her two year tenure as Communications Director. That request was made in May 2010. The OC employee followed up on an **Administrative FOIA Appeal for Non-Response** with USDA Human Resources and the Office of General Counsel requested that Chris Mather provide the information. The deadline was Jan. 7, 2011. The OC employee will file a **Judiciary FOIA Appeal for Non-Response** this week for failure to provide the information.

Prohibited hiring practices. There is an OC manager, Amanda Eamich, who was brought into OC as a temporary GS-13 detail to work on social media. Amanda Eamich was a GS-12 when she was brought over on the detail. Chris Mather worked with Amanda when a Director of New Media position was created as a GS-14/15. Amanda did not make the certification list when it was advertised the first time. Chris worked with her when the job was advertised quickly a second time. Amanda then made the cert list and was hired as a GS-14. One year later she was promoted to a GS-15. Amanda was promoted from a GS-12 to a GS-15 within 18 months. Her current position as Director of Web Services was not advertised. Peter Rhee, the deputy director of web services was hired at Amanda's request as he came with her from her former USDA agency as the director of creative media. He was hired as a GS-14 and was recently

promoted to a GS-15. Sam Goodson, the now former deputy director of web services was demoted to a Web Analyst and was not told that Peter Rhee was replacing Sam Goodson.

Justin DeJong, a Schedule C who recently was promoted to a GS-15 as Deputy Director of Operations from a Press Secretary. This position is new and it was not advertised. Those OC career employees, who now officially report to this position, were not notified that he was the new deputy director or their immediate supervisor until an all OC e-mail was sent by Chris Mather praising his promotion on Jan. 21, 2011. The OC communications coordinators were notified of the new deputy director position when they received their re-written/revised position descriptions, a notice of personnel action that their jobs had been reclassified and a reorganization note (which does not even list the communications coordinators as reporting to this position or listed in a “box” on the new reorganization chart) via interoffice mail two months after they had been signed by Chris Mather and David Black on Nov. 9, 2010.

Alice Welch, now former Photography Branch Chief, wrote to OPM about being replaced in her job and their direction for USDA's Office of the Inspector General to investigate the situation in Aug. 2010. She also filed an EEO complaint in May 2010 against Chris Mather for placing Tom Witham in her job while she still occupied it. David Black and Chris Mather told Alice that Tom Witham was placed into her position at a higher grade because they had nowhere else to put him. Alice was not notified that this happened until it was announced, she was not given a new position description and she was recently evaluated during her performance review without a performance work plan, new position description, or anything. She was given a lower performance review rating. She reached an informal settlement with USDA in Aug. 2010 and has yet to receive the signed agreement in which the deadline for the settlement actions since has passed. Alice met with USDA's Assistant Secretary for Civil Rights and he agreed when he met with her on Jan. 5, 2011 that USDA was in breach of the agreement. Alice Welch also received an official letter of warning on “failing to follow direction from her supervisor” by her new supervisor, Tom Witham on Nov. 23, 2010, three months after she settled her EEO complaint. As part of her settlement, she was supposed to be detailed to another office. Alice Welch since has learned through the USDA Office of Inspector General investigation that Chris Mather has lied about some actions she had taken in notifying Alice. The USDA's Assistant Secretary for Civil Rights Office already was aware that Chris Mather was not truthful.

David Black, formerly the GS-15 director of OC's Broadcast Media and Technology Center, was asked by Chris Mather to be the newly created OC deputy director of creative development. He applied for the job and Chris hired him in July 2010. It also should be noted that David Black has been intimately involved with the OC reorganization and direction given on which employees should stay or go. In the interim, the schedule C OC deputy director, David Sandretti, was removed from his position and replaced by David Black and then promoted to an SES. Historically, the OC deputy director of communications was occupied by a schedule C as a GS-15. The SES deputy director of OC position was not advertised.

Prohibited compensatory time practices. A schedule C press assistant, Stephanie Chan, has worked in OC for approximately one year and a half. During this time, she has earned 365 hours of compensatory time as well as 15 credit hours and has not been required to seek pre-approval by

Chris Mather or fill out the necessary request forms to earn that time. Other OC employees who have to work outside their normal tour of duty due to an emergency or incident routinely are denied compensatory time or have been told that they will work after hours.

Another OC employee who had been asked by another USDA office to attend a meeting out of town for a day that involved this employee's work was denied permission by Chris Mather to attend despite the travel being covered by another office. The employee was told at first that she had been out of the office too much. (Note: this employee has use or lose annual leave and over 350 hours of sick leave.) When this employee said that the meeting was on Jan. 17, a federal holiday, she was still told no because Chris Mather would not grant the compensatory time for working on a holiday.

Concern about maintaining a top secret security clearance. In August 2010, we learned that Chris Mather was a few months delinquent on paying her US Government travel card and when she paid the few thousand dollar balance, the check bounced. At the time she blamed her administrative assistant for not mailing her travel reimbursement check to her on time. Since then, her travel card was taken away and she is not allowed to possess one. This is a problem for holding a top secret security clearance.

Unfair teleworking policies. Chris Mather and David Black permit several OC managers and other OC employees to work on a dedicated telework day each week and telework half days when they are unable to come into the office. They also permit a GS-15 budget officer to telework full time from Gettysburg, PA and he is not required to come into the office. However, other OC employees who have telework agreements in place are routinely denied the opportunity to telework when seeking permission because of legitimate issues that arise on occasion. These select and favored OC employees also work on a 5-4-9 schedule so that they have every other Friday off, including David Black and his secretary. When the OC communications coordinators asked Chris Mather if we too could have a dedicated telework day each week because our jobs could easily be worked from an alternative worksite, she said no because she would not know if we were working and it would not be fair to the other OC employees if we were allowed to telework each week. Frequently, if we request permission to telework, we're told no and told to take the day off instead.

No notice personnel actions. David Black and Chris Mather forced two employees of 30 plus years in one unit out on permanent details to other offices in USDA with no notice and effective immediately; they removed the duties of another staff member, Shirley Watson-Harrington and asked her to figure out what she wants to do in OC.

Age discrimination. Chris Mather, David Black and Amanda Eamich pressured several OC staff to retire who are over 55 years old through two buyouts despite these employees saying that they were not ready to retire. Some OC employees did retire because it was a good deal and they were eligible, however it was encouraged strongly that the others retire also. One of the senior communications professionals, with 43 years of federal service and who received high praise for her past communications work with both Republican and Democrat political appointees, took the retirement buyout because of the stress that the hostile work environment placed upon her, the lack of professional respect she received from Chris Mather, David Black and Amanda Eamich and the lack of career opportunities at OC for all older, experienced career employees. The pressure for those to retire who remain and other employees who are over 40 years old are encouraged to find other jobs if they dislike OC. The OC employees who were cherry picked for positions on the fast track and received their GS-15 promotions within the past two years are

all under 30 years old and/or come with backgrounds or beliefs that support the policies of the Democratic Party. These fast track managers also are not qualified for the positions in which they were placed and not trained on personnel regulations or how to manage employees.

Gender discrimination. There are very few women who occupy management positions in OC and they occupy positions at lower grades. There have been no efforts made by management to provide upward mobility opportunities or training to many of the women who work in OC. Those three women who do hold management positions were either handpicked for their position by Chris Mather and David Black or were already a manager before the reorganization.

Collusion of management as EEO complaints are filed. Several employees who have filed EEO complaints against Chris Mather, David Black and Amanda Eamich have all requested that they be detailed out of the office because they cannot tolerate working in such an openly hostile work environment. The employees came forward with detail opportunities and were denied because Chris Mather, David Black and Amanda Eamich wanted the employees to take different details. This collusion can be traced in e-mails between the managers.

o In Sept. 2010, a senior level OC communications professional who filed an EEO complaint was asked by the USDA deputy chief of staff to consider withdrawing her complaint because she was working with Chris Mather. Against her better judgment, this OC employee voluntarily withdrew her complaint after talking with Chris Mather about working things out and trusting that things would get better. A few weeks later, this employee's position was re-written so much that it does not cover her official duties and she was not notified of the new position description until two months later via an interoffice envelope with no explanation.

In Jan. 2011, this employee re-filed her EEO complaint against Chris Mather and David Black based upon retaliation. She also was verbally reprimanded on Jan. 25, 2011 by Chris Mather for the following claimed reasons:

She told the employee that she has been defensive, overly sensitive, hostile and combative because she recently questioned her revised no notice position description; OC telework policies when she was denied her request to telework for four hours; and why a non immediate supervisor was requested to participate in her 2009-2010 performance review.

