

BALTIMORE COUNTY PUBLIC SCHOOLS

DATE: April 21, 2009

TO: **BOARD OF EDUCATION**

FROM: Dr. Joe A. Hairston, Superintendent

SUBJECT: **CONSIDERATION OF THE PROPOSED CHANGES TO BOARD OF EDUCATION POLICY 2361 – DISTRIBUTION OF NON-SCHOOL MATERIALS**

ORIGINATOR: Frances A. S. Harris

RESOURCE PERSON(S): Margaret-Ann F. Howie, Esq., General Counsel
Edward J. Novak, Esq., Associate General Counsel

RECOMMENDATION

That the Board of Education approves the proposed changes to Policy 2361. This is the third reading.

* * * * *

Attachment I – Policy Analysis
Attachment II – Policy 2361

**Policy Analysis for
Board of Education Policy 2361
Distribution of Non-School Materials**

Statement of Issues Addressed By the Proposed Policy

Board of Education Policy 2361 pertains to the distribution of materials was adopted on November 16, 1972 and was last revised on August 16, 1990.

Revisions to this policy were developed with two goals. First, recent federal case law has addressed distribution of flyers in public schools, *Child Evangelism Fellowship of Maryland v. Montgomery County Public Schools*, 457 F.3d 376 (4th Cir. 2006). Revising current policy is necessary to comply with federal law. The current policy is not sufficient. Revising the policy will provide principals with guidance regarding the distribution of materials to ensure consistency throughout the school system.

Legally schools are not required to distribute materials from outside groups. However, if schools determine that materials may be distributed procedures must be viewpoint neutral.

Under the system's current process, BCPS distributes flyers (or other advertising materials) for various groups, including community-based day care providers, tutors, and other service providers. There has not been a process to determine the quality or appropriateness of the activities or programs. Limiting the distribution of flyers to the specific categories addressed by the revised policy will eliminate the currently existing ambiguity.

Currently, the approval process for the distribution of materials is centralized. A review of the current process determined that it would be more efficient and effective for the approval process for the distribution of materials to be handled at the school level.

Cost Analysis and Fiscal Impact on School System

No fiscal impact is anticipated by the revision of this policy.

Relationship to Other Board of Education Policies

Board of Education Policy 1210, *Relationship with Parent-Teacher Associations*

Board of Education Policy 3125, *Student Activity Funds*

Legal Requirements

Child Evangelism Fellowship of Maryland v. Montgomery County Public Schools, 457 F.3d 376 (4th Cir. 2006)

Similar Policies Adopted by Other School Systems

1. Anne Arundel County, Section K, Number 500, Letter KA, *Distribution of Non-School Communications*
2. Anne Arundel County, Administrative Regulation, Number 500, Letter KA-RA, *Distribution of Non-School Communications*

3. Fairfax County, Policy 1365, *Distribution of Materials*
4. Fairfax County, Regulation 1367, [*Distribution of Fliers or Other Informational Materials, Nonprofit Organizations' Access, and Procedures for Contests and Competitions*](#)
5. Howard County, Policy 10010, *Distribution and Display of Materials and Announcements*
6. Montgomery County, Policy CNA, *Informational Material and Announcements*
7. Montgomery County, Policy CNA-RA, *Display and Distribution of Informational Materials and Announcements*
8. Prince George's County, Policy 1113, *Informational Material and Announcements*

Draft of Proposed Policy

Attached

Other Alternatives Considered by Staff

Alternative methods of communication and action considered by staff included the elimination of all outside distribution.

Timeline:

- First reading: February 24, 2009
- Public comment: March 10, 2009
- Third reading: April 21, 2009

ADMINISTRATION: Administrative Operations

General: [Student Carriers] DISTRIBUTION OF NON-SCHOOL MATERIALS

THE BOARD OF EDUCATION OF BALTIMORE COUNTY (BOARD) LIMITS THE DISTRIBUTION OF MATERIALS IN OR FROM SCHOOLS AND OFFICES TO MATERIALS PUBLISHED BY ENTITIES OF FEDERAL, STATE, AND LOCAL GOVERNMENT AND PARENT-TEACHER ASSOCIATIONS, OR MATERIALS FROM BUSINESSES WITH ESTABLISHED SCHOOL-SPONSORED BUSINESS PARTNERSHIPS.

THE BOARD DIRECTS THE SUPERINTENDENT TO ESTABLISH PROCEDURES TO IMPLEMENT THIS POLICY.

[All requests from groups or individuals to distribute materials to people in the community by students will be referred to the head of the Division of Administration to determine whether the requests comply with overall school purpose and policy.

Exceptions, approved by the principal, providing distribution of such materials does not violate a Board policy or rule, are granted for:

1. Local school matters
2. PTA materials
3. Materials pertaining to activities of the Department of Recreation and Parks

Under no circumstances are materials pertaining to elections to be distributed through student carriers. However, official PTA newsletters containing legislative and referenda information may be distributed through student carriers.]

LEGAL REQUIREMENT: *CHILD EVANGELISM FELLOWSHIP OF MARYLAND V. MONTGOMERY COUNTY PUBLIC SCHOOLS*, 457 F.3D 376 (4TH CIR. 2006)

Policy		Board of Education of Baltimore County
Adopted:	11/16/72	
Revised:	12/8/88	
Revised:	8/16/90	
REVISED:	_____	