

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 8362 - GIFTS**

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 8362.
This is the third reading.

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Attachment I – Policy Analysis
Attachment II – Policy 8362

**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 [:]

Gifts

I. PURPOSE

[A. As the Baltimore County Public Schools (BCPS) continue the practice of school-based management, it becomes increasingly important] To establish firm guidelines FOR [on] the acceptance OR SOLICITATION of gifts by schools and offices on behalf of the Board of Education OF BALTIMORE COUNTY (BOARD).

II. Gifts to the Board [of Education], Schools, and Offices [within the School System]

A. The Board [of Education of Baltimore County (Board)] encourages the formation of partnerships between schools and businesses and recognizes that these relationships frequently include gifts to schools and offices to enhance the educational programs of students.

B. The Board, schools, and offices may accept any bequest or gift of money or property for a purpose deemed suitable. All gifts shall be accepted in the name of the Board. All gifts will become the property of the Board and may be designated by the Board for use in a particular school or office.

C. Any gifts presented to the Board, schools, and offices must be accompanied by a document of intent from the donor for official action and recognition.

II. CRITERIA

A. [B.] To be acceptable, a gift must meet the following criteria:

1. [(i)] Have a purpose consistent with those of the Board [of Education] OR THE SCHOOL SYSTEM [schools, or offices];
2. [(ii)] Be offered by a donor acceptable to the Board [of Education] OR THE SCHOOL SYSTEM [, schools, or offices];
3. [(iii)] Be manageable by existing staff;
4. [(iv)] Not begin a program with the assumption that the Board [of Education] will take over if the funds are exhausted;
5. [(v)] Place no restrictions on the school program;
6. [(vi)] Be appropriate to the best education of students;

7. [(vii)] Not imply endorsement of any business or product;
 8. [(viii)] Not carry an excessive cost of maintenance or installation;
 9. [(ix)] Be consistent with the provisions of BOARD POLICIES, SUPERINTENDENT'S RULES, SCHOOL SYSTEM PROCEDURES, AND APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS [the school code or public law].
- B. [C.] When installation is required, the gift will be installed under the supervision of personnel of the Board. The Board is under no obligation to replace the gift if it is destroyed or becomes worn out.
- C. A letter of appreciation will be sent to the donor.

III. GIFTS TO A SCHOOL SYSTEM OFFICIAL

- A. A SCHOOL SYSTEM OFFICIAL MAY NOT SOLICIT ANY GIFT.
- B. A SCHOOL SYSTEM OFFICIAL MAY NOT DIRECTLY SOLICIT OR FACILITATE THE SOLICITATION OF A GIFT, ON BEHALF OF ANOTHER PERSON, FROM AN INDIVIDUAL LOBBYIST.
- C. A SCHOOL SYSTEM OFFICIAL MAY NOT KNOWINGLY ACCEPT A GIFT, DIRECTLY OR INDIRECTLY, FROM A PERSON THAT THE OFFICIAL KNOWS OR HAS REASON TO KNOW:
1. IS DOING BUSINESS WITH OR SEEKING TO DO BUSINESS WITH THE BOARD OR SCHOOL SYSTEM;
 2. IS SUBJECT TO THE AUTHORITY OF THE SCHOOL SYSTEM;
 3. IS A LOBBYIST WITH RESPECT TO MATTERS WITHIN THE JURISDICTION OF THE SCHOOL SYSTEM OFFICIAL; OR
 4. HAS FINANCIAL INTERESTS THAT MAY BE SUBSTANTIALLY AND MATERIALLY AFFECTED, IN A MANNER DISTINGUISHABLE FROM THE PUBLIC GENERALLY, BY THE PERFORMANCE OR NONPERFORMANCE OF THE SCHOOL SYSTEM DUTIES OF THE SCHOOL SYSTEM OFFICIAL.
- D. A BOARD MEMBER MAY NOT ACCEPT COMPLIMENTARY TICKETS TO ATTEND EVENTS THAT THE BOARD MEMBER MAY KNOW OR HAVE REASON TO KNOW ARE FROM OR ON BEHALF OF POLITICAL CANDIDATES OR ELECTED OFFICIALS.

