

BALTIMORE COUNTY PUBLIC SCHOOLS

DATE: December 6, 2011

TO: **BOARD OF EDUCATION**

FROM: Dr. Joe A. Hairston, Superintendent

SUBJECT: **CONSIDERATION OF THE PROPOSED CHANGES TO BOARD OF EDUCATION POLICY 8360 – APPLICABILITY AND DEFINITIONS**

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

RESOURCE PERSON(S): Patricia Clark, Policy and Compliance Officer
Andrew W. Nussbaum, Esquire, Counsel to the Board of Education

RECOMMENDATION

That the Board of Education approves the proposed changes to Policy 8360.
This is the third reading.

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Attachment I – Policy Analysis
Attachment II – Policy 8360

**POLICY ANALYSIS FOR
REVISIONS TO THE BOARD OF EDUCATION'S ETHICS CODE POLICIES
POLICY 8360, *APPLICABILITY AND DEFINITIONS*
POLICY 8361, *STATEMENT OF PURPOSE AND POLICY*
POLICY 8362, *GIFTS*
POLICY 8363, *CONFLICT OF INTEREST – PROHIBITED CONDUCT*
POLICY 8364, *FINANCIAL DISCLOSURE STATEMENTS*
POLICY 8365, *LOBBYING*
POLICY 8366, *ETHICS REVIEW PANEL***

Statement of Issues or Questions Addressed

In 2010, the General Assembly enacted legislation designed to subject members of county boards of education to conflict of interest standards and financial disclosure requirements that are at least equivalent to the State's requirements for State officials and public officials. The State Ethics Commission issued revised Board of Education Ethics regulations that became effective on April 18, 2011. All county boards of education are required to bring their ethics codes into compliance with the new law and to provide notice to the State Ethics Commission of their progress towards enactment by October 1, 2011.

All policies were edited to conform with the State Ethics Commission's MODEL BOARD OF EDUCATION ETHICS REGULATIONS and the Policy Review Committee's editing conventions.

Some of the required changes include: additional reporting requirements for board members and board employees; more stringent lobbying guidelines; defining financial interests; clarifying post-Board service employment restrictions.

The Policy Review Committee is submitting the Ethics Code policies to the full Board for its consideration and action.

Cost Analysis and Fiscal Impact on School System

Because of the comprehensive nature of these revisions, the staff anticipates that education and training of employees, volunteers and consultants will be necessary to ensure compliance.

Relationship to Other Board of Education Policies

These policies form the basis of the Board's expectations for employee ethical behavior and conduct.

Legal Requirements

1. *Annotated Code of Maryland, State Government Article §15-101, Legislative Findings; Policy; Liberal Construction*
2. *Annotated Code of Maryland, State Government Article §§15-811 to 15-815, Local Boards of Education*
3. COMAR 19A.05, *Board of Education Regulations*

Similar Policies Adopted by Other Local School Systems

1. CALVERT COUNTY BOARD OF EDUCATION
Policy Number 1740, *Ethics*
Policy Number 1740.1, *Definitions*
Policy Number 1740.2, *Ethics Panel*
Policy Number 1740.3, *Conflict of Interest and Outside Employment*
Policy Number 1740.4, *Gifts*
Policy Number 1740.5, *Lobbying Disclosure*
<http://www.calvertnet.k12.md.us/departments/administration/policies/policies.asp>
2. CARROLL COUNTY BOARD OF EDUCATION
Policy Number BC, *Ethics*
<http://www.boarddocs.com/mabe/ccps/Board.nsf/Public>
3. FREDERICK COUNTY BOARD OF EDUCATION
Policy Number 109, *Ethics*
Policy Number 109.1, *Definitions*
Policy Number 109.3, *Prohibited Conduct and Interest*
Policy Number 109.4, *Financial Disclosure*
Policy Number 109.5, *Lobbying Disclosure*
<http://fcps.schoolwires.com/152910821132356427/site/default.asp>
4. HOWARD COUNTY BOARD OF EDUCATION
Policy Number 2070, *Ethics*
<http://www.hcpss.org/board/policies/>
5. MONTGOMERY COUNTY BOARD OF EDUCATION
Policy Number BBB, *Ethics*
<http://www.mcps.k12.md.us/departments/policy/>
6. PRINCE GEORGE'S COUNTY BOARD OF EDUCATION
Board Policy 0107, *Ethics*
Board Policy 0107.1, *Ethics - Definitions*
Board Policy 0108, *Ethics Panel*
Board Policy 0109, *Conflict of Interest*
Board Policy 0111, *Board Financial Disclosure*
Board Policy 0112, *Lobbying Disclosure*
<http://www1.pgcps.org/generalcounsel/boardpolicies/bp0000.aspx>

