

BEFORE THE FOREIGN SERVICE GRIEVANCE BOARD

In the Matter Between


Grievant

Record of Proceedings
FSGB Case No. 2015-015

And

August 18, 2016

Department of State

**ORDER: Show Cause and
Continuation of Interim Relief**

EXCISED

For the Foreign Service Grievance Board:

Presiding Member:

Arthur A. Horowitz

Board Members:

Barbara C. Cummings

Nancy M. Serpa

Special Assistant

Andrew D. Large

Representative for the Grievant:

Pro se

Representative for the Department:

Akia F. Roane
Attorney Adviser, HR/G

Employee Exclusive Representative:

American Foreign Service Association

ORDER: SHOW CAUSE AND CONTINUATION OF INTERIM RELIEF

I. BACKGROUND

On February 4, 2015, grievant filed an agency-level grievance with the Department contesting its findings in a disciplinary proceeding in which it imposed a seven-day suspension without pay. The Department upheld the charges and penalty in a decision dated April 24, 2015. Grievant filed an appeal with this Board on May 8, 2015. In its May 17, 2015, letter acknowledging receipt of [REDACTED] grievance appeal, the Board granted Interim Relief, without objection from the Department, until May 16, 2016, or the issuance of a decision on the appeal, whichever came first.

On May 9, 2016, the Board issued an Interim Decision in this appeal sustaining all but one charge and one specification of another charge and remanding the case to the Department for reconsideration of its penalty. On July 15, 2016, the Department filed a Report Regarding Penalty, to which grievant responded on August 12, 2016. In his reply, grievant noted that the Department had included the seven-day suspension letter in his OPF in 2015, and that he had been low ranked by the 2015 Selection Board and recommended for separation by the 2015 Performance Standards Board. Both boards referred to the letter of suspension and the charges included therein as being among their reasons for low ranking and separation of grievant.

II. DISCUSSION

The Board requests that the Department show cause why the suspension letter was included in grievant's OPF and reviewed by the 2015 Selection and Performance Standards Boards during the period he was on Interim Relief from discipline while his grievance appeal was pending with this Board. If the Department acknowledges that this was an error, the Board requests that it advise the Board what corrective action it intends to take.

Additionally, 22 U.S.C. § 4136 (8) authorizes the Board to extend interim relief “if it determined that the delay is due to the complexity of the case . . . or to circumstances beyond the control of the agency, the Board, or the grievant.” The Board finds that the complexity of this case, and the disagreement among the parties with respect to the Department’s Report on Penalty, support a decision to extend interim relief as specified below.

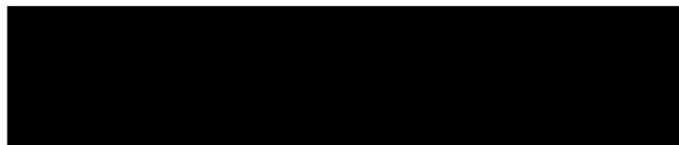
III. ORDER

1. The Department is ordered to show cause why the suspension letter at issue was included in grievant’s OPF and reviewed by the 2015 Selection and Performance Standards Boards and, if relevant, to indicate what corrective action it believes appropriate.

The Department’s response is due within 10 days of receipt of this order. Grievant may reply to the Department’s submission within 10 days after receipt of the Department’s reply.

2. Interim Relief is extended, retroactive to its expiration on May 16, 2016, to December 16, 2016, or until a final decision is issued, whichever comes first.

For the Foreign Service Grievance Board:



Arthur A. Horowitz
Presiding Member



Barbara C. Cummings
Member



Nancy M. Serpa
Member