

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 02-07

At its January 16, 2003, meeting, the Ethics Review Panel adopted Advisory Opinion 02-07 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 02-07

This Advisory Opinion 02-07 is in response to a request made by the petitioner, an employee of the Baltimore County Public Schools (BCPS), inquiring as to whether a vendor for whom his wife is employed may pursue business with BCPS.

Policy 8363 of the Ethics Code prohibits employees from participating, on behalf of the BCPS, in any matter that would have a direct financial impact on the employee, their spouse, or other family members. Policy 8363 also limits employees from participating

in activities that are incompatible with their official duties or impair their impartiality or independence.

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 the Petitioner is an employee of BCPS. The employee's spouse is employed by a software company that conducts sales of software over the Internet. The sales are conducted in a way such that parents may purchase software from the company that has been promoted by any Baltimore County Public School. The customer parent then designates which school is to receive a rebate that the company offers. The software company has intentionally refrained from pursuing business with BCPS until it is determined if such pursuit is a violation of the Ethics Code.

In the immediate case before the Panel, the facts presented indicate that the BCPS employee does not have decision-making authority over the selection of the software

company. Such authority to procure supplies and materials and to decide on the selection of vendors rests with an unrelated BCPS department, and the authority to grant schools the right to promote the company's website are not made by the Petitioner. Purchase decisions are made by students' parents, and the parents select online which school will get credit for the software purchase. Of course, the Petitioner's spouse would be precluded from using the relationship with the Petitioner in the solicitation of business with BCPS.

The Ethics Panel has concluded that the facts as presented do not violate provisions of the Ethics Code since the Petitioner does not exercise purchasing decision-making control in the normal course of the performance of his/her duties, nor does the Petitioner control which products are purchased by parent/customer.

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, Esq., Vice Chair
Donald A. Gabriel, Ph.D., Panel Member

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