

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 8365 – LOBBYING**

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 8365.
This is the third reading.

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Attachment I – Policy Analysis
Attachment II – Policy 8365

**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 [:]

Lobbying [Disclosure]

- I. EXCEPT AS PROVIDED IN SECTIONS II AND III OF THIS POLICY, A PERSON OR ENTITY WHO ENGAGES IN LOBBYING WITH THE BOARD OF EDUCATION OF BALTIMORE COUNTY (BOARD) AS DEFINED IN BOARD POLICY 8360, *APPLICABILITY AND DEFINITIONS*, SHALL FILE A LOBBYING REGISTRATION WITH THE PANEL OR THE OFFICE DESIGNATED BY THE BOARD.

- II. THE FOLLOWING ACTIVITIES ARE EXEMPT FROM REGULATION UNDER THIS POLICY
 - A. PROFESSIONAL SERVICES IN ADVISING AND RENDERING OPINIONS TO CLIENTS AS TO THE CONSTRUCTION AND EFFECT OF PROPOSED OR PENDING BOARD ACTIONS WHEN THESE SERVICES DO NOT OTHERWISE CONSTITUTE LOBBYING;

 - B. APPEARANCES BEFORE THE BOARD UPON ITS SPECIFIC INVITATION OR REQUEST IF THE PERSON OR ENTITY ENGAGES IN NO FURTHER OR OTHER ACTIVITIES IN CONNECTION WITH THE PASSAGE OR DEFEAT OF BOARD ACTIONS;

 - C. APPEARANCES BEFORE AN ORGANIZATIONAL UNIT OF THE SCHOOL SYSTEM UPON THE SPECIFIC INVITATION OR REQUEST OF THE UNIT IF THE PERSON OR ENTITY ENGAGES IN NO FURTHER OR OTHER ACTIVITIES IN CONNECTION WITH THE PASSAGE OR DEFEAT OF THE BOARD OR SCHOOL SYSTEM ACTION;

 - D. APPEARANCE AS PART OF THE OFFICIAL DUTIES OF A DULY ELECTED OR APPOINTED OFFICIAL OR EMPLOYEE OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE, OR OF THE UNITED STATES, AND NOT ON BEHALF OF ANY OTHER ENTITY;

- E. ACTIONS OF A PUBLISHER OR WORKING MEMBER OF THE PRESS, RADIO, OR TELEVISION IN THE ORDINARY COURSE OF THE BUSINESS OF DISSEMINATING NEWS OR MAKING EDITORIAL COMMENT TO THE GENERAL PUBLIC WHO DOES NOT ENGAGE IN FURTHER OR OTHER LOBBYING THAT WOULD DIRECTLY AND SPECIFICALLY BENEFIT THE ECONOMIC, BUSINESS, OR PROFESSIONAL INTERESTS OF THE PERSON OR ENTITY OR THE EMPLOYER OF THE PERSON OR ENTITY;
- F. APPEARANCES BY AN INDIVIDUAL BEFORE THE BOARD AT THE SPECIFIC INVITATION OR REQUEST OF A REGISTERED LOBBYIST IF THE PERSON PERFORMS NO OTHER LOBBYING ACT AND NOTIFIES THE BOARD THAT THE PERSON OR ENTITY IS TESTIFYING AT THE REQUEST OF THE LOBBYIST;
- G. APPEARANCES BY AN INDIVIDUAL BEFORE THE AN ORGANIZATIONAL UNIT OF THE SCHOOL SYSTEM AT THE SPECIFIC INVITATION OR REQUEST OF A REGISTERED LOBBYIST IF THE PERSON OR ENTITY PERFORMS NO OTHER LOBBYING ACT AND NOTIFIES THE UNIT THAT THE PERSON OR ENTITY IS TESTIFYING AT THE REQUEST OF THE LOBBYIST;
- H. THE REPRESENTATION OF A BONA FIDE RELIGIOUS ORGANIZATION SOLELY FOR THE PURPOSE OF PROTECTING THE RIGHT OF ITS OWN MEMBERS TO PRACTICE THE DOCTRINE OF THE ORGANIZATION; AND
- I. APPEARANCE AS PART OF THE OFFICIAL DUTIES OF AN OFFICER, DIRECTOR, MEMBER, OR EMPLOYEE OF AN ASSOCIATION ENGAGED EXCLUSIVELY IN LOBBYING FOR COUNTIES AND MUNICIPALITIES AND NOT ON BEHALF OF ANY OTHER ENTITY.

III. LIMITED EXEMPTION – EMPLOYER OF A LOBBYIST

- A. A PERSON OR ENTITY WHO EMPLOYS ONE OR MORE LOBBYISTS AND WHO WOULD OTHERWISE BE REQUIRED TO REGISTER AS A LOBBYIST IS NOT REQUIRED TO FILE A REGISTRATION AND SUBMIT LOBBYING REPORTS IF THE PERSON OR ENTITY REASONABLY BELIEVES THAT ALL EXPENSES INCURRED IN CONNECTION WITH THE LOBBYING

ACTIVITIES WILL BE REPORTED BY A PROPERLY REGISTERED PERSON OR ENTITY ACTING ON BEHALF OF THE PERSON OR ENTITY.

- B. A PERSON OR ENTITY EXEMPTED UNDER THIS SUBSECTION BECOMES SUBJECT TO THIS POLICY IMMEDIATELY UPON FAILURE OF THE LOBBYIST TO REPORT ANY INFORMATION REQUIRED BY THIS POLICY.

IV. LOBBYIST REGISTRATION

- A. THE REGISTRATION FILED UNDER THIS POLICY SHALL BE FILED ON OR BEFORE THE LATER OF THE BEGINNING OF THE CALENDAR YEAR IN WHICH THE PERSON OR ENTITY EXPECTS TO LOBBY AND WITHIN FIVE DAYS OF FIRST ENGAGING IN LOBBYING ACTIVITIES IN THE CALENDAR YEAR.
- B. THE REGISTRATION FILED UNDER THIS POLICY SHALL BE DATED AND ON A FORM DEVELOPED BY THE PANEL AND SHALL INCLUDE:
 - 1. THE LOBBYIST'S FULL AND LEGAL NAME AND PERMANENT ADDRESS;
 - 2. THE NAME, ADDRESS, AND NATURE OF THE BUSINESS OF ANY PERSON OR ENTITY ON WHOSE BEHALF THE LOBBYIST ACTS;
 - 3. THE WRITTEN AUTHORIZATION OF ANY PERSON OR ENTITY ON WHOSE BEHALF THE LOBBYIST ACTS OR AN AUTHORIZED OFFICER OR AGENT, WHO IS NOT THE LOBBYIST, OF THE PERSON OR ENTITY ON WHOSE BEHALF THE LOBBYIST ACTS;
 - 4. A STATEMENT OF WHETHER THE PERSON OR ENTITY ON WHOSE BEHALF THE LOBBYIST ACTS IS EXEMPT FROM REGISTRATION UNDER SUBSECTION III, ABOVE;
 - 5. THE IDENