

**TESTIMONY OF  
KAREN S. KELLEN  
PRESIDENT OF AFGE COUNCIL 238  
BEFORE THE  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
U.S. HOUSE OF REPRESENTATIVES**

**JULY 29, 2015**

**Written Submission for the Record**

Chairmen Chaffetz, Ranking Member Cummings, thank you for inviting me to testify. I have worked for the EPA for 28 years, and I have been involved in some capacity with the union for 18 years. I am currently the President of AFGE Council 238 which represents approximately 8500 bargaining unit employees at the EPA. There are 14 locals that are part of Council 238. We have a presence in every Region of the EPA as well as the offices in Washington, DC, Research Triangle Park, NC, Ann Arbor, MI and Ada, OK.

I began working for EPA in 1987 as a staff attorney in the Region 3 office located in Philadelphia. I subsequently transferred to the Region 8 office in Denver, which is my current home base. I have devoted my career to this Agency, whose mission is to protect human health and the environment. EPA is an Agency of proud and dedicated civil servants with a strong work ethic. However, over time I have seen these same dedicated civil servants become disenfranchised, making the performance of every day duties stressful and difficult. Bad management practices have become a cancer within the Agency. A cancer that grows unchecked and unmonitored; choking out the hundreds of healthy cells which make the organization unable to function effectively and efficiently.

**Life from the Union's Perspective**

I did not set out in my career to be a union leader: a rabble rouser to some, a trouble-maker to others, and a savior to a few. I wanted to save the earth. But over time I learned about injustices and I saw how managers banded together when pressed about certain issues and refused to ever admit that one of their own had done anything wrong. Our local union was not very effective when I joined it. It had one brave soul running it. A few of us got more involved and we grew an organization that was responsive to both employees and managers. I know that some claim that unions are bad because they stand up for the troublemakers. It is true that we represent employees in trouble; that is our obligation under the law. However, we distinguish between when an employee is having difficulty because of their own behavior and when they are having trouble because of their supervisor's behavior, and when it is a bit of both. Our greatest tool is not the grievance, but the ability to speak frankly and with credibility to both employees and management. We defend the process, not the behavior. Even employees who make mistakes and run afoul of the rules deserve due process. If it is not a criminal matter, then the mere process of holding them accountable sends a message to both the offender and to the organization as a whole. However, I have not seen the same process implemented with management, because there is a serious lack of accountability or transparency at EPA when a manager is the problem.

Working as a union steward one sees the dirty underbelly of an organization. The steward sees the malingering employee and the badgered and beaten employee. We see the great managers who truly lead their employees and allow them to grow and excel at their work. We also see the managers who move from organization to organization leaving a trail of broken careers and stifled potential in

their wake. Over the years, I have watched as the bad managers became entrenched in the organization. Treating employees badly has become accepted - and rewarded - behavior.

When one hears about the abuses that have occurred, it is easy to think that there are more problem employees than good employees. But that is not the case. The vast overwhelming majority of EPA employees are dedicated public servants, committed to providing high quality work, and good value to the tax payers. Unfortunately, problems within the management ranks have not been addressed, allowing rampant abuses by many managers. Senior management's unwillingness to hold fellow managers accountable has sent a clear message that this type of inappropriate behavior is acceptable at the EPA.

In my time as a union representative, I have come to know three types of problem employees: 1) untruthful or corrupt employees who are just trying to game the system (the porn watcher), 2) those unable or unwilling to do their job at an acceptable level of performance (includes people with disabilities who need reasonable accommodations), and 3) bullies. Every organization has some of these types of employees and deals with them with varying amounts of success. From the rank and file perspective, we work with the employees who are challenged on one of the above. With regard to bullies, staff level employees tend to be the bullied rather than the bully.

I set down this path because of the inequities of the system, as implemented at the EPA. Rank and file employees are held accountable for bad behavior, but senior managers exhibiting the same behavior are rewarded by promotions, awards, and sometimes expensive training courses that do not address the management failing.

