

BOARD OF EDUCATION OF BALTIMORE COUNTY

Ethics Review Panel

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TO: Principals and Office Heads
FROM: Ethics Review Panel
DATE: January 28, 2005
RE: Advisory Opinion 04-06

At its January 20, 2005, meeting, the Ethics Review Panel adopted Advisory Opinion 04-06 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 04-06

This Advisory Opinion 04-06 is in response to a request made by the Petitioner, an employee of the Baltimore County Public Schools ("BCPS"), inquiring as to whether a conflict of interest exists if a BCPS' classroom teacher enters into an agreement with BCPS to lease space at elementary schools, at which she does not teach, but which belong to BCPS, to run before and after school child care programs.

Policy 8363(1)(b) of the Ethics Code prohibits employees from engaging in outside employment if the BCPS' employee would benefit from business with the school system or from relationships with students.

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.*

The limited facts presented to the Ethics Panel in this matter include information that a BCPS' elementary classroom teacher is the owner of two before and after school child care programs, and that the teacher leases space from the BCPS system for the use of its facilities to house the child care programs.

“Outside employment” is defined by the Ethics Codes as meaning “any supplementary employment, including teaching and secondary employment within State service and excluding service in the military reserves or National Guard, for which the employee receives remuneration or other economic gain.” It is the opinion of the Ethics Panel that ownership of before and after school child care programs, constitutes “outside employment” which makes Ethics Code Section 8363 applicable to this matter. It is also the opinion of the Ethics Panel that leasing space from BCPS, constitutes doing “business with the school system.”

Therefore, if the ownership of the before and after school child care programs results in a “benefit” (financial or otherwise) to the teacher, it would result in a conflict of interest under the Ethics Code, and thus be prohibited under Ethics Code Section 8363 (1)(b).

Additionally, the Ethics Panel refers the Petitioner and other interested individuals to BCPS’ Internal Board Policy #8240, Conflict of Interest, which states:

“No member of the Board of Education, or officer, or employee shall have an interest in any purchase or contract with the school system with which he/she is affiliated unless such interest is specially permitted by statute.

“*Interest* shall mean pecuniary or material benefit accruing to a Board member, officer, or employee resulting from a contractual relationship with the school system.”

This opinion has been signed by the Ethics Panel members and adopted on January 20, 2005.

This Advisory Opinion has been signed by the Ethics Review Panel members and adopted on January 20, 2005.

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