

# **BOARD OF EDUCATION OF BALTIMORE COUNTY**

## **Ethics Review Panel**

**Meryl D. Burgin, Esq., Chair**  
**Karen W. Strand, RN, Vice Chair**  
**Donald A. Gabriel, Ph.D.**  
**Raymond A. Hein, Esq.**  
**Roland Unger, CPA**

**6901 Charles Street**  
**Towson, Maryland 21204-3711**  
**Phone: 410-887-4138**  
**Fax: 410-887-4308**

**TO:** Principals and Office Heads  
**FROM:** Ethics Review Panel  
**DATE:** July 7, 2004  
**RE:** Advisory Opinion 04-01

At its June 22, 2004, meeting, the Ethics Review Panel adopted Advisory Opinion 04-01 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.

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**BOARD OF EDUCATION OF BALTIMORE COUNTY**

**ETHICS REVIEW PANEL**

**ADVISORY OPINION 04-01**

This Advisory Opinion 04-01 is in response to a request made by the Petitioner, an employee of the Baltimore County Public Schools ("BCPS"), inquiring as to whether a local music store's offer for BCPS to participate in its Public School Piano Loan Program ("PSPLP") would violate Policy 8360 of the Ethics Code. The Panel reviewed this request for an Advisory Opinion and the issue of whether BCPS participation in the PSPLP would violate any section of the Ethics Code.

Information provided by the music store advises that the PSPLP is a program in which the music store provides approximately \$150,000 worth of pianos to the school system for its use, at no

cost. In return, the school system is expected to acknowledge the music store and explain the PSPLP in press releases, at music programs, and in an annual letter to parents, faculty and staff, including the advertisement of an annual sale of the used pianos. There is no requirement that the school system, its employees, students or anyone else make purchases from the music store, nor is the school system required to endorse this business or its products. In the case of BCPS, the sale of the used pianos would not be held on BCPS property, but at the music store's warehouse. This would be a no cost program for BCPS. Additionally, the Panel was advised that the music store is not a vendor of the BCPS.

Based upon these facts, the Panel examined the issue of whether the music store's provision of the use of pianos to BCPS would constitute a "gift" under the Ethics Code. A "gift", is defined by *Code Section 8360*, as a "transfer of anything of economic value, regardless of the form, without adequate and lawful consideration", and with a gift, the presenting owner typically relinquishes its ownership rights to the object.

### **ETHICS CODE: Gifts**

#### *Section 8362*

#### *1. Gifts to the Board of Education, Schools, and Offices within the School System*

*As the Baltimore County Public Schools continue the practice of school-based management, it becomes increasingly important to establish firm guidelines on the acceptance of gifts by schools and offices on behalf of the Board of Education.*

***The Board of Education encourages the formation of partnerships between schools and businesses and recognizes that these relationships frequently include gifts to schools and offices to enhance the educational programs of students. (Emphasis Added)***

***The Board of Education, schools, and offices may accept any bequest or gift of money or property for a purpose deemed suitable. All gifts shall be accepted in the name of the Board of Education. All gifts will become the property of the Board of Education and may be designated by the Board for use in a particular school or office. (Emphasis Added)***

*Any gifts presented to the Board of Education, schools, and offices must be accompanied by a document of intent from the donor for official action and recognition.*

*To be acceptable, a gift must meet the following criteria:*

- *have a purpose consistent with those of the Board of Education, schools, or offices*
- *be offered by a donor acceptable to the Board of Education, schools, or offices*
- *be manageable by existing staff*
- *not begin a program with the assumption that the Board of Education will take over if the funds are exhausted*
- *place no restrictions on the school program*
- *be appropriate to the best education of students*
- *not imply endorsement of any business or product*
- *not carry an excessive cost of maintenance or installation*
- *be consistent with the provisions of the school code or public law.*

In this situation, the Panel concluded that the loaning of the pianos for BCPS' use, was not, in fact, a gift because the transfer of property is temporary and on a loaned basis, and the required press releases and annual letter (in exchange for the use of the pianos) could constitute "adequate and lawful consideration". However, even if the use of the pianos were to constitute a "gift" under Code Section 8362, the Panel does not believe that BCPS' participation in the PSPLP would violate the Ethics Code. The Panel was persuaded by the language contained in Code Section 8362 (1) that the formation of this business partnership between BCPS and the music store would benefit the school system, as it would "enhance the educational programs of students". Additionally, the Panel concluded that the required written notices would "not imply endorsement of any business or product" as they would merely describe the program, and how it benefits the BCPS, and communicate the added benefit of the ability to voluntarily purchase the used pianos. Therefore, the Ethics Panel has concluded that participation in the PSPLP program does not violate the Ethics Code and it is within the discretion of the BCPS' Administration to determine whether BCPS should participate in this program.

**This Advisory Opinion has been signed by the Ethics Review Panel members and adopted on June 22, 2004.**

Meryl D. Burgin, Esq., Chair  
Karen Strand, RN, Vice Chair  
Donald A. Gabriel, Ph.D., Panel Member

Raymond A. Hein, Esq., Panel Member  
Roland Unger, CPA, Panel Member