

DEPARTMENT OF EDUCATION**Notice of Proposed Information Collection Requests****AGENCY:** Department of Education.**ACTION:** Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 18, 2011.

ADDRESSES: Comments regarding burden and/or the collection activity requirements should be electronically mailed to ICDocketMgr@ed.gov or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202-4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the

burden of this collection on the respondents, including through the use of information technology.

Dated: December 14, 2010.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences*Type of Review:* Revision.

Title of Collection: Education Longitudinal Study (ELS) 2002 Third Follow-up 2011 Field Test.

OMB Control Number: 1850-0652.*Agency Form Number(s):* N/A.*Frequency of Responses:* Annual.*Affected Public:* Individuals or household.*Total Estimated Number of Annual Responses:* 13,964.*Total Estimated Number of Annual Burden Hours:* 875.

Abstract: The Education Longitudinal Study of 2002 is a nationally representative study of two high school grade cohorts (spring 2002 tenth-graders and spring 2004 twelfth-graders) comprising over 16,000 sample members. The study focuses on achievement growth in mathematics in the high school years and its correlates, the family and school social context of secondary education, transitions from high school to postsecondary education and/or the labor market, and experiences during the postsecondary years. Major topics covered for the postsecondary years include postsecondary education access, choice, and persistence; baccalaureate and sub-baccalaureate attainment; the work experiences of the non-college-bound; and other markers of adult status such as family formation, civic participation and other young adult life course developments. Data collections took place in 2002, 2004, 2006 (two years out of high school), and now will take place in 2012, when most sample members are around 26 years of age. This submission requests OMB's approval for the third follow-up 2011 field test and a 60-day **Federal Register** waiver for the 2012 full scale clearance.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 4460. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202-4537. Requests may also be electronically

mailed to ICDocketMgr@ed.gov or faxed to 202-401-0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 2010-31800 Filed 12-17-10; 8:45 am]

BILLING CODE 4000-01-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 July 17, 2009, an arbitration panel rendered a decision in the matter of *Jerry Bird v. Oregon Commission for the Blind, Case no. R-S/07-2*. 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, Jerry Bird.

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 (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

Jerry Bird (Complainant) alleged violations by the Oregon Commission for the Blind, the State licensing agency (SLA), under the Act and implementing regulations in 34 CFR part 395. Specifically, Complainant alleged that

the SLA improperly administered the Randolph-Sheppard Vending Facility Program in violation of the Act, implementing regulations under the Act, and State rules and regulations. Complainant further alleged that the SLA denied him an opportunity to manage vending machines at the Chemeketa Community College in addition to those he was already operating in exchange for relinquishing his vending location at the Oregon State Lottery Building (Lottery Building) as well as a proposed espresso cart operation in the Lottery Building.

Since 1991, Complainant has been a licensed blind vendor in the Randolph-Sheppard Vending Facility Program. In the fall of 2005, while operating his vending location at the Lottery Building, Complainant learned from another blind vendor at the Lottery Building that customers had approached her regarding their interest in having an espresso cart in the building. The other vendor discussed her plans with building management and with a member of the Blind Enterprise Consumer Committee (BECC). BECC is the Elected Committee of Blind Vendors under the Act. The BECC member informed Complainant of the discussions.

Subsequently, Complainant contacted SLA staff to raise his concerns of direct competition to his vending location with the placement of the proposed espresso cart at the Lottery Building. Moreover, Complainant felt the espresso cart should become part of his vending location. Complainant alleged that initially SLA staff agreed with his position, but later changed its opinion and moved forward with its intention of installing the espresso cart at the Lottery Building separate from Complainant's vending location.

Complainant objected to the SLA's decision. A meeting was held in October 2005 with SLA staff and a BECC member. At the meeting, Complainant alleged that he offered to give up the Lottery Building vending location, thereby permitting it to be combined with the proposed espresso cart, in return for a vending machine location at the Santiam Correctional Facility, which would cover his lost revenue from the vending machines in the Lottery Building, and at the Chemeketa Community College, which would reimburse him for lost income for the proposed espresso cart.