### **Hold Everyone Accountable; Don't Waste Limited Agency Resources and Punish Everyone for the Failings of a Few**

Since John Beale, the high level EPA official who claimed to work for the CIA, the Unions have seen a change in how the Agency manages its workforce. For example, management has definitely stepped up its enforcement of time and attendance issues for staff level employees. I have seen more instances where long time underperforming employees are being held accountable. However, we also see some managers using this new focus as another way of harassing their employees. Significant time and resources are now spent on time and attendance.

Meanwhile, we have not seen the same level of attention placed upon the behavior and activities of senior leadership. I, and my colleagues in the Union have observed inappropriate behavior in management tolerated and rewarded for those of a certain grade level or those with the proper status within the Agency. I am not talking about minor infractions of the many rules of the Agency. I am talking about managers who are corrupt and taking advantage of the system. Managers who are incapable or unwilling to do their jobs of managing employees and probably the worst of the problems, bully managers, who harass and undermine their employees without ever facing any consequences. I have examples of these types of situations that have gone on for years, which we have brought to the attention of senior management, and not been addressed. It's frankly not true to say the Agency lacks tools to address mismanagement issues, the tools and procedures exist, for whatever reason, they are not used.

### **Management Issues**

**Title 42 Appointments:** Title 42 of the United States Code (USC) Section 209 (f) – (h) gives statutory authority to the Public Health Service and the Surgeon General to hire consultants, scientists, and engineers at much higher pay than allowed under Title 5.

In a single sentence under an administrative provision of Public Law 109-54 the Environmental Protection Agency's Office of Research and Development (ORD) was first granted the authority to make up to 5 appointments per year using 42 USC Sec 209, even though this statute does not cover EPA. Funding for this provision was extended through fiscal year 2015 when the Department of the Interior, Environment, and Related Agencies Appropriations Act of 2010 (H.R. 2996) was passed by the House.

ORD has used this authority, intended to lure the best and brightest scientists and engineers as short-term consultants, to hire managers. By using this authority, EPA bypasses the usual pay levels for managers and can pay these managers between \$200,000 and \$300,000 per year. AFGE has been pointing out this misuse of the Title 42 program since 2009, without success. The number of Title 42 appointments within the EPA now stands at about 20, with authority for up to 50 and plans to use this authority to hire additional laboratory managers.

Recently Congressman Michael C. Burgess, M.D, proposed, and the House passed, an amendment to the 2016 Interior appropriations bill that would bar the EPA from hiring and compensating employees under the Title 42 special pay designation.

**Lack of Management Accountability;** My union colleagues and I know of problem managers throughout the Agency. These are not unknown or hidden problems. These problems have been aired but continue to be ignored. I present a few of those examples here today, there are many more that could be provided given the widespread management issues at EPA.

First there is the manager who was the subject of letters to the Inspector General, and to members of Congress, pointing out examples of the misuse of funds, utilizing staff to perform maintenance work on his house and tutor his children, and a long pattern of storing and using alcohol in his government office (with evidence of such provided in photographs). Out of fear of reprisal, which was a common management practice by this person, the accusations were made anonymously. Of all the charges, only the alcohol violations were substantiated by the IG. Did he lose his position? No. He was sent off to a much smaller EPA office, where he retained his Senior Executive Service (SES) salary while only managing a skeleton staff. Where is he now? Working in the Office of the Administrator.

When the IG investigates the same person repeatedly, and no one but their management chain can see the results, ultimately, employees refuse to speak with the IG because doing so does not help address the issues. Employees are also afraid to speak to the IG due to an extreme fear and bullying. Too often when employees voice concerns about a manager, the end result is moving the manager to another location until the issue gets stale and then moving them back into senior leadership the first chance they get.

Then there is the high ranking SES official who was found to be selling diet pills out of her office, hiring her family members, and rewarding those same family members with large bonuses. The union has obtained information indicating that she is currently on extended paid administrative leave while she challenges her termination. When rank and file employees are terminated, their paychecks stop.