7. WASHINGTON COUNTY BOARD OF EDUCATION
Policy Number BBF-E, *Code of Ethics for School Board Members*
Policy BDF-E, *Ethics Advisory Panel*
<http://www.boarddocs.com/mabe/wcps/Board.ns>

Draft of Proposed Policy

Attached

Other Alternatives Considered by Staff

No other alternatives were considered.

Timeline

First reading – October 25, 2011

Public comment – November 8, 2011

Third reading/vote – December 6, 2011

*The Ethics Code must be approved by the State Ethics Commission prior to adoption by the Board.

INTERNAL BOARD OPERATIONS: ETHICS CODE [:]

APPLICABILITY AND Definitions

I. APPLICABILITY

- A. THE ETHICS CODE OF THE BOARD OF EDUCATION OF BALTIMORE COUNTY (BOARD) APPLIES TO MEMBERS OF THE BOARD, THE SUPERINTENDENT, EMPLOYEES, CONSULTANTS OF THE BALTIMORE COUNTY PUBLIC SCHOOLS, AND THE BOARD’S VOLUNTEER APPOINTEES TO ITS PANELS AND COUNCILS (HEREINAFTER, “SCHOOL SYSTEM OFFICIAL”).
- B. THE ETHICS CODE CONSISTS OF BOARD POLICY 8360; BOARD POLICY 8361, *STATEMENT OF PURPOSE AND POLICY*; BOARD POLICY 8362, *GIFTS*; BOARD POLICY 8363, *CONFLICT OF INTEREST – PROHIBITED CONDUCT*; BOARD POLICY 8364, *FINANCIAL DISCLOSURE STATEMENTS*; BOARD POLICY 8365, *LOBBYING*; AND BOARD POLICY 8366, *ETHICS REVIEW PANEL*.
- C. THE DEFINITIONS CONTAINED IN THIS POLICY APPLY TO THE ENTIRE ETHICS CODE.

II. DEFINITIONS

The following terms used within the Ethics Code are defined as follows:

- A. [(A)] **Board [of Education]** – means the [local] Board of Education of Baltimore County.
- B. [(B)] **Business entity** - means any individual or organization, regardless of form, including but not limited to a corporation, general or limited partnership, LIMITED LIABILITY COMPANY OR PARTNERSHIP, sole proprietorship (including a private consultant operation), joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit.
 - 1. “BUSINESS ENTITY” DOES NOT INCLUDE A GOVERNMENTAL ENTITY.
- C. [(C)] **Compensation** - means any money or thing of value, regardless of form, received or to be received by any individual covered by this title from an employer for service rendered.

