

receive the five (5) additional priority points.

**Authority:** 20 U.S.C. 7873.

(3) The Secretary will award a total of five (5) additional points to applications submitted by a consortium of eligible applicants that include a tribal college or university and which designate that tribal college or university as the fiscal agent for the application. The consortium application of eligible entities must meet the requirements of 34 CFR 75.127 through 75.129 of EDGAR to be considered eligible to receive the five priority points. These competitive preference points are in addition to the five competitive preference points that may be given under the Competitive Priority 2—Preference for Indian Applicants.

**For Applications Contact:** Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794-1398. Telephone (toll free): 1-877-433-7827. FAX: (301) 470-1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1-877-576-7734. You may also contact ED Pubs via its Web site (<http://www.ed.gov/pubs/edpubs.html>) or its E-mail address ([edpubs@inet.ed.gov](mailto:edpubs@inet.ed.gov)). If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.299B.

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**FOR FURTHER INFORMATION CONTACT:** Cathie Martin, Office of Indian Education, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3W115, Washington, DC 20202-6335. Telephone: (202) 260-3774.

Internet address: [Cathie\\_Martin@ed.gov](mailto:Cathie_Martin@ed.gov).

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**Program Authority:** 20 U.S.C. 7832.

Dated: April 3, 2001.

**Thomas M. Corwin,**

*Acting Deputy Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 01-8558 Filed 4-5-01; 8:45 am]

**BILLING CODE 4000-01-U**

## DEPARTMENT OF EDUCATION

### Arbitration Panel Decision Under the Randolph-Sheppard Act

**AGENCY:** Department of Education.

**ACTION:** Notice of arbitration panel decision under the Randolph-Sheppard act.

**SUMMARY:** Notice is hereby given that on March 31, 2000, an arbitration panel rendered a decision in the matter of *Ken Haney v. New Mexico Commission for the Blind* (Docket No. R-S/99-3). This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d-1(b) upon receipt of a complaint filed by petitioner, Ken Haney.

**FOR FURTHER INFORMATION:** A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 400 Maryland Avenue, SW., room 3230, Mary E. Switzer Building, Washington, DC 20202-2738. Telephone: (202) 205-9317. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205-8298.

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**SUPPLEMENTARY INFORMATION:** Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d-2(c)) (the Act), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

#### Background

This dispute concerns the alleged improper termination of Mr. Ken Haney, a licensed blind vendor, from the Business Enterprise Program of the New Mexico Commission for the Blind, the State licensing agency (SLA).

A summary of the facts is as follows: Until November 1995, the complainant managed and operated a cafeteria at the Levi-Strauss Plant in Roswell, New Mexico, under the SLA's Randolph-Sheppard Vending Facility Program. On November 1, 1995, a representative of the SLA met with the complainant to discuss with him the lack of profitability of the cafeteria and other issues regarding performance. Shortly thereafter, Mr. Haney requested and was granted by the SLA a 6-month leave of absence due to stress and health issues. During this time, complainant's vending license was terminated on November 7, 1995.

On August 16, 1996, complainant requested a full evidentiary hearing on his license termination. Mr. Haney alleges that his delay in requesting a hearing was due to his continuing health problems.

Complainant's request for a hearing concerning his termination from management at the Levi-Strauss cafeteria was denied on September 17, 1996. A request for reconsideration was also denied on November 14, 1996. The SLA alleges that there were no mental or physical circumstances that prohibited Mr. Haney from requesting a hearing within the 15-day time period pursuant to the SLA's rules and

regulations for filing grievances. It is this decision that complainant sought to have reviewed by a Federal arbitration panel. An arbitration hearing on this matter was held on February 2 and 3, 2000.

#### Arbitration Panel Decision

The central issue before the arbitration panel was whether the actions taken by the New Mexico Commission for the Blind in denying Mr. Haney a full evidentiary hearing were in violation of the due process requirements under the Act (20 U.S.C. 107d-1(a)), the implementing regulations (34 CFR part 395), and applicable State rules and regulations. The panel ruled that complainant was essentially terminated for poor performance in the operation of the cafeteria, but waited for over 8 months before requesting an administrative review or a full evidentiary hearing to contest the termination before the New Mexico Commission for the Blind.

