

BALTIMORE COUNTY PUBLIC SCHOOLS

DATE: March 11, 2008

TO: **BOARD OF EDUCATION**

FROM: Dr. Joe A. Hairston, Superintendent

SUBJECT: **PROPOSED CHANGES TO BOARD OF EDUCATION ETHICS CODE
POLICY 8366 – ETHICS REVIEW PANEL**

ORIGINATOR:

**RESOURCE
PERSONS:** Margaret-Ann F. Howie, Esquire, General Counsel

RECOMMENDATION

That the Board of Education's Ethics Code Policies be presented to the Board for action. This is the third reading.

Attachment I – Policy Analysis
Attachment II – Policy 8366

POLICY ANALYSIS

Revisions to Board of Education Ethics Code Policies

Policy 8360: Ethics Code: Definitions * Policy 8361: Ethics Code: General
Policy 8362: Gifts * Policy 8364: Financial Disclosure
Policy 8365: Lobbying Disclosure * Policy 8366: Ethics Review Panel

Statement of issues or questions to be addressed by the proposed policy

The Board of Education's Policy Review Committee continues its process of revising the Board's Internal policies. (8000 series) During the course of its review, the Committee has had the opportunity to confer with a subcommittee of the Ethics Review Panel. The revisions to the Code reflect the joint work of the Policy Review Committee and the Ethics Code Panel. The Ethics Code Panel's recommendations also reflect the Panel's experience in applying the Code to questions posed by staff. Following initial discussion by the full Board at its November 6, 2007 meeting, the Board's Policy Committee is resubmitting these policies for Board action.

In short, the changes are as follows:

Policy 8360: Ethics Code: Definitions include: (1) number or letter all paragraphs; (2) Paragraph D – expand “doing business” to include those entities that are seeking to do business with school system; (3) Paragraph H - exclude scholarships from definition of “gift.”

Policy 8361: Ethics Code: General. Only one non-substantive change is recommended concerning policy references.

Policy 8362: Gifts. It is recommended that the policy increase gift amount to \$50; define awards and exclude such from the definition of “gift;” prohibit persons from accepting tickets to political events.

Policy 8364: Financial Disclosure. Only one change is recommended by the subcommittee; namely, to increase the gift amount to \$50 to conform with Policy 8362. A non-substantive change was also made to reference related policies.

Policy 8365: Lobbying Disclosure. Only non-substantive change made to reference related policies.

Policy 8366: Ethics Review Panel. The subcommittee recommended that language be added to include replacement of an Ethics Review Panel member as a result of absences; that persons are no longer disqualified from serving on the Panel as a result of having a spouse who is employed by the school system; that a Panel member would be disqualified from participating in or discussing matters involving his/her spouse; that the Panel has right to search employee computer files.

Note that, in addition to the above, the Policy Review Committee has recommended non-substantive changes for ease of reference.

Fiscal Impact on the school system

No fiscal impact is anticipated or contemplated by these revisions.

Relationship to other Board of Education Policies

These policies form the basis of the Board's expectations for employee behavior and conduct.

Similar Policies adopted by other local school systems

CALVERT COUNTY BOARD OF EDUCATION

Policy Number 1740. Ethics.

<http://www.calvertnet.k12.md.us/admin/policies/Web%20Policies/1740%20Policy%20on%20Ethics.pdf>

CARROLL COUNTY BOARD OF EDUCATION

Policy BC, Ethics

FREDERICK COUNTY BOARD OF EDUCATION

Policy 109, Ethics

<http://www.fcps.org/dept/legal/109.pdf>

MONTGOMERY COUNTY BOARD OF EDUCATION

Policy BBB, Ethics

<http://mcps.k12.md.us/departments/policy/pdf/bbb.pdf>

PRINCE GEORGE'S COUNTY BOARD OF EDUCATION

Board Policy 0107, Ethics

Board Policy 0107.1, Ethics - Definitions

Board Policy 0108, Ethics Panel

Board Policy 0109, Conflict of Interest

Board Policy 0111, Board Financial Disclosure

Board Policy 0112, Lobbying Disclosure

HOWARD COUNTY BOARD OF EDUCATION

Ethics Regulations

<http://www.hcpss.org/board/ethicsregs.pdf>

WASHINGTON COUNTY BOARD OF EDUCATION

Policy BBFB, Ethics

Policy BBF, Code of Ethics for School Board Members

Policy BBFA, Conflict of Interest

Legal Requirements, such as federal, state or local laws or regulations

Annotated Code of Maryland, State Government Article, Sections 15-811 to 15-815 (Local Boards of Education)

A draft of the proposed policies

See attached

Timeline

First Reader, February 13, 2008

Citizen Comment, February 26, 2008

Proposed Date of Approval and for Forwarding to the State Ethics Commission, March 11, 2008

