

**BALTIMORE COUNTY PUBLIC SCHOOLS**

**DATE:** March 9, 2010

**TO:** **BOARD OF EDUCATION**

**FROM:** Dr. Joe A. Hairston, Superintendent

**SUBJECT:** **CONSIDERATION OF THE PROPOSED CHANGES TO BOARD OF EDUCATION POLICY 8366 – ETHICS REVIEW PANEL**

**ORIGINATOR:** Margaret-Ann F. Howie, Esquire, General Counsel

**RESOURCE PERSON(S):** Edward J. Novak, Esquire, Manager

**RECOMMENDATION**

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That the Board of Education approves the proposed changes to Policy 8366.  
This is the third reading.

Attachment I – Policy Analysis  
Attachment II – Policy 8366

**Policy Analysis for  
Board of Education Policy 8366  
Ethics Review Panel**

**Statement of Issues or Questions Addressed:**

Board of Education Policy 8366 defines the term limits for ethics review panel members. The current language does not clearly indicate whether individuals who are appointed to complete unexpired terms may serve one or two additional terms. The suggested revisions permit Ethics Panel Members to serve in the same manner as Board of Education members who are appointed to fill vacancies involving unexpired terms. That is, it has been clarified that persons may serve two terms, in addition to any unexpired term. The Board believes that this amendment will permit experienced Panel members to continue to serve.

Other revisions to the policy are non-substantive.

**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:**

The Ethics Code Policy series is related in content. (Policy Series 8360) However, no other policy concerns the term limits of Ethics Code Panel members.

**Legal Requirements:**

There is no legal requirement concerning Ethics Panel member term limits. However, the requirements for maintaining an ethics review panel are found at the following:

*Annotated Code of Maryland*, State Government Article

§15-101 to -105

§15-811 to -815

**Similar Policies Adopted By Other School Systems:**

1. Anne Arundel County Board of Education, *Code of Ethics*, Policy Code 200.05
2. Baltimore City Board of School Commissioners, *Code of Ethics*, Policy 104.01
3. Carroll County Board of Education, *Ethics*, Policy Code BC
4. Frederick County Board of Education, *Ethics*, Policy Section 109
5. Harford County Board of Education, *Ethics*, Policy Number: 12-0001-000
6. Howard County Public Schools, *Ethics Regulations*, [www.hcpss.org/aboutus/ethicsregs.pdf](http://www.hcpss.org/aboutus/ethicsregs.pdf)
7. Montgomery County Board of Education, *Ethics*, Policy Code BBB
8. Prince George's County Board of Education, *Ethics Panel*, Policy 0108

**Draft of Proposed Policy**

Attached

**Other Alternatives Considered By the Board:**

None

**Timeline for Adoption**

First Reading – January 26, 2010

Public Comment – February 9, 2010

Third Reading/Vote – March 9, 2010

ETHICS CODE: Ethics Review Panel

I. [1.] Panel Members

- A. The Ethics Review Panel of the Baltimore County Public Schools (BCPS) will consist of five [(5)] members appointed by the Board of Education of Baltimore County (Board). At least one [(1)] member must be an attorney duly licensed to practice law in the State of Maryland and who is in good standing with the State Court of Appeals.
- B. All members [will] ARE ELIGIBLE TO serve TWO five-year terms and CONTINUE TO SERVE until their successors are appointed and qualify. Terms will be staggered to assure continuity and political independence. The initial terms of appointees will be staggered by the Board to provide that each year one [(1)] of the members' terms is concluded.
- C. A member of the Panel will be replaced in the event of:
  - 1. [(i)] Death;
  - 2. [(ii)] Resignation;
  - 3. [(iii)] just cause, which may include failure to attend, without good cause, more than fifty percent of the panel's scheduled meetings in one calendar year or three consecutive absences subject to the discretion of the panel.
  - 4. [D. Vacancies occurring on the Ethics Review Panel shall be filled by the Board for the remainder of the unexpired term only. An individual may be reappointed by the Board for a maximum of one (1) additional term.] THE BOARD SHALL APPOINT QUALIFIED PERSONS TO COMPLETE ANY UNEXPIRED TERMS. THE APPOINTEE SHALL BE ELIGIBLE TO BE REAPPOINTED FOR TWO ADDITIONAL TERMS.

