

Corrections

84.129T Distance Learning Through Telecommunications

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Fifteen points are added to this criterion for a possible total of 30 points.

84.129U-1 Parent Information and Training Programs

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Fifteen points are added to this criterion for a possible total of 30 points.

84.129U-3 Parent Information and Training Programs—Technical Assistance

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Fifteen points are added to this criterion for a possible total of 30 points.

Dated: October 12, 1995.

Judith A. Winston,

General Counsel.

[FR Doc. 95-25720 Filed 10-16-95; 8:45 am]

BILLING CODE 4000-01-P

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 August 6, 1994, an arbitration panel rendered a decision in the matter of *Lue Atha Dixie v. Tennessee Department of Human Services* (Docket No. R-S/92-10). This panel was convened by the Secretary of the U.S. Department of Education pursuant to 20 U.S.C. 107d-2 upon receipt of a complaint by petitioner Lue Atha Dixie.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arnow, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3230, Switzer Building, Washington, D.C. 20202-2738. Telephone: (202) 205-9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-8298.

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

Background

Ms. Lue Atha Dixie began her career as a vending facility manager in the Tennessee Business Enterprise Program in 1980. The program is operated by the Tennessee Department of Human Services (TDHS), the State licensing agency (SLA), in conformance with the requirements of the Randolph-Sheppard Act (the Act), 20 U.S.C 107 *et seq.*, and implementing regulations in 34 CFR Part 395.

Ms. Dixie was removed from the Business Enterprise Program on October 31, 1990, when her license as a facility manager was revoked on the grounds that her visual acuity exceeded the standard established by the Act. However, pending the outcome of the Federal arbitration hearing, Ms. Dixie continued to manage the facility pursuant to an arrangement with the SLA.

The question of visual acuity was raised when she underwent a periodic eye examination that was required of all managers in the TDHS program following a 1989 amendment to the Tennessee State Rules, 1240-6-2.03. Prior to this amendment, there had been no requirement of periodic examinations of vending facility managers. In the course of the eye examination conducted after the passage of the new rule, Ms. Dixie's level of visual acuity disqualified her from the program based on the visual acuity standard found in the regulations in 34 CFR 395.1(c).

Consequently, in compliance with revised State Rule 1240-6-2.03, which provided for the revocation of the license of any manager whose vision did not qualify him or her under the regulations in 34 CFR 395.1(c), Ms. Dixie's license was terminated. The ophthalmologist who conducted the initial examination of Ms. Dixie's eyes concluded that her vision did not fall within the eligibility guidelines. Subsequently, at Ms. Dixie's request, she was examined by another ophthalmologist, whose examination largely confirmed the previous doctor's assessment.

In March 1991, after her license was terminated, Ms. Dixie was examined by a third ophthalmologist. Using specialized contrast sensitivity acuity testing procedures, which measure acuity over a broader range of light and color than traditional methods, the doctor's report was favorable to Ms. Dixie.

However, during the time the foregoing examinations were taking place, the SLA discovered in its records two eye examinations of Ms. Dixie in 1978 and 1980 indicating that her visual acuity did not meet the eligibility requirements of the Randolph-Sheppard program.

Following her October 1990 license termination, Ms. Dixie requested and received a State fair hearing, which was conducted on March 15, 1991. On July 2, 1991 a hearing officer upheld the SLA's decision terminating Ms. Dixie's license, and on July 15, 1991 the SLA adopted the hearing officer's decision as final agency action.

Subsequently, Ms. Dixie filed a request with the Secretary of the U.S. Department of Education to convene an arbitration panel to hear this dispute. A panel was convened, and this complaint was heard on February 21, 1994.

Arbitration Panel Decision

The arbitration panel concluded that Ms. Dixie's functional visual acuity satisfied the applicable regulations in 34 CFR 395.1(c) and that she was improperly removed from the Tennessee Business Enterprise Program. The panel reasoned that, if the report of the contrast acuity examination had been available to the SLA prior to Ms. Dixie's removal from the vending facility program, her removal might well have been avoided.

The panel concluded that the contrast sensitivity testing for visual acuity is probably the most comprehensive way to measure functional vision. The panel further stated that while the definition of blindness contained in 34 CFR 395.1(c) uses the Snelling Acuity Chart

for its basis, the panel did not consider that this precluded use of the newer method of contrast sensitivity testing to measure visual acuity.

