

BOARD OF EDUCATION OF BALTIMORE COUNTY
Ethics Review Panel

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TO: Principals and Office Heads

FROM: Ethics Review Panel

DATE: January 27, 2003

RE: Advisory Opinion 02-06

At its January 16, 2003, meeting, the Ethics Review Panel adopted Advisory Opinion 02-06 in response to an application received from a petitioner.

In compliance with Ethics Code Policy 8363, "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." In an effort to keep individuals abreast of the Panel's interpretations of the Ethics Code policies, please share this information with your staff.

Consistent with the Panel's rules of procedure, you will note the deletion of the petitioner's name and any personally identifiable information in order to ensure anonymity. As subsequent advisory opinions are issued, they will be made available through Outlook.

If you or members of your staff have any questions, please contact Risa Schuster, Administrative Liaison to the Ethics Review Panel, at 4138.

BOARD OF EDUCATION OF BALTIMORE COUNTY

ETHICS REVIEW PANEL

ADVISORY OPINION 02-06

This Advisory Opinion 02-06 is in response to a request made by the petitioner, an employee of the Baltimore County Public Schools, inquiring as to whether a conflict of interest would exist in the event that a Baltimore County Public Schools Speech/Language Pathologist provided speech/language tutoring for a child attending the Baltimore County Public Schools.

Policy 8363 of the Ethics Code prohibits employees from engaging in outside employment if such employment is incompatible with the proper performance of the employee's official duties or impairs the impartiality or independence of judgment or action of the employee.

The relevant sections of the Ethics Code are as follows:

ETHICS CODE: Conflict of Interest

Section 8363

Board members, employees, and volunteers shall not participate on behalf of the school system in any matter which would, to their knowledge, have a direct financial impact, as distinguished from the public generally, on them, their spouse, dependent child, ward, parent, or other who shares the Board member's, employee's, or volunteer's legal residence or a business entity with which they are affiliated.

1. *Outside Employment*

(a) *Board members, employees, and volunteers may not participate in outside employment if the work:*

- . *is incompatible with the proper performance of official duties*
- . *impairs the impartiality or independence of judgment or action of the employee*
- . *affects the performance of the employee.*

(b) *A person engaged in outside employment may not:*

- . *benefit from business with the school system or from relationships with students*
- . *represent any party before the school system*
- . *use confidential information acquired in his or her official school system position for personal benefit or that of another.*

(c) *Any employee with instructional responsibility shall not tutor, for compensation, any student whom he or she is currently teaching.*

The facts in the matter before the Ethics Panel are that a Speech/Language Pathologist employed by the Baltimore County Public Schools was acting as a private therapist for a student of the Baltimore County Public Schools (BCPS). While acting in this private capacity and not as a BCPS employee, the pathologist submitted a BCPS consent form in order to obtain records that the BCPS maintained concerning the student.

There are two previous Advisory Opinions issued by the Ethics Panel that provide guidance to this request for an opinion. In Advisory Opinions 99-05 and 99-06, issued on 2/15/00 and 2/17/00 respectively, the Panel found that a conflict of interest existed when

BCPS speech/language pathologists provided services to special need students while serving on those students' evaluation teams. In these two cases there was concern by the Panel that the therapists possessed confidential knowledge of the students that could impair the therapists' impartiality or independence of judgment if called upon to participate in mediation or litigation concerning the students to whom they provided services.

In the immediate case before the Panel, the facts presented indicate that the therapist used his/her position with BCPS to expedite the process of obtaining information concerning the student to whom he/she is providing services. Additionally, the therapist, even while not part of any formal BCPS evaluation, cannot control the probability of being called upon to participate in mediation or litigation concerning the student to whom he/she is providing services. If such litigation arose, such situation may impose the need for the therapist to provide information against the interests of his/her employer, BCPS.

The Ethics Panel has concluded that this relationship does violate the Ethics Code since the therapist's solicitation of student information, as an independent service provider, on an official BCPS form is incompatible with the proper performance of the therapist's official duties as a BCPS employee. Additionally, a conflict of interest can exist where the therapist is called upon to provide information as a service provider, in an unanticipated legal proceeding, against the interests of his/her employer.

This Advisory Opinion has been signed by the Ethics Review Panel members and adopted on January 16, 2003.

Roland Unger, CPA, Chair
Meryl D. Burgin, CPA, Vice Chair
Donald A. Gabriel, Ph.D., Panel Member

Joy Shillman, Panel Member
Karen Strand, RN, Panel Member