II. [2.] Qualifications of Panel Members

- A. Every person who resides in Baltimore County and is at least eighteen [(18)] years of age is eligible to serve on the Ethics Review Panel if that person:

1. [i] Is a U.S. citizen;
2. [(ii)] Does not hold any elected or appointed office, is not a candidate for an office of the United States, the State, any political subdivision or incorporated municipality of the State, or in any political party;
3. [(iii)] Is not an incumbent member of the Board, an employee, OR employed by a business entity subject to the authority of the Board.[,or the spouses of such persons]
4. [(iv)] Is not a registered lobbyist for any organization in the State that may create a conflict of interest.

B. Panel members may not participate in the decisions or discussion of any matter involving his/her immediate family.

III. [3.] Role of the Ethics Review Panel

- A. [(i)] The Ethics Review Panel shall serve as an advisory body to the Board.
- B. [(ii)] The Ethics Review Panel shall be responsible for interpreting this Ethics Code and advising persons subject to these policies as to their applications.
- C. [(i)] The Ethics Review Panel shall be responsible for accepting, hearing, or initiating any complaints as deemed necessary in accordance with these policies. The Ethics Review Panel shall provide hearings in accordance with the Board's currently adopted Policy 8339 (*Appeal Before Hearing Examiner*).
- D. [(ii)] The Ethics Review Panel will provide the opportunity for a hearing on any complaint deemed viable, after a review, regarding an alleged violation of these Ethics policies.
- E. [(iii)] The Ethics Review Panel shall issue a written report on each case heard to the Board.
- F. [(iv)] From the time a complaint is filed until there is a final determination by the Board, all actions and information shall be treated as confidential, in accordance with the laws of the State of Maryland.

- G. [C] 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.

IV. [4] Administration of the Panel

- A. The Ethics Review Panel will develop rules and procedures in consultation with the Office of Law of the Board.
- B. [A] The Chair of the Ethics Review Panel will be selected by members of the Panel. The term of the Chair will be one [(1)] year.
- C. [B] The Ethics Review Panel will meet regularly on a quarterly basis and will submit minutes to the Board. However, any Member of the Panel may call a meeting of all members should an unexpected circumstance arise.
- D. [C] An affirmative vote of at least three [(3)] members of the Panel is required for any and all action of the Ethics Review Panel.
- E. [D] Members of the Ethics Review Panel will receive no compensation for their services. They will, however, be reimbursed for reasonable and necessary expenses incurred in the discharge of their official duties.
- F. [E] The Ethics Review Panel will administer the provisions of this Ethics Code.
- G. [F. (i)] The Office of Ombuds[person]MAN shall provide administrative support to the Ethics Review Panel.
  - 1. [(ii)] The Superintendent shall ensure that the Office of Law has the needed budgetary support to provide legal, technical, and clerical staff support for the Ethics Review Panel.
  - 2. (iii) As an advisory body to the Board, the Ethics Review Panel may be assisted in carrying out its responsibilities by the Board's attorney and/or internal auditor.

H. [G. (i)] The members of the Ethics Review Panel shall be insulated by the defense of sovereign immunity as provided by the laws of the State of Maryland.

1. [(ii)] The Board shall provide, in accordance with Maryland law, inclusion for the Ethics Review Panel and each of its members comprehensive liability insurance coverage (either through the Board's policy or otherwise) from any personal or joint civil liability action arising out of and in the course of the performance of their duties.

