

2023-UNAT-1320, Andrey Chernov

UNAT Held or UNDT Pronouncements

UNAT held that since the Appellant's son has a disability, he was entitled to receive benefits only under the special education grant scheme ST/AI/2018/2 (Special education grant and related benefit for children with a disability) and not under the regular education grant scheme ST/AI/2018/1/Rev.1 (Education grant and related benefits). UNAT concluded that since the Appellant's son was not boarding during the academic year of 2019-2020 and continued to reside at the parental home, the Appellant was not eligible for any boarding allowance under ST/AI/2018/2.

Even if ST/AI/2018/1/Rev.1 was applicable to the Appellant's situation, UNAT held that his appeal would fail. Indeed, UNAT found that even if the wording of ST/AI/2018/1/Rev.1 is not entirely plain or clear, an interpretation allowing the USD 5,000 lump sum to be paid without the staff member's dependent child boarding would be against General Assembly resolution 70/244 as well as Staff Regulation 3.2 and Appendix B of the Staff Regulations and Rules which require that children be boarding to attend school outside the staff member's duty station.

Regarding Judgment No. UNDT/2022/033, UNAT held that the issues were identical to those dealt with in Judgment No. UNDT/2022/028 and that, therefore, the Appellant's second application was not receivable under the doctrine of *res judicata*.

Decision Contested or Judgment/Order Appealed

The Appellant, a staff member of the United Nations Secretariat, contested the decisions of the Administration to recover the lump sum of USD 5,000 paid to him for boarding assistance for his dependent child. In its Judgment No. UNDT/2022/028, the UNDT concluded that the Appellant was not eligible for a boarding allowance since his dependent child was not boarding to attend school. In its Judgment No. UNDT/2022/033, the UNDT concluded that the Appellant's application was challenging the same decision as in Judgment No. UNDT/2022/028 and, therefore,

rejected his application as not receivable under the doctrine of *res judicata*.

Legal Principle(s)

Both ST/AI/2018/1/Rev.1 and ST/AI/2018/2 expressly require boarding to qualify to a lump sum for boarding assistance.

Even if the wording of ST/AI/2018/1/Rev.1 does not expressly require boarding, higher norms (General Assembly resolution 70/244, Staff Regulation 3.2 and Appendix B of the Staff Regulations and Rules) require that ST/AI/2018/1/Rev.1 be interpreted to require boarding.

Boarding is the arrangement by which students live at their school, going home during the holidays. It refers to a school that provides meals and lodging for students.

A staff member cannot bring the same case twice before the UNDT.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Andrey Chernov

Entity

UN Secretariat

Case Number(s)

2022-1692

2022-1693

Tribunal

UNAT

Registry

New York

Date of Judgement

11 Apr 2023

President Judge

Judge Knierim

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Education grant

Education grant

Benefits and entitlements

Applicable Law

Administrative Instructions

- ST/AI/2018/1/Rev.1

GA Resolutions

- A/RES/70/244

Staff Regulations

- Regulation 3.2

Staff Rules

- Rule 3.9

Former Staff Rules

Related Judgments and Orders

UNDT/2022/028

UNDT/2022/033

2012-UNAT-225

2018-UNAT-892

2020-UNAT-980