Consequently, the panel directed that Ms. Dixie be restored to her prior position with appropriate credit given to her retirement plan. The panel also concluded that no additional remedy was required, since Ms. Dixie, in agreement with the SLA, had continued to operate her facility pending the outcome of the arbitration proceedings.

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

Dated: October 11, 1995.

Howard Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95-25617 Filed 10-16-95; 8:45 am]

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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 December 20, 1993, an arbitration panel rendered a decision in the matter of *C. Gene King v. Indiana Department of Human Services, Office of Services for the Blind and Visually Impaired (Case No. R-S/91-11)*. This panel was convened by the Secretary of the U.S. Department of Education pursuant to 20 U.S.C. 107d-2, upon receipt of a complaint filed by petitioner C. Gene King.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnaw, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3230, Switzer Building, Washington, D.C. 20202-2738. Telephone: (202) 205-9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-8298.

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

Background

The Indiana Department of Human Services, through its Office of Services for the Blind and Visually Impaired

(OSBVI), is the State licensing agency under the Randolph-Sheppard Act. In 1985, on an experimental basis, OSBVI offered vending locations that included both sides of the interstate highway system. Only one vendor, Mrs. Tetzlaff, who was a member of the State Committee of Blind Vendors, took a two-sided location. The other locations later were bid to commercial vendors. After studying the revenue from the highway locations, OSBVI decided that one-sided highway locations provided adequate income to a vendor, thus giving more blind vendors an opportunity to participate in the Randolph-Sheppard program. In May 1990, after consultation with the State Committee of Blind Vendors, OSBVI changed its policy and announced that highway locations would be opened and placed for bid as Randolph-Sheppard facilities, awarding only one location per vendor, with the understanding that one location meant on one side of the highway only.

Mr. C. Gene King, complainant, is a blind vendor licensed by the Indiana Department of Human Services. Mr. King has participated in the program since 1980, successfully managing a facility in Indianapolis. Mr. King contends that OSBVI discriminated against the blind in the awarding of vending facilities located along the interstate highway system by allowing Mrs. Tetzlaff to retain her vending facility located on both sides of the highway awarded to her in 1985. Mr. King believed the decision to change policy was biased since Mrs. Tetzlaff was on the State Committee of Blind Vendors. Mr. King also contended that OSBVI restricted upward mobility opportunities for blind vendors in May of 1990 when it made additional highway locations available.

Arbitration Panel Decision

On the issue of whether the decision by OSBVI to change the policy of awarding Randolph-Sheppard facilities was improperly influenced by Mrs. Tetzlaff, the panel found in favor of the State agency. The panel found that, even though Mrs. Tetzlaff was a member of the State Committee of Blind Vendors, she did not vote in any of the meetings pertaining to the policy change regarding the facilities located on the interstate highway system. The panel found that the State agency had the authority to establish new Randolph-Sheppard locations without participation of the State Committee of Blind Vendors.

The panel also found that OSBVI did not restrict the upward mobility and income of vendors in the State of

Indiana. The OSBVI was within the scope of the enabling legislation by providing additional locations in May 1990, thus creating more opportunities for additional blind vendors to earn a fair income. The panel decided that no further action was required because Mr. King could not support his contentions.

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

Dated: October 11, 1995.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

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BILLING CODE 4000-01-P

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 December 27, 1994, an arbitration panel rendered a decision in the matter of *Jeana Martin v. California State Department of Rehabilitation (Docket No. R-S/92-13)*. This panel was convened by the Secretary of the U.S. Department of Education pursuant to 20 U.S.C. 107d-2, upon receipt of a complaint filed by Jeana Martin.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnaw, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3230, Switzer Building, Washington, D.C. 20202-2738. Telephone: (202) 205-9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-8298.

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

Background

The complainant, Jeana Martin, a licensed blind vendor, was assigned to operate the facility at the United States Post Office General Mail Facility (GMF) in Santa Ana, California, in 1985 by the California Department of Rehabilitation, the State licensing agency (SLA) responsible for the Randolph-Sheppard Vending Facility Program in California.

The facility consists of a snack bar/lunchroom and vending machines