Worse, there is a double standard in which employees accused of lesser offenses are treated. Employees who are single mothers suffer adverse consequences for being 5 to 10 minutes late. Employees with documented mental or physical conditions are subjected to harassment by their supervisors over their use of leave, sometimes being driven out of the Agency, even though they may have a reasonable accommodation in place. Managers so obsessed with what they term "excess use of the bathroom" that they sit in glass walled conference rooms all day counting how many times that employee uses the restroom.

These issues do not only affect EPA employees. Similar issues exist in other federal agencies and employees are not willing to blow the whistle on bad behavior and practices out of fear of reprisal. Therefore, I bring to your attention the importance of permanent federal employees' due process rights. Under current law, federal employees are entitled to 30 days advance written notice, notice of specific instances of unacceptable performance, seven days to respond orally and in writing to furnish affidavits and other evidence, and a right to a review of termination by the Merit Systems Protection Board (MSBP). Employees must feel that they will be protected against reprisal if they bring attention to unethical issues within federal agencies. The tools afforded them through the current system of federal employee due process must be retained or whistleblowers will be silenced.

### **EPA's Biggest Problem is Bullying -- What is Bullying in the Workplace**

By far, the biggest problem within the EPA is how it handles bullies and bullying behavior. I am not talking about a demanding manager, a bully is much more damaging to the workplace and individuals.

Bullying is characterized by its intensity, repetition, duration and a power disparity.<sup>1</sup> It has also been defined as "repeated, health-harming, mistreatment of one or more persons (the targets) by one or more perpetrators that takes one or more of the following forms; verbal abuse; offensive conduct/behaviors (including nonverbal) which are threatening, humiliating or intimidating; work interference – sabotage- which prevents work from getting done."<sup>2</sup>

More than a third of all Americans will become the target of a bully during their career. Approximately 1 in 10 people are being bullied at any one time. Nearly half of all employees experience bullying either by becoming a target or observing the bullying behavior in the workplace. What is almost more disturbing is that 80% of that bullying is legal.<sup>3</sup> Because of the power differential in the workplace, about 72% of bullies outrank their targets. And because of the insecurities that often drive the bully, it is often "the least skilled that attack the best and the brightest workers because of perceived threat."<sup>4</sup> Bullying has a negative impact on the work environment, not just for the target, but for those observing the behavior and on the general work environment.

Targets of bullying behavior suffer a variety of negative physical and emotional symptoms. They report chronic stress and a decrease in self-esteem and mental performance, and emotional strength. They report more depression, alcohol and drug abuse, posttraumatic stress and even suicide. They often suffer from high blood pressure and increased risk of coronary heart disease. Witnesses and bystanders also suffer from increased stress and are more likely to quit their jobs than employees not exposed to this behavior.<sup>5</sup>

The top 10 tactics adopted by workplace bullies (as reported by bullied targets):

1. Falsely accused someone of "errors" not actually made (71%)
2. Stared, glared, was nonverbally intimidating and was clearly showing hostility (68%)

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<sup>1</sup> *Adult Bullying; A Nasty Piece of Work: Translating a Decade of Research on Non-Sexual Harassment, Psychological Terror, Mobbing, and Emotional Abuse on the Job*, Pamela Lutgen-Sandvik, PhD, 2013 (hereinafter PLS).

<sup>2</sup> Workplace Bullying Institute, information cited available at: <http://www.workplacebullying.org/> (hereinafter WBI).

<sup>3</sup> WBI.

<sup>4</sup> WBI.

<sup>5</sup> PLS.

