

UNDT/2024/029, Wynn

UNAT Held or UNDT Pronouncements

The Tribunal concluded that the promulgation of ST/AI/2018/Rev.1/Amend.1, which restrictively redefined enrolment-related fees, did not conform to General Assembly resolution 70/244. As such, its promulgation was an abuse of the Administration's discretion and its application in reviewing the Applicant's education grant for her son was unlawful.

Accordingly, the Tribunal held that the Applicant was correct in that the fees that she claimed were admissible as tuition, in addition to being enrolment-related. Thus, the decision to deny reimbursement for those fees was unlawful.

The Tribunal thus rescinded the decisions to: a) Recover USD1,364.52 from the Applicant's 2021-2022 EG advance and b) Exclude mandatory fees from the Applicant's EG advance calculation for the 2022-2023 academic year.

Consequently, the Tribunal ordered the Respondent to a) Reimburse USD1,364.52 to the Applicant with interest at the United States of America prime rate with effect from 1 December 2022 until the date of issuance of the Judgment, b) Recalculate the Applicant's EG claims for the 2021-2022 and 2022-2023 academic years to include in them the excluded fees, and to settle these EG claims accordingly, and c) Reimburse the Applicant for additional taxes that she incurred as a result of having to withdraw funds from her retirement account to pay for the expenses that the Respondent improperly excluded from her EG calculation.

The Tribunal also decided that the difference between the EG amount that the Applicant received and the EG amount that she should have received would bear interest at the United States of America prime rate with effect from 1 December 2022 until the date of issuance of the Judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decisions to a) exclude mandatory fees from her education grant (“EG”) advance for the 2022-2023 academic year, and b) recover USD1,364.52 that had been previously advanced for her son’s 2021-2022 academic year.

Legal Principle(s)

According to the settled jurisprudence of the Tribunal, the Secretary-General may promulgate and amend administrative instructions, but that discretion is not unfettered. The exercise of discretion must not be unfair, unreasonable, illegal, irrational, procedurally irregular, biased, capricious, arbitrary, unproportional, absurd or perverse.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Wynn

Entity

UN Secretariat

Case Number(s)

UNDT/NBI/2023/037

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

7 May 2024

Duty Judge

Judge Wallace

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Education grant

Benefits and entitlements

Applicable Law

Administrative Instructions

- ST/AI/2018/1

Regulations

Staff Rules

- Rule 3.9

Related Judgments and Orders

2022-UNAT-1221

2010-UNAT-084

2021-UNAT-1124

2022-UNAT-1279