



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

30943

E-174783

May 21, 1973

Mr. A. Irwin Rubenstein
Consulate of the United States
Cali, Colombia

Dear Mr. Rubenstein:

Your letter of January 4, 1973, protests the fact that Foreign Service Officers of the United States stationed overseas must pay out of their pockets to send their children to kindergarten, which you contend is a service or facility offered free to residents of the United States. You present alleged statistics purporting to show that kindergarten is provided free to a majority of the children in the United States of appropriate age, and request that the "rules of the game" be changed and that you be compensated for the costs which you have paid from your own funds to send your child to kindergarten in Colombia.

The educational allowance which you desire to have extended to include the costs of sending your child to kindergarten is authorized by 5 U.S.C. 5924(4)(A), which provides as follows:

The following cost-of-living allowances may be granted, when applicable, to an employee in a foreign area:

(4) An education allowance or payment of travel costs to assist an employee with the extraordinary and necessary expenses, not otherwise compensated for, incurred because of his service in a foreign area or foreign areas in providing adequate education for his dependents, as follows:

(A) An allowance not to exceed the cost of obtaining such elementary and secondary educational services as are ordinarily provided without charge by the public schools in the United States ***.

As you are aware, consideration previously has been given to extending the educational allowance in question to cover the costs of kindergarten. By letter of July 26, 1966, the Department of State requested our concurrence

[Claim for ... cost of sending child to Kindergarten]
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in the issuance of appropriate amendments to the Standardized Regulations (Government Civilians, Foreign Areas) which would provide for the payment of such educational allowance on behalf of children attending kindergarten, and presented in support of such action arguments similar to those now presented by you. In response to this request, our decision of August 16, 1966, B-125514, 46 Comp. Gen. 141, withheld concurrence with the request on the basis that the legislative history of the authorizing act clearly showed that the Congress intended to authorize an allowance only for schooling in grades 1 through 12. A copy of that decision is enclosed for your information.

While it is quite possible that your statistics are correct and that kindergarten is now provided without charge by the public schools to a majority of the children in the United States, and it is also quite possible that the Congress, if it enacted such legislation at this time, would include the kindergarten therein, our Office does not have the authority to change by decision the intent of the Congress as it was clearly expressed at the time the legislation actually was enacted.

Hence, we have no authority to change the "rules of the game" as requested in your letter, and your claim for compensation for the costs of sending your child to kindergarten in Colombia must be denied.

Sincerely,

PAUL G. DEMING
For the Comptroller General
of the United States