3. Discounted the person's thoughts or feelings ("oh, that's silly") in meetings (64%)
4. Used the "silent treatment" to "ice out" & separate from others (64%)
5. Exhibited presumably uncontrollable mood swings in front of the group (61%)
6. Made up own rules on the fly that even she/he did not follow (61%)
7. Disregarded satisfactory or exemplary quality of completed work despite evidence (58%)
8. Harshly and constantly criticized having a different 'standard' for the Target (57%)
9. Started, or failed to stop, destructive rumors or gossip about the person (56%)
10. Encouraged people to turn against the person being tormented (55%).<sup>6</sup>

Targets also suffer from not being taken seriously when they make complaints. Especially in the early stages of bullying, the target is often labeled as a trouble maker or overly sensitive or the problem is just dismissed as an interpersonal dispute. "Bullying terrorizes, humiliates, dehumanizes, and isolates targets. It draws attention and energy away from, and interfere with task completion."<sup>7</sup>

Because the employer establishes working conditions, including hiring, rewarding, assigning work, etc., the agency is ultimately responsible for creating a "bullying-prone" environment. There are various ways in which this environment is created, but it is sustained by management's response to bullying. "If positive consequences follow bullying, the bullies are emboldened. Promotions and rewards are positive. But it is also positive if they are not punished. Bullies who bully others with impunity become convinced they can get away with it forever. They will continue until stopped."<sup>8</sup>

The EPA management bullies and the senior managers responsible for their behavior, create a truly toxic and demoralizing situation for many employees; a work environment where bullies and stealth harassers get to overpower and threaten employees daily, impacting productivity, morale, and the health and welfare of employees.

#### **Examples of EPA's Management Bullies and existing Tools to Address Them.**

I spoke with an employee who was targeted by her management for discipline and removal despite her stellar work record and impeccable reputation in the scientific community. When her previous long-time Division Director in this office retired, EPA's Office of Research and Development decided to fill that position with a Title 42 position, rather than using the regular hiring and promotion process. Although Title 42 positions are intended for short term consultants with specific expertise, the person hired actually had no prior experience as a Division Director and had little experience in managerial roles. He immediately began bullying an internationally recognized and respected PhD scientist, who was the only GS-15 female scientist at her laboratory. After months of this behavior and repeated attempts to remedy the situation, the employee filed an EEO gender claim against this manager. This did not deter this manager, as he enlisted his subordinate manager and instead intensified the harassment by searching through her desk and emails in an effort to find a basis in which to remove her from federal service.

After EPA completed its "investigation", the Agency issued a proposed notice of removal and escorted her out of the building with an armed guard hired specifically for this purpose, thus sending a strong message to other employees in the laboratory. The charges consisted of a variety of manufactured ethical violations, mostly relating to scientific conference travel and her work in planning scientific conferences (an action required in her performance agreement with the Agency). She and

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<sup>6</sup> From the WBI 2003 Abusive Workplaces Survey.

<sup>7</sup> PLS, p. 88.

<sup>8</sup> WBI, How Bullying Happens.

others in the office had been conducting business in this manner for years, with no indication that there were any ethical issues. She was never informed about a problem prior to the effort to remove her from her position. She was placed and remained on paid administrative leave for 6 months. The employee was forced to hire an attorney to defend herself in the action. The Agency ultimately reduced the termination to a two month suspension, which she served.

When she returned to the office, the harassment intensified. Within a week of returning, the Title 42 Division Director cancelled her research project, and redirected funds from that project. This despite the fact that the project in question was a high priority for the Agency, had been in process for several years, and had several clients, contracts and grants that were dependent upon its completion. Despite reassurances that she would be able to complete her research by the end of the fiscal year, the manager refused to approve any of the employee's publications necessary to complete the projects. Management also scheduled bi-weekly "progress" meetings, normally done for employees who have performance issues. None of the charges against her related to her performance.

All attempts to settle her EEO claim were rebuffed by EPA management, including efforts to allow her to work under different managers. This employee ultimately found new employment as a Full Professor with an endowed, tenured seat at a major university. But she continued her EEO action against the Agency which now included a charge of retaliation. She finally went to trial in June of this year, more than 3 years after she filed her EEO claim. After a 5 day trial, the 12 person jury came back with a verdict in her favor for retaliation in less than 2 hours of being charged. They found that the Agency had retaliated against her and awarded her back pay and substantial compensatory damages. The judgement in her favor also allows her to seek the payment of nearly \$350,000 in legal fees and expenses. The Agency is currently contemplating an appeal of this decision.

