

**BOARD OF EDUCATION OF BALTIMORE COUNTY**  
**Ethics Review Panel**

**Raymond A. Hein, Esq., Chair**  
**Karen W. Strand, RN, Vice Chair**  
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TO: Principals and Office Heads

FROM: Ethics Review Panel

DATE: November 10, 2006

RE: Advisory Opinion 06-04

At its October 19, 2006, meeting, the Ethics Review Panel adopted Advisory Opinion 06-04 in response to an application received from petitioners.

In compliance with Ethics Code Policy 8366, "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 the *Superintendent's Bulletin* and Outlook.

If you or members of your staff have any questions, please contact Dr. Carol Batoff, Administrative Liaison to the Ethics Review Panel, at 4138.

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**BOARD OF EDUCATION OF BALTIMORE COUNTY**

**ETHICS REVIEW PANEL**

**ADVISORY OPINION 06-04**

This advisory opinion is in response to a request submitted jointly by Petitioners, with one of the Petitioners being a recently appointed Board member. In this opinion, the recently appointed Board member hereafter will be referred to as Petitioner.

The application presents two issues for consideration by the Ethics Review Panel:

1. Whether the appointment of Petitioner as a member of the Board of Education of Baltimore County and his service on the Board will present any issues or concerns related to Petitioner's continuing service as a member of the Baltimore County Planning Board. The Planning Board reviews the Board of Education's Capital Budget during the budget process.
2. Whether the appointment of Petitioner and his service on the Board will present any issues or concerns related to the fact that Petitioner's wife is employed by the Board of Education. We seek the Panel's views as to both Petitioner's role as a Board member and Petitioner's wife's role.

I. Dual Service on Board of Education and Planning Board

With respect to Petitioner's continuing service as a member of the Baltimore County Planning Board while also a member of the Board of Education of Baltimore County, the Ethics Review Panel was not able to identify any specific prohibition against such dual service in the Baltimore County Public Schools (BCPS) Ethics Code. Because both Board memberships are volunteer positions for which Petitioner receives no remuneration or other economic gain, Petitioner's service on the Planning Board is not "outside employment" as defined in Policy 8360. It therefore does not cross the threshold for analysis under the provisions of Policy 8363 (Conflict of Interest) dealing with outside employment.

Even in the absence of any specific conflict, the panel is concerned about Petitioner's ability to serve effectively as a member of both Boards. For example, the Planning Board's oversight responsibility with respect to the Board of Education's Capital Budget raises the possibility that Petitioner may need to recuse himself from participating in either Board's deliberations concerning that budget.

As stated in Ethics Code Policy 8361, "[n]o code can delineate the appropriate ethical behavior for every situation with which the school system's personnel will be confronted." The Ethics Review Panel concludes Petitioner must exercise his own good judgment concerning his ability to serve effectively on both the Planning Board and the Board of Education. Petitioner may also be required to seek further guidance concerning this issue from the Baltimore County Ethics Commission.

II. Employment of Petitioner's Wife While Petitioner is a Board Member.

The second issue also raises a concern as to Petitioner's ability to serve effectively on the Board of Education, even though the circumstances may not violate a specific provision of the BCPS Ethics Code. Policy 8363(6) (b) contains the following prohibition:

*An employee may not be in a position that directly supervises, evaluates or disciplines an immediate family member. An employee may not use his or her position to benefit an immediate family member.*

The Ethics Code contains no equivalent prohibition for Board members, as distinguished from employees. Nevertheless, in order to avoid the appearance of impropriety, Petitioner seemingly will find it necessary to recuse himself from participating in consideration of any matter on which his wife reports to the Board in her position, as well as any matter that may affect her employment, including, but not limited to, discussion of the salary for her position and the budget for her office.

As with the first issue, the Ethics Review Panel finds no specific Ethics Code violation but suggests that his wife's employment may significantly limit Petitioner's ability to fulfill his duties as a member of the Board of Education.

**This Advisory Opinion has been signed by the Ethics Review Panel members and adopted on October 19, 2006.**

Raymond A. Hein, Esq., Chair  
Karen W. Strand, RN, Vice Chair  
Meryl D. Burgin, Esq., Panel Member

Mary C. Burke, LCSW-C, BCD Panel Member  
Roland L. Unger, CPA, Panel Member