February 13, 2008, the SLA suspended Complainant from the facility.

Complainant then requested a full evidentiary hearing from the SLA on this matter. On August 4, 2008, the Administrative Law Judge (ALJ) issued a recommended decision.

On November 14, 2008, the SLA adopted the ALJ's recommendation as final agency action. Specifically, the SLA reimbursed Complainant for lost wages for the five-week period from the time that complainant was removed from his facility in February 2008 until his eligibility was restored in March 2008 and for the two additional weeks for a transition period to allow Complainant after his eligibility restoration to bid on other locations. In addition, the SLA reimbursed Complainant for attorney's fees and service time credit for time lost during his license suspension. Also, the SLA agreed to provide complainant assistance with bidding on new vending locations. However, the SLA denied the complainant's request for punitive damages.

Subsequently, Complainant filed with the Department a request for federal arbitration seeking an appeal of the state fair hearing decision based upon the following reasons: (1) Complainant alleged that the attorney fees of $3,550 awarded to him by the SLA were inadequate; (2) Complainant requested service time for retirement alleging he would have been working if he had not been improperly removed from his facility; (3) Complainant requested that he receive a priority bid for another vending facility; (4) Complainant requested loss wages from the time he was removed from his facility to the time of his retirement several years in the future; (5) Complainant requested punitive damages because he asserts that the SLA summarily removed him from the facility and awarded it to another vendor before the SLA determined the validity of the complaint against him by DCH; and (6) Complainant alleged that he did not receive due process from the SLA.

Arbitration Panel Decision

After reviewing all of the evidence and testimony, the panel unanimously ruled:

(1) Complainant was entitled to be reimbursed for one Additional hour of attorney's fees in the amount of $200.00.

(2) Complainant's request for service time for Retirement was under the authority of the Office of Retirement Services (ORS) and not under the authority ofthe Federal arbitration panel. However, the SLA agreed to recommend service credit to ORS for the time Complainant's license was suspended.

(3) Complainant was not entitled to receive a a priority bid for another vending facility based upon the findings that a priority bid would harm other vendors and there was no basis to determine that Complainant needed a priority bid in order to be successful.

(4) Complainant's request to be awarded lost wages from the time he was removed from his facility to the time of his later retirement was denied. However, the panel also ruled that the SLA's calculation of lost wages was unreasonable. The SLA had granted Complainant seven weeks of lost wage. This was based on the five-week period from the time the Complainant was removed from his facility in February 2008, until his eligibility was restored in March 2008, plus two additional weeks for a transition period to allow Complainant to bid on other locations once the SLA restored his eligibility.

The panel ruled that the transition period approved by the SLA was unreasonable in that it only allowed Complainant two weeks to bid on another location. Thus, the panel awarded the Complainant an additional ten weeks of lost wages at $192.32 per week or a total amount of $1,923.20.

(5) Complainant's request for punitive damages was denied based upon the finding that the SLA did not engage in extreme or outrageous behavior.

(6) Complainant had not been denied due process concerning his complaint given that any procedural errors were rectified based upon the timely restoration of his eligibility and compensatory damages.

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

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Dated: April 14, 2011.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2011–9476 Filed 4–18–11; 8:45 am]

BILLING CODE 4000–01–P

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: The Department of Education (Department) gives notice that on October 1, 2010, an arbitration panel rendered a decision in the matter of *James Swartz* v. *Alaska Department of Labor and Workforce Development, Division of Vocational Rehabilitation, Case no. R–S/08–11.* This panel was convened by the Department under 20 U.S.C. 107d–1(a), after the Department received a complaint filed by the petitioner, James Swartz.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the full text of the arbitration panel decision from Suzette E. Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5022, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7374. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: Under section 6(c) of the Randolph-Sheppard Act (Act), 20 U.S.C. 107d–2(c), 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

James Swartz (Complainant) alleged that the Alaska Department of Labor and Workforce Development, Division of Vocational Rehabilitation, the State licensing agency (SLA), violated the Act and its implementing regulations in 34 CFR part 395. The Complainant alleged that the SLA improperly administered the transfer and promotion policies and procedures of the Alaska Randolph-Sheppard Vending Facility Program in violation of the Act, the implementing regulations under the Act, and State rules and regulations in considering Complainant's bid to manage a snack bar vending facility at the Nesbett Courthouse (Nesbett), a State court building, located in Anchorage, Alaska.

Specifically, the Complainant, a blind vendor, challenged the SLA's selection of a nonblind severely disabled vendor to operate the snack bar vending facility at Nesbett. In March 2006, the SLA issued a vacancy announcement for Nesbett. Both vendors applied for the Nesbett snack bar vending facility. At that time, the nonblind vendor had been operating the snack bar vending facility at Nesbett as a secondary vending site on a temporary basis, in addition to his primary vending site. Meanwhile, Complainant was operating a vending facility on Federal property as his primary location.