The SLA denied complainant's request for hearing because he failed to ask for a hearing within the 15-day time limit provided under the SLA's rules and regulations.

Based upon the evidence presented, the panel determined that, at all times, the complainant was knowledgeable about the time limits. Further, according to the panel, while he experienced some medical problems after his termination, there was no evidence that he was incapable of understanding or complying with the time limits. Therefore, the panel affirmed the New Mexico Commission for the Blind's denial of the complainant's request for hearing.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: April 3, 2001.

**Andrew J. Pepin,**

*Executive Administrator for Special Education and Rehabilitative Services.*

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## DEPARTMENT OF EDUCATION

### Arbitration Panel Decision Under the Randolph-Sheppard Act

**AGENCY:** Department of Education.

**ACTION:** Notice of arbitration panel decision under the Randolph-Sheppard act.

**SUMMARY:** Notice is hereby given that on January 6, 2000, an arbitration panel rendered a decision in the matter of

*Alaska Division of Vocational Rehabilitation v. United States Department of Defense, Department of the Army (Docket No. R-S/97-2).* This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d-1(b) upon receipt of a complaint filed by petitioner, the Alaska Division of Vocational Rehabilitation.

**FOR FURTHER INFORMATION:** A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 400 Maryland Avenue, SW., room 3230, Mary E. Switzer Building, Washington DC 20202-2738. Telephone: (202) 205-9317. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205-8298.

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**SUPPLEMENTARY INFORMATION:** Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d-2(c)) (the Act), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

#### Background

This dispute concerns the alleged violation by the United States Department of Defense, Department of the Army (Army), of the priority provisions of the Act by denying the Alaska Division of Vocational Rehabilitation, the State licensing agency (SLA), the opportunity to operate a dining facility at the Fort Richardson, Alaska, Army Installation.

A summary of the facts is as follows: On July 16, 1996, the SLA wrote to the

Director of Contracting at Fort Richardson expressing its desire to enter into negotiations for the operation of a dining facility at the Army Installation.

In late November 1996, the SLA learned that a food service contract had been awarded to another contract vendor in Anchorage, Alaska. Subsequently, the SLA appealed this decision and immediately contacted the Army contracting office. The Army contracting office advised the SLA that the Army indeed had awarded the contract to another vendor. Further, the Army declined to consider the SLA's appeal, advising the SLA that the time for appealing awards had passed.

The SLA alleged that the dining facility contract at the Fort Richardson Installation meets the definition of *satisfactory site* under the Act and implementing regulations in 34 CFR 395.1(q). Further, the SLA alleged that the Army contracting office failed to negotiate in good faith.

By this action, the SLA asserted that the Army denied it due process under the Act, and as a result the SLA was not awarded the dining facility contract under the terms of the Act. The SLA filed a request to convene an arbitration panel to hear this complaint. A Federal arbitration hearing on this matter was held on February 11 and 12, 1998.

Following the hearing, post-hearing briefs were submitted by the two panel members representing the SLA and the Army to the Panel Chair. However, after considerable time had elapsed the final award was not submitted by the Panel Chair to the Department of Education (Department). Accordingly, a new Panel Chair was selected in August 1999. The parties determined that it was not necessary to hold another hearing on the matter. It was further agreed that the newly appointed Panel Chair would render an opinion based upon the proceedings and submissions that had already taken place, and input from the two panel members and a final opinion and award would be submitted to the Department.

#### Arbitration Panel Decision

The central issue before the arbitration panel was whether the Army's alleged failure to negotiate with the SLA in good faith for a dining facility contract at the Fort Richardson Installation constituted a violation of the *satisfactory site* provisions provided by the Act (20 U.S.C. 107 *et seq.*) and the implementing regulations (34 CFR part 395).

The Army contended that military troop dining facility procurement with appropriated funds is not subject to the priority provisions of the Act. The