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DECISION



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

FILE: B-186275

DATE: November 2, 1976

MATTER OF: Harold C. Voorhees - Educational allowance
for employee serving in foreign area

DIGEST: State Department employee who was transferred from The Hague to Hong Kong after his daughter had finished 3 years of high school and who elected to incur additional expenses of permitting her to complete high school at The Hague may not be paid educational allowances at rates designated for The Hague, his old post, since Standardized Regulations which provide only for payment at rates designated for the new post cannot be waived.

This action is in response to a letter dated April 2, 1976 from James Stromayer, Director of the Allowances Staff of the Department of State, requesting an advance decision concerning the claim of Mr. Harold C. Voorhees, an employee of the State Department, for educational allowances for his dependent daughter in excess of the allowance specified for his current post.

Mr. Voorhees' daughter had completed 3 years of high school at his old post at The Hague when he was transferred to his current post in Hong Kong. She had not yet commenced her senior year at that time. Although Mr. Voorhees agrees that adequate schooling was available in Hong Kong, he elected to incur the additional expense of permitting his daughter to complete high school at The Hague so that she would not be separated from her school and friends during her senior year.

The Standardized Regulations (Government Civilians, Foreign Areas), 920, p.25, 42, promulgated pursuant to 5 U.S.C. 5924 (Supp. V, 1975), authorize an educational allowance, and as then applicable, provided an education allowance of \$2,300 for the education of a high school student stationed in Hong Kong and \$3,300 for a high school student stationed at The Hague. Mr. Voorhees received the \$2,300 allowance for a high school education in Hong Kong, but seeks reimbursement for the additional expense of his daughter's senior year at The Hague.

Those regulations further provide as follows:

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"276.4 Employee Transfers to a New Foreign or Non-Foreign Post But the Child Remains in Same School

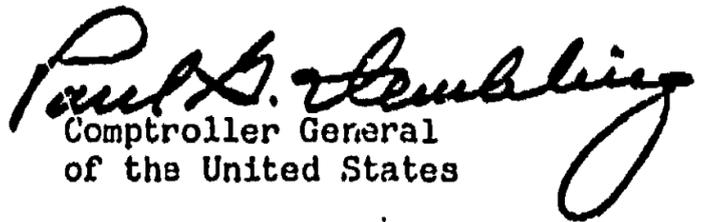
276.44 Transfers to a New Foreign Post

An employee, assigned to a post in a foreign area, who receives official notice of transfer to a new foreign post while his child is attending school has a choice of allowances upon transferring if his/her child remains in the same school. Following transfer to the new foreign post, the employee may elect to receive and be granted the rate of education allowance of his/her last previous post instead of at the rate of his/her new post. If the election is made, the rate of the last previous post may continue only until the child finishes the grade being attended. After the child finishes this grade, whether successfully passed or not, the rate of education allowance at the new post is payable for costs of any further education received * * *."
(Emphasis added.)

In the circumstances set forth above, section 276.44 precludes reimbursement other than at the rate of education allowance at the new post for any further education received. Nor are we aware of any other provision of law or regulation which would authorize payment to be made to Mr. Voorhees of the additional sum claimed. Moreover, it is a well established rule that substantive statutory regulations, such as the Standardized Regulations, have the force and effect of law and cannot be waived. See 53 Comp. Gen. 364 (1973).

Accordingly, payment of educational allowances to Mr. Voorhees at the rate designated for his old post, The Hague, is not authorized.

For the


Comptroller General
of the United States