

counter top, and floor coverings or components; and insulations. The field of use of paint means the use of Halloysite Microtubules for the elution of any and all substances in paints, sealers, fillers, varnishes, shellac, polyurethane coatings, and any and all "paint-like" coatings applied in liquid form to any and all surfaces for the beautification or protection of surfaces in structures or components thereof, including but not limited to, buildings, marine structures (including boats), furniture and other normally "painted" materials in the United States.

**DATES:** Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than February 2, 2011.

**ADDRESSES:** Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375-5320.

**FOR FURTHER INFORMATION CONTACT:** Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375-5320, telephone 202-767-3083. Due to U.S. Postal delays, please fax 202-404-7920, e-mail: [rita.manak@nrl.navy.mil](mailto:rita.manak@nrl.navy.mil) or use courier delivery to expedite response.

**Authority:** 35 U.S.C. 207, 37 CFR part 404.

Dated: January 7, 2011.

**D.J. Werner,**

*Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 2011-889 Filed 1-14-11; 8:45 am]

**BILLING CODE 3810-FF-P**

## 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 March 31, 2010, an arbitration panel rendered a decision in the matter of *Daniel Czubak v. Illinois Department of Human Services, Division of Rehabilitation Services, Case no. R-S/08-5*. 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, Daniel Czubak.

**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), you may 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

Daniel Czubak (Complainant) alleged violations by the Illinois Department of Human Services, Division of Rehabilitation Services, the State licensing agency (SLA), under the Act and implementing regulations at 34 CFR part 395. The allegations pertained to his operation of a vending facility comprised of vending machines at the Shapiro Developmental Center (SDC) from November 2005 until February 2009 when his vending operator's agreement at the SDC was terminated by the SLA.

The Complainant began operation of the vending facility at SDC when granted a Temporary Income Opportunity in 2005. Later, after being the successful bidder and signing a vending operator's agreement in May 2006, he continued operating the facility until February 2009.

Appended to the May 2006 vending operator's agreement was a Memorandum of Understanding (MOU) dated April 2004 between the SLA and the SDC. As a part of the MOU, the SDC required that the SLA ensure that the vendor operating the vending machines would make monthly commission payments to the SDC in the amount of \$3,699.00 based upon the following: (a) Current vending machines at the SDC, (b) current prices established for items sold in the vending machines, and (c) the current amount of sales from the vending operation. This formula and the commission amount were based on a report from the private commercial operator, who previously operated the vending machines and made monthly

commission payments to SDC based on a percentage of its vending sales.

Additionally, the MOU limited the ability of the vendor to change prices on vended products without prior concurrence by the SDC. Moreover, the MOU stipulated that price changes could only reflect the increased cost of products provided for the vending facility. The MOU also stated that the SLA or the vendor would pay any and all claims, losses, liabilities, or other expenses, including repair expenses arising from the operation of the vending machine facility.

The vending facility operator's agreement signed by the Complainant in May 2006 required Complainant to comply with the MOU between the SLA and the SDC, including the amount of commissions to be paid to the SDC.

In mid-2007, after operating the vending machine facility for almost a year, the Complainant began having problems paying the commission to the SDC. The Complainant alleged that the resident population at the SDC had declined considerably since he began managing the facility. At the same time, the Complainant alleged that his costs for goods and supplies had increased.

On September 1, 2007, an agreement was reached between the SLA, the SDC, and the Complainant to reduce his monthly commission payments to \$2,500 with the SLA paying the \$1,199 difference to the SDC. From September 2007 through March 2008, the SLA made the payments of \$1,199 to the SDC out of Vocational Rehabilitation, Section 110 (VR 110) funds until the SLA was advised by the U.S. Department of Education, Rehabilitation Services Administration, that VR 110 funds could not be used for vendor commission payments.

Thus, beginning April 2008, the Complainant was again required to make the \$3,699 monthly payment to the SDC. In early September 2008, the director at the SDC sent a formal request to the SLA asking that the Complainant be removed, citing a combination of factors, including late commission payments, bounced checks, spoiled food, and safety-related operational problems based upon complaints that the director had received. The SLA contacted the director at the SDC and he withdrew his request for the Complainant's removal with the stipulation that the Complainant would be more closely supervised and that he would become current with his commission payments. However, after October 2008, the Complainant ceased making commission payments to the SDC.

Subsequently, both the Complainant and the Illinois Committee of Blind Vendors (ICBV) filed a complaint with the SLA alleging that staff of the Business Enterprise Program for the Blind (BEPB) entered into an illegal agreement with the Department of Mental Health regarding vending services at the SDC. The Complainant alleged that the SLA agreement with the Department of Mental Health had severely affected the Complainant's ability to earn a living. On November 12, 2008, a hearing on this matter was held.

