

BOARD OF EDUCATION OF BALTIMORE COUNTY

ETHICS REVIEW PANEL

ADVISORY OPINION 16-03

This Advisory Opinion 16-03 is in response to an Application to Provide an Advisory Opinion (“Application”) filed by Petitioner, a [REDACTED] employed by the Baltimore County Public Schools (“BCPS”). Prior to being hired by BCPS, Petitioner was under contract to revise the textbook, [REDACTED]. The 6th edition of the textbook is present in most high school [REDACTED] classrooms in BCPS. Petitioner completed work on the revised edition in January 2016. As co-author of the textbook who will receive 2.5% of the sales of the 7th edition of each book, Petitioner seeks an advisory opinion on future procurement, purchases, or use of the textbook.

After review of the Application, the Ethics Review Panel (“Panel”) sought additional information from Petitioner by letter dated September 27, 2016. In response to questions of the Panel, Petitioner advised that [REDACTED] he recommends and approves curriculum, has the ability to procure and purchase textbooks, and has the responsibility of reviewing, selecting, and recommending textbooks, specifically for [REDACTED]. Petitioner further advised that he did not anticipate being in this situation, as he began work on the revised textbook prior to his employment with BCPS, and that the matter was disclosed during his employment interview with BCPS.

The issues raised by Petitioner concern potential conflicts of interest so in reviewing the Application, the Panel considered the following relevant sections of Policy 8363 – Conflicts of Interest – Prohibited Conduct.

Section I.A. states:

I. Policy Statement

- A. Members of the Board of Education of Baltimore County (Board), the Superintendent, employees, consultants, and volunteers (hereinafter, “School System Official”) 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 immediate family, or a business entity with which they are affiliated.

Section II.A.1. states:

II. Participation

- A. Except as permitted by Board policies or in the exercise of an administrative or ministerial duty that does not affect the disposition or decision in the matter, a school system official may not participate in:

1. Any matter in which, to the knowledge of the school system official, the official or a qualified relative of the official has an interest[.]

Section II.B.3. states:

- B. A school system official who is disqualified from participating under paragraph A of this section shall disclose the nature and circumstances of the conflict and may participate or act if:
 3. The disqualified official is the only person authorized to act.

Section VIII.A. states:

Procurement

An individual or person that employs an individual who assists the Board or school system in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

Section X.A. states:

Royalties/Personal Gain

No royalties will be paid to a school system official for textbooks, instructional materials, or programs written or produced during working hours.

After review and discussion of the provisions of the Ethics Code set forth above along with the facts provided by Petitioner, the Panel has reached the following conclusions:

1. Pursuant to Sections I.A. and II.A.1. of Policy 8363 of the Ethics Code, Petitioner's involvement in the selection or procurement of the revised edition of the textbook may constitute a violation of the Ethics Code. The Panel, therefore, strongly recommends that Petitioner recuse himself from participating in any decision involving the use of the textbook in BCPS. The Panel notes, however, that pursuant to section III.B.3., Petitioner may act if the conflict is disclosed and Petitioner is the only person authorized to act. The Panel is unaware of whether there are other employees or officials who are authorized to make decisions concerning the use of this textbook. If there are other employees who are authorized to make this decision, then the Panel believes Petitioner should refrain from all participation in any decision concerning the procurement or use of the textbook. However, if Petitioner is the only employee authorized to act in this matter and given that Petitioner has fully disclosed the conflict and did not anticipate being placed in this situation, then the Panel believes that Petitioner's involvement in any decision concerning the textbook would not violate the Ethics Code.

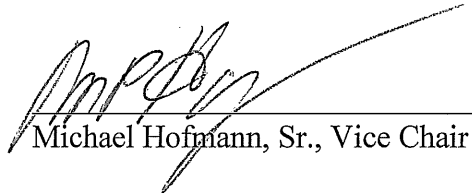
2. Based on the facts provided to the Panel, it does not appear that Petitioner has any input or involvement into sales of the textbook on behalf of the company which publishes the textbook. However, the Panel would caution Petitioner to be aware of section VIII.A. of Policy 8363 of the Ethics Code. If Petitioner is involved in the procurement of textbooks for [REDACTED], then Petitioner may not submit a bid or proposal for that procurement or assist another in doing so, directly or indirectly.

3. Pursuant to section X. of Policy 8363 of the Ethics Code, Petitioner may not receive royalties for textbooks written during working hours. Assuming that the work done on the textbook was not performed during Petitioner's working hours with BCPS and that Petitioner is not in violation of the conflict of interest provisions discussed above, the Panel believes the Petitioner may receive the royalties for his work on the textbook.


This opinion has been signed by the Ethics Review Panel members and adopted on November 17, 2016.



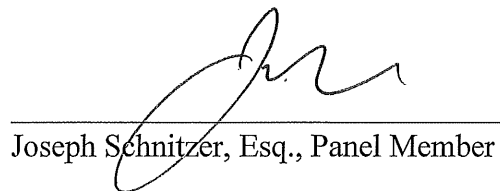
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