

BOARD OF EDUCATION OF BALTIMORE COUNTY
ETHICS REVIEW PANEL
ADVISORY OPINION 16-02

This Advisory Opinion 16-02 is in response to an Application to Provide an Advisory Opinion (“Application”) filed by Petitioners, Resource Teachers employed by the Baltimore County Public Schools (“BCPS”). Petitioners are seeking secondary employment with Goalbook. Goalbook is an online resource for teachers to use in developing standards-based IEP goals. Currently, Goalbook does not have any goals in the area of physical education. Petitioners would be employed by Goalbook to develop IEP goals in that area. Petitioners indicate that in July 2015, Goalbook entered into a five year contract with BCPS. Petitioners state that work for Goalbook would be completed on Petitioners’ personal time at home and that no BCPS materials would be used in the development of goals for Goalbook.

The issues raised by Petitioners concern potential conflicts of interest relating to employment so in reviewing the Application, the Ethics Review Panel (“Panel”) reviewed Section III of Policy 8363. Section III.A.2 states:

III. Employment and Financial Interests

- 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: 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.*

Section III.B of Policy 8363 further provides:

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.

In discussing the matter, the Panel noted that based on the aforementioned provisions, secondary employment with a business entity that has entered into a contract with BCPS is prohibited except under certain specific circumstances. The Panel does not believe Petitioners’ duties are ministerial, therefore the exception in subsection (1) does not apply. As Petitioners are not Board members, subsection (2) does not apply. Subsection (3) allows the employment by opinion of the Panel if the employment does not create a conflict of interest or the appearance of

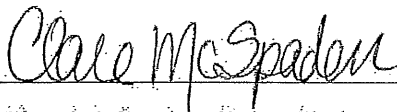
a conflict of interest. Accordingly, the Panel considered whether the employment sought by Petitioners creates a conflict of interest or the appearance of a conflict of interest.

In considering the matter, Panel members expressed the following concerns:

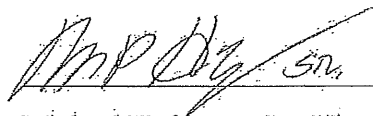
- That BCPS presumably entered the contract knowing that there were no current physical education goals;
- Whether it may appear that Goalbook's employment of BCPS teachers would be, at least in part, influenced by BCPS' decision to enter into a contract with Goalbook, or whether it may appear that BCPS entered into the contract knowing that the contract may provide additional employment opportunities for BCPS employees; and
- If, in the future, BCPS has any dispute with Goalbook over performance of the contract, whether a conflict of interest or the appearance of a conflict of interest may arise as Petitioners may be involved as both content producers and content users of Goalbook.

Based on these concerns, the Panel has concluded that the secondary employment sought by Petitioners may create the potential for a conflict of interest or the appearance of a conflict of interest and would therefore be improper under the Ethics Code.

This opinion has been adopted by the Ethics Review Panel members and signed on May 19, 2016.



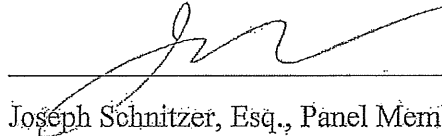
Clare McSpaden, Esq., Chair



Michael Hofmann, Sr., Vice Chair

Absent

Theresa E. Barrett, Panel Member



Joseph Schnitzer, Esq., Panel Member



Scott Bryson, Panel Member