1. FOR PURPOSES OF BOARD POLICY 8365, LOBBYING, if lobbying is only a portion of a person's employment, "compensation" means a prorated amount based on the time devoted to LOBBYING COMPARED TO THE TIME DEVOTED TO other employment duties. [For reporting purposes, a prorated amount shall be labeled as such.]
- D. [(D)] ***Doing business with*** – means”
1. Having or negotiating a contract that involves the commitment (either in a single or combination of transactions) of school system funds; [or]
 2. Being subject to the authority of the school system;
 3. Being registered as a lobbyist with the Board [of Education of Baltimore County]; or
 3. Pursuing commercial financial transactions with the school system.
- E. [(E)] ***Economic value*** - means [when] a good THAT is useful and its worth can be measured in financial terms.
- F. [(F)] ***Employee*** - means an individual whose compensation is paid in whole or part by the Board and/or is a student teacher for the school system.
- G. [(G)] ***Ethics Review Panel*** - means the advisory board designated to serve the Board [of Education of Baltimore County] with the responsibility for interpreting the Ethics Code. (SEE, BOARD POLICY 8366, ***ETHICS REVIEW PANEL***).
- H. ***FINANCIAL INTEREST*** – MEANS:
1. OWNERSHIP OF ANY INTEREST AS THE RESULT OF WHICH THE OWNER HAS RECEIVED WITHIN THE PAST 3 YEARS OR IS PRESENTLY RECEIVING, OR IN THE FUTURE IS ENTITLED TO RECEIVE, MORE THAN \$1,000 PER YEAR; OR
 2. OWNERSHIP, OR THE OWNERSHIP OF SECURITIES OF ANY KIND REPRESENTING OR CONVERTIBLE INTO OWNERSHIP, OF MORE THAN 3 PERCENT OF A BUSINESS ENTITY BY A SCHOOL SYSTEM OFFICIAL OR THE SPOUSE OF A SCHOOL SYSTEM OFFICIAL.

- I. [(H)] **Gift** - means the transfer of ANY SERVICE OR THING [anything] of economic value, regardless of the form, without adequate and lawful consideration.
1. “Gift” does not include [the] POLITICAL CAMPAIGN CONTRIBUTIONS REGULATED UNDER THE ELECTIONS LAW ARTICLE, *ANNOTATED CODE OF MARYLAND*, OR ANY OTHER PROVISION OF STATE OR LOCAL LAW REGULATING THE CONDUCT OF ELECTIONS OR THE RECEIPT OF POLITICAL CAMPAIGN CONTRIBUTIONS. [solicitation, acceptance, receipt, or regulation of political campaign contributions regulated in accordance with the provisions of the *Annotated Code of Maryland*, Election Law Article, Title 13 Subtitle 2 or any other provision of state or local law regulating the conduct of elections or the receipt of political campaign contributions. As used in this Code, gift excludes non-cash recognition for professional, educational, athletic or scholastic achievements and/or scholarships.]
- J. [(I)] **Immediate family** - means SPOUSE AND DEPENDENT CHILDREN. [father, mother, brother, sister, husband, wife, son, daughter, grandmother, and grandfather by blood (not marriage), grandson, granddaughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, equivalent stepfamily members, legal dependent of the employee, or a person residing as a member of the household where the employee is making his or her home.]
- K. **INTEREST** - MEANS A LEGAL OR EQUITABLE ECONOMIC INTEREST, WHETHER OR NOT SUBJECT TO AN ENCUMBRANCE OR A CONDITION, THAT IS OWNED OR HELD, IN WHOLE OR IN PART, JOINTLY OR SEVERALLY, DIRECTLY OR INDIRECTLY.
1. FOR PURPOSES OF BOARD POLICY 8364, *FINANCIAL DISCLOSURE STATEMENTS*, “INTEREST” INCLUDES ANY INTEREST HELD AT ANY TIME DURING THE REPORTING PERIOD.
 2. “INTEREST” DOES NOT INCLUDE:
 - a. AN INTEREST HELD IN THE CAPACITY OF A PERSONAL AGENT, CUSTODIAN, FIDUCIARY, PERSONAL REPRESENTATIVE, OR TRUSTEE, UNLESS THE HOLDER HAS AN EQUITABLE INTEREST IN THE SUBJECT MATTER;

- b. AN INTEREST IN A TIME OR DEMAND DEPOSIT IN A FINANCIAL INSTITUTION;
- c. AN INTEREST IN AN INSURANCE POLICY, ENDOWMENT POLICY, OR ANNUITY CONTRACT UNDER WHICH AN INSURER PROMISES TO PAY A FIXED AMOUNT OF MONEY EITHER IN A LUMP SUM OR PERIODICALLY FOR LIFE OR A SPECIFIED PERIOD;
- d. A COMMON TRUST FUND OR A TRUST WHICH FORMS PART OF A PENSION OR PROFIT SHARING PLAN WHICH HAS MORE THAN 25 PARTICIPANTS AND WHICH HAS BEEN DETERMINED BY THE INTERNAL REVENUE SERVICE TO BE A QUALIFIED TRUST UNDER THE INTERNAL REVENUE CODE; OR
- e. A COLLEGE SAVINGS PLAN UNDER THE INTERNAL REVENUE CODE.

