

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

**Meryl D. Burgin, Esq., Chair**  
**Raymond A. Hein Esq., Vice Chair**  
**Mary C. Burke, LCSW-C, BCD**  
**Sharon M. Pusin, M.D., Esq.**  
**Janel D. Sexton, M.A., Ph.D.**

**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: May 16, 2008

RE: Advisory Opinion 08-03 and Advisory Opinion 08-04 (combined)

On April 23, 2008, the Ethics Review Panel adopted Advisory Opinion 08-03 and Advisory Opinion 08-04 (combined) in response to applications received from the 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.

-----

**BOARD OF EDUCATION OF BALTIMORE COUNTY**

**ETHICS REVIEW PANEL**

**ADVISORY OPINION 08-03 and**  
**ADVISORY OPINION 08-04**

Advisory Opinion 08-03 is in response to a request made by a petitioner inquiring as to whether it is permissible under the BCPS' Ethics Code for a BCPS employee to

personally copyright materials that have been worked on by BCPS' employees during BCPS' time. The petitioner set forth several specific questions, and the Ethics Review Panel shall only address the issues that are within the purview of the Ethics Code and within the jurisdiction of the panel.

Advisory Opinion 08-04 is in response to a request made by a petitioner also inquiring as to whether it is permissible under the BCPS' Ethics Code for a BCPS employee to personally copyright materials that have been worked on by the petitioner and other BCPS employees during BCPS' time, and where a significant amount of BCPS' IT resources have been dedicated and utilized for the development and implementation of these materials.

The issues in these two (2) requests for advisory opinions are identical and, therefore, the advisory opinions will be combined as one opinion.

The relevant section(s) of the Ethics Code are as follows:

ETHICS CODE: Conflict of Interest (Section 8363)

6. Prohibitions

(a) *No board member or employee shall:*

- *represent any party, for a contingent fee, before or involving the Board of Education*
- *act as a compensated representative of another party in connection with a case, contract, or any specific matter in which he or she participated substantially as a board member or employee, within one (1) year following termination of service to the school system*
- *use the prestige of office for personal benefit or that of another*
- *use confidential information acquired in an official school system position for personal benefit or that of another.*

ETHICS CODE: Definitions (Section 8360)

*The following terms used within the Ethics Code are defined as follows:*

*Personal benefit means anything that promotes or enhances the well being of the individual, or his/her immediate family, or accrues to the personal advantage of that individual, or his/her immediate family.*

The matter before the panel is whether, under the Ethics Code, a BCPS employee may personally copyright materials, which could include written materials and/or computer software, when BCPS' resources are used to develop the materials. In its analysis, the

panel distinguishes between the actual development of materials using BCPS' time and resources which is thereafter personally copyrighted, and BCPS' resources being utilized to insert information applicable to the school system to complete a previously defined and created format (not generated on BCPS' time nor using BCPS' resources) which was personally copyrighted.

Section 8363(6)(a) prohibits a school system employee from using "the prestige of office for personal benefit." Section 8360 defines "personal benefit" to mean "anything that promotes or enhances the well being of the individual or his/her immediate family, or accrues to the personal advantage of that individual, or his/her immediate family." Clearly, the owner of copyrighted materials enjoys a personal benefit in that these materials may not be utilized by third parties, without the owner's permission, and in many circumstances, without the payment of compensation directly to the owner.

Therefore, it is the opinion of the panel that it would constitute a violation of the Ethics Code for an employee to obtain ownership of a copyright on materials developed or created using BCPS' personnel, resources, and/or time. It is not a violation of the Ethics Code, however, to require school system employees to compile data and information necessary to utilize the copyrighted materials for BCPS' educational purposes.

This opinion has been signed by the Ethics Review Panel members and adopted on April 23, 2008.

Meryl D. Burgin, Esq., chair  
Raymond A. Hein, Esq., vice chair  
Mary C. Burke, LCSW-C, BCD, panel member

Sharon M. Pusin, M.D., Esq., panel member  
Janel D. Sexton, M.A., Ph.D., panel member