It is not easy to fight the full force of the federal government. She had to refinance her home and tap into her retirement account to pay the legal costs that she has had to pay to pursue this action. For many people at the lower grade levels, that is not an option. In this case the employee prevailed against the Agency. However, EPA had already lost a good employee to another entity and the managers responsible for this reprehensible incident have not been held accountable for their behavior.

In other examples the AFGE local is **cautiously optimistic** that senior agency leadership will resolve instances of agency mismanagement. This involves a SES level manager with erratic and abusive behavior for more than 20 years while reassigned to multiple EPA locations. He routinely uses bully tactics against numerous staff to undermine the highest performing in the office, which has forced many staff out of the office over the years. While management has worked with the local to resolve this issue, and has acknowledged the problem with the manager, the solutions proposed to date are ineffective and unlikely to succeed. However, the local remains committed to working with EPA management to try to resolve this situation.

Another local president recently identified 29 instances of bullying within their location during the last year. Most of these involve supervisors bullying employees. In only one instance was the supervisor removed from their position.

Additionally, the Union has observed that EPA prefers to move their problem managers to a new location, rather than addressing (or even documenting) the problems arising from their behavior. Providing a bully with more employees to target is clearly not a resolution to the unacceptable behavior. As shown in the situation above, the Union has observed situations where employees raise management bully issues to the Union and/or to senior management, and instead of addressing the bully, senior management **closes ranks** around the bully, protecting him or her. This elevates employees' fear of

retaliation via more bullying, or even worse, physical violence against the target by the bullying manager.

I have worked with some employees, who struggle with some basic components of their jobs. Often this goes on far too long before management addresses the issue. And when an employee who has been doing the same job for 10 years is told that his work is inadequate, it is not treated as a performance problem, but as a conduct problem. This approach ignores management's failure to take the appropriate corrective action involving the employee's performance, and inappropriately makes the issue one that is incorrectly categorized as willful misconduct. Again, management's failures are laid at the feet of the employee. Should that employee be held accountable? Yes, but someone has to tell him he has performance issues and try to correct his behavior before it turns into a conduct issue.

Contrast the situation with the Union's experience with problem managers. Managers for many years that are either incapable or unable to manage without harassing and undermining his or her employees. When senior management finally tries to address the problem do they treat it as a conduct issue? No, it is a performance problem and the solutions include: (1) transfer the bully to another geographic location; (2) promote the bully to a more senior position; (3) send the bully to an expensive unrelated training course (often costing the agency \$5,000 to \$20,000); (4) pay the bully SES bonuses of thousands of dollars each year; (5) provide opportunities for travel out of the office to bullies; (6) "fix" the management problem by targeting the employee by moving or forcing employees out of the office; and (7) appoint known bullies to new candidate selection panels. EPA managers are held to a lower standard of behavior than the employees.

When the Union pushes management on these issues they indicate that they don't have enough information to remove SES employees. This despite the fact that SES rules dictate that an SES employee can be removed from his/her position for even one unsatisfactory rating. And contrary to standard practice, SES ratings can be held more than once per year<sup>9</sup>, and supervisors of bullies should do just that when they have a bully, the targets of bullies and the dysfunctional office unit should not have to wait a year or more for resolution. However, it is hard to call someone unsatisfactory when the agency continues to award significant bonuses in the thousands of dollars to bullies, despite the upheaval in an office. Evaluation of a SES manager must follow OPM's requirements, which include five critical elements and performance requirements.<sup>10</sup> The use of bully tactics by a SES manager is clearly not consistent with the criteria in the critical element "Leading People", which requires SES managers "[p]rovides an inclusive workplace that fosters the development of others to their full potential; allows for full participation by all employees; facilitates collaboration, cooperation, and teamwork, and supports constructive resolution of conflicts" and "[e]nsures ... that employees receive constructive feedback." Given the bully culture in EPA, those criteria are not applied to SES managers. It is also difficult to attack the problem of bullying, which by its nature occurs over a long period of time, when management fails to document earlier problems and the SES rules on performance systems only allows consideration of actions during the previous year. 5 U.S.C. § 4303(c). Finally, OPM requires that each agency establish a Performance Review Board that is to make written recommendations on annual summary ratings to the appointing authority on the performance of senior executives. So, the system already has a group of peer individuals to police its own, but EPA's Board does nothing about their