V. [5] Advisory Opinions

A. Any Board member, employee, volunteer, or other person subject to the provisions of the policies of the Ethics Code may request that the Ethics Review Panel issue an advisory opinion concerning the applications of these policies. The Panel will respond promptly to such requests, providing interpretations of the policies contained in the Code based on the facts provided or reasonably available to it. Copies of these interpretations, with the identity of the subject deleted, will be made available to the Board, the Superintendent, and the public in accordance with applicable State law regarding public records.

VI. [6] Complaints

A. Any person may file with the Ethics Review Panel a complaint alleging a violation of any of the provisions of the Ethics Code.

1. [A] All complaints must be submitted in writing, must contain a signature(s) of the individual(s) with knowledge of the complaint, and may be referred to the Board's attorney to obtain the necessary investigative services.
2. [B.] If--after the Ethics Panel review of any investigation that may have taken place--the Panel determines that there are insufficient facts upon which to base a determination of violation, the Ethics Review Panel shall dismiss the complaint.
3. [C.] If there is reasonable basis for believing a violation has occurred, the individual who is the subject of the complaint will get a chance for a hearing conducted in accordance with the Board's hearing procedures (Board Policy 8339) for actions on the record.
4. [D.] Hearings

- a. [(i)] For purposes of the Ethics Review Panel hearings, the Panel will act as the hearing examiner and conduct the opportunity hearing. After a complaint is filed and until there is a final determination by the Board, all actions regarding a complaint will be treated confidentially, in accordance with the laws of the State of Maryland. For purposes of the hearing, a member of the Ethics Review Panel will act as hearing chairperson to conduct the hearing and provide for its efficient administration. The Ethics Review Panel will be advised by an attorney from the Office of Law or such other counsel that may be engaged at the Board's expense for such purpose regarding the rule on motions, objections, and issues of law.
- b. [(ii)] All evidence will be presented on the record, and a written transcript of the hearing will be produced.
- c. [(iii)] All testimony will be taken under oath, and all parties will be provided with the right to cross-examine witnesses.
- d. [(iv)] The Ethics Review Panel will produce a written report to the Board in every case. The report will state, where appropriate, dismissal of the complaint, that a determination was reached, that a violation of the Ethics Code had occurred, or that evidence was inconclusive, and the Panel was unable to reach a final determination.
- e. [(v)] Any final determination resulting from the hearing will include written findings of fact, a statement of alleged violation, a conclusion of law, and recommendations, which may include: recommendations for corrective action, disciplinary or other appropriate personnel action, or termination.
- f. [(vi)] The Ethics Review Panel will have the right to demand the appearance of any employee of the Board [of Education] at any meeting or hearing. The Panel will have the right to inspect and/or have copies produced of any relevant document, paper, electronic media, or other tangible object in the possession of the BCPS and/or the Board.
- g. [(vii)] The Ethics Review Panel does not have the right to issue subpoenas.



VII. [7] Rules of Procedure

- A. The provisions of Board Policy 8339 will be followed, except that the Panel will act as hearing examiner.
- B. A majority vote of the Panel consists of three [(3)] or more votes.
- C. A quorum consists of three [(3)] members present.
- D. The Ethics Review Panel will adopt rules for the transaction of its business.
- E. The Ethics Review Panel will keep a file of the minutes of its proceedings.
- F. All official actions and decisions of the Ethics Review Panel will be in writing.

VIII. [8] Sanctions

- A. Violations of the Ethics Code by any Board member, employee, or volunteer will constitute grounds for discipline or personnel action, or termination where provided by law, consistent with procedures set forth in the Education Article of the *Annotated Code of Maryland* and the policy manual of the Board.
- B. Persons or organizations found in violation of the lobbying provisions of the Ethics Code shall be publicly identified and subject to other penalties as provided by law.

Legal ReferenceS: *Annotated Code of Maryland*, State Government Article, [§10-611 et seq.] §§15-101 to -105, 15-811 to -815

POLICY 8366

Related Policies: Board of Education Policy 8339, *Hearing Before Hearing Examiner*

Policy		Board of Education of Baltimore County
Adopted:	10/8/96	
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