L. [(J)] **Lobbying** - means

- 1. Communicating in the presence of A SCHOOL SYSTEM OFFICIAL [a Board member or employee] with the intent to influence any official action of that OFFICIAL [Board member or employee]; AND SPENDING OVER \$25.00 [, where money is spent] for food, entertainment, or other gifts during the calendar year IN CONNECTION WITH THE COMMUNICATION OR INTENT TO INFLUENCE [in furtherance of this activity]; or
- 2. Engaging in activities having the express purpose of soliciting others to communicate with A SCHOOL SYSTEM OFFICIAL [a Board member or employee] with the intent to influence that OFFICIAL [Board member or employee, where money is expended in furtherance of this activity]; AND SPENDING OVER \$25.00 IN CONNECTION WITH THE ACTIVITIES OR INTENT TO INFLUENCE.

M. **LOBBYIST** – MEANS A PERSON REQUIRED TO REGISTER AND REPORT EXPENSES RELATED TO LOBBYING UNDER BOARD POLICY 8365, *LOBBYING*.

N. **MEMBER OF THE BOARD** – MEANS A MEMBER OF THE BOARD OF EDUCATION OF BALTIMORE COUNTY.

- O. **PANEL** - MEANS THE BALTIMORE COUNTY PUBLIC SCHOOL SYSTEM ETHICS REVIEW PANEL ESTABLISHED UNDER BOARD POLICY 8366, *ETHICS REVIEW PANEL*.
- [(K) **Outside employment** - means any supplementary employment, including teaching and secondary employment within State service; and excluding service in the military reserves or National Guard, for which the employee receives remuneration or other economic gain.]
- P. [(L)] **Person** - means an individual or business entity.
- Q. [(M)] **Personal benefit** - means anything that promotes or enhances the well being of the individual, or his/her immediate family, or accrues to the personal advantage of that individual, or his/her immediate family.
- R. **QUALIFIED RELATIVE** – MEANS A SPOUSE, PARENT, CHILD, OR SIBLING.
- S. [(N)] **School system** - means the educational system under the authority of THE [any] Board [of Education].
- T. **SCHOOL SYSTEM OFFICIAL** – MEANS A MEMBER OF THE BOARD, THE SUPERINTENDENT, EMPLOYEES, CONSULTANTS, AND VOLUNTEERS OF THE BALTIMORE COUNTY PUBLIC SCHOOLS.
- U. [(O)] **Superintendent** - means any person defined as such within the meaning of the *ANNOTATED CODE OF MARYLAND*, Education Article [,] §4-102 [, *Annotated Code of Maryland*].
- V. [(P)] **Tutoring** - means any private additional, special or remedial instruction performed for compensation.
- W. [(Q)] **Volunteer** - means any person APPOINTED BY THE BOARD TO SERVE ON ITS PANELS OR COMMISSIONS who provides a service or performs SUCH [a] duty or responsibility for the school system without compensation.

Legal References: *Annotated Code of Maryland*, State Government Article [, §] §15-101, *LEGISLATIVE FINDINGS; POLICY; LIBERAL CONSTRUCTION*
ANNOTATED CODE OF MARYLAND, STATE GOVERNMENT ARTICLE §§15-811 to 15-815, *LOCAL BOARDS OF EDUCATION*
COMAR 19A.05, *BOARD OF EDUCATION REGULATIONS*

Policy
Adopted: 10/08/96
Revised: 08/12/97
Revised: 09/23/98
Revised: 01/13/09
Approved by SEC: 04/22/09
REVISED: _____

Board of Education of Baltimore County