

## Advisory Opinion 21-08

This Advisory Opinion is in response to an *Application to Provide an Advisory Opinion* (“Application”) filed by a member of the [REDACTED] inquiring whether it would be permissible to obtain secondary employment as an independent contractor assisting the Executive Director of the International Firestop Council (“IFC”). The IFC’s website states that the IFC “is a nonprofit association of manufacturers, distributors, installers, inspectors and other key stakeholders interested in passive fire protection materials and systems in North America and abroad.” The member states that, to the best of [REDACTED] knowledge, the IFC does not have a contract with BCPS or any other connections that would present a conflict of interest.

The relevant sections of the Ethics Code, Policy 8363, *Conflict of Interest - Prohibited Conduct*, provide as follows:

### III. 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 official may not participate in:

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2. Any matter in which any of the following is a party:

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- b. A business entity, including a limited liability company or a limited liability partnership, for which the school official or a qualified relative of the official is an officer, director, trustee, partner or employee

### IV. 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 official may not:

1. Be employed by or have a financial interest in an entity that is:
  - a. Subject to the authority of the Board or school system; or
  - b. Negotiating with or has entered into a contract with the Board or school system; or
2. Hold any other employment relationship that would impair the impartiality or independence of judgment of the school official.

B. The prohibition described in paragraph IV(A) does not apply to:

1. A school 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:
  - a. Was publicly disclosed to the appointing authority and the Ethics Review Panel at the time of appointment; or
  - b. Was disclosed on the financial disclosure statement filed with the certificate of candidacy to be a candidate to be a member of the school board; or
3. Employment or financial interests allowed by opinion of the Ethics Review 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.

VII. Prestige of Office

A. A school official may not intentionally use the prestige of office or public position:

1. For private gain of that school official or the private gain of another; or
2. To influence, except as part of the official duties of the school official, or as a usual and customary constituent service by a member of the Board without additional compensation, the award of a state or local contract to a specific person.

The Panel concludes that, subject to the caveats and restrictions below, the ██████ may engage in the requested secondary employment. This Advisory Opinion is premised upon the understanding that the IFC is not subject to the authority of the Board or the school system and does not have, and is not negotiating, a contract with the Board or school system. If those circumstances change, or if the nature of the work performed by the ██████ for the IFC changes, the ██████ should submit a new *Application to Provide an Advisory Opinion* to the Panel. Further, to the extent such a circumstance should arise, pursuant to Policy 8363, *Conflict of Interest - Prohibited Conduct* section III.A., the member should not participate in the disposition or decision of any matter involving the IFC, unless otherwise permitted by Policy 8363. Additionally, when performing duties for the IFC, the ██████ should not utilize any BCPS materials, resources or equipment.

This Advisory Opinion has been adopted by the Ethics Review Panel members on – January 24, 2022.

Ralph Sapia, Esq.  
Chair

Tim Topoleski, Ph.D.  
Vice Chair

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Panel Member

Thomas Keech, Esq.  
Panel Member

Cynthia Boyd, M.D. M.P.H.  
Panel Member