

BOARD OF EDUCATION OF BALTIMORE COUNTY

ETHICS REVIEW PANEL

ADVISORY OPINION 98-04

This advisory opinion is in response to a request made by [REDACTED] of Baltimore County Public Schools, requesting that a clarification to Ethics Code Section 8362 be proffered relating to school system employees receiving software and other learning materials directly from manufacturers and distributors of such materials.

Policy 8362 of the Ethics Code prohibits employees from accepting "gifts, gratuities or discounts" from persons or business entities that conduct business with the Baltimore County Public Schools. Periodically and at various times manufacturers of learning materials, such as textbooks and computer software, will send these materials, at no cost, to teachers and administrators throughout the school system. This distribution of materials is done so that the recipient of the materials may sample them in order to ascertain if such materials would be suitable for use in the recipient's work activities. The manufacturer or distributor is hopeful that the recipient may like the products and urge the school system to buy more of them. These materials are often sent *directly* to the individual teachers and administrators and received by them rather than the school system. Such receipt is prohibited under Ethics Code Section 8362 if the value of such gratuity exceeds a \$25.00 value.

The relevant sections of the Ethics Code are as follows:

ETHICS CODE: Gifts

Sec. 8362. 2. Gifts to Individuals

- (a) A Board member, employee, or volunteer may not solicit gifts, gratuities, or discounts for personal use or gain.*
- (b) No Board member, employee, or volunteer may knowingly accept gifts, gratuities, or discounts for personal use or gain, directly or indirectly, from any person or business entity that he or she knows or has reason to know:
 - *is doing business with the Baltimore County Public Schools*
 - *is subject to the authority of the school system*
 - *has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or non-performance of his or her official duty*
 - *is involved in lobbying.**
- (c) Unless a gift of any of the following would tend to impair the impartiality and independent judgment of the Board member or employee receiving it, or, if of significant value would give the appearance of doing so, or, if of significant value, the recipient has reason to believe that it is designed to do so, then the Board member or employee may accept the following, unless exceeding a \$25 market value:*

- meals and beverages consumed in the presence of the donor
 - ceremonial gifts or awards
 - unsolicited gifts of nominal value or trivial items of informational value
 - reasonable expenses for food, travel, lodging, and scheduled entertainment of the Board member or employee for a meeting which is given in return for participating in a panel or speaking engagement at a meeting
 - tickets or free admission extended to a Board member to attend a professional or intercollegiate sporting event or charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy extended to the office
 - a specific gift or class of gifts which the Ethics Review Panel exempts 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 school system and that the gift is purely personal and private in nature.
- (d) *It is not the intent of the Code to prohibit students and employees from participating in and accepting awards exceeding a \$25 market value at events which are determined by the Ethics Review Panel to have an educational benefit.*
- (e) *It is not the intent of the Code to prohibit gifts from a person related by blood or marriage, or a spouse, child, ward, financially dependent parent, or other blood relative who share the Board member's, the Superintendent's or an employee's legal residence, or a child, ward, parent, or other relative over whose financial affairs the person has legal or actual control.*

ETHICS CODE: Ethics Review Panel

Sec. 8366. 2. (c) Role of the Ethics Panel

The Ethics Review Panel shall recommend exceptions or modifications to the provisions of these Ethics policies if it is determined that there would be an unreasonable invasion of privacy, that there would be a significant reduction of the availability of qualified individuals for public service, and if it is deemed not necessary to preserve the purposes of these Ethics policies. Recommendations for exceptions are not approved or rejected until the Board acts.

Ethics Review Panel members believe that it is in the best interest of the school system to have new learning materials and aids available for sampling. In today's constantly changing technological environment, it is especially important that the latest software materials be available for our teachers, students, and administrators. The problem is that presently these materials are sent directly to individuals rather than to the school system. There is no evidence or indication that any misuse of these materials has taken place. There is, however, the possibility that such acceptance by individuals of these products will be perceived as unfair enrichment and it is this perception that must be avoided. The Panel recommends that the Superintendent adopt or cause to be adopted the following procedure and direct that all persons receiving materials of the nature described herein follow such direction.

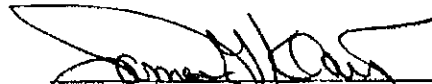
1. Any recipient of materials, the receipt of which is intended to be an incentive to encourage the school system to purchase such materials, will, as soon as practicable, submit these materials to the Department of Information Technology for use or distribution within the system.
2. The Department of Information Technology will send a letter to the manufacturer or distributor expressing thanks for the materials sent to the recipient and requesting that future materials be sent directly to the Department of Information Technology.

It is the decision of the Panel to offer this opinion to the Petitioner.

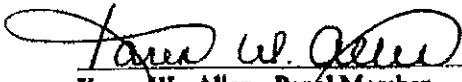
This opinion has been signed by the Ethics Panel members and adopted on June 23, 1998.



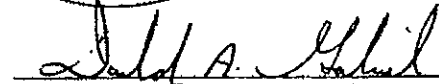
Roland L. Unger, C.P.A., Chair



James G. Klair, Esq., Vice Chair



Karen W. Allen, Panel Member



Donald A. Gabriel, Panel Member



Joy Shillman, Panel Member