On December 30, 2008, the hearing officer denied both the Complainant and ICBV's complaint stating that neither party had met the burden of proof required to show that BEPB's actions were not in accordance with State laws, regulations, or policy, were inappropriate, or violated any rights of the Complainant. On December 31, 2008, the SLA adopted the hearing officer's decision as final agency action. It was this decision that the Complainant sought review on appeal by a Federal arbitration panel.

#### Arbitration Panel Decision

After hearing testimony and reviewing all of the evidence, the panel majority ruled that the Illinois Department of Human Services, Division of Rehabilitation Services' determination that a blind vendor could be required to make monthly commission payments to the SDC regarding the vending machine facility was appropriate.

However, the panel majority concluded that the commission was too high, the manner in which the commission was calculated and assessed was inconsistent with the manner in which commission amounts being charged to blind vendors at other State facilities were being calculated and assessed, and that the commission payments were based on the private vendor's monthly payments without regard for the Complainant's seasonal costs or changes in the cost of purchasing products. Accordingly, the panel majority ruled that the SLA's actions were not in accordance with the Randolph-Sheppard Act, implementing regulations, and State laws, rules, and regulations.

Thus, the panel majority awarded the Complainant \$22,589 in compensatory damages for overpayment of commissions to the SDC, plus \$7,000 in partial compensation for attorney fees for a total award amount of \$29,589. The panel also retained jurisdiction for 60 days from the date of the final decision

and award to monitor compliance with the terms of the decision.

One panel member dissented from the panel majority's decision stating that the commission structure as a whole and the way the commission payments were determined did not violate the Act, implementing regulations, and State law, rules, and regulations. With regard to the remedy, the dissenter concluded that there is no authority for the arbitration panel to order any payments to the Complainant.

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

**Electronic Access to This Document:** You can view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>. To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Dated: January 12, 2011.

**Alexa Posny,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2011-922 Filed 1-14-11; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

### Blue Ribbon Commission on America's Nuclear Future

**AGENCY:** Office of Nuclear Energy, Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces an open meeting of the Blue Ribbon Commission on America's Nuclear Future (the Commission). The Commission was organized pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) (the Act). This notice is provided in accordance with the Act.

**DATES:** Tuesday, February 1, 2011, 9 a.m.–4 p.m.; Wednesday, February 2, 2011, 8:30 a.m.–12:15 p.m.

**ADDRESSES:** Washington Marriott Metro Center, 775 12th Street, NW., Washington, DC 20005. Telephone: (202) 737-2200.

#### FOR FURTHER INFORMATION CONTACT:

Timothy A. Frazier, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; telephone (202) 586-4243 or facsimile (202) 586-0544; e-mail [CommissionDFO@nuclear.energy.gov](mailto:CommissionDFO@nuclear.energy.gov). Additional information will be available at <http://www.brc.gov>.

#### SUPPLEMENTARY INFORMATION:

**Background:** The President directed that the Commission be established to conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle. The Commission will provide advice and make recommendations on issues including alternatives for the storage, processing, and disposal of civilian and defense spent nuclear fuel and nuclear waste. The Commission is scheduled to submit a draft report to the Secretary of Energy in July 2011 and a final report in January 2012.

This is the sixth full Commission meeting. Previous meetings were held in March, May, July, September, and November 2010. Webcasts of the previous meetings along with meeting transcripts and presentation are available at <http://www.brc.gov>.

**Purpose of the Meeting:** The main purpose of this meeting is to further investigate several of the cross-cutting issues that affect the three subcommittees of the Commission. The Commission will hear from a series of speakers and panelists who can provide insights on the organization and scope of the nation's nuclear waste management entity, waste program funding, and the site selection and development process.

**Tentative Agenda:** The meeting is expected to start at 9 a.m. on Tuesday, February 1, 2011. The schedule for February 1st will include presentations and statements to the Commission, as well as roundtable discussion. The meeting will resume at 8:30 a.m. on Wednesday, February 2, 2011, with presentations and statements to the Commission and Commission discussions lasting until about 11:15 a.m. The meeting will conclude with public statements and will end about 12:15 p.m.

**Public Participation:** Individuals and representatives of organizations who would like to offer comments and suggestions may do so at the end of the public session on Wednesday, February 2, 2011. Approximately 1 hour will be reserved for public comments from 11:15 a.m. to 12:15 p.m. Time allotted per speaker will depend on the number who wish to speak but will not exceed 5 minutes. The Designated Federal