



COMPTROLLER GENERAL OF THE UNITED STATES,
WASHINGTON, D.C. 20546

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Dear Mr. Papitons:

Further reference is made to a letter of January 19, 1972, from Mr. Curtis W. Tarr, former Director of Selective Service, requesting our decision as to whether he might lawfully delegate authority to approve for payment such training course expenditures as are appropriate in the administration of the training program established by the Selective Service System pursuant to the Government Employees Training Act, approved July 7, 1958, Pub. L. 85-507, 72 Stat. 327, reenacted and codified at 5, U.S.C. 4101-4118.

The act provides for the establishment of employee training programs by the heads of Federal agencies, and authorizes payment of the expenses of such training. In the course of and incident to the establishment of a training program for employees of the Selective Service System, Mr. Tarr desired to delegate to certain officers the approval for payment of such training course expenditures as are appropriate to achieve the objectives of the program. This delegation of authority would be accomplished by means of a proposed directive to provide in substance as follows:

* * * Payment of Training Expenses

"Within the authorization for establishing a training program and the fiscal limitations for payment of expenses for such training program as determined by the Director, the Manpower Administrator is hereby designated to approve for payment such training course expenditures as are appropriate to achieve the objectives of the training program.

"The Training Manager is designated as Alternate to act in the above capacity. * * *"

We have been informally advised that the intent of the proposed directive is to confer authority both to approve training course expenditures on an individual basis, and to establish criteria for general application with respect to the payment of training costs. The submission was stated to be based upon the following considerations:

"It appears that neither the language of the Act itself nor that of the implementing Civil Service Commission regulation carries any provision for the

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delegation of authority as is contemplated by the proposed order. In this connection, there is also for consideration the following Comptroller General decisions: A-32849, December 20, 1930, 10 Comp. Gen. 273; B-11241, July 16, 1940, 20 Comp. Gen. 27; B-15898, May 21, 1941, 20 Comp. Gen. 797; B-156058, February 26, 1965, 44 Comp. Gen. 518. The thrust of these decisions appears to be that the authority established in the head of an agency by a statute may not be delegated in the absence of an express provision for such delegation."

Under 5 U.S.C. 4103, "the head of each agency" is required to "establish, operate, and maintain a program or programs, and a plan or plans thereunder, for the training of employees in or under the agency * * *." This section further states that each training program and plan shall, inter alia--

"* * * provide for adequate administrative control by appropriate authority * * *."

With reference to training expenses, 5 U.S.C. 4109(a) specifies those payments which may be made by "the head of an agency, under the regulations prescribed by the Civil Service Commission under section 4118(a)(8) of this title * * *." In addition, 5 U.S.C. 4105(c) provides:

"In order to protect the Government concerning payment and reimbursement of training expenses, each agency shall prescribe such regulations as it considers necessary to implement the regulations prescribed under section 4118(a)(8) of this title."

The above-quoted statutory provisions clearly assign to agency heads responsibility for the basic establishment of employee training programs, and for general oversight with respect to such programs. On the other hand, we believe that these provisions by their specific terms sanction delegations of authority by agency heads in connection with the development and conduct of agency training programs. Thus 5 U.S.C. 4103 provides for adequate administrative control "by appropriate authority." Moreover, 5 U.S.C. 4105(c) specifically requires that "each agency" prescribe regulations with respect to payment and reimbursement of training expenses.

The implementing regulations promulgated by the Civil Service Commission pursuant to 5 U.S.C. 4118(a)(8) are consistent with this construction of the statute. See 5 CFR 410.101, 410.902. Thus, for example, 5 CFR 410.301(a) provides:

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"The head of an agency shall determine the policies which are to govern the training of employees of the agency. These policies shall be set forth in writing and include a statement of the broad purposes for which training will be given and of the assignment of responsibilities for seeing that these purposes are achieved."

Compare 5 CFR 410.302(b)(1) and (2) which implicitly recognize delegations of authority.

In our letter to Mr. Tarr of March 8, 1972, we informed him that we had requested the views of the Civil Service Commission with respect to this matter. In response to our request, Mr. Anthony L. Mondello, General Counsel of the Civil Service Commission stated in a letter of April 25, 1972, which sets forth the position of the Civil Service Commission as follows:

"I am enclosing a copy of a footnote which appeared in the Federal Personnel Manual until it was inadvertently deleted during a revision. This footnote nevertheless still accurately reflects the view of the Civil Service Commission on this matter and we intend to reinsert it in the FPM at our next opportunity. It states that unless otherwise provided, references to the responsibilities and authorities of department 'heads' do not restrict the authority of a department head to delegate to subordinate officials the powers vested in him. In the light of this I am of the view that there would be no objection to the proposed delegation."

The full text of the footnote referred to by Mr. Mondello appeared in chapter T-1-5 of the Federal Personnel Manual (TS 629, dated March 25, 1959) as follows:

"The Government Employees Training Act, Executive Order 10800, the Commission's regulations, and other material in this Chapter make numerous references to the responsibilities and authorities of department 'heads.' Unless otherwise provided, these references do not restrict the authority of a department head to delegate to subordinate officials the powers vested in him. (See 5 U.S.C. 22a. [now 5 U.S.C. 302].)"

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For the reasons stated, it is our conclusion that the proposed delegation of authority may lawfully be undertaken.

Sincerely yours,

Acting
Paul G. Demblin
Comptroller General
of the United States

The Honorable Byron V. Pepitone
Acting Director, Selective
Service System