

# 2022-UNAT-1221, Secretary-General

## UNAT Held or UNDT Pronouncements

UNAT first explained that under the new reimbursement regime, an expense would be recoverable if: (i) it's for tuition; (ii) it is paid directly to the school; and (iii) it is certified by the school as being necessary for attendance. UNAT rejected the staff member's claim that because another UN entity would apply a rule more favorably to his case, that entity's interpretation should trump over the one given by the organization where he actually works. Second, UNAT disagreed with the Administration's approach that if an item in a category of fees was inadmissible, then the Administration should eliminate that whole category of expenses from reimbursement. Regarding the Secretary-General's appeal on the reimbursement of Technology Fees, UNAT found no error in the UNDT assessment that Technology Fees are part of tuition. Technology Fees are part of the fees that are not only attributable to the general running of a school and but personal computers for students have also become an essential element of tuition. In this sense, personal computers and software are like the library books at a school. They are provided on loan to students but are returnable to the school when the temporary use is complete. As such, they should be considered "tuition." UNAT thus dismissed the Secretary-General's appeal. Regarding the staff member's appeal on the inadmissibility of Extra-Curricular Fees, UNAT noted in this particular case, certain activities such as physical education may be required by the school or the local government, and as such, they become a part of the curriculum. If an activity is required in the curriculum, it should be reimbursable, regardless of its label as "extra-curricular". As for Supplies Fees, UNAT concluded that some "Supplies" for which fees are charged are clearly tuition consumables and are reimbursable. They are for items that have no residual value to either the school or the student after their use, such as paper, workbooks, art materials (to the extent that art is a part of the curriculum and not an extra-curricular activity), and stationery. However, agendas, textbooks and yearbooks are not tuition materials. They remain the property of students and are not consumables. As such, they are not reimbursable. UNAT thus dismissed the Secretary-General's appeal on the reimbursement of Technology Fees. It granted the staff member's appeal in part and dismissed it in part, regarding the reimbursement of Supplies Fees and Extra-Curricular Fees.

## Decision Contested or Judgment/Order Appealed

A staff member challenged the decision of the Administration to reimburse only a portion of educational expenses that were payable under Administrative Instruction ST/AI/2018/1/Rev.1 (Education grant and related benefits). Certain fees, namely Technology Fees, Supplies Fees and Extra-Curricular Fees were not reimbursed by the Administration. The UNDT rejected the staff member's contention that all the above fees should be considered "tuition" because some schools charge one global fee and do not itemize them into categories. The UNDT also rejected the staff member's claim that the Administration (in this case UNON) should harmonize its reimbursement practices in accordance with what other UN entities are doing. The tribunal found the Administration was correct not to cover the Supplies Fees and Extra-Curricular Fees. However, regarding the Technology Fees, the UNDT found the Administration had mistakenly assumed that it covered the costs of laptops when in fact computers are only temporarily loaned to students and returned back to the school. As such, the UNDT determined that Technology Fees should be considered admissible tuition expenses. Both parties appealed.

## Legal Principle(s)

Technology Fees, even if they include the provision of laptops to students for temporary use during the school year, are admissible tuition fees under the current reimbursement regime. See General Assembly resolution 70/244, Staff Regulation 3.2, Staff Rule 3.9 and Administrative Instruction ST/AI/2018/1/Rev.1. Extra-

Curricular Fees are admissible tuition fees if the activity is required in the curriculum, as determined by the school or local government. For example, physical education. Supplies Fees are admissible tuition fees if they are for consumables that have no residual value, such as paper, workbooks, art materials and stationery. However, agendas, textbooks and yearbooks, which remain the property of students are not tuition materials and are not reimbursable.

Outcome

Appeal dismissed on merits; Cross-appeal granted in part

Outcome Extra Text

The Secretary-General's appeal is dismissed. The staff member's cross-appeal is granted in part and dismissed in part. The UNDT Judgment is both upheld in part and reversed in part.

Full judgment

[Full judgment](#)

Applicants/Appellants

Secretary-General

Entity

UNEP

Case Number(s)

2021-1525

Tribunal

UNAT

Registry

New York

Date of Judgement

18 Mar 2022

President Judge

Judge Colgan

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Education grant

TEST -Rename- Benefits and entitlements-45

Applicable Law

Staff Regulations

- Regulation 3.2

Staff Rules

- Rule 3.9

Administrative Instructions