

assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

4. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

#### VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to [www.ed.gov/fund/grant/apply/appforms/appforms.html](http://www.ed.gov/fund/grant/apply/appforms/appforms.html).

4. *Performance Measures:* The goal of the CSP is to support the creation and development of a large number of high-quality charter schools that are free from State or local rules that inhibit flexible

operation, are held accountable for enabling students to reach challenging State performance standards, and are open to all students. The Secretary has two performance indicators to measure progress towards this goal: (1) The number of charter schools in operation around the Nation, and (2) the percentage of fourth- and eighth-grade charter school students who are achieving at or above the proficient level on State examinations in mathematics and reading/language arts. Additionally, the Secretary has established the following measure to examine the efficiency of the CSP: Federal cost per student in implementing a successful school (defined as a school in operation for three or more consecutive years).

All grantees must submit an annual performance report with information that is responsive to these performance measures.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made "substantial progress toward meeting the objectives in its approved application." This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

#### VII. Agency Contact

**FOR FURTHER INFORMATION CONTACT:** Erin Pfeltz, U.S. Department of Education, 400 Maryland Avenue SW., room 4W255, Washington, DC 20202-5970. Telephone: (202) 205-3525 or by email: [erin.pfeltz@ed.gov](mailto:erin.pfeltz@ed.gov).

If you use a TDD, call the FRS, toll free, at 1-800-877-8339.

#### VIII. Other Information

*Accessible Format:* Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotope, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

*Electronic Access to This Document:* 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 via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: March 1, 2012.

**James H. Shelton, III,**

*Assistant Deputy Secretary for Innovation and Improvement.*

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**BILLING CODE 4000-01-P**

#### DEPARTMENT OF EDUCATION

##### Arbitration Panel Decision Under the Randolph-Sheppard Act

**AGENCY:** Department of Education.

**ACTION:** Notice of decision.

**SUMMARY:** The Department of Education (Department) gives notice that on October 12, 2011, an arbitration panel rendered a decision in the matter of the *Rutherford Beard v. Michigan Commission for the Blind*, Case no. R-S/08-8.

**FOR FURTHER INFORMATION CONTACT:** You can obtain a copy of the full text of the arbitration panel decision from Mary Yang, U.S. Department of Education, 400 Maryland Avenue SW., room 5162, Potomac Center Plaza, Washington, DC 20202-2800. Telephone: (202) 245-6327. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at 1-800-877-8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotope, or compact disc) by contacting the program contact person listed in this section.

**SUPPLEMENTARY INFORMATION:** This arbitration panel was convened by the Department under 20 U.S.C. 107d-1(a), after receiving a complaint from the complainant, Rutherford Beard. Under section 6(c) of the Randolph-Sheppard Act (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

Rutherford Beard (Complainant) alleged that the Michigan Commission for the Blind, the State licensing agency (SLA), violated the Act and implementing regulations in 34 CFR part 395. Specifically, Complainant alleged that the SLA violated the Act and its implementing regulations and State rules and regulations governing the Randolph-Sheppard Vending Facility Program with respect to the closing of his vending facility at the Lewis Cass Building for renovation and plumbing repairs, resulting in loss of income for the Complainant's cafeteria.

Complainant further alleged that the Lewis Cass Building Cafeteria was not a suitable location because the SLA was aware of a history of plumbing problems in the building. Consequently, when the cafeteria was closed for renovation and plumbing repairs, Complainant alleged that this was proof of the lack of suitability for a cafeteria at the Lewis Cass Building. Thus, the Complainant requested reimbursement from the SLA for loss of income during the renovation period.

The SLA argued that the Lewis Cass Building Cafeteria was a suitable vending location and opportunity for a blind vendor. The SLA acknowledged that, while it was aware that the building had previous plumbing problems, it was not aware of the severity of the plumbing issue. Also, the SLA alleged that it had no responsibility to repair the plumbing in the Lewis Cass Building because the building was under the jurisdiction of the State's Department of Management and Budget. The SLA further alleged that Complainant, as a small business operator, had the responsibility for his own profitability. Moreover, the SLA alleged that Complainant was unable to provide evidence showing the amount of lost income during the renovation period.

Complainant filed a request with the SLA for lost income. The SLA denied Complainant's request. Subsequently, Complainant appealed this decision with the SLA by filing a request for a State fair hearing. A hearing was held and the administrative law judge (ALJ) recommended that Complainant's claim be denied. The SLA adopted the ALJ's recommendation as a final administrative agency action and Complainant's grievance was denied.

Complainant then filed a request for Federal arbitration with the Department. A hearing on this matter was held on March 16, 2011. The central issue, as determined by the arbitration panel, was whether the SLA's failure to compensate Complainant for loss of income during the renovation period of the Lewis Cass Building Cafeteria violated the Act and its implementing regulations, and State rules and regulations governing the Randolph-Sheppard Vending Facility Program.

### Synopsis of the Arbitration Panel Decision

After reviewing all of the testimony and evidence, the majority of the panel found that the Lewis Cass Building Cafeteria was a suitable opportunity for Complainant and as such, Complainant was responsible for routine building maintenance. The panel majority concluded that, although the SLA was aware of the previous building plumbing problems, the SLA had no authority to repair the plumbing problems. Additionally, the panel majority found that Complainant did not provide competent evidence to support his allegation of lost income. Although Complainant had anticipated larger profits from operating a cafeteria at this location, this grievance was not substantiated by the evidence provided to the panel. Thus, the panel majority found that Complainant's estimate of \$70,000 for lost profits was speculative and that it had no basis to rule that Complainant actually lost income or, if so, how much income Complainant lost.

One panel member concurred in part and dissented in part. This panel member concurred with the panel majority's finding that there was no evidence presented by Complainant to support reimbursement by the SLA for his alleged loss of income during the renovation period of the cafeteria. At the same time, this panel member dissented from the panel majority's findings, suggesting that it was not reasonable to place the entire burden of property-related losses or damages on operators and suggested that the SLA undertake rulemaking to clarify such situations, should they occur in the future.

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

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can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: March 1, 2012.

**Alexa Posny,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

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## DEPARTMENT OF EDUCATION

### National Committee on Foreign Medical Education and Accreditation

**AGENCY:** National Committee on Foreign Medical Education and Accreditation, Office of Postsecondary Education, U.S. Department of Education.

**ACTION:** The purpose of this notice is to announce the upcoming meeting of the National Committee on Foreign Medical Education and Accreditation (NCFMEA). Parts of this meeting will be open to the public, and the public is invited to attend those portions.

**Meeting Date and Place:** The public meeting will be held on Tuesday, April 10, 2012, from 8:30 a.m. until approximately 5 p.m., at the U.S. Department of Education, Eighth Floor Conference Center, Office of Postsecondary Education, 1990 K St. NW., Washington, DC 20006.

**Function:** The NCFMEA was established by the Secretary of Education under Section 102 of the Higher Education Act of 1965, as amended. The NCFMEA's responsibilities are to:

- Upon request of a foreign country, evaluate the standards of accreditation applied to medical schools in that country; and,
- Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

Comparability of the applicable accreditation standards is an eligibility requirement for foreign medical schools to participate in the William D. Ford Federal Direct Student Loan Program, 20 U.S.C. §§ 1087a et seq.