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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-198171

DATE: July 2, 1980

MATTER OF: Otis F. Savage - Claim for Education Expenses]

DIGEST: Employee of Department of Army stationed in Korea who entered into a private arrangement with a private school for education of his daughter may not be reimbursed for the costs he incurred prior to DOD's contractual arrangement with the school. Authority for DOD providing for the schooling of dependents of employees stationed overseas, provisions in annual DOD appropriation acts, expressly provides that appropriations therefor are for expenditure in accordance with 10 U.S.C. 7204. That provision contemplates that needed arrangements for schooling are to be made by the Department concerned and that a parent has no authority to obligate the Government by a private agreement.

This action is in response to an appeal by Mr. Otis F. Savage, an employee of the Department of the Army, of the disallowance by the Claims Division of his claim for reimbursement for the expenses he incurred for the education of his daughter during the period February 14, 1977, to November 29, 1977. These expenses were incurred while his daughter resided with him at his overseas post of duty in the Republic of Korea (Korea). Upon review, we sustain the disallowance of his claim.

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The record shows that on February 10, 1977, Mr. Savage's wife and daughter arrived at his overseas duty station in Korea pursuant to travel orders issued on January 10, 1977.

On February 14, 1977, Mr. Savage enrolled his daughter in the second grade at the Korea Christian Academy (Academy) which was apparently the only English speaking school in the area where he was stationed. He incurred total expenses in the amount

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of \$1,312.50 for the fees and tuitions for his daughter's education at the Academy for the period February 14, 1977, to June 15, 1977, and from August 29, 1977, through November 29, 1977.

On September 29, 1977, Mr. Savage wrote to the Supervising Principal, Korea, Department of Defense (DOD) Schools, to request financial assistance in providing his daughter's education. He advised the supervising principal that the nearest American dependent school was approximately 100 miles from his post of duty and that the only English speaking school available was the Academy. On October 26, 1977, the Executive Assistant, DOD Dependent Schools-Pacific, District I Office, advised the Supervising Principal, Korea, that Mr. Savage's request was approved. Accordingly, the Department of Defense contracted with the Academy to pay his dependent daughter's tuition in return for the educational services to be provided. The contract covered the period from November 30, 1977, through the end of the school year, approximately June 15, 1978.

Mr. Savage claims reimbursement in the amount of \$1,312.50 for the registration fee and tuition charges he paid for his daughter's schooling at the Academy for the period prior to the effective date of the DOD's contractual agreement with the Academy.

By Certificate of Settlement dated November 6, 1979, the Claims Division disallowed the claim on the basis that there is no authority for a parent to obligate the Government to pay tuition through a personal agreement or arrangement with a private school.

We note that 5 U.S.C. 5924 provides, in pertinent part, that cost-of-living allowances may be granted to an employee in a foreign area including an education allowance not to exceed the cost of obtaining such kindergarten, elementary and secondary educational

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services as are ordinarily provided without charge by public schools in the United States. However, Department of Defense Instruction No. 1418.1 para. III F provides that such education allowance which is governed by Section 270 of the Department of State Standardized Regulations (Government Civilians, Foreign Areas) will not be paid within the Department of Defense. See also para. III F of Appendix B to Chapter 592 of the Department of the Army's Civilian Personnel Regulations. Accordingly, as an employee of DOD, Mr. Savage would not be entitled to the payment of an education allowance under 5 U.S.C. 5924.

The authority for providing the schooling for dependents of military and civilian personnel of the Department of Defense is contained in the annual appropriation acts for the Department of Defense. Section 707 of the Department of Defense Appropriation Act, 1977, Pub. L. 94-419, 90 Stat. 1291, 1279 (1976), provided in pertinent part as follows:

"Appropriations for the Department of Defense for the current fiscal year shall be available * * * for primary and secondary schooling for minor dependents of military and civilian personnel of the Department of Defense residing on military or naval installations or stationed in foreign countries, as authorized for the Navy by section 7204 of title 10, United States Code, in an amount not exceeding \$248,000,000, when the Secretary of the Department concerned finds that schools, if any, available in the locality, are unable to provide adequately for the education of such dependents."

For the 1978 fiscal year, a similar provision for the schooling of dependents of DOD personnel was set forth at section 807 of the DOD Appropriation Act, 1978, Pub. L. 95-111, 91 Stat. 899-900, 886 (1977).

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Section 13 of the act of August 2, 1946, Pub. L. 604, 60 Stat. 854 which, as amended, is now set forth at 10 U.S.C. 7204 provides in pertinent part that the Secretary of the Navy may contribute out of funds specifically appropriated for the purpose, to the support of schools in any locality where a naval activity is located if he finds the schools available in the locality are inadequate for the welfare of dependents of civilian officers and employees of the Navy.

Department of Defense Instruction (DODI) No. 1342.4, November 14, 1957, provides in pertinent part that tuition may be paid for the education of dependents of Department of Defense personnel at schools which charge tuition or fees in foreign areas when daily commuting distance to a Service-operated school is unreasonable or traffic hazards or other conditions would involve undue hardships for the children concerned if they were required to attend a Service-operated school.

As set forth above, the appropriations available for the education of dependents of DOD personnel stationed in foreign countries are for expenditure under the procedures required by 10 U.S.C. 7204. Our Office has held that section 13 of the Act of August 2, 1946, which, as amended, is now set forth at 10 U.S.C. 7204 contemplates that the arrangements for any additional school facilities needed for dependents of Navy personnel stationed overseas are to be made by the Department after an appropriate administrative determination has been made of the need thereof. 33 Comp. Gen. 399 (1954). Under appropriation act language similar arrangements are to be made for personnel of the other Military Departments. That decision holds that a parent has no authority by private agreement with a school to obligate the Government to pay his child's tuition notwithstanding subsequent administrative approval of the private transaction.

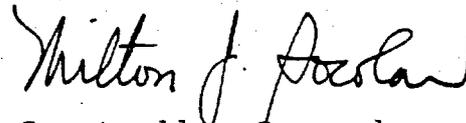
In this regard Army Regulation (AR) 37-107, section 9-27b provides, in part, as follows:

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"No payments will be made to service members in localities without adequate schools who * * * personally incur tuition charges for their dependents in private schools."

Thus, there is no authority for the Government to reimburse Mr. Savage for the cost of the schooling his daughter received as the result of his personal arrangement with the Academy in view of the law's requirement that such arrangements be made by the appropriate agency officials.

Accordingly, the disallowance of his claim by our Claims Division is sustained.



Acting Comptroller General
of the United States