

BOARD OF EDUCATION OF BALTIMORE COUNTY

ETHICS REVIEW PANEL

ADVISORY OPINION 03-07

This advisory opinion is in response to a request made by Petitioner, an employee of the Baltimore County Public Schools (BCPS). This request for opinion relates to a recommendation from the Office of Special Education that a student be offered assistance in the Wilson Reading Program. The student's parents have consented to the assistance offered to the student. Such remedial instruction would be provided after school by a current teacher of the student, and the teacher would be paid by BCPS. The Petitioner has requested guidance to ascertain if these circumstances are consistent with provisions of the Ethics Code.

Policy 8363 prohibits Baltimore County School System employees from benefiting financially from relationships with students and from tutoring current students for compensation.

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:*

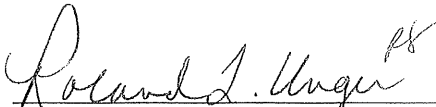
- *benefit from business with the school system or from relationships with students*
- *represent any party before the school system*
- *use confidential information acquired in his or her official school system position for personal benefit or that of another.*

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

Section 8363 does prohibit a teacher from any financial gain involving the tutoring of a current student for compensation. The Ethics Code defines "tutoring" as "any private additional, special or remedial instruction performed for compensation." The Ethics Panel observes that the nature of the instruction that will be provided to the student is not private in the sense that it will not be performed outside of BCPS facilities or paid for privately by any party other than BCPS. Furthermore, the Office of Special Education has initiated and recommended this remedial instruction in its review of a compliance issue.

The Ethics Code gives recognition to the potential conflict of interest that may result from private instructional relationships with students. In this case, however, BCPS has recommended that remedial instruction be provided and has recommended that the current teacher provide the instruction. This teacher is neither paid by a private party nor is the teacher related by blood to the student. The teacher's compensatory relationship is with the school system in this case, not with any private third party. Furthermore, for reasons cited before, the Ethics Panel does not believe that the remedial instruction that will be provided to the student is consistent with the definition of "tutoring" as defined by the Ethics Code. The Ethics Panel concludes that this employment relationship does not violate the Ethics Code.

This opinion has been signed by the Ethics Panel members and adopted on December 4, 2003.




Roland L. Unger, C.P.A., Chair



Meryl Burgin, Vice Chair

Absent

Karen W. Strand, Panel Member



Donald A. Gabriel, Panel Member

Vacant Position