the implementing regulations in 34 CFR part 395. Specifically, the SLA alleged that the Air Force violated the Act and its implementing regulations concerning the food services at Wright-Patterson Air Force Base in Montgomery County, Ohio.

According to the arbitration panel, the issues to be resolved were: (1) The Air Force's alleged failure to comply with the Act by denying the SLA's June 13, 2006, application for a permit to operate snack and beverage vending machines throughout the Wright-Patterson Air Force Base, and (2) the Air Force's alleged failure to properly report and pay the SLA or its designated vendors income from the vending machines at the Wright-Patterson Air Force Base pursuant to the Act and implementing regulations.

Arbitration Panel Decision

After hearing testimony and reviewing all of the evidence, the panel majority ruled as follows:

(1) The Air Force violated the Act by denying the SLA's vending machine permit application. The panel concluded that nothing in the Act or the implementing regulations authorizes a Federal agency to reject an SLA's vending permit application on the grounds that the Federal agency would lose income or prefer to tie the vending machine service to some other service. The panel declined, however, to prescribe a remedy for this violation based upon the requirement in 34 CFR 395.37(d) that it is the agency's responsibility to "cause such acts or practices to be terminated promptly and [to] take such other action as may be necessary to carry out the decision of the panel."

(2) The Air Force did not violate the Act or implementing regulations in 34 CFR 395.32 concerning the collection and distribution of vending machine income on Federal property by paying the two blind vendors at the Wright-Patterson Air Force Base fifty percent instead of 100 percent of vending machine income. Rather, the panel majority ruled that the evidence presented did not show that the Air Force's vending machines were located in an area of proximity that posed "direct competition" to either or both of the two blind vendors.

(3) The SLA failed to show that the Air Force's accounting of vending machine income varied from established procedures or that the vending machine income, which the Air Force reported quarterly to the SLA, was inaccurate.

(4) The Air Force did not violate the Act by failing to share vending machine income with the SLA when the vending machine income from each separate building did not exceed $3,000.

In drawing this conclusion, the panel majority noted that there was no evidence presented at the hearing that showed that any of the single buildings at the Wright-Patterson Air Force base were in close proximity to each other or that a majority of the Federal workers in any of the buildings regularly moved from one building to another in the course of official business during a normal work day. This is what is required to trigger the vending machine income sharing requirements under sections 395.1(h) and 395.32(i) of the regulations.

One panel member dissented from the panel majority regarding item one. The panel member concluded that the Air Force included both the food service operations and the vending machines as a package in the solicitation and thus denied the SLA's permit application on the basis that a vending machines "only" permit did not exist.

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

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Dated: August 9, 2010.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2010–19947 Filed 8–11–10; 8:45 am]

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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: The Department of Education (Department) gives notice that on July 17, 2009, an arbitration panel rendered a decision in the matter of the *Illinois Department of Human Services, Division of Rehabilitation Services* v. *United States Postal Service, Case No. R–S/06–14.* This panel was convened by the Department under 20 U.S.C. 107d–1(b) after the Department received a complaint filed by the petitioner, the Illinois Department of Human Services, Division of Rehabilitation Services.

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 may 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 (the 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

The Illinois Department of Human Services, Division of Rehabilitation Services, the State licensing agency (SLA) alleged violations by the United States Postal Service (USPS) of the Act and the implementing regulations in 34 CFR part 395. Specifically, the SLA alleged that USPS violated the Act, the implementing regulations, and the vending permits held by the SLA concerning a vending machine facility operated by a blind vendor at the USPS's Chicago Processing and Distribution Center.

According to the arbitration panel, the issues to be resolved were: (1) Whether the USPS cafeteria operations are exempt from the Act and whether the vending machines operated by a private vendor at the Chicago Processing and Distribution Center are in direct competition with the vending machines operated by the SLA's blind vendor; (2) Whether the no-commission contracts let by USPS for cafeteria vending violated the Act, and what compensatory damages, if any are due the SLA; and (3) Whether the SLA may amend its complaint against USPS to

address information which surfaced during settlement negotiations, namely, whether USPS violated the Act, its regulations, and the vending permits by closing Break Room A and removing the vending machines for 34 days, and what compensatory damages, if any, are due the SLA.

