



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

B-188161

FEB 7 1977

Subject Cord

Annapolis, Maryland 21403

Dear :

We refer to your letter dated December 7, 1976, requesting that we modify our decision in 30 Comp. Gen. 521 (1951) so as to allow the granting of administrative leave to you by the National Security Agency (NSA) in the circumstances described below.

You report that you participated in a blood platelet donation program under the auspices of the National Institutes of Health (NIH) which required you to be absent from work approximately 2 1/2 hours per week over a period of several months. The program is allegedly structured in such a way that NIH is required to pay you \$25 per donation.

You report that although your agency initially granted you administrative leave for the purpose of participating in this program, it withdrew the grant of administrative leave after it learned of the compensation paid by NIH to you. NSA appeared to have based its withdrawal on 30 Comp. Gen. 521 (1951).

Our authority to render formal decisions is limited by statute to matters presented by heads of departments and agencies, disbursing and certifying officers, or by claimants who have filed monetary claims with our Office. See 31 U.S.C. §§ 74 and 82d. As you do not solicit an opinion in one of these capacities, this Office will not provide you with a binding decision in this matter at this time. However, the following information may be helpful.

The essence of the decision you have cited is the recognition by our Office "that the employing agencies are vested with a discretionary authority to determine the basis upon which an employee is officially excusable, either before or after his

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absence, without charge to his annual or sick leave." The facts of that case were that the Veterans Administration had an internal regulation which allowed excused absences without charge against leave for the purpose of donating blood without compensation. Since the VA employee there involved sold his blood, he clearly did not qualify for an excused absence under the VA's own regulations. Our decision merely supported the VA's discretion to so regulate. However, that decision does not stand for the proposition that an employee who receives any compensation incidental to the donating of blood may not be granted an excused absence.

The Civil Service Commission has not issued formal regulations on the subject of granting excused absence to employees without charge to leave (commonly called administrative leave), but this subject is discussed in FPM Supplement 990-2, Book 630, subchapter S11. In the absence of a governing statute, this Office has held that, under the general guidance of the decisions of this Office, the agency to which the employee is assigned is responsible for determining the situations in which an employee may be excused from duty without charge to annual leave. 53 Comp. Gen. 582, 584 (1974); 35 Comp. Gen. 510, 512 (1975).

We are providing a copy of this letter to Mr. Robert Burns of your personnel office.

Sincerely yours,

/s/

Herbert I. Dunn
Attorney-Adviser
Civilian Personnel Law