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<sup>9</sup> The minimum period of performance that must be completed before a performance rating can be given in 90 days.

<sup>10</sup> OPM SES Appraisal System (available at: <https://www.opm.gov/policy-data-oversight/senior-executive-service/basic-appraisal-system/>).

fellow bullies. What we lack is not a system that allows for accountability, but an unwillingness, at the highest levels of the Agency to hold their colleagues accountable for their behavior.

EPA has a variety of policies in place that address workplace behavior (e.g., Workplace Violence Policy) and AFGE is currently negotiating a new Anti-Harassment Policy with EPA. While these policies set out standards and procedures to address bullying, none of them will achieve the desired results until all senior level managers are held to these standards. It is also very difficult to get targets to speak up about their experience because they fear retribution or being forced out of jobs they love, as others have before them. And when one learns that only a small percentage of employees' efforts to push back on bullies is successful, it becomes clear why the behavior is so entrenched.

At EPA, we have had so many high level managers who have bullied employees for so many years without ever suffering any adverse consequences (based upon their steady career rise and other rewards), that it is no wonder that the behavior is taking hold at lower levels in the agency.

### **The Process for Disciplining and Firing Employees is Not Broken**

Under current law and regulations, management has the tools to hold employees accountable, up to and including removal from federal service. If you looked at the numbers in an organization one would surmise that it is easier to remove someone from a staff level position than from a management position. However, the process is not that different. Employees need to be notified of the proposed decision and have 30 days to respond to the notice. Once the final decision is made, employees have recourse to the MSPB for review of such decision

When rank and file employees go through this process, they may be allowed to continue to work, or they may be put on administrative leave during the 30 day time frame, if there are reasons they cannot be allowed to work during the process. However, once the final decision is rendered, employees must bankroll their own defense, while no longer receiving a pay check.

AFGE is demanding that the good managers of EPA, of which there are many, step up and hold these other managers accountable for their behavior. We challenge the Agency to take stock of its career leadership. Some will need to be removed from their positions because of long-term damage to the organization. Some, may be candidates for training or coaching to be better managers (just as some employees need more training and/or coaching to be the best they can be). Some people who have moved into management for the pay grade, but are unable or unwilling to take on the very difficult job of managing people, may need to move back to a staff level position, where they often thrived. Finally, like some employees who elected to leave the agency rather than be fired, some managers may make the same choice. There are rules and procedures in place now the agency can follow to correct the mismanagement and bullying culture.

### **Employee Viewpoint Survey: Employee Engagement and Identifying Ways to Repair EPA**

OPM has been conducting the Employee Viewpoint Survey for many years. It is time for us to look realistically at this data and use it to fix our ailing organization.

Let's first look to the 5 highest percent positive items.

- When needed I am willing to put in the extra effort to get the job done. 96%
- In the last 6 months, my supervisor has talked with me about my performance. 77%
- I am constantly looking for ways to do my job better. 90%
- The work that I do is important. 90%
- How would you rate the overall quality of work done by your work unit. 82%



From the way federal workers have been treated in the press lately, one would think that all federal workers are slackers, who don't care about their work. But in reality most federal employees are proud of the work they perform. They are always looking for better ways to get work done. However, with fewer people and shrinking budgets, but an increasing workload, it gets harder and harder to keep those high performing employees at the Agency. Next time you hear about a problem or a mistake in the federal government, please keep in mind that for every mistake, federal workers complete millions of tasks correctly, including all the mundane and important tasks that keep our country functioning as a mostly orderly society.

