

BEFORE THE FOREIGN SERVICE GRIEVANCE BOARD

In the Matter Between


Grievant

Record of Proceeding
FSGB No. 2007-050

And

Date: February 28, 2008

Department of State

**ORDER: MOTION TO COMPEL
EXCISED**

For the Foreign Service Grievance Board:

Presiding Member:

Arthur A. Horowitz

Board Members:

Garber Davidson
Theodore Horoschak

Special Assistant:

Joseph Pastic

Representative for the Grievant:

Holly E. Rich, Esq.
American Foreign Service Association

Representative for the Department:

Joanne M. Lishman
Director
Grievance Staff

Employee Exclusive Representative:

American Foreign Service Association

ORDER: MOTION TO COMPEL

I. THE ISSUE

██████████ (grievant), a Foreign Service Diplomatic Security Special Agent, contests his entry-level salary. He claims that based on his education and work experience, his initial salary rate should have been set at FP-6, step 6 (or higher), instead of FP-6, step 4. In particular, he alleges that the salary level did not adequately account for his service in the U.S. military. After filing an agency-level grievance, which was denied by the Department of State (the Department, agency) on November 30, 2007, ██████████ appealed to this Board. On January 8, 2008, grievant filed a Motion to Compel (MTC) the Department to respond to four interrogatories from grievant's First Discovery Request. The issue before this Board is whether to grant the grievant's Motion to Compel in whole or in part.

II. BACKGROUND

After ██████████ filed his grievance appeal, he followed up with a request for discovery on December 14, to which the Department responded on December 21, 2007. Grievant did not believe that the agency fully answered his discovery request, and thereafter filed the MTC on January 8, 2008. The Department responded to the Motion to Compel on January 15, and grievant replied to the Department's response on January 16.

III. DISCUSSION

Grievant requests that the Board compel the Department to respond to four interrogatories, which are focused on the issue of his specialized experience and whether or not the Department has given him appropriate credit for his military service. Standard

Operating Procedure Notice No. 98 of the Bureau of Human Resources, Office of Recruitment, Examination and Employment, and the Vacancy Announcement (SA-05-01) for the position of Foreign Service Diplomatic Security Special Agent dated May 2, 2005, provide that certain “specialized experience,” including service in the U.S. military, will be given one additional salary step for each full year of specialized experience. The work experience must be “progressive” and “closely related” to the functions of a Special Agent.

Grievant’s requests for discovery are based on the Department’s calculation that his military service accounts for only 20% credit in determining the entry-level salary. The four interrogatories are targeted at obtaining additional information as to how the Department provided credit for his work experience. We note that Interrogatories 3 and 5 pertain to grievant’s work as a part-time student police officer, and Interrogatories 4 and 6 are directed at grievant’s work experience in the Army.

The Board grants grievant’s Motion to Compel in part, and denies it in part, as follows:

Interrogatories 3 and 5: The information sought in both of these interrogatories covers grievant’s work experience as a part-time student police officer. The Department found that this specialized experience was closely related to the position of Special Agent, and accordingly granted 100% credit (pro-rated to reflect its part-time nature) in determining grievant’s salary level. Accordingly, we do not find that the information requested would lead to additional, relevant evidence and we deny the MTC for Interrogatories 3 and 5.

Interrogatories 4 and 6: In both Interrogatories 4 and 6, grievant requests information concerning the Department's calculations with respect to his military service. We find that such information may be material and relevant to the issues raised in the grievance appeal, and therefore grant the MTC for Interrogatories 4 and 6. We note that the Department has provided such information in previous appeals involving initial salary disputes.

III. ORDER

The Motion to Compel is granted with respect to Interrogatories 4 and 6, and denied with respect to Interrogatories 3 and 5. The Department has 20 days from the date of receipt of this Order to respond to grievant's requests.

For the Foreign Service Grievance Board:



Arthur A. Horowitz
Presiding Member



Garber Davidson
Garber Davidson
Member



Theodore Horoschak
Member