



FILE: B-201528

DATE: May 11, 1981

MATTER OF: Student Volunteers - Traveling and  
Living Expenses

- DIGEST:
1. In the absence of specific statutory authority, Federal agencies are prohibited from accepting voluntary service from individuals except in certain emergencies. Whenever an agency is authorized by statute to accept voluntary personal services as an exception to that prohibition, the specific terms of the particular statutory authorization govern the conditions of the arrangement, including the scope of services which may be performed by the volunteers and the matter of whether the agency may pay for the volunteers' transportation, meals, and lodgings. 31 U.S.C. 665(b).
  2. Section 301(a) of the Civil Service Reform Act of 1978, 5 U.S.C. 3111, authorizes a limited exception to the prohibition against the acceptance of voluntary service by Federal agencies, by allowing agencies to establish certain education programs for high school and college student volunteers. Sponsoring agencies may not pay for the student volunteers' traveling or living expenses, since the statute and its legislative history make no provision for payment of those expenses, and the statute specifically excludes the volunteers from being considered Federal employees for most purposes including travel and transportation entitlements.

This action is in response to a letter dated December 9, 1980, from the Deputy Director of the Office of Personnel Management (OPM), requesting a decision on the question of--

"(W)hether the head of an agency who accepts voluntary services of students as authorized by section 3111(b) of title 5, United States Code, may provide travel and subsistence

expenses, quarters, or any other reimbursements or payments in kind to such volunteers."

We have concluded that expenditures of the type in question may not be made.

In requesting a decision in this matter, the Deputy Director notes that the Civil Service Reform Act of 1978 added section 3111 to title 5 of the United States Code relative to the services of student volunteers. Under 5 U.S.C. 3111(b) the head of an agency may, subject to regulations issued by OPM, accept the voluntary, uncompensated services of students in educational programs established by the agency. The Deputy Director suggests that many volunteers, while able to work without pay or employee benefits, will be financially unable to undertake any assignment at personal expense involving service at a location away from their normal place of residence. Consequently, he suggests that the flexibility and scope of the student volunteer programs will be greatly enhanced if the students' traveling and living expenses when they are away from their normal places of residence are paid by the Government. He therefore asks whether OPM may issue regulations under 5 U.S.C. 3111(b) which would permit the students to be reimbursed for their out-of-pocket traveling and living expenses--or to be provided with transportation, meals, and quarters in kind--by the Government while they are participating in the volunteer programs.

Other OPM officials in subsequent informal communications have noted that the Department of Agriculture and the Veterans Administration have volunteer service programs in which uncompensated volunteers are furnished with some transportation, meals, and quarters at agency expense. Those officials have also noted that 5 U.S.C. 5703 authorizes persons serving the Government without pay to be granted travel allowances under invitational orders. They therefore ask whether the features of those other volunteer programs or the provisions of 5 U.S.C. 5703 may be extended to the student volunteers to serve as a basis for the issuance of regulations by OPM which would permit the students to have travel allowances or be furnished with transportation, meals, and quarters in kind by the Government.

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Section 665(b) of title 31, United States Code, (section 3679, Revised Statutes), provides that:

"No officer or employee of the United States shall accept voluntary service for the United States or employ personal service in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property."

This prohibits Federal agencies from accepting voluntary services from individuals in the absence of specific statutory authority, except in the emergencies mentioned. See B-159715, December 18, 1978.

Section 301(a) of the Civil Service Reform Act of 1978, Pub. L. No. 95-454, October 13, 1978, 92 Stat. 1144, added section 3111 to title 5 of the United States Code to specifically give Federal agencies authority to accept the voluntary services of students for the purpose of enhancing their educational experiences. Previously, agencies had generally been prohibited by 31 U.S.C. 665(b) from accepting student volunteers who were interested in gaining such experiences. See B-159715, supra; and B-139261, June 26, 1959.

Although 5 U.S.C. 3111 now authorizes Federal agencies to accept the voluntary service of students, specific limitations are imposed on the scope and conditions of that service. For example, they are to serve without compensation in programs established by an agency specifically designed to provide them with educational experiences. 5 U.S.C. 3111(b). Also, they are not to be considered Federal employees for any purpose other than 5 U.S.C. 8101-8193 (compensation for work injury) and 28 U.S.C. 2671-2680 (tort claims). 5 U.S.C. 3111(c).

