provide funds to build and operate a new McDonald's facility within its jurisdiction. If timely notice were delivered in writing to DOD within 60 days after receipt by the SLA, a priority right to operate the McDonald's franchise would be given to the SLA and to a competent, qualified manager recommended by the SLA.

Further, NAVŘESSO within 60 days must communicate to the SLAs involved in the dispute a plan for establishing the priority of blind vendors pursuant to the Act in the event that another McDonald's restaurant would be established within the jurisdiction of these SLAs. The parties also would draft procedures for communicating notice of intent to operate McDonald's restaurants within the jurisdiction and determine criteria for selecting competent blind managers.

Subsequently, concurrent court proceedings before the United States District Court for the District of Columbia regarding this dispute have been cancelled, and the case has been dismissed.

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

Dated: January 11, 1995.

## Judith E. Heumann.

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–1578 Filed 1–20–95; 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 October 19, 1992, an arbitration panel rendered a decision in the matter of Keith McMullin v. Department of Services for the Blind, State of Washington, (Docket No. R-S/91-8). This panel was convened by the Secretary of the U. S. Department of Education pursuant to 20 U.S.C. 107d-1(a), upon receipt of a complaint filed by petitioner, Keith McMullin, on April 29, 1991. The Randolph-Sheppard Act provides a priority for blind individuals to operate vending facilities on Federal property. Under this section of the Randolph-Sheppard Act (the Act), a blind licensee dissatisfied with the State's operation or administration of the vending facility program authorized under the Act may request a full evidentiary fair hearing from the State

licensing agency (SLA). If the licensee is dissatisfied with the State agency's decision, the licensee may complain to the Secretary, who then is required to convene an arbitration panel to resolve the dispute.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, 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 property.

## **Background**

The complainant, Keith McMullin, is a blind vendor licensed by the respondent, the Washington Department of Services for the Blind, pursuant to the Randolph-Sheppard Act, 20 U.S.C. 107 et seq. The Department is the SLA responsible for the operation of the State of Washington's vending facility program for blind individuals.

On November 13, 1964, the General Services Administration (GSA) issued a permit to the SLA to operate a vending facility at the Federal Office Building in Richland, Washington. The articles to be vended were— "magazines, cigars, cigarettes and related tobacco items, coffee, candy, novelties, ice cream, cold beverages, greeting cards, cookies, etc." Mr. McMullin operated the vending facility from the time the building was opened. At that time, a fountain head and jet spray beverage equipment were installed for dispensing soft drinks and juices.

About 1965, a cafeteria operation was added to the Federal Office Building, and it was operated under contract between GSA and a private concessionaire. A dispute arose between Mr. McMullin and the operator of the cafeteria concerning the sale of certain items, including beverages.

On October 22, 1970, the Contracting Officer of the Operations Branch of the Buildings Management Division of GSA wrote a letter to the SLA to resolve the dispute. The letter stated in relevant part, "The blindstand has exclusive right to sell carbonated drinks. . . and any other items prepackaged by the maker in individual servings. . . The blindstand is not authorized to sell coffee and other hot drinks, as these are

to be sold by the cafeteria operator exclusively." The letter went on to state that the policy statement had been incorporated into the cafeteria operator's contract and had been discussed with the building manager in Richland and with the complainant at the vending facility. Further, GSA believed that, with the agreement of the SLA, the issuance of the letter would become a part of the operator's agreement under which Mr. McMullin's vending facility operated.

In the years that followed, the SLA treated the arrangement made by GSA as granting the vending facility, and therefore the licensed vendor, the exclusive right to sell carbonated beverages. However, on May 16, 1975, GSA informed the SLA that it did not believe the arrangement between them gave Mr. McMullin the exclusive right to sell consumable food products, such as soft drinks, ice cream, and yogurt. The complainant objected to what he believed to be a violation of his exclusive right, and the SLA supported his position. GSA did not pursue this action until March 14, 1979 when the Chief of Operations Branch of the **Buildings Management Division of GSA** wrote to the SLA stating, "We do not object to the blind operator selling other drinks, but we do not agree that he has exclusive rights.'

In 1986 the private concessionaire operating the cafeteria ceased doing business, and the contract was assigned to the SLA. Operation of the cafeteria was awarded by contract to another blind vendor. The contract required the sale of soft drinks as part of the full-line cafeteria food service. However, in a letter dated November 8, 1988, the SLA contacted GSA regarding the operation of the cafeteria. The SLA stated that it did not request any change regarding the sale of carbonated beverages because Mr. McMullin had a permit giving him rights to sell those beverages. The cafeteria continued to operate without selling carbonated beverages until May 1989 when it again came to the attention of GSA personnel.

In a letter dated September 14, 1989, the Director of Real Property
Management of GSA informed the
Director of the SLA that a new permit application should be made for the operation of the vending facility because the current permit did not comply with regulations governing the operation of such a facility under the Randolph-Sheppard Act. In addition, GSA stated that provisions should be made for the sale of soft drinks by the cafeteria.

The SLA made application for new permits for the operation of the facility and the cafeteria. The application for