ETHICS CODE: Ethics Review Panel

1. PANEL MEMBERS

- A. The Ethics Review Panel of the Baltimore County Public Schools (BCPS) will consist of five (5) members appointed by the Board of Education. At least one (1) member must be an attorney duly licensed to practice law in the State of Maryland and who is in good standing with the State Court of Appeals.
- B. All members will serve five-year terms and until their successors are appointed and qualify. Terms will be staggered to assure continuity and political independence. The initial terms of appointees will be staggered by the Board to provide that each year one (1) of the members' terms is concluded.
- C. A member of the Panel will be replaced in the event of:
 - [.](i) Death;
 - [.](ii) Resignation;
 - [.](iii) just cause[.], WHICH MAY INCLUDE FAILURE TO ATTEND, WITHOUT GOOD CAUSE, MORE THAN FIFTY PERCENT OF THE PANEL'S SCHEDULED MEETINGS IN ONE CALENDAR YEAR OR THREE CONSECUTIVE ABSENCES SUBJECT TO THE DISCRETION OF THE PANEL.
- D. Vacancies occurring on the ETHICS REVIEW Panel shall be filled by the Board for the remainder of the unexpired term only. An individual may be reappointed by the Board for a maximum of one (1) additional term.

[1.]2. Qualifications of Panel Members

- A. Every person who resides in Baltimore County and is at least eighteen (18) years of age is eligible to serve on the Ethics Review Panel if that person:
 - (i)[(a)] Is a U.S. citizen;
 - (ii)[(b)] Does not hold any elected or appointed office, is not a candidate for an office of the United States, the State, any political subdivision or incorporated municipality of the State, or in any political party;

(iii)[(c)] Is not an incumbent member of the Board, an employee, OR employed by a business entity subject to the authority of the Board.[,or the spouses of such persons]

(iv)[(d)] Is not a registered lobbyist for any organization in the State that may create a conflict of interest.

[b]B. PANEL MEMBERS MAY NOT PARTICIPATE IN THE DECISIONS OR DISCUSSION OF ANY MATTER INVOLVING HIS/HER SPOUSE.

[2]3. Role of the Ethics Review Panel

A.(i) The Ethics Review Panel shall serve as an advisory body to the Board of Education of Baltimore County (BOARD).

(ii) The Ethics Review Panel shall be responsible for interpreting this Ethics Code and advising persons subject to these policies as to their applications.

B.(i) The Ethics Review Panel shall be responsible for accepting, hearing, or initiating any complaints as deemed necessary in accordance with these policies. The Ethics Review Panel shall provide hearings in accordance with the Board's currently adopted Policy 8339 (Appeal Before Hearing Examiner).

(ii) The Ethics Review Panel will provide the opportunity for a hearing on any complaint deemed viable, after a review, regarding an alleged violation of these Ethics policies.

(iii) The Ethics Review Panel shall issue a written report on each case heard to the Board [of Education].

(iv) From the time a complaint is filed until there is a final determination by the Board [of Education of Baltimore County], all actions and information shall be treated as confidential, in accordance with the laws of the State of Maryland.

C. The Ethics Review Panel shall recommend exceptions or modifications to the provisions of these Ethics policies if it is determined that there would be an unreasonable invasion of privacy, that there would be a significant reduction of the availability of qualified individuals for public service, and if it is deemed not necessary to preserve the purposes of these Ethics

policies. Recommendations for exceptions are not approved or rejected until the Board acts.

[3.]4. Administration of the Panel

The Ethics Review Panel will develop rules and procedures in consultation with the Office of Law of the Board [of Education of Baltimore County].

- A. The Chair of the Ethics Review Panel will be selected by members of the Panel. The term of the Chair will be one (1) year.
- B. The Ethics Review Panel will meet regularly on a quarterly basis and will submit minutes to the Board [of Education]. However, any Member of the Panel may call a meeting of all members should an unexpected circumstance arise.
- C. An affirmative vote of at least three (3) members of the Panel is required for any and all action of the Ethics Review Panel.
- D. Members of the Ethics Review Panel will receive no compensation for their services. They will, however, be reimbursed for reasonable and necessary expenses incurred in the discharge of their official duties.
- E. The ETHICS REVIEW Panel will administer the provisions of this Ethics Code.
- F.(i) The Office of Ombudsperson shall provide administrative support to the Ethics Review Panel.
 - (ii) The Superintendent shall ensure that the Office of Law has the needed budgetary support to provide legal, technical, and clerical staff support for the Ethics Review Panel.
 - (iii) As an advisory body to the Board [of Education], the Ethics Review Panel may be assisted in carrying out its responsibilities by the Board's attorney and/or internal auditor.
- G.(i) The members of the Ethics Review Panel shall be insulated by the defense of sovereign immunity as provided by the laws of the State of Maryland.
 - (ii) The Board [of Education] shall provide, in accordance with Maryland law, inclusion for the Ethics Review Panel and each of its members comprehensive liability insurance coverage (either through the Board's

policy or otherwise) from any personal or joint civil liability action arising out of and in the course of the performance of their duties.

