

DOCUMENT RESUME

02890 - [A1932985]

[Expenses of Training at Non-Government Facilities]. B-187215.
July 7, 1977. 3 pp.

Decision re: Kiyoshi Kaneshiro; by Robert F. Keller, Deputy
Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation
(305).

Contact: Office of the General Counsel: Civilian Personnel.
Budget Function: General Government: Central Personnel
Management (805).

Organization Concerned: Small Business Administration.

Authority: Government Employees Training Act, sec. 11(a) (5
U.S.C. 4108(a)). 40 Comp. Gen. 12. 5 C.F.R. 410.502(c).

William I. Cooper, Authorized Certifying Officer of the
Small Business Administration, requested an advance decision
with regard to an invoice from the American Graduate University
for the cost of training a Federal employee. The employee, whose
training request was lost prior to final administrative
approval, was not subject to regulations requiring the employee
to sign a service agreement prior to entering upon training
since the training program did not exceed 80 hours. The claim
could be allowed if approved pursuant to agency regulations.
(Author/SC)

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DECISION

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

FILE: B-187215

DATE: July 7, 1977

MATTER OF: Kiyoshi Kaneshiro--Expenses of training
at non-Government facilities

DIGEST Finding in 40 Comp. Gen. 12 (1960) that training in non-Government facilities must be authorized in advance is dependent upon requirement in Government Employees Training Act that employee sign service agreement prior to entering upon training. Here, employee claiming training expenses, whose training request was lost prior to final administrative approval, is not subject to provisions of 40 Comp. Gen. 12, since 5 C.F.R. 410.508(c) eliminates requirement to sign service agreement for any training program that does not exceed 80 hours. Hence, claim may be allowed if approved pursuant to agency regulations and if sufficient funds exist to cover cost.

This action is in response to a request dated August 16, 1976, from William I. Cooper, authorized certifying officer of the Small Business Administration (SBA) for a decision whether an invoice from the American Graduate University for the cost of training provided to Mr. Kiyoshi Kaneshiro during the period January 26-28, 1976 may be paid.

Upon entering on duty with the Office of Business Development (SBA), Mr. Kaneshiro, a Program Surveillance Analyst, was encouraged to attend a course in "Government Contract Law", at the American Graduate University, Covina, California. In the submission, Mr. Cooper relates the circumstance surrounding Mr. Kaneshiro's attendance at the American Graduate University as follows:

"In accordance with existing regulations, the necessary documents were prepared, Mr. Perez signed as recommending official, and the package was submitted to Mr. William R. Stephens, Deputy Director, Office of Business Development, for Management approval. Due to administrative oversight, the forms were not processed through channels to obtain the necessary clearances as to availability of funds and for review and dispatch by our Training Division. Our administrative

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regulations provide the authority to approve training requests where the cost does not exceed \$500, at the Office Director level. As of this date, the forms cannot be located; however, personnel with appropriate delegated authority to recommend and approve the training agree that such action was taken by them, although the requirements for submission for funds approval and Training Division review were not completed."

Mr. Cooper cites our decision in 40 Comp. Gen. 12 (1960) for the proposition that payment for training cannot be made unless prior approval has been obtained and the written service agreement for training has been signed by the employee selected for such training. He states that:

"We have difficulty in applying the rules set forth for determination of whether or not prior approval existed. Under the regulations in existence (and currently) at the time of approval, the Office Director had the authority to approve the training; however, such authority was subject to availability of funds and subject to procedural correctness of action taken, and documented, as determined by the Training Division's review. Accordingly, we are requesting clarification, under the circumstances described, whether or not we can consider the requirements of prior approval and employee's agreement met in the absence of documents to that effect. May we consider the administrative procedures of fund approval and Training Division review as not prior condition to approval in the absence of any condition which would have caused disallowance had the documents been submitted 'timely?'"

Section 11(a) of the Government Employees Training Act, 5 U.S.C. 4108(a), provides that each employee selected for training in a non-Government facility "shall agree in writing with the Government before assignment to training* * *" that he will stay with his agency for a period equal to three times the training period.

This Office held in 40 Comp. Gen. 12 (1960), that the quoted provision of section 11(a) of the Government Employees Training Act necessarily implies an advance authorization for such training by an appropriate administrative official prior to commencement thereof.

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In that decision, however, we expressly recognized that the holding would not be applicable if the regulations of the Civil Service Commission expressly dispensed with the requirement for the execution of a service agreement by the employee.

The training regulations promulgated by the Civil Service Commission under the authority of the Act provide under certain conditions that the execution of a continued service agreement is not required. One of the exceptions contained in 5 C.F.R. 410.508(c) provides that:


"(c) The head of the agency may except from the requirement in section 4108(a) of title 5, United States Code, for entering into a written agreement:

* * * * *

"(2) An employee selected for training by, in, or through a non-Government facility that does not exceed 80 hours within a single program."

From the above-quoted language it would appear that the requirement that training be authorized in advance was dependent upon the fact that the employee was required to execute a written service agreement before entering upon training. In this case Mr. Kaneshiro was excepted from the requirement to sign a service agreement by 5 C.F.R. 410.508(c), since the program of training was through a non-Government facility and did not exceed 80 hours. Thus, the holding in 40 Comp. Gen. 12, supra, is not applicable to the facts of this case.

Accordingly, our Office would have no objection to payment of the cost of Mr. Kaneshiro's training if approved by the SBA pursuant to their regulations and if sufficient funds exist to cover such costs.


Deputy Comptroller General
of the United States