The terms of 5 U.S.C. 3111 make no provision for payment of the student volunteers' traveling or living expenses. Moreover, the legislative history of the statute reflects the congressional intent that expenditures thereunder be limited to payment of the students'

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injury compensation and of tort claims resulting from their activities. See sec. VIII, Sen. Rep. No. 95-969, July 10, 1978. Thus, it is our view that 5 U.S.C. 3111<sup>x</sup> in and of itself provides no authority for payment of the expenses here in question.

A number of other specific statutory enactments authorize certain Federal agencies to accept the services of volunteers as an exception to the prohibition set forth in 31 U.S.C. 665(b).<sup>x</sup> The Department of Agriculture under the express statutory authority of 16 U.S.C. 558a<sup>x</sup> and 558b<sup>x</sup> may accept the services of uncompensated volunteers in furtherance of the National Forest Program, and the agency is given express statutory authority to provide for the forest service volunteers' "incidental expenses, such as transportation, uniforms, lodging, and subsistence." Also, 38 U.S.C. 213<sup>x</sup> expressly authorizes the Veterans Administration to accept such voluntary services as may be deemed necessary in carrying out its responsibilities, and we have previously expressed the view that under this statutory authorization meals may be furnished without charge to volunteer workers as may be necessary in certain circumstances at veterans' hospitals and clinics. See 43 Comp. Gen. 305<sup>x</sup> (1963). In these and other situations when Federal agencies are authorized to accept voluntary services, the specific terms of the particular statutory authorization govern the conditions of the arrangement, including the scope of services which may be performed by the volunteers and the matter of whether the agency may pay for their transportation, lodgings, meals, uniforms, etc. Compare B-173933,<sup>x</sup> December 21, 1971. Hence, in our view particular provisions of law which may variously allow payment in some measure of the transportation or living expenses of volunteer workers in forestry projects or veterans' hospitals have no application to students<sup>x</sup> enrolled in educational programs under 5 U.S.C. 3111<sup>x</sup>.

As to the possible application of 5 U.S.C. 5703,<sup>x</sup> that statute provides Federal agencies generally with authority to pay the travel expenses of a person serving the Government without pay. Application of the statute is limited to persons who may properly be regarded as experts, consultants, witnesses, attendants, or other advisors and aides, when they are called away from their homes at the

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request of an agency to perform a direct service for the Government. See 55 Comp. Gen. 750, 752 (1976) and B-195644, August 22, 1980, 59 Comp. Gen. 675. High school and college students permitted to participate in educational programs under 5 U.S.C. 3111 are not necessarily performing a direct service for the Government, and, as mentioned, the congressional intent was not to authorize the students to travel at Government expense but rather to limit the expense of the educational programs to payment of the students' injury compensation and of tort claims arising from their activities. Hence, it is our view that provisions of 5 U.S.C. 5703 have no application to students participating in educational programs under 5 U.S.C. 3111.

In conclusion, it is evident that in enacting 5 U.S.C. 3111 the Congress intended only to permit a limited exception to the prohibition against the acceptance of voluntary service by Federal agencies, in order to allow agencies to establish education programs in cooperation with school authorities for the benefit of high school and college students. No provision was made in 5 U.S.C. 3111 for the students' traveling and living expenses to be borne by the Government, and it does not appear that any such provision was intended. Furthermore, the proposed expenditures are not allowable under any other provision of law.

Accordingly, regulations may not be issued under 5 U.S.C. 3111(b), which would permit Federal agencies to pay travel allowances to the student volunteers, or to provide them with transportation, meals, and quarters in kind.

*Milton J. Fowler*  
 Acting Comptroller General  
 of the United States

1. VOLUNTARY SERVICES  
Prohibition against acceptance

TRAVEL EXPENSES

Volunteer services

2. VOLUNTARY SERVICES  
Prohibition against accepting  
Statutory exceptions  
Civil Service Reform Act of 1978  
Student volunteers

VOLUNTARY SERVICES

Meals, etc.

Appropriation availability

VOLUNTARY SERVICES

Reimbursement entitlement

Rule