

(5) Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 34 CFR part 85.

(6) Drug-Free Schools and Campuses, 34 CFR part 86.

FOR FURTHER INFORMATION CONTACT: Carolyn Short, Financial Management Specialist, Fund Control Branch, Campus-Based Programs Financial Management Division, Accounting and Financial Management Service, Student Financial Assistance Programs, U.S. Department of Education, Room 4621, Regional Office Building 3, 600 Independence Avenue, S.W., Washington, D.C. 20202-5452, Telephone (202) 708-7741. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

(Authority: 42 U.S.C. 2756(b)).
(Catalog of Federal Domestic Assistance Number: 84.033 Federal Work-Study Program)

Dated: January 31, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

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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 February 3, 1992, an arbitration panel rendered a decision in the matter of *Karla Todd v. Alabama Division of Rehabilitative Services*, (Docket No. R-S/90-4). This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d-1(a) upon receipt of a complaint filed by Karla Todd on June 13, 1990. The Randolph-Sheppard Act creates 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 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 is then 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 section 107d-2(c) of the Randolph-Sheppard Act, the Secretary is required to publish a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal property.

Background

Karla Todd is a blind vendor licensed by the Alabama Division of Rehabilitative Services, the SLA under the provisions of the Act. On September 20, 1989, Ms. Todd attended a meeting of blind vendors from the Mobile area. At this meeting, the agenda provided for the election of a committee representative for the Committee of Blind Vendors, pursuant to 34 CFR 395.14, which states that the SLA shall provide for the biennial election of a State Committee of Blind Vendors.

At the September meeting, complainant was one of the two candidates nominated for committee representative. A vote was held that resulted in a three to three tie. A second run-off election was held with the same result. A special meeting of blind vendors to resolve the matter was called for October 4, 1989. Prior to the meeting the candidate opposing complainant withdrew.

The SLA sent a letter to the vendors announcing the October 4 meeting, explaining the problem regarding the election on September 20, and stating that the only purpose of the meeting would be to elect a member of the State Committee of Blind Vendors.

Ten vendors attended the October 4, 1989 meeting, including the complainant. Ms. Todd was again nominated along with another vendor. The other vendor received the majority of the votes and was elected to the committee.

Ms. Todd subsequently challenged the candidacy of the vendor elected at the October 4, 1989 meeting, stating that she should have won the election by default when the previous vendor who had received a tie vote with complainant withdrew her candidacy prior to the October 4th meeting. She asserted that proper procedures under the rules and regulations of the Alabama

Randolph-Sheppard vending program had not been followed.

Karla Todd requested and received an administrative review with respect to the matter. The SLA upheld the election of the new candidate. Subsequently, complainant requested a full evidentiary hearing.

On March 19, 1990, an evidentiary hearing was held in Montgomery, Alabama. The hearing officer ruled that Ms. Todd's objections were without merit. Subsequently, Ms. Todd appealed this ruling to a Federal arbitration panel, which held a hearing on September 27, 1991.

Arbitration Panel Decision

The issue before the panel was whether the process followed by the SLA on September 20 and October 4, 1989 was consistent with the State rules and regulations governing the day-to-day operations of the Business Enterprise Program.

The SLA argued that the issue before the arbitration panel was not arbitrable since the policies and procedures of the Business Enterprises Program only allow for review of "actions arising from the operation or administration of a vending facility." However, it was the opinion of the majority of the panel that the complainant's argument was persuasive. The Act, in 20 U.S.C. 107b-1, states that the Committee of Blind Vendors shall participate with the Vocational Rehabilitation Agency regarding administrative decisions, policies, and program development decisions affecting the overall administration of the State Vending Facility Program.

The panel concluded that the actions of the Committee of Blind Vendors indeed had an impact on the operation and administration of all vending facilities, and, therefore, the issue was reviewable by the panel.

The panel found that the policies and procedures of the Business Enterprise Program, specifically the section on elections, covered the issue before the panel. The section on elections states, "[I]f no candidate receives a majority of the votes, a run-off between the two highest vote getters will be held." The SLA interpreted this to mean that only one run-off election had to be held, and in the event of a tie in the run-off election, an entirely new election was appropriate. The panel did not concur with the SLA's interpretation of this language. The panel stated that the common sense meaning of the term "run-off" is not necessarily a singular act, but implies the act of breaking a tie regardless of the number of times necessary to achieve that goal.