

BOARD OF EDUCATION OF BALTIMORE COUNTY

ETHICS REVIEW PANEL

ADVISORY OPINION 15-05

This Advisory Opinion 15-05 is in response to an Application to provide an Advisory Opinion filed by Petitioner, an employee of the Baltimore County Public Schools ("BCPS"). As 2014 National Teacher of the Year, Petitioner is often approached with opportunities for paid speaking engagements and presentations. Petitioner is requesting an advisory opinion regarding whether accepting paid engagements as an independent contractor would violate the Ethics Code.

Petitioner advised that he would take unpaid leave days from BCPS to fulfill any paid speaking engagements. Petitioner further stated that he would not use any BCPS materials in presentations. In response to a request for additional information from the Panel, Petitioner stated that the presentations and speaking engagements are generally at conferences, luncheons, or dinners for education agencies and organizations. The materials used by Petitioner are speeches he has written accompanied by images and video used under creative common licenses from web content or of his own creation. Petitioner asserts that he does not use any BCPS intellectual property, curriculum, or other BCPS materials in these presentations. Additionally, Petitioner notes that in these matters, he uses a personal email address rather than his BCPS email address for any correspondence.

The issues raised by the Petitioner concern potential conflicts of interest, so in reviewing the Application, the Panel reviewed the various provisions of Policy 8363. Section III of Policy 8363 is set forth below:

*A. Except as permitted by Board policies when the interest is disclosed, or when the employment does not create a conflict of interest or appearance of a conflict, a school system official may not: 1. Be employed by or have a financial interest in an entity that is subject to the authority of the Board or school system; 2. Have a financial interest in or maintain secondary employment with a business entity that is negotiating with or has entered into a contract with the Board or school system; or 3. Hold any other employment relationship that would impair the impartiality or independence of judgment of the official.*

*B. The prohibition described above does not apply to: 1. A school system official whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted in accordance with policies adopted by the Board; 2. Subject to other provisions of regulation and law, a member of the Board in regard to a financial interest or employment held at the time of the oath of office, if the financial interest or employment was publicly disclosed to the appointing authority and the panel at the time of appointment; or 3. Employment or financial interests allowed by opinion of the panel if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.*

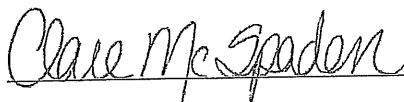
Based on the information submitted by Petitioner, none of these prohibitions would apply to this situation. It does not appear that these education agencies or organizations are subject to the authority of the school system or are negotiating with or have entered into contracts with BCPS. Additionally, there is no indication that Petitioner's speaking engagements as an independent contractor for these education agencies create an employment relationship that would impair Petitioner's impartiality or independent judgment as a BCPS employee. Finally, it does not appear to the Panel that the speaking engagements, as described by the Petitioner, create a conflict of interest or the appearance of a conflict of interest.

The Panel also reviewed Section VI of Policy 8363 which prohibits a school system official from intentionally using the prestige of office or public position for private gain. It does not appear that Petitioner is being sought as a speaker based on his position with BCPS, but rather based on his status as a National Teacher of the Year. Therefore, this prohibition does not apply to the situation described in the Application.

Other provisions reviewed by the Panel were Section VII and Section X. Section VII of Policy 8363 prohibits the disclosure of confidential information "that the official acquired by reason of the official's position." Section X prohibits a school system official from receiving royalties for "textbooks, instructional materials, or programs written or produced during working hours." Section X also prohibits a school official from using "any photographs or information including, but not limited to, test scores and other confidential data" for commercial purposes. Petitioner has indicated that he uses materials of his own creation for speaking engagements. Furthermore, Petitioner has stated that he is certain never to use BCPS materials in these presentations. Petitioner should continue to use caution to ensure that he does not violate any of these prohibitions in any speaking engagements or presentations.

For all of the above reasons, the Panel has concluded that the speaking engagements described in the Application to Provide an Advisory Opinion would not be prohibited by the Ethics Code. However, the Petitioner should be aware and mindful of the provisions of the Conflict of Interest Policy.

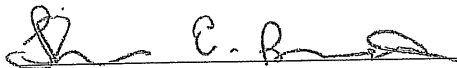
This opinion has been signed by the Ethics Review Panel members and adopted on February 23, 2016.



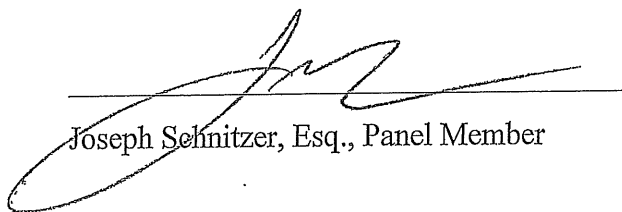
Clare McSpaden, Esq., Chair



Michael Hofmann, Sr., Vice Chair



Theresa E. Barrett, Panel Member



Joseph Schnitzer, Esq., Panel Member



Scott Bryson, Panel Member