

Foreign Service Grievance Board

December 20, 1972

TO: Assistant Director, Personnel and Training
United States Xnfonaation Agency .

-i

SUBJECT: Record of Proceedings Ho. 71-29-GSIA-D2
Remedial Order in the Case of FSIO-4 Grievant

[Grievant] submitted a formal grievance on December 17, 1971. The Board accepted jurisdiction on January 12, 1972. A preliminary investigation of the grievance was then conducted and, subsequently, a determination was isade to hold a formal hearing.

The hearing began on July 11, 1972. After a recess, proceedings resumed on September 18 and were concluded on September 19. Transcripts of the proceedings were made a part of the record, and copies were furnished to the grievant and to the Agency. Participants in the hearing are listed in the transcripts.

Eight parts of [grievant's] grievance were presented during the hearing. The issues primarily concerned the period of [grievant's] assignment to JUSPAO redacted, November 1969 to May 1S71, her subsequent return to the United States in July 1971 and her assignment to a position with the Agency in Washington, D.C., commencing January 10, 1S72.

I. Part II of Officer Evaluation Report 11/24/69-6/15/70.

In the hearing, the grievant contended that "tfa!is report was improper, unfair and unjustified. There was sufficient evidence brought out during the hearing to support the -grievant's contention.

) Contrary to 3 FAM 528 Uniform State/QSIA Regulations, entitled
["Inadmissible Comments" , the rating officer made & prohibited [comparative statement with [grievant's] predecessor. Also, the rating officer introduced new elements of work performance in ■ Part II, which were not mentioned or discussed in Part I - a violation of 3 PAH 542.2.

For the record. [grievant] presented documentary evidence which attested to the inaccuracy of a portion of the report. Testimony during the hearing indicated the likelihood fcnat 3?arfc II was
[written after Part I and it also advanced some probability that
i the incidents in Part II sight have occurred, in fact, after the
| close of the rating period.

It is the Board's determination that this report and the reviewing officer's statement are ineligible for retention in [grievant's] performance file and must be removed without conditions.

XI. Entire Officer Evaluation Report 11/1/70-5/24/71. Miss Slak claims that the report is improper 'and'unfair, and that it contains untrue and misleading statements. She also contends that her problems concerning the report arose because of the situation that was created by the former rating officer.

After reviewing the testimony and documents in the case, the Board is convinced that the rating officer was to some degree influenced by the effects of the months-long unresolved difficulties between [grievant] and her former rating officer*. There are indications that the atmosphere of this past problem situation, which evidence showed to have been prejudicial to [grievant], prevailed into the rating period supervised by this rating officer, and was a substantial factor in his evaluation of [grievant].

The rating officer's objectivity in the preparation of both Parts I and II of the report is questionable. A paragraph of [grievant's] evaluation report mentioned and gave details of a redacted Post scandal-type newspaper article about [grievant], despite the fact that other Americans at JUEPAO and the Embassy in redacted expressed disgust at the appearance of the article and labeled it "slanderous", "scurrilous", "unfair", and "written by an irresponsible journalist"¹. The Agency removed the paragraph from [grievant's] evaluation report during the informal review of her grievance.

The rating officer made several references to a "quite ad relationship" between [grievant] and her former supervisor. These references are misleading and distorted in a way that must be viewed as falsely prejudicial since all earlier reports about the situation – most notable, a reviewing officer's statement which described the difficulties between [grievant] and her supervisor and somewhat exonerated Miss Slak – are absent from her performance file. These reports were removed by the Agency during the informal review of the grievance.

The rating officer's critical consents about [grievant's] relations with foreigners were based, by his own admission in the report, on hearsay rather than on personal observation.

The Board also noted the rating officer's failure to comply with the responsibilities of rating officers as outlined in 3 F&M 517.2(a)(1), (2), (3) and (5), and non-compliance with instructions for preparation of Part C of the evaluation report.

On the basis of all the foregoing, the Board's decision is that Parts I and II of the report must be removed from the file.

