

tuition because the student is a degree candidate. The agency report states that arrangements were made with the university for these employees to take the courses as special students or degree candidates at their option, and that both employees chose to take the courses as degree candidates.

The agency paid for the courses at the special student rate, and the employees paid the difference (Giese - \$126; McKeever - \$294) which they now claim for the following reasons. Ms. Giese argues that the agency's action constituted a change in policy imposed upon them at midsemester which should have been delayed until the following semester when other financial assistance could have been arranged or career plans could have been altered. In addition, Ms. Giese argues that as a graduate student the coursework is more intensive, there is more emphasis on the student to perform well, and thus the Government has more to gain from an employee taking a course as a graduate student rather than as a special student. Mr. McKeever argues that as a special student he would not be able to participate in the same class work and research that would be available to a graduate student, and thus he would not obtain the specified level of training desired.

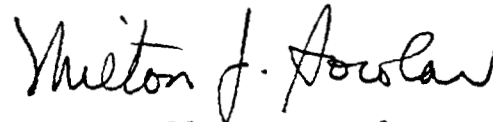
The agency report states that there was no mid-semester change in policy but that the agency became aware that the employees were taking courses for graduate credit. The report continues that, although special students are excluded from certain courses or certain types of research, this was not the case here, and if the student needed a certain course or type of research, the agency would pay for the course at the graduate student rate.

The authority for training Government employees in Government or non-Government facilities is contained in Chapter 41 of title 5, United States Code and 5 C.F.R. Part 410 (1982). See also Federal Personnel Manual (FPM) Chapter 410. It is within the discretion of the head of the agency to pay all or

part of the necessary expenses of training, including tuition. See 5 U.S.C. § 4109 and 5 C.F.R. Part 410, Subpart F.

The decision of the Forest Service to pay at the special student rate (where available) reflects the prohibition on paying training expenses where the purpose is to permit the employee to obtain a degree. See 5 U.S.C. § 4107(c). See also FPM Chapter 410, S5-3(d)(2), prohibiting the payment of a higher rate of tuition for degree candidates where a lower rate of tuition is available.

Under the circumstances, we are unable to find that the agency has been arbitrary or capricious in limiting tuition reimbursement to the special student rate. Although the employees argue, in essence, that it was necessary to pay the higher rate of tuition, the report from the agency refutes that contention. Therefore, in view of the broad discretion granted to an agency to pay training expenses and in view of the specific language of the FPM, we find no basis to allow these claims for additional tuition costs.



Acting Comptroller General
of the United States

DECISION

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

1211
Volp

FILE: B-203423**DATE:** October 19, 1982**MATTER OF:** Giese and McKeever - Claim for
Additional Tuition Costs for
Government Approved Training**DIGEST:**

Two Forest Service employees were enrolled in graduate school courses pursuant to training agreements, but agency limited tuition reimbursement to special student rate rather than graduate student rate. Claims for difference in tuition costs are denied since agency has broad discretion to pay all or part of expenses of training and since applicable regulations dictate that the agency pay the lower rate.

The issue in this decision is the entitlement of two employees to be reimbursed for tuition at the graduate student rate instead of the lower special student rate for courses approved for training. We hold that, where the students could have taken the courses at the special student rate, the claims for additional tuition costs are denied in view of the agency's discretion to pay all or part of the costs of training and in view of the specific prohibition in the applicable regulations on paying the higher tuition rates under these circumstances.

This decision is in response to a request from Mr. John G. Bachhuber, an authorized certifying officer of the Forest Service, United States Department of Agriculture, for an advance decision on the claims of Pamela J. Giese and David B. McKeever, Forest Service employees, for additional tuition costs.

Both employees were authorized to take courses at the University of Wisconsin, Madison, at Government expense. After the agency issued purchase orders to the university, the agency learned that the courses were ordered at the graduate credit rate (\$81.50 per credit) instead of the special student rate (\$39.50 per credit). The agency refused to pay the higher rate in view of the prohibition in the Federal Personnel Manual against paying additional

023727

tuition because the student is a degree candidate. The agency report states that arrangements were made with the university for these employees to take the courses as special students or degree candidates at their option, and that both employees chose to take the courses as degree candidates.

The agency paid for the courses at the special student rate, and the employees paid the difference (Giese - \$126; McKeever - \$294) which they now claim for the following reasons. Ms. Giese argues that the agency's action constituted a change in policy imposed upon them at midsemester which should have been delayed until the following semester when other financial assistance could have been arranged or career plans could have been altered. In addition, Ms. Giese argues that as a graduate student the coursework is more intensive, there is more emphasis on the student to perform well, and thus the Government has more to gain from an employee taking a course as a graduate student rather than as a special student. Mr. McKeever argues that as a special student he would not be able to participate in the same class work and research that would be available to a graduate student, and thus he would not obtain the specified level of training desired.

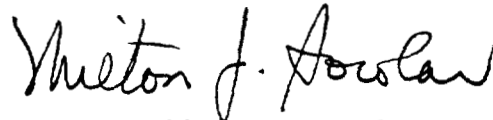
The agency report states that there was no mid-semester change in policy but that the agency became aware that the employees were taking courses for graduate credit. The report continues that, although special students are excluded from certain courses or certain types of research, this was not the case here, and if the student needed a certain course or type of research, the agency would pay for the course at the graduate student rate.

The authority for training Government employees in Government or non-Government facilities is contained in Chapter 41 of title 5, United States Code and 5 C.F.R. Part 410 (1982). See also Federal Personnel Manual (FPM) Chapter 410. It is within the discretion of the head of the agency to pay all or

part of the necessary expenses of training, including tuition. See 5 U.S.C. § 4109 and 5 C.F.R. Part 410, Subpart F.

The decision of the Forest Service to pay at the special student rate (where available) reflects the prohibition on paying training expenses where the purpose is to permit the employee to obtain a degree. See 5 U.S.C. § 4107(c). See also FPM Chapter 410, S5-3(d)(2), prohibiting the payment of a higher rate of tuition for degree candidates where a lower rate of tuition is available.

Under the circumstances, we are unable to find that the agency has been arbitrary or capricious in limiting tuition reimbursement to the special student rate. Although the employees argue, in essence, that it was necessary to pay the higher rate of tuition, the report from the agency refutes that contention. Therefore, in view of the broad discretion granted to an agency to pay training expenses and in view of the specific language of the FPM, we find no basis to allow these claims for additional tuition costs.



Acting Comptroller General
of the United States