Arbitration Panel Decision

After hearing testimony and reviewing all of the evidence, the panel majority ruled that: (1) USPS cafeterias are not exempt from the protections of the Act, including the vending machine income sharing provisions; (2) The vending machines operated in the cafeteria at the Chicago Processing and Distribution Center by a private vendor are in direct competition with the blind vendor and are subject to the 100 percent income sharing provisions under the Act; and (3) The no-commission contracts let by USPS for cafeteria vending machines at the Chicago Processing and Distribution Center under its break-even policy violated the purpose and terms of the Act and implementing regulations.

Thus, the panel majority ruled that USPS must compensate the SLA 100 percent of vending machine income for all of the vending machines located in the rotunda and in the cafeteria at the Chicago Processing and Distribution Center in accordance with the income sharing provisions of the Act and implementing regulations at 34 CFR 395.32 as of September 21, 2006.

The panel majority further ruled that the USPS must pay interest at the Federal interest rate and the method of calculating interest should begin only at the end of the month in which the income originally would have been earned by the blind vendor and continue forward from that time. Additionally, the panel majority determined there was no need to allow the SLA to amend its complaint because those issues had already been resolved.

One panel member dissented to a portion of the decision regarding the monetary remedy award. Specifically, it was this panel member's belief that within 30 days following the date of the arbitration panel's decision, USPS should compensate the SLA the amount of $5,934.70 for income lost by the blind vendor from January 29 to March 3, 2007, resulting from violations of the Act. Also, this member believed that USPS should compensate the SLA the amount of $318,600 for income lost by the SLA and blind vendor as a consequence of vending machines operated by a private vendor in direct competition with the blind vendor in violation of the income sharing provisions of the Act and the relevant permits. Finally, this member believed that USPS should pay the SLA interest in the amount of $17,556.83 calculated at 5 percent per annum, compounded.

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

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Dated: August 9, 2010.

Alexa Posny,

Assistant Secretary 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: The U.S. Department of Education (Department) gives notice that on April 27, 2009, an arbitration panel rendered a decision in the matter of *Jerry Manganello, et al.* v. *Pennsylvania Office of Vocational Rehabilitation, Case No. R–S/07–7.* 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, *Jerry Manganello, et al.*

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 may 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 (the Act), 20 U.S.C. 107–2(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

Jerry Manganello, et al. (Complainants) alleged violations of the Act and its implementing regulations in 34 CFR part 395 by the Pennsylvania Office of Vocational Rehabilitation, the State licensing agency (SLA). Specifically, Complainants alleged that the SLA improperly administered the Randolph-Sheppard Vending Facility Program as provided by the Act, implementing regulations, and State rules and regulations by failing to comply with a unanimous vote of the Committee of Blind Vendors (CBV) concerning unassigned vending machine income and the payment of set-aside fees to the SLA.

The SLA, in the overall operation and administration of Pennsylvania's Randolph-Sheppard vending program, established several funds to receive monies from various sources. Fund 33 receives monies paid by blind vendors from the net profits of vending facilities and vending machine income on Federal property. Fund 650 receives monies from vending machines operated by blind vendors at interstate highway rest areas.

In 1998, the CBV by referendum agreed to use 85 percent of the funds in Fund 650 for medical benefits and to permit the SLA to use the balance for programmatic purposes. However, the CBV alleged that, in practice, the SLA used 15 percent of the funds in Fund 650 to support SLA program staff salaries.

Conversely, the SLA alleged that between 1998 and 2005, it asked the CBV to approve the use of part of the accrued balance in Fund 650 for programmatic purposes and that whenever the SLA's request was not approved, the money remained in Fund 650.

In 2005, because of increased health insurance premiums, CBV unanimously