III* Reviewing Officer's Statements on Parts I and XI of 11/1/70-5/24/71 Officer Evaluation Report. Miss SlaX contends that these reports violate 3 F&M 517.2 (b) (5) which outlines a reviewing officer's responsibility to report his evaluation of the employee based on his own observation.

The reviewing officer concurred in general with the rating officer's report, and in his review, he made severely critical comments about [grievant's] performance, her personality and ability to get along with Americans and redacted. Several times during his testimony at the hearing, the reviewing officer referred to his very limited observation of [grievant's] performance and her relations with others. He testified that the only time he had an opportunity to observe [grievant's] relations with foreigners had been on social occasions, and in these instances, she had gotten along very well with redacted. As for work, he testified that there was no possibility for him to observe [grievant] at work, except just automatically assumed what the rating officer said was true and concurred with the rating officer's report.

These reports also contain unexplained inconsistencies with reviewing statements prepared on [grievant] by the reviewing officer, just seven months earlier.

The Board rules that the reviewing officer's statements on Parts I and II of the 11/1/70-5/24/71 evaluation report must be removed from [grievant] performance file.

IV. June 8, 1971 Memorandum from [grievant's] Rating Officer to His Superior: "Transmittal of Evaluation Report of 11/1/70-5/24/71. The grievant contends that the memorandum is distorted and misleading in that it fails to relate circumstances surrounding the evaluation report's preparation and sets [grievant] reasons for not signing the report.

Whatever the merits of her contentions are, the Board concludes that the memorandum must be removed from [grievant's] file along with the 11/1/70-5/24/71 evaluation report. The memorandum cannot be divorced from the evaluation report, and when an evaluation report is removed from file, there is no justification for the covering memorandum to remain in the performance file.

\ v> October 1970 Investigation Report. [grievant] claims
f that the charges in the letters of complaint against her are
f false and that the investigation regarding these letters, which
\ was carried out by local employees of the Regional Security Office, w
I it was being conducted, she was never confronted with any charges
T and so had no opportunity to refute the charges, and it is not a
i security matter within the meaning of 3 FAM 160.

\ Although the Agency labeled the investigation report a "security
t matter", the Board fails to see that it falls within the scope
f of either 8 MOA 212.2 or 3 PAH 160. The report is a matter of
i suitability rather than security.
r

Testimony during the hearing indicated that the investigation was requested to determine the source of the letters of complaint. The investigation report revealed that the investigation was in reality an inquiry into the validity of the complaints in the letters. The fact that the investigation report was kept in a file in redacted form that neither the investigation nor the report was ever reported or forwarded to the USIA Office of Security as required by MOA 510 and 8 MOA 313.2, bears out that this was not a security matter.

The investigation report doesn't appear to have had any direct effect on [grievant's] evaluation report since it was not seen by either [grievant's] rating officer or the reviewing officer. However, consideration must be given to the investigation's potential damage to [grievant's] working relations with local employees (for which she was criticized in her evaluation report), since the employees were and questioned by local employees of the Security Office about [grievant's] conduct without her knowledge.

The Board's decision is that the investigation report and all copies are to be removed from OSIA and Department of State files.

Low-Ranking *y the 1971 USIA Class A Selection Board. [grievant contends that, as "a' result of falsely prejudicial material in her performance file, she was denied an opportunity for a fair ranking by the 1971 Selection Board. She was placed in the low 10% of her class.

The Grievance Board is convinced that the Part II evaluation report 11/24/69-6/15/70 and the entire evaluation report 11/1/70-5/24/71, which have been shown earlier in this memorandum to contain violations of regulations, inaccuracies and misleading and falsely prejudicial statements, were the major considerations in the Selection Board's decision to low-rank [grievant]. The Selection Board quoted from the two questionable reports in its statement for low-ranking [grievant. The reports were the only new evaluation reports added to [grievant's] performance file since her promotion in 1969.

The Board concludes that [grievant's] low-ranking by the 1971 Selection Board must be expunged.

VII. Mismanagement of [grievant's] Career. The grievant charges that her career has been mismanaged: (a) she was without an assignment of any kind from September 23, 1971 to January 10, 1972 with the exception of seminars, and (b) since January 10, 1972 she had been assigned in a position well below her personal grade and capabilities and, as a result, she will be disadvantaged in competition with other officers of her class before the next Selection Board.

Mismanagement of [grievant's] career was not substantiated during the hearing. The Board feels that it was not unusual for [grievant] to have been assigned to a position below her grade. However, the Board wishes to express its concern about [grievant's] subsequent assignment to the position of Assistant Editor of the Agency's Magazine Digest. There is question whether this assignment is an appropriate one for an officer of [grievant's] rank and capabilities.

The position description in [grievant's] evaluation report lists the skills required for the job. These skills appear to be clerical in nature: typing skill; solid working knowledge of English; ability to scan all types of material and make accurate summaries of selected items,. The position description also states that [grievant] has no supervisory responsibilities. The Board notes that there was no Assistant Editor prior to [grievant]

assignment to the position and apparently no one will replace [grievant] when she leaves the job. This is borne out in the reviewing officer's statement on [grievant's] most recent ; evaluation report; "In the past, since the Magazine Digest ' -:r @as first started, it had a succession of editors who did this whole job without assistance"... ."If [grievant]were to be promoted to the editorship, I think the rating of FSR-3 should go with the job. Whether a full-time assistant in that case would be required, I do not know, I would, hope not."

The Board feels that this position provides no opportunity for [grievant]to demonstrate positive performance and, as a result of bei in the Assistant Editor position, [grievant] will not be competitive with other officers in her class when Selection Boards review these officers' performances.

The Board trusts that the Agency will give [grievant] an assignment which will allow future Selection Boards reasonable basis for a fair assessment of her capabilities.

VIII. Excessive Delay in Handling the Grievance Has Prejudiced [grievant] Career Development. [grievant]contends that the Agency was uncooperative and was guilty of unnecessary delay An the handling of her grievance, and that the Board itself has unnecessarily delayed the handling of her case.

The Board is well aware of the various dates on which [grievant]made submission of her grievance, during the finaS^ informal review and in the formal grievance procedure. There was no evidence brought out during the hearing to establish that the Agency was either uncooperative or had unnecessarily delayed the handling of [grievant's] grievance. Delays in the handling of the case in both informal and formal levels can be attributed partly to the grievant.

CONCLUSIONS:

On the basis of all the foregoing which was concluded from the evidence presented at the hearing and from the record, the Board orders:

1. That the Agency remove from [grievant's] performance file the Part II officer evaluation report 11/24/69-6/15/70 and the reviewing officer's statement thareon.

I
file Parts I and II of 11/1/70-5/24/71 officer **evaluation**
report and the reviewing officer's statements **on Parts I and**
II. . . . - , -

v
%
*

3. That the Agency remove from [grievant's] performance file the stezsorandum dated June 8, 1971.

4. That the Agency remove from all Agency files the investigation-report dated October 30, 1970, its covering memorandum dated February 7, 1972, and any copies. The Agency is to request the State Department to rrsrove similar copies from its files. All material is to be turned tjver to the Grievance Board for retention.

%
>
|i
:
■

5. That the Agency expunge [grievant's] low-ranking by the 1971 USIA Class 4 Selection Board.

6. That the Agency place the attached memorandum in [grievant's] performance file.

The Board urges that [grievant's] performance file not be considered by the current Selection Board since the Board believes that [grievant] would be disadvantaged in competition with other officers of her class. Also, the Board hopes that [grievant] will be given an assignment which will give future Selection Boards reasonable basis for a fair assessment of her capabilities - ^

Certification of compliance with the Board's remedial orders and recommendations should be submitted to the Board within the next 30 days.

William E. Siskin \ \ 'v. Chairman
' X; Foreign Service Grievance
Boars

f.
l
t

CC: Grievant
Bruce J. Terria, Esquire