

EXCISED

Foreign Service Grievance Board

August 14, 1972

Grievant
Heputy C.S. Economic Coordinator
for CSNTO Affairs
American Embassy
.r.kars, Turkey

Re: Record of Proceedings No. 71-23-AID-PS

Dear {Grievant}:

On December 8, 1971, the Foreign Service Grievance Board scept.ec jurisdiction over your complaint against AID's denial of educational allowances for your two children, and ordered a preliminary investigation. This investigation took the forr of correspondence with you; sn examination of your administrative and AID grievance files; ana personal and telephonic interviews with officers of the AID Foreign Service Personnel Division, the Department of State Allowances Staff and the AID General Counsel's office. The Board also consulted the Standardised- Regulations {Government Civilians, Foreign Areas}; House Report Ho. 229 of 1955; PL 84-22 and PL 86-707.

Following a further review of your grievance an3 the material developed during its investigation, the Board determined that a hearing was indicated and so notified you on May 24. The hearing, attended by you and your representative, was sxib-se^ -iiiiily held on July 10 f aa£ you have been provided with a cor- of the verbatim transcript of the proceedings.

During the hearing, you stated that, concerned with the problems of providing for a consistent and stable pattern of education for your children while in the Foreign Service, you had devised a plan which seemed best able to cope with this problem. This plan, you explained, was to enroll your children in German schools because these schools provided a uniform standard of good education world-wide, to an extent unmatched by ths corresponding world-wide network of American schools. You ersb&r&ed on this policy in 1967, while serving in redacted, and enrolled your daughter in a boarding school in Germany. Following your return to the United States in 196S, you enrolled yoar daughter in the German school in Potomac, Maryland, where she remained at your expense until your transfer to redacted in 1970. Upon your arrival in redacted you then enrolled her in the German school where she stayed

until

Sove=Kber 1971 when, due to the- reduction- in the size of that school, she was obliged to transfer back to the boarding school in Germany.

You further explained that, upon arrival in redacted, you applied for an education allowance for your daughter and- son, and that this request was denied by AID and the Department of State's Allowance Division on the basis of Section 212.3 and 276.1 of the Standardised Regulations which limits the payment of allowances for dependents of U. S. Government employees where there is a U. S. Government operated or sponsored school at post, such as in redacted, to "those dependents who attend that school. Then stated that you felt that you were entitled to an exemption under Section 276.1 of the regulations. The reasons you gave for believing you were entitled to an exemption were:

1. A ruling by AID's General Counsel that the exceptions cited in Section 276.1, which did not expressly cover your situation, were illustrative, not limiting;
2. Exceptions to Section 276.1 have been, granted in the past to other persons at redacted, whose situations corresponded to yours;
3. There was, in any event, a need to ensure the continuity of your daughter's education and to avoid disturbing it by forcing her to withdraw from the German school system at this late date and to return to the American. In emphasizing the significance you attached to this need at this particular stage in your daughter's education, you noted that you had withdrawn your request, for the allowance for your son because he is too young to encounter the kinds of difficulties your daughter would, should he, too, be obliged to transfer from a German to the American school system..

On the basis of the testimony presented at the hearing, the question before the Board is whether or not you are being unfairly denied an exemption under Section 276.1 of the regulations. It is the Board's conclusion on the basis of the evidence that you are not.

Specifically, the Board notes that, although the AID General Counsel pointed out that the exceptions cited in Section 276.1 are illustrative of, and not limitations of, the bases upon which exceptions may be granted, and that, therefore, you did not automatically forfeit your right to an allowance; it also pointed out that their observations were relevant only with

respect to methods and bases or. which exceptions may be granted, and that the final authority to grant such exceptions rests with the AID Office of Personnel and Manpower. This Office, in conformity with established AID policy, reflecting the will of the Congress, to maximize the utilization of official or government sponsored schools, made a determination that your case did not warrant an exception.

The Board then considered the examples you have cited of other employees in a redacted in allegedly comparable situation? who had received allowances for their dependents to determine if a precedent had been established which might be applicable to you. In the one case, the Board noted, the dependent in question was an older, adopted child who spoke no English and, so, could not feasibly attend an American high school. This case, the Board held, was not comparable to yours. In the second case, the Board noted that the dependent in question had been attending an American secondary boarding school in Europe while her father was assigned to an African post, and was permitted to

be sent to Europe. Again, the Board held that this case was not comparable to yours. Accordingly, the Board determined that you have presented no valid precedent for your claim, and that it itself has no knowledge of one. The Board concluded, therefore, that there was no known precedent for granting an allowance in a case such as yours.

Finally, the Board examined your argument that it would be traumatic for your daughter to be forced to change from the German to the American school system at this stage in her development, and of the importance to you of her attending a secondary, as opposed to elementary, school. The Board noted that you have requested an allowance for your son who is younger. Although the Board is sympathetic with the desire of employees to obtain the best possible education for their children, both in terms of depth and continuity, and fully recognizes the rights of the employees to educate their children in the manner they deem most appropriate, it believes that the exercise of these rights does not automatically entitle the employee to an exemption from such regulations and policies as may be established with respect to the payment of educational allowances. Thus, the Board notes that it is the policy of the U. S. Government to make the maximum use of its own operated or sponsored overseas schools and that this policy is in direct conflict with that which you have asserted to be best for your child, namely, that she be educated exclusively in the German system. Under these circumstances, it is the Board's view that an employee is free either to accept the regulations

and policies governing the allowance or, as in the case of those private citizens who choose not to take advantage of the free, public education system in the U. S.- to send their children at their own expense to private schools, such as you did in 196E. It is the Board's finding therefore you have made the equivalent choice in redacted- the Board further took note of the reported differences in the educational levels between the U.S. Government school and the German school your daughter is currently attending, and concluded that these merely reflect the differences between the two systems, . and are significant only in light of the fact that you have voluntarily elected"to educate your children under a different system. The Board also considered the special emphasis which you placed on the age of your daughter, in contrast to your son, as being a critical factor "in considering her educational situation and determined that this point is not universally accepted in educational circles and, in any event, is again a direct result of your decision to educate your children in the German system.

Before reaching a final decision- the Board also took into account the April 20, 1971 letter from the principal of the U.S. operated school in redacted which you submitted in support of your contention that it would be harmful to your daughter to transfer to that school. The Board noted, however, that the principal's statements were based on the assumption that there was "very little chance" that your daughter would continue in American schools following the end of your redacted assignment, and that he also stated that his school would be pleased to accept her as a student. In the Board's judgment, this statement does not touch on the central issues in your grievance other than -to underscore the fact that it would have been possible for your daughter to have" attended the U.S. government operated school.

Accordingly, the Board has concluded ■ at it has no basis for overruling the Agencies* application or the regulations in your case, and must reject your grievance.

Sincerely yours.

Alexander E. Porter
Acting Chairman Foreign
Service Grievance Board

Mr. Herman Cohen - Mr. Alan D.
Strachan, PM/WGS, AID