

BOARD OF EDUCATION OF BALTIMORE COUNTY

Ethics Review Panel

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TO: Principals and Office Heads

FROM: Ethics Review Panel

DATE: July 7, 2004

RE: Advisory Opinion 04-02

At its June 22, 2004, meeting, the Ethics Review Panel adopted Advisory Opinion 04-02 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 04-02

This Advisory Opinion 04-02 is in response to a request made by the Petitioner, an employee of the Baltimore County Public Schools ("BCPS"), inquiring as to whether a language arts skills workshop offered by BCPS teachers, on BCPS property, during the school year but during after school hours, and during the summer months, in which families are required to provide a \$25.00 "donation", would violate the Ethics Code. The request for an Advisory Opinion set forth specific questions relating to this program for which the Petitioner requested opinions from the Panel. Therefore, the Panel reviewed this request for an Advisory Opinion and the specific

questions raised by the Petitioner to determine whether the language arts skills workshop would violate any section of the Ethics Code.

Information provided by the Petitioner advises that the workshop, a “Basic Language Arts Skills Workshop” (“Workshop”), would be offered to the school’s Second Grade families after school, one day a week, for a period of 5 weeks. The Workshop would be taught on BCPS property, by the Second Grade teachers at the school. Parents would be advised that a “donation” of \$25.00, in cash, would be necessary to be used for supplies and materials.

Petitioner was referred to prior Advisory Opinions of the Panel. In Advisory Opinion 00-05 the Panel held, that according to the Ethics Code, a teacher could privately tutor a child during the summer, who was not in the teacher’s class the prior school year, but that the tutoring could not take place on BCPS property and that same teacher could not teach the child the following school year. In Advisory Opinion 00-09, the Panel was asked to determine whether “After School Sports” and “Early Morning Art” programs were prohibited by Advisory Opinion 00-05 and the Ethics Code. The Panel determined that there was a *Conflict Of Interest* prohibited by the Ethics Code, in the provision of these programs because part of the fee paid to participate in the programs was used as compensation for the teachers’ instructional services and therefore violated *Ethics Code Section 8363: Conflict of Interest, Outside Employment, Section B*.

In light of these Opinions, Petitioner has requested additional guidance on the several questions set forth below. The relevant Code Sections the Panel reviewed are 8362 *Gifts* and 8363 (1) *Conflict of Interest*:

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.

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.

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.*

When installation is required, the gift will be installed under the supervision of personnel of the Board of Education. The Board is under no obligation to replace the gift if it is destroyed or becomes worn out.

A letter of appreciation will be sent to the donor.

2. *Gifts to Individuals*

- (a) *A Board member, employee, or volunteer may not solicit gifts, gratuities, or discounts for personal use or gain.*
- (b) *No Board member, employee, or volunteer may knowingly accept gifts, gratuities, or discounts for personal use or gain, directly or indirectly, from any person or business entity that he or she knows or has reason to know:*
- *is doing business with the Baltimore County Public Schools*
 - *is subject to the authority of the school system*
 - *has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or non-performance of his or her official duty*
 - *is involved in lobbying.*
- (c) *Unless a gift of any of the following would tend to impair the impartiality and independence of judgment of the Board member or employee receiving it, or, if of significant value would give the appearance of doing so, or, if of significant value, the recipient has reason to believe that it is designed to do so, then the Board member or employee may accept the following, unless exceeding a \$25 market value:*
- *meals and beverages consumed in the presence of the donor*
 - *ceremonial gifts or awards*

- *unsolicited gifts of nominal value or trivial items of informational value*
 - *reasonable expenses for food, travel, lodging, and scheduled entertainment of the Board member or employee for a meeting which is given in return for participating in a panel or speaking engagement at a meeting*
 - *tickets or free admission extended to a Board member to attend a professional or intercollegiate sporting event or charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy extended to the office*
 - *a specific gift or class of gifts which the Ethics Review Panel exempts upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the school system and that the gift is purely personal and private in nature.*
- (d) *It is not the intent of the Code to prohibit students and employees from participating in and accepting awards exceeding a \$25 market value at events which are determined by the Ethics Review Panel to have an educational benefit.*
- (e) *It is not the intent of the Code to prohibit gifts from a person related by blood or marriage, or a spouse, child, ward, financially dependent parent, or other relative who share the Board member's, the Superintendent's or an employee's legal residence, or a child, ward, parent, or other relative over whose financial affairs the person has legal or actual control.*

ETHICS CODE: Conflict of Interest

Section 8363(1)

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.*

With respect to Petitioner’s individual questions, the Panel concluded as follows:

1. Q. Are schools allowed to hold after school enrichment workshops during the school year?

A. Yes, BCPS are allowed to hold after school enrichment workshops during the school year. Since these programs would be provided directly through BCPS, the *Outside Employment* restrictions of Code Section 8363(1) would not apply.

Q. If so, can parents be asked for a donation to offset costs?

A. Yes, parents may be asked for a donation to offset costs as long as the costs are related to supplies and not compensation for the teachers. Any payment to the teachers or schools for compensation for the teachers would constitute “tutoring” and under the factual situation set forth, would constitute a *Conflict of Interest* which would violate Ethics Code Section 8363 (1).

Q. Can teachers from the school teach this workshop?

A. Yes, teachers from the school may teach this workshop as long as the teachers are not receiving compensation and such teaching does not constitute “tutoring” under the Code.

Q. Can teachers teach their own grade level/own students in the workshop?

A. Yes, teachers may teach their own grade level/own students in the workshop as long as the teacher is not paid for the workshop by parents as such relationship would constitute “tutoring” and teachers may not “tutor” their own students under Code Section 8363 (1)(c).
2. Q. Can enrichment workshops be held over the summer for K, 1st and 2nd grade children, since no summer school program exists for them?

A. Yes, BCPS may provide summer enrichment workshops in accordance with the guidelines set forth in this Advisory Opinion.

Q. Can the local school run the programs?

A. Yes, the local school may run the program, with the permission of the BCPS Administration.

Q. Can parents be asked to contribute donations to offset the costs?

A. Yes, parents may be asked to contribute donations to offset the costs of the program, as long as the donations are not used as compensation for teachers, and are not solicited as “gifts” for personal use or gain.

3. Q. If local schools cannot run these programs, are separate organizations allowed to run these programs in the schoolhouse?

A. Local schools may run these programs without violating the Ethics Code, in accordance with the guidelines set forth in this and prior Advisory Opinions, but the decision of whether such programs should be run is the decision of the BCPS Administration.

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