Lately, OPM has focused a lot of attention on what they call the employee engagement elements of the Employee Viewpoint Survey (EVS). The factors used in the EVS employee engagement index are similar (maybe modeled after) to the principles laid out in *First Break All the Rules (FBAR)*.<sup>11</sup> A book that surveyed over 80,000 managers and over 400 companies to understand what great managers do differently.

FBAR's Gallop survey of employees focused on 12 questions to measure employee satisfaction and related it to productivity. The author's following statement rings true to me: "Perhaps the best thing any leader can do to drive the whole company towards greatness is, first, to hold each manager accountable for what his employees say to these twelve questions, and second, to help each manager know what actions to take to deserve "Strongly Agree" responses from his employees."<sup>12</sup>

FBAR specifically focused on 6 items that are the strongest links to the most business outcomes.

1. Do I know what is expected of me at work?
2. Do I have the materials and equipment I need to do my work right?
3. At work, do I have the opportunity to do what I do best every day?
4. In the last seven days, have I received recognition or praise for doing good work?
5. Does my supervisor, or someone at work, seem to care about me as a person?
6. Is there someone at work who encourages my development?

There are clearly resources readily available to senior EPA management to address the mismanagement issues.

## Solutions

How do we fix the problems within the EPA, and are likely present in many other organizations within the federal government? First, I must note that this is not a Democrat or Republican problem. This problem started long before the current administration and will continue into the next, unless we find a way to hold the senior career staff accountable for managing managers.

One place to start would be to order GAO to conduct a study of bullying in the federal sector. I believe that the EPA is not the only government entity with a bullying problem. The federal sector is often criticized for instances of rude or bullying behavior reported by the public. While I believe that these instances are the exception rather than the rule, we cannot discount these reported incidents. When bullying behavior is accepted and tolerated within the management structure of an organization, one might expect that some employee would adopt that "acceptable" behavior in their approach to the public. If we want a more civil federal government, then we need to start treating all of our federal

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<sup>11</sup> *First, Break All the Rules, What the World's Greatest Managers Do Differently*, Marcus Buckingham & Curt Coffman, 1999.

<sup>12</sup> FBAR p. 36.

workers with respect and dignity. Such a study should focus not only on agencies like ours with a bullying culture, but agencies that do not tolerate bullies, so that we all can learn from them.

I am asking you today to assist AFGE in holding EPA management accountable for their behavior. First, we are asking for an independent review and investigation of all information gathered by the Inspector General, and/or internal EPA investigations of allegations of illegal and improper activities by EPA Senior Executive Service officials and all other levels of management. We further request that, as a matter of transparency and full disclosure, the results of this investigation be released to the public. Based upon the findings, the Agency should be required to address areas of impropriety, bullying, and violations of civil service law.

But there is more that can be done immediately, within the EPA and other federal agencies. It is simple, but it is not easy. It starts by having the people at the top, pay attention to the concerns of the people they supervise. Managers need to listen for the rumblings of a workforce. People talk. Workplaces talk. One just has to listen and sift through the grumbles and the difficult people, to hear when a manager is causing a stir in the workforce. Frequent departures of employees from a particular unit is a good sign that there is a problem with a manager. The union can be a great asset within an organization, because we hear the rank and file employee's concerns first hand.

AFGE has listened to employees concerns and communicated these entrenched problems up to senior leaders. The higher one goes up in the chain of command the harder it is to hear the concerns of the workers. At a certain level, one only hears the voices of their inner circles. And sometimes, the inner circle may only be telling them what they think they want to hear. EPA's unions want to truly partner with Agency management to improve the workplace for all employees.