She told the employee that all future questions about personnel issues are to be via a phone call – not e-mail. (note this would mean no record of any conversations would exist)

She told the employee that she would be denied all future teleworking requests despite having an agreement in place.

And she told the employee that she must sit at the table during the daily 9:15 meetings because many in the office perceive her as being passive aggressive by sitting in an outer row chair.

In Jan. 2011, another OC employee who has pending EEO complaints against Chris Mather, David Black and Amanda Eamich had to seek emergency help through Departmental Management to deal with the intense hostility and reprisal from these managers. Departmental Management granted him an immediate 120-day detail to avoid any further conflict until conditions within OC can be addressed.

As you have just read, there are many, many reasons why we are fearful for our jobs and feel that we have absolutely nowhere else to go to get these issues addressed and/or resolved. And there are many more examples. Senator Mikulski, we respectfully seek your help. Specifically, we need your help to accomplish the following:

Ensure that Secretary Vilsack and Deputy Secretary Merrigan acknowledge to the OC employees that

these problems are real and that they will look into all of the issues raised immediately;

Assign a independent investigator to look into all OC personnel actions and policies as well as speak with each OC employee about the management and culture of OC;

Ensure that Chris Mather and David Black are removed from their supervisory duties while the independent investigation determines their suitability to be managers and their ability to uphold the standards of the Senior Executive Service and Federal managers;

As violations are found, we ask that they be corrected immediately and that ALL OC managers are held accountable;

Ensure that the other OC managers, if they do not comply with the guidelines set forth with the USDA cultural transformation, that they also be removed from their positions immediately;

Ensure that all OC managers are trained on how to manage employees and understand Federal personnel regulations;

Assure OC employees that Federal regulations and policies will be enforced to protect those who are coming forward with any information about any retaliatory actions by OC or USDA as a result of this letter;

Request a third party arbitrator be assigned on behalf of the OC employees to resolve the conflict between OC employees, managers and Schedule C's with the authority to issue binding and enforceable Resolution Agreements;

And, establish additional oversight of OC managers so that this does not happen again.

It is with great courage that we write you today because we all have families and cannot afford to lose our jobs, especially during these difficult economic times. We are taking a huge risk by coming forward. We know that there are many other OC employees who have been "wronged" through prohibited personnel practices, but are too scared to challenge the management because they need their jobs and have families to support. It is typical in our office right now that if you do challenge Chris Mather or David Black office policies, you will be verbally reprimanded or given a letter of warning before more serious action takes place for your personnel file. And if we use the systems in place at USDA individually, such as EEO complaints or grievances, Chris Mather and David Black as well as other managers identified will use that system to paint each individual as having a history of conflict... which is NOT true. The work environment throughout USDA's Office of Communications is extremely hostile based upon administrative policies set forth by Chris Mather and David Black. It is absolutely ridiculous and unacceptable that we have to go through these established systems to resolve these issues at great expense to the American taxpayer.

The working conditions in the Office of Communications MUST change. It is not fair to the 80 staff members in this office to be subjected to this kind of dictatorship. It is impacting our health and it is preventing us from doing our jobs. We know Secretary Vilsack cares deeply about USDA and its employees and that he would be deeply troubled to learn that his own Director of Communications, Deputy Director of Communications and other OC managers are not complying with his policy to transform the culture of USDA. His concern is evidenced through his continuous outreach to USDA employees through his teleconference town halls and surveys so he can hear what they have to say as the culture within USDA is transformed. We need his help to get this problem resolved. No one's work in this office is so egregious as to warrant the kind of gross mismanagement or abuse of power we just described. We should not be made to feel that we will be fired at any minute for no apparent reason. There are too many people affected by this and work in fear here for there to be a problem with ALL 80 staff members. There are a few of us who have mustered up enough courage to speak out, but unfortunately as a result Chris Mather and David Black are working diligently to silence us. If you need to speak or meet with us, you can speak with Angela Harless who we have agreed will be our group's point of contact. Her contact information is below. As we've already said, we love our jobs, work hard at what we do and simply would like the freedom to work within our positions again

without the constant, unreasonable control and micromanagement. The prohibited personnel actions and collusion of those within this office are unacceptable and must be addressed immediately. There would be many more signatures on this letter, but the other OC employees are too afraid to identify themselves because they fear for their jobs and retribution. We too share these concerns, but also recognize that something must be done immediately. Please let us know if you need more information.

Sincerely,

(Signatures below)

Concerned Employees in

USDA's Office of Communications