During the selection interview process, the nonblind vendor indicated that he was willing to give up his current primary location and he intended, if selected, to operate the Nesbett snack bar vending facility as his primary site. At the same time, the Complainant indicated that he did not intend to relinquish his primary site, but would manage the Nesbett snack bar vending facility as a secondary vending facility site. After the interview and evaluation of the two vendors according to the SLA's transfer and promotion policies and procedure, the selection committee chose the nonblind vendor for the Nesbett snack bar vending facility.

Complainant then requested a full evidentiary hearing from the SLA on this matter, which was held. On May 29, 2008, the Administrative Law Judge (ALJ) issued a decision ruling that (1) The Nesbett snack bar vending facility is not "other" property as defined by the Federal Randolph-Sheppard Act; (2) The Alaska Chance Act granted blind persons and persons with severe disabilities a priority when seeking a license to operate vending facilities on certain properties, but the Chance Act gave blind persons a first priority or prior right over a nonblind disabled person to operate a vending facility on public property; (3) The SLA's interpretation of its regulations that a vending license is site specific and a qualified vendor may only have one license to operate a facility is reasonable; and (4) The SLA was correct when it granted the nonblind vendor a license to operate the Nesbett snack bar vending facility as his primary site, when there was no blind vendor seeking to operate the Nesbett snack bar vending facility as a primary site.

On July 7, 2008, the SLA issued a decision as final agency action adopting the ALJ's decision. Subsequently, Complainant filed with the Department a request for Federal arbitration seeking an appeal of the State fair hearing decision. On July 31, 2009, the SLA sent a letter to the Department stating that Complainant's request was a "State-only matter" and it did not involve the Federal Randolph-Sheppard Program as the ALJ had ruled that the Nesbett snack bar vending facility was not "other property," as defined under the Act and its implementing regulations.

On August 24, 2009, the Department responded to the SLA's letter stating that this is a Randolph-Sheppard matter under the Act and its implementing regulations and it is up to a Federal arbitration panel to decide on the issue of whether the Nesbett snack bar vending facility is or is not "other property."

A Federal arbitration panel was convened. Prior to the arbitration hearing, the SLA filed with the arbitration panel a Motion for Summary Disposition, arguing that the Nesbett snack bar vending facility was State property not subject to the Act and its implementing regulation. Therefore, the arbitration panel lacked jurisdiction to hear the complaint.

By order dated April 9, 2010, the arbitration panel concluded that there was insufficient evidence before the panel to determine whether the Nesbett snack bar vending facility was "other property" under the Act, but that there were issues of material fact requiring a hearing and, therefore, the panel denied the SLA's motion. The central issue before the arbitration panel was whether the Nesbett State courthouse snack bar vending facility qualified as "other property" within the meaning of the Act and its implementing regulations.

Arbitration Panel Decision

The panel heard testimony and concluded that Federal regulations implementing the Act defined "other property" as "property which is not Federal property and on which vending facilities are established or operated by the use of any funds derived in whole or in part, directly or indirectly, from the operation of vending facilities on any Federal property." See 34 CFR 395.1(n).

Then, the panel determined that in order for Complainant's claim to prevail, he must prove that the Nesbett snack bar vending facility was established or operated with funds derived directly or indirectly from the operation of vending facilities on Federal property. If Complainant was able to meet that burden, the SLA would concede that the Act applied to the Nesbett snack bar vending facility and the Complainant would be entitled to the priority in operating the Nesbett snack bar vending facility over the claim of the nonblind severely disabled vendor.

After reviewing the entire record, the panel found that the evidence presented at the arbitration hearing demonstrated that the Nesbett State courthouse snack bar vending facility was not established or operated with any funds derived directly or indirectly from the operation of vending facilities on Federal property. Thus, the arbitration panel ruled that the Nesbett State courthouse was not "other property" subject to the Randolph-Sheppard Act and its implementing regulations and, therefore, the SLA's decision did not violate the Act. Accordingly, the arbitration panel denied Complainant's Federal arbitration appeal.

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

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Dated: April 14, 2011.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

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DEPARTMENT OF EDUCATION

Notice Inviting Proposals for Taking Ownership and Operation of the TEACH Campaign

AGENCY: Office of Innovation and Improvement, U.S. Department of Education.

ACTION: Notice inviting proposals for ownership and operation of the TEACH Campaign, including the recruiting effort and the maintenance and operation of the Web Portal.

SUMMARY: The U.S. Department of Education (Department) has set a goal for the United States to lead the world in completion of postsecondary education by 2020. The Department recognizes that the most significant in-school-factor in a student's education is his or her teacher, and wants to