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Dated: June 12, 1998.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

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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: Notice is hereby given that on January 20, 1998, an arbitration panel rendered a decision in the matter of *Wayne Coxe versus State of Washington Department of Services for the Blind (Docket No. R-S/96-6)*. 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 petitioner, Wayne Coxe.

FOR FURTHER INFORMATION: 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, SW., Room 3230, Mary E. Switzer Building, Washington, DC 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.

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Note: The official version of this document is the document published in the **Federal Register**.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard 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

In September 1994 the State Licensing Agency (SLA) offered complainant an opportunity to operate a cafeteria in the Washington State Department of Licenses in Olympia, Washington. Two months after Mr. Coxe began operating the Highway Licenses Building cafeteria, the building's tenant committee began to complain about Mr. Coxe's operation of the vending facility. The complaints included allegedly unsanitary food preparation practices, poor selection of food items, questionable pricing practices, rude service, a disrespectful and disgruntled attitude toward employees and customers, and inconsistent hours. Earlier in the year, because of similar problems with Mr. Coxe at another facility, the SLA barred him from continuing to operate that facility.

Following a meeting among Mr. Coxe, the tenant committee, and the SLA, the cafeteria operation improved. However, by May 1995, the tenant committee complained that the service had again deteriorated to an unsatisfactory level. Subsequently, the building's tenant committee contacted the SLA and again requested improvement in the cafeteria operation.

The SLA met with complainant and prepared a corrective action plan to bring about improvements. The corrective action plan requested that Mr. Coxe improve the following: Hours of operation, health and sanitary practices, food handling and storage, customer and employee relations, consistent refund policy, and the submission to the SLA of timely profit and loss statements.

On September 19, 1995, the SLA met with Mr. Coxe to discuss the implementation of the corrective action plan. Complainant rejected the plan. Following that meeting, the tenant committee requested that the SLA remove Mr. Coxe from the cafeteria. On November 2, 1995, the SLA removed him and on December 22, 1995, the SLA issued to Mr. Coxe a letter sustaining the removal. Mr. Coxe appealed his termination and requested and received a full evidentiary hearing, which was held on January 24, 1996. In an opinion dated February 13, 1996, the Administrative Law Judge affirmed the SLA's decision to suspend Mr. Coxe's operating agreement and remove him from the cafeteria, and on February 27, 1996, the SLA terminated his vending operator's license. It was that decision that Mr. Coxe sought to have reviewed by a Federal arbitration panel. A hearing was held on February 24 and 25, 1997.

Arbitration Panel Decision

The issue before the arbitration panel was whether the SLA acted reasonably and within the scope of its authority under the Act and regulations when it removed Mr. Coxe from the Highway Licenses Building cafeteria and terminated his vending license. On the basis of the evidence presented at the hearing, the majority of the panel ruled that Mr. Coxe was hostile toward every attempt to improve the operation of the cafeteria. The panel further concluded that complainant had rejected the SLA's attempts to have him conform to the SLA's rules and regulations governing the vending facility program in the State of Washington.

The majority of the panel ruled that retaining the complainant as a licensee would jeopardize the credibility of the Randolph-Sheppard program. The panel found that the SLA had acted correctly and within the scope of its authority when it removed Mr. Coxe from the cafeteria and terminated his vending operator's license.

One panel member dissented.

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

Dated: June 11, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98-15946 Filed 6-15-98; 8:45 am]

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