- E. NOTWITHSTANDING THE RESTRICTIONS SET FORTH IN THIS SECTION, A SCHOOL SYSTEM OFFICIAL MAY ACCEPT:
1. MEALS AND BEVERAGES CONSUMED IN THE PRESENCE OF THE DONOR OR SPONSORING ENTITY;
 2. CEREMONIAL GIFTS OR AWARDS THAT HAVE INSIGNIFICANT MONETARY VALUE;
 3. UNSOLICITED GIFTS OF NOMINAL VALUE THAT DO NOT EXCEED \$20.00 IN COST OR TRIVIAL ITEMS OF INFORMATIONAL VALUE;
 4. REASONABLE EXPENSES FOR FOOD, TRAVEL, LODGING, AND SCHEDULED ENTERTAINMENT OF THE SCHOOL SYSTEM OFFICIAL AT A MEETING WHICH IS GIVEN IN RETURN FOR THE PARTICIPATION OF THE OFFICIAL IN A PANEL OR A SPEAKING ENGAGEMENT AT THE MEETING;
 5. GIFTS OF TICKETS OR FREE ADMISSION EXTENDED TO MEMBERS OF THE BOARD TO ATTEND A CHARITABLE, CULTURAL, OR POLITICAL EVENT, IF THE PURPOSE OF THE GIFT OR ADMISSION IS A COURTESY OR CEREMONY EXTENDED TO THE BOARD;
 6. A SPECIFIC GIFT OR CLASS OF GIFTS WHICH THE PANEL EXEMPTS FROM THE OPERATION OF THIS SUBSECTION 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 BOARD OR SCHOOL SYSTEM AND THAT THE GIFT IS PURELY PERSONAL AND PRIVATE IN NATURE;
 7. GIFTS FROM A PERSON RELATED BY BLOOD OR MARRIAGE, OR ANY OTHER INDIVIDUAL WHO IS A MEMBER OF THE HOUSEHOLD OF THE SCHOOL SYSTEM OFFICIAL; OR
 8. AN HONORARIUM FOR SPEAKING TO OR PARTICIPATING IN A MEETING, PROVIDED THAT THE OFFERING OF THE HONORARIUM IS IN NO WAY RELATED TO THE BOARD OR SCHOOL SYSTEM POSITION OF THE SCHOOL SYSTEM OFFICIAL.
- F. SECTION E ABOVE DOES NOT APPLY TO ANY GIFT, REGARDLESS OF THE AMOUNTS SET FORTH IN SECTION E, ABOVE:

1. THAT WOULD TEND TO IMPAIR THE IMPARTIALITY AND INDEPENDENCE OF JUDGMENT OF THE SCHOOL SYSTEM OFFICIAL RECEIVING THE GIFT;
2. OF SIGNIFICANT VALUE THAT WOULD GIVE THE APPEARANCE OF IMPAIRING THE IMPARTIALITY AND INDEPENDENT JUDGMENT OF THE SCHOOL SYSTEM OFFICIAL; OR
3. OF SIGNIFICANT VALUE THAT THE RECIPIENT SCHOOL SYSTEM OFFICIAL BELIEVES OR HAS REASON TO BELIEVE IS DESIGNED TO IMPAIR THE IMPARTIALITY AND INDEPENDENT JUDGMENT OF THE OFFICIAL.

[II. Gifts to Individuals

- A. Subject to the exclusions enumerated in this section, a gift may be accepted unless a gift would tend to impair the impartiality and independence of judgment of the Board member, employee, or volunteer receiving it or, if of significant value, the recipient knows, or has reason to know, that it was designed to do so.
- B. A Board member, employee, or volunteer may not solicit gifts, gratuities, or discounts for personal use or gain.
- C. 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:
 - (i) is doing business or attempting to do business with the BCPS
 - (ii) is subject to the authority of the school system
 - (iii) 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
 - (iv) is involved in lobbying.
 - (v) is from a political organization or candidate.

- D. A Board member or employee may accept the following, unless exceeding a \$50 market value:
- (i) meals and beverages consumed in the presence of the donor
 - (ii) ceremonial gifts or awards
 - (iii) unsolicited gifts of nominal value or trivial items of informational value
 - (iv) 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
 - (v) 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
 - (vi) 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.
- E. It is not the intent of the Code to prohibit students and employees from participating in and accepting awards exceeding a \$50 market value at events which are determined by the Ethics Review Panel to have an educational benefit. It is also not the intent of the code to prohibit the receipt of non-cash recognition for professional, educational, athletic, or scholastic achievements.
- F. 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 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.

- G. A Board member may not accept complimentary tickets to attend events that the Board member may know or have reason to know are from or on behalf of political candidates or elected officials.]

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*

RELATED POLICIES: BOARD OF EDUCATION POLICY 7330, *CAPITAL PROJECTS THAT ARE FUNDED BY PRIVATE DONATIONS*

Policy
Adopted: 10/08/96
Revised: 08/12/97
Revised: 03/11/08
Approved by SEC: 04/22/09
REVISED: _____

Board of Education of Baltimore County