Another way to learn what is happening in an organization is to put a feedback loop in place that allows staff level employees to anonymously voice their opinions on how managers are performing their job of managing employees. The Agency periodically conducts 360 degree management reviews, but frequently allow the manager to select who they want to rate them. Senior management cannot effectively manage other managers if they do not receive input from the staff who work for that manager.

I believe the first step to solving our problems is to address the **senior** management level issues. People at high levels within the organization who have acted in an inappropriate manner for far too long without consequences. All employees, at all levels of the organization, need to see that there are consequences, whether it is because you cannot perform your work or if you bully other people in the office. Until senior leaders are held accountable, the EPA will not be able to lay out a new framework for efficient and effective operations. The Agency likes to issue rules of behavior and conduct and Anti-harassment policies. But when they are only applied against the rank and file workers, it does not send the right message. The double standard of accountability cannot continue at the EPA. Moreover, the time and resources wasted in the dysfunctional work units managed by bully managers, and abuse and impacts to employee's health and well being (including significant medical costs) is a culture that EPA must end. We see each EPA Administrator find and allocate significant time for her/his "priority" policy projects, while neglecting to ensure employees are treated with respect.

EPA needs to recreate its culture of respect for all employees. Holding employees of all rank and status accountable for their behavior, but remembering that we are all human. As such, people work differently and personal problems can impede even the best performer's work at times. The Federal government likes to call itself the "model employer". I believe that EPA can meet and exceed that standard.

A recent article in the *Government Executive* discussed the role of HR in the federal government. The author notes that “industry also has learned –in a supportive, healthy work environment people look forward to their workday and the sense of achievement when their contributions are acknowledged and valued.”<sup>13</sup>

This is even more important during these times of brutal budget cuts, and increased scrutiny of employee behavior. I ask the Members of this Committee to distinguish between the horror stories that you hear about those few problem employees and the vast majority who want nothing more than to be able to do a good job for a decent wage. The employees of the EPA do not make policy. They are regular Americans doing their jobs and caring for their families. When the rhetoric about federal workers as lazy, unproductive or unresponsive to the public is tossed about without consideration to the men and women who labor for the government, it demeans and demoralizes employees. Please do not paint all federal workers with the brush of a few problem employees. Federal employees deserve the respect of this nation, not its scorn. They are what keeps this country working day in and day out.

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<sup>13</sup> *Let's Demolish HR and Start Over*, Howard Risher, [Government Executive](#).

**BIOGRAPHICAL INFORMATION**  
**KAREN S. KELLEN, PRESIDENT AFGE COUNCIL 238**

Karen S. Kellen is President of AFGE Council 238, EPA's largest union, representing approximately 8500 bargaining unit members throughout the U.S. She previously served as the President of AFGE Local 3607 in Denver and as the co-chair for EPA's National Partnership Council. She has been involved with union activities at the EPA since 1997.

Ms. Kellen worked as an attorney in the legal offices of EPA Regions 3 and 8 during the majority of her career. She specializes in Superfund, alternative dispute resolution, brownfields redevelopment and environmental justice.

Ms. Kellen obtained her law degree from Washington University in St. Louis in 1986 and clerked at the Missouri Supreme Court before entering the EPA in their Philadelphia office. Ms. Kellen has been in the Denver office since 1992. She is licensed to practice in Colorado and Illinois.

In 2007, Ms. Kellen was elected to the City Council in Lakewood, CO. She will complete her final term on the Council in November, 2015.

Committee on Oversight and Government Reform  
Witness Disclosure Requirement – “Truth in Testimony”  
Required by House Rule XI, Clause 2(g)(5)

Name:

Karen S. Kellen

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2012. Include the source and amount of each grant or contract.

None

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

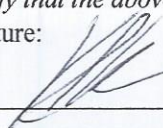
American Federation of Government Employees - Council 238  
President of Council 238

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2012, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

Council 238 has not received any grants or contracts from the federal govt.

I certify that the above information is true and correct.

Signature:



Date:

7/23/15