

BOARD OF EDUCATION OF BALTIMORE COUNTY

ETHICS REVIEW PANEL

ADVISORY OPINION 18-05

This Advisory Opinion 18-05 is in response to an Application to Provide an Advisory Opinion ("Application") filed by Petitioner, an employee of the Baltimore County Public Schools ("BCPS"). Petitioner is an elected representative of a Steering Committee of a software users group. According to Petitioner, the users' group has indicated that it will cover the costs of Petitioner's registration, lodging, and reimbursement of reasonable expenses for Petitioner to attend an annual conference. Steering Committee Members such as Petitioner are expected to arrive one day early to the conference and the Panel understands that the lodging for that night is paid for by CGI, a BCPS vendor. In exchange for the substantial time commitment of Steering Committee members, such as Petitioner, the users' group bylaws provide for the waiver of the registration fee for the annual user's conference. This fee would otherwise be payable by BCPS. Petitioner is seeking an advisory opinion about whether it would be permissible to accept the complimentary registration fee, lodging expense, and reimbursement of reasonable expenses under the Ethics Code. Petitioner has also requested advice on whether if accepted, the registration, lodging and reimbursement of reasonable expenses would be required to be disclosed on Petitioner's Financial Disclosure Statement, and whether such guidance applies prospectively.

The issues raised by Petitioner concern primarily section III of Policy 8362 — Gifts, which are set forth below.

Section II of Policy 8360 defines gift as follows:

“J. Gift means the transfer of anything of economic value, regardless of the form, without adequate and lawful consideration...”

Section III of Policy 8362 further elaborates on gifts, as follows:

III. Gifts to a School System Official

- A. A school system official may not solicit any gift.
- B. A school system official may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual lobbyist.
- C. A school system official may not knowingly accept a gift, directly or indirectly, from a person that the official knows or has reason to know:
 - 1. Is doing business with or seeking to do business with the Board or school system;
 - 2. Is subject to the authority of the school system;

3. Is a lobbyist with respect to matters within the jurisdiction of the school system official; or
 4. Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the school system duties of the school system official.
- D. A Board member may not accept complimentary tickets to attend events that the Board member may know or have reason to know are from or on behalf of political candidates or elected officials.
- E. Notwithstanding the restrictions set forth in this section, a school system official may accept:
1. Meals and beverages consumed in the presence of the donor or sponsoring entity;
 2. Ceremonial gifts or awards that have insignificant monetary value;
 3. Unsolicited gifts of nominal value that do not exceed \$20 in cost or trivial items of informational value;
 4. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the school system official at a meeting which is given in return for the participation of the official in a panel or a speaking engagement at the meeting;
 5. Gifts of tickets or free admission extended to members of the Board to attend a charitable, cultural, or political event, if the purpose of the gift or admission is a courtesy or ceremony extended to the Board;
 6. A specific gift or class of gifts which the panel exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the Board or school system and that the gift is purely personal and private in nature;
 7. Gifts from a person related by blood or marriage, or any other individual who is a member of the household of the school system official; or
 8. An honorarium for speaking to or participating in a meeting, provided that the offering of the honorarium is in no way related to the Board or school system position of the school system official.
- F. Section E above does not apply to any gift, regardless of the amounts set forth in Section E, above:
1. That would tend to impair the impartiality and independence of judgment of the school system official receiving the gift;
 2. Of significant value that would give the appearance of impairing the impartiality and independent judgment of the school system official; or
 3. Of significant value that the recipient school system official believes or has reason to believe is designed to impair the impartiality and independent judgment of the official.

The Panel has reviewed and discussed the provisions of the Ethics Code set forth above along with the facts provided by Petitioner. Section III.C. of Policy 8362 prohibits school officials from receiving “gifts” from individuals or entities who are doing business with the School System. Section III.E.4. expressly permits a school system official to accept "reasonable expenses for food, travel, lodging, and scheduled entertainment of the school system official at a meeting which is given in return for the participation of the official in a panel or a speaking engagement at the meeting." Additionally, section III.E.6. authorizes the Panel to exempt from the operation of that paragraph specific gifts or classes of gifts when the “acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the Board or school system and that the gift is purely personal and private in nature.” Although not expressly included in this list of expenses, it appears to the Panel that a meeting registration fee, lodging and reimbursement reasonable expenses (such as permitted in Section 8362.III.E.4), are substantially similar to the types of expenses that the Ethics Code permits a school system official to accept under these circumstances. Furthermore, even though a BCPS vendor (GCI) is paying for one night’s lodging for the Petitioner to fulfill her obligations as a Steering Committee member, the Panel believes that acceptance of the night’s lodging, as well as the other complimentary items, would neither impair nor give the appearance of impairing the impartiality and independence of judgment of Petitioner.

Accordingly, for the reasons set forth above, the Panel has concluded that Petitioner's acceptance of the complimentary registration fee, lodging expense, and reimbursement for reasonable expenses, would be permitted under the Ethics Code. The Panel also believes that pursuant to Ethics Code Section 8364.VII.D., the complimentary items received (the extra night’s lodging) would need to be reported on Petitioner’s Financial Disclosure Statement. It is the opinion of the Panel that the guidance provided in this Advisory Opinion can be applied in future years; however, to the extent lodging was not disclosed on prior Financial Disclosure Statements, such Statements should be amended. This opinion has been signed by the Ethics Review Panel members and adopted on July 19, 2018.

Joseph M. Schnitzer, Esq., Chair
Theresa E. Barrett, Panel Member
Samuel Johnson, Panel Member

Ross Mackesey, Vice Chair
Ralph Sapia, Esq., Panel Member