In November 2005, Complainant was contacted by an SLA staff member informing him that the vending machines at the Santiam Correctional Facility were being transferred to him. Later, in early 2006, Complainant

contacted the SLA to inquire whether it had pursued a vending contract with the Chemeketa Community College. The SLA informed Complainant that it was in the process of obtaining an opinion from the Oregon Attorney General's (AG) office concerning the extent of the SLA's legal authority under State law regarding community colleges and that a response from the AG's office was expected soon.

On July 21, 2006, the SLA informed Complainant that the Santiam Correctional Facility and another vending location he had recently received would more than compensate him for the loss of income at the Lottery Building. Also, the SLA informed Complainant that it would not assign him any additional vending locations without the approval of the BECC. Eventually, while the BECC voted to assign Complainant the Chemeketa Community College vending facility, the SLA invalidated the vote due to an alleged conflict of interest.

Complainant requested a State fair hearing on the SLA's decisions. A State fair hearing on this matter was held. On October 31, 2007, the hearing officer issued a decision denying Complainant's grievance. On December 14, 2007, the SLA adopted the hearing officer's decision as final agency action. It was this decision that Complainant sought review of by a Federal arbitration panel.

According to the arbitration panel, the issues to be resolved were: (1) Whether the SLA violated the Act when it failed to give Complainant the Chemeketa Community College vending or an equivalent opportunity; (2) Whether the SLA violated the Act by delaying the administrative appeal process; and (3) If there was a violation of the Randolph-Sheppard Act, what was the appropriate remedy.

Arbitration Panel Decision

After hearing testimony and reviewing all of the evidence, the panel majority ruled that the Oregon Commission for the Blind violated the Act by operating the Randolph-Sheppard program in an arbitrary and capricious manner when it: (1) Offered the Chemeketa Community College vending location or its equivalent to Complainant as part of a negotiation with him to relinquish his vending location in the Lottery Building without consulting the BECC; (2) ignored the active participation of the BECC by declaring the BECC's vote on the vending location at the Chemeketa Community College invalid; and (3) delayed the administrative process in

response to Complainant's request for a State fair hearing.

Notwithstanding the SLA's argument that it had not waived sovereign immunity, the panel found that it had jurisdiction to order monetary damages. Thus, as a remedy, the panel majority ruled that the SLA should: (1) Remit to Complainant an amount equal to the net revenues from the vending location at the Chemeketa Community College less set-aside, plus interest at the applicable Federal statutory rate, retroactive to April 2007; (2) award to Complainant the vending location at the Chemeketa Community College; and (3) amend its regulations to provide for timelines in processing vendor complaints and requests for Federal arbitrations under the Act. Additionally, the panel majority ruled that the Complainant was entitled to reasonable attorney's fees and costs. The panel also retained jurisdiction for 90 days following the award's issuance to monitor implementation and calculation of the award of attorney's fees.

One panel member dissented from the panel majority's decision. The panel member dissented from the panel majority regarding: (1) The award of monetary damages and attorney's fees to Complainant, (2) the finding that the SLA had violated the Act because it did not consult the BECC, and (3) the finding that the SLA violated the Act as the result of a delay in the administrative hearing process.

Conversely, the panel member concurred with the panel majority that the actions of the SLA were in violation of the Act, not in breach of a contract. Also, the panel member concurred with the panel majority regarding prospective relief available to Complainant.

Subsequent to the arbitration panel decision, the attorney for the Complainant requested that the panel reconsider its decision and amend the award based upon the fact that Chemeketa Community College had entered into a beverage contract that was contrary to the Act. Also, the attorney requested that the panel award him \$98,624.00 in legal fees and costs.

On April 1, 2010, the panel majority found that the new allegation regarding the beverage contract was outside the scope of the panel's authority and thus denied the request of Complainant's attorney to reconsider and amend the original award. Additionally, the panel reviewed the billing statements in detail from the attorney regarding his services rendered and the legal fees and costs to represent the Complainant. Based upon the finding that not all of the hours claimed by Complainant's attorney were pertinent to this arbitration, the panel

majority concluded that reasonable attorney's fees and costs for this arbitration should be reduced to \$28,393.50.

One panel member dissented stating that the scope and amount of an award of attorney's fees and costs would not materially damage the Oregon Commission for the Blind's Randolph-Sheppard program. Consequently, this panel member would award Complainant's attorney \$65,749.33, reducing the original amount requested by one-third.

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: December 15, 2010.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

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DEPARTMENT OF EDUCATION

Assessment Technology Standards Request for Information (RFI)

AGENCY: Office of Innovation and Improvement, U.S. Department of Education.

ACTION: Notice of request for information to gather technical expertise pertaining to assessment technology standards.

SUMMARY: The purpose of this RFI is to collect information relating to assessment technology standards. Toward that end, we are posing a series of questions to which we invite interested members of the public to respond. The Department anticipates making use of this information in the following ways. First of all, we expect to use this information to help determine the appropriate interoperability standards for assessments and related work developed

under the Race to the Top Assessment (RTTA) program. Secondly, we expect to use this information to help us develop related standards-based programs. For example, we might, in the future, offer additional grants, contracts, or awards and some of those offerings may include similar interoperability requirements. This RFI may be used to help set the interoperability requirements for those offerings as well as the existing RTTA program.

Under the RTTA program, the Department requires grantees to develop assessments that (*see* <http://www2.ed.gov/programs/racetothetop-assessment/executive-summary.pdf>, p. 78):

“5. Maximize the interoperability of assessments across technology platforms and the ability for States to switch their assessments from one technology platform to another by—

(a) Developing all assessment items to an industry-recognized open-licensed interoperability standard that is approved by the Department during the grant period, without non-standard extensions or additions; and

(b) Producing all student-level data in a manner consistent with an industry-recognized open-licensed interoperability standard that is approved by the Department during the grant period.”

DATES: Written submissions must be received by the Department on or before 5 p.m., Washington, DC time, on January 17, 2011.

ADDRESSES: We encourage submissions by e-mail using the following address: RTTA-RFI@ed.gov. You must include the term “Assessment RFI response” in the subject line of your e-mail. If you prefer to send your input by mail or hand delivery, address it to Steve Midgley, Office of Educational Technology, Attention: Assessment RFI, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7E202, Washington, DC 20202-0001.

FOR FURTHER INFORMATION CONTACT: Steve Midgley, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7E202, Washington, DC 20202-0001 by phone at 202-453-6381 or e-mail at RTTA-RFI@ed.gov.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

1. Introduction

The Department is seeking information on technology standards that may be applied to the management and delivery of education-related

assessments, as well as those that may be applied to the capture and reporting of assessment results within distributed online learning environments (*i.e.* learning environments with components managed by more than one organization). THIS IS A REQUEST FOR INFORMATION (RFI) ONLY. This document uses the term “technology standards” to refer to assessment technology standards, specifications, technical approaches and implementations, and any other functional or formal descriptions of technical functionality. (*Note:* This document refers to curricular or content standards specifically as “curricular standards.”) Information about non-assessment technology standards and related issues may be relevant and included in responses, but this RFI is specifically inquiring into technology standards related to assessments of learning. For the purpose of this RFI, the Department does not distinguish between technology specifications and technology standards produced by consortia, other groups, or nationally or internationally recognized technology standards development organizations.

This RFI is issued solely for information and planning purposes and does not constitute a Request for Proposals (RFP) or a promise to issue an RFP or notice inviting applications (NIA). This request for information does not commit the Department to contract for any supply or service whatsoever. Further, the Department is not at this time seeking proposals and will not accept unsolicited proposals. Responders are advised that the Department will not pay for any information or administrative costs that a person or entity may incur in responding to this RFI. All costs associated with responding to this RFI will be solely at the interested party's expense. Not responding to this RFI will not preclude individuals or organizations from applying under future contract or grant competition. If the Department issues an RFP or NIA, it will be posted on the Federal Business Opportunities (<https://www.fbo.gov/>) Web site (in the case of contracts) or the **Federal Register** (<http://www.gpoaccess.gov/fr/>) Web site (in the case of grants, or other awards). It is the responsibility of the potential offerors to monitor these sites to determine whether the Department issues an RFP or NIA after considering the information received in response to this RFI. Any company or industry proprietary information contained in responses should be clearly marked as such, by paragraph, such that publicly releasable