[4.]5. Advisory Opinions

Any Board member, employee, volunteer, or other person subject to the provisions of the policies of the Ethics Code may request that the Ethics Review Panel issue an advisory opinion concerning the applications of these policies. The Panel will respond promptly to such requests, providing interpretations of the policies contained in the Code based on the facts provided or reasonably available to it. Copies of these interpretations, with the identity of the subject deleted, will be made available to the Board, the Superintendent, and the public in accordance with applicable State law regarding public records.

[5.]6. Complaints

Any person may file with the Ethics Review Panel a complaint alleging a violation of any of the provisions of the Ethics Code.

- A. All complaints must be submitted in writing, must contain a signature(s) of the individual(s) with knowledge of the complaint, and may be referred to the Board's attorney to obtain the necessary investigative services.
- B. If--after the Ethics Panel review of any investigation that may have taken place--the Panel determines that there are insufficient facts upon which to base a determination of violation, the Ethics Review Panel shall dismiss the complaint.
- C. If there is reasonable basis for believing a violation has occurred, the individual who is the subject of the complaint will get a chance for a hearing conducted in accordance with the Board's hearing procedures (Board Policy 8339) for actions on the record.
- D. Hearings
 - (i)[•] For purposes of the Ethics Review Panel hearings, the Panel will act as the hearing examiner and conduct the opportunity hearing. After a complaint is filed and until there is a final determination by the Board, all actions regarding a complaint will be treated confidentially, in accordance with the laws of the State of Maryland. For purposes of the hearing, a member of the Ethics Review Panel will act as hearing chairperson to conduct the hearing and provide for its efficient administration. The ETHICS REVIEW Panel will be

advised by an attorney from the Office of Law OR SUCH OTHER COUNSEL THAT MAY BE ENGAGED AT THE BOARD'S EXPENSE FOR SUCH PURPOSE regarding the rule on motions, objections, and issues of law.

- (ii)[•] All evidence will be presented on the record and a written transcript of the hearing will be produced.
- (iii)[•] All testimony will be taken under oath and all parties will be provided with the right to cross-examine witnesses.
- (iv)[•] The Ethics Review Panel will produce a written report to the Board in every case. The report will state, where appropriate, dismissal of the complaint, that a determination was reached, that a violation of the Ethics Code had occurred, or that evidence was inconclusive and the Panel was unable to reach a final determination.
- (v)[•] Any final determination resulting from the hearing will include written findings of fact, a statement of alleged violation, a conclusion of law, and recommendations, which may include: recommendations for corrective action, disciplinary or other appropriate personnel action, or termination.
- (vi)[•] The ETHICS REVIEW Panel will have the right to demand the appearance of any employee of the Board of Education at any meeting or hearing. The Panel will have the right to inspect and/or have copies produced of any relevant document, paper, ELECTRONIC MEDIA, or other tangible object in the possession of the BCPS[altimore County Public Schools] and/or the Board [of Education].
- (vii)[•]The Ethics Review Panel does not have the right to issue subpoenas.

[6.]7. Rules of Procedure

- A. The provisions of Board Policy 8339 will be followed, except that the Panel will act as hearing examiner.
- B. A majority vote of the Panel consists of three (3) or more votes.
- C. A quorum consists of three (3) members present.

- D. The ETHICS REVIEW Panel will adopt rules for the transaction of its business.
- E. The ETHICS REVIEW Panel will keep a file of the minutes of its proceedings.
- F. All official actions and decisions of the Ethics Review Panel will be in writing.

[7.]8. Sanctions

- A. Violations of the Ethics Code by any Board member, employee, or volunteer will constitute grounds for discipline or personnel action, or termination where provided by law, consistent with procedures set forth in the Education Article of the *Annotated Code of Maryland* and the policy manual of the Board [of Education of Baltimore County].
- B. Persons or organizations found in violation of the lobbying provisions of the Ethics Code shall be publicly identified and subject to other penalties as provided by law.

Legal Reference: *Annotated Code of Maryland*, State Government Article, [§10-611 et seq.] §§15-101 to -105, 15-811 to -815

RELATED POLICIES: BOARD OF EDUCATION POLICY 8339,
HEARING BEFORE HEARING EXAMINER

Policy
 Adopted: 10/8/96
 Revised: 8/12/97
 REVISED: _____

Board of Education of Baltimore County