

DECISION

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

FILE: B-208064**DATE:** January 25, 1983**MATTER OF:** Lissa A. Martinez - Refund of Training Expenses - Breach of Service Agreement**DIGEST:**

Employee of the Maritime Administration signed the required service agreement and received training at Government expense. She resigned prior to the time stipulated in the agreement and repaid the Government for her training expenses as required by 5 U.S.C. § 4108. The agency may not refund the money already collected from her when it subsequently rehired her since the debt was extinguished, the Government was made whole, and no right of recovery remains.

This decision is in response to a request from Phillip M. Hudson, Jr., Chief of the Division of Accounting Operations and an authorized certifying officer of the Maritime Administration, concerning the propriety of refunding money paid to the agency by an employee as a result of a breach of a training service agreement.

The issue we are presented is whether an employee who breaches a service agreement by failure to stay the requisite period of time with the agency can be reimbursed for training expenses where collection has been effected and the employee is later rehired by the agency.

We hold that the agency may not refund the amounts collected upon reemployment of the individual since the debt was extinguished, and no right of recovery remains.

As an employee of the Maritime Administration, Ms. Lissa A. Martinez was trained at Government expense at the Massachusetts Institute of Technology. She signed the required service agreement. See 5 U.S.C. § 4108 (1976). The agreement obligated her to continue in the employment of the Maritime Administration, Department of Commerce, for 36 months. The obligation was to begin at the end of the training period.

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Prior to the completion of her obligation, Ms. Martinez resigned from the Maritime Administration effective August 1, 1981. In compliance with the agreement and the law (5 U.S.C. § 4108(a)(2)) she reimbursed the Maritime Administration \$2,423.77 for the expenses of her training.

In April 1982, after an 8 month interval, the Maritime Administration reemployed Ms. Martinez. She has signed a new agreement with the understanding that she will finish her original obligation, and the amount she paid when she resigned was refunded to her. The Maritime Administration has established an accounts receivable for the amount of the funds returned to Ms. Martinez pending our decision.

The certifying officer has questioned the propriety of making a refund of the payment, and has asked the following questions:

- "(1) Was the original service agreement terminated by the resignation of Ms. Martinez, and subsequent collection of the debt?
- "(2) Does the signing of a new service agreement extend or renew the original agreement even though there was an 8 month break in service?
- "(3) Does the signing of the new service agreement give the agency the authority to refund the amount collected from the employee after her resignation?"

The applicable regulations here are contained in 5 U.S.C. § 4108(a) (1976), which provides that:

"An employee selected for training by, in, or through a non-Government facility under this chapter shall agree in writing with the Government before assignment to training that he will--

"(1) continue in the service of his agency after the end of the training period for a period at least equal to three times the length of the training period unless he is involuntarily separated from the service of his agency; and--

"(2) pay to the Government the amount of the additional expenses incurred by the Government in connection with his training if he is voluntarily separated from the service of his agency before the end of the period for which he has agreed to continue in the service of his agency."

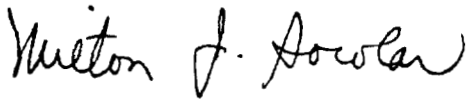
As the statutory language indicates, when an employee is trained at Government expense, he must, with certain exceptions not applicable here, sign a service agreement. See 5 C.F.R. § 410.508 (1982). If he voluntarily resigns prior to the end of his obligation, he must pay for the expenses of his training. However, once the individual has paid the debt which arises from his breach of the agreement, the debt and the employee's obligation under the agreement are extinguished. 51 Comp. Gen. 419, 422 (1972). Further, subsequent reemployment of that individual does not obligate the Government to refund the money. 40 Comp. Gen. 162 (1960). Since the transaction has ended, and the debt has been extinguished, a new agreement does not extend the debt or renew it, nor does it authorize the agency to refund the amount it collected from the employee.

Ms. Martinez agreed to serve the Maritime Administration for 36 months from the end of her training period. She then breached the agreement and paid the

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debt which arose. The debt between Ms. Martinez and the Maritime Administration was then extinguished, the Government was made whole, and no right of recovery remains.

Accordingly, the request for a refund is denied.

for 
Comptroller General
of the United States