

Foreign Service Grievance Board --- &\ S
 Kove^ber 13, 1973 - ^

TO: Director of Personnel
 Department of State

SUBJECT: Findings and Remedial Order of the Board
 Record of Proceedings 73-I41-
 STATE-86: Grievant, FSG-3

Grievance:

The grievance of grievant was, at his request, forwarded '■ to the Board by Director General redacted on August 23, 1973, after the Department had completed its administrative review. While the Department acted favorably on some portions of his complaint:, it did not satisfy him completely. The grievance concerns three passages . in efficiency reports from redacted which refer to the grievant's wife " in a manner that he regards as unfair and prejudicial. He wishes to have their, deleted from his performance record.

Investigation:

The investigation carried out by the Board included an examination of the grievant's efficiency record as well as a review of pertinent regulations, precepts to Selection Boards, policy statements of the Department, and guidelines for preparation of efficiency ■ *.; reports. grievant was in the Department on consultation in Septem-% bar and was able to clarify a number of points regarding; ance.

The cc- trovarsial passages:

The t' ^e passages complained about occur in two different efficiency i .ports, both prepared in 1970:

1. The first passage is from Part I of the report dated 2/20/70, prepared by redacted, the Counselor for Political Affairs:

Within the overall American couaEUnity the grievants are not as popular as some other Eiabassy officers whose intensity of views on the local situation is considerably lower. Mrs. grievant, in particular, tends to classify her husband's colleagues as "good guys" or "bad guys" according to their attitude toward the regime.

2. The second passage is frcn Part II of the same report, and occurs in the Reviewing Officer's Statement, prepared by redacted:

He does suffer, however, from a secondary handicap, which should be mentioned {although not exaggerated), in the form of his wife's somewhat difficult personality. While a girl of undeniable social and intellectual talent, Mrs. grievant tends to free-wheel politically (and has gotten the Embassy into hot water a couple of times by so doing), is overly prestige-conscious, and occasionally seriously lacking in tact. As such her attitude and actions are not always as helpful to her husband's career as they should be. It is hoped that increased experience (and particularly a well-merited promotion for her husband) will serve to mitigate these traits.

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3. The third passage grieved about occurs in Part. XI of the report dated 6/30/70, in the Reviewing Officer's statement, prepared by the Ambassador, redacted:

In addition, I have noted from a preceding report, as well as observed myself, Mrs. grievant's predictions for politics. It is possible that she has handicapped her husband on occasion by her excursions into the sensitive redacted political world. But I think we should be compassionate since the life of a Foreign Servicewife is difficult even in the best of posts, because the very nature of our work prevents a woman from letting down roots in a community for sufficient periods to provide that sense of stability and security so important to a woman and mother. Moreover, our wives give enormous amounts of their time to their husband's work in the service of the United States without the satisfaction of a separate career and without remuneration. There is no culture in existence which one way or another does not recognize the special nature and requirements of its women. Thus, I would certainly promote grievant if he competes successfully with officers in his class, and give him and her the opportunity of a post with more managerial and representational responsibility, making clear at the same time to both their obligations to give their best to our priority objectives.

Issuance of Policy Statement on Wives, In January 1972, the Department issued a new policy statement regarding wives of Foreign Service employees (which also applied to male spouses as well as other dependents). The purpose was to eliminate abuses which occurred in some cases in the past when wives were expected to carry out certain duties, particularly in the area of entertaining and other representational activities, as though they themselves were employees. In those days an employee's efficiency report often included what amounted to an evaluation of his wife's performance of such duties.

The policy statement covered six specific points, the first of which reads:

The wife of a Foreign Service employee who has accompanied her husband to a foreign post is a private individual; she is not a Government employee. The Foreign Service, therefore, has no right to levy any duties upon her. It can only require that she comport herself in a manner which will not reflect discredit on the United States.

Following the issuance of this policy statement, regulations were promulgated to ensure that the policy was carried out. Section (3) of 3 FAM 528, Inadmissible Comments, currently reads, in part, as follows:

An employee's marital status, or any comment thereon, shall not be included in any part of an employee's performance evaluation. Rating and reviewing officers should not discuss the rated employee's spouse or family.

In addition, precepts to Selection Boards since the 1972 Policy Statement, under the section on Inadmissible Factors, advise the Boards as follows:

In view of the fact that no mention may now be made in performance reports of an officer's spouse or family, Boards will ignore all such references, including comment on a spouse's representational or social activities.

Findings

It is clear that if any member of an employee's family behaves in a manner that is detrimental to the best interests of the United States, appropriate measures may have to be taken to safeguard those interests. The policy statement of January 1972,

while protecting the rights of spouses as individuals who are not employees of the Government, recognizes that the wife of a Foreign Service employee must comport herself in a manner which will not reflect discredit on the United States, so such extreme situation is at issue in this case. The passages complained of reflect the fact that the events in redacted evoked strong feelings among the officials in the country at the time, and that Mrs. grievant expressed her opinions in a way that caused discomfort to some of her husband's colleagues.

passages were of course written before the new policy became effective. Although they would not be permissible under current regulations, it is the position of the Board that it has no basis to remove them, since, in its view, they were not contrary to instructions which existed at the time they were written; they are internally consistent and represent a legitimate expression of opinion based on an adequate opportunity for observation.

The fact that they are internally consistent and represent a legitimate expression of opinion is extraneous, in the Board's view, to a consideration of whether the passages should be removed. The passages were, in fact, in conformance with existing regulations concerning preparation of efficiency reports and on that ground should be removed. Section 521c of 5 E&M states; "It is imperative that reports be prepared carefully, and, whether they be laudatory or critical, contain concrete examples of the traits supporting the overall evaluation." This regulation not adhered to in the cited passages, which make negative assessments of the grievant's wife yet do not give examples.

The Board wishes to make it clear that it will not automatically eliminate passages in efficiency reports which predate the above-cited policy statement merely because the regulations do not now prohibit such discussions, if the passages were otherwise in compliance with existing regulations. In considering all the circumstances of this case, however, the Board has noted that in addition to being contrary to 5 E&M 521e, the passages are inadmissible in their very nature by present standards, and, according to current precepts, are to be ignored by Selection Boards.

Order

Under its authority set out in 5 FAM 667.2a(1) the Board hereby orders that the three above-cited passages be deleted from the reports in which they occur.

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It is requested that certiffieafcioo of compliance with order *he* forwarded to -the Board witfaia t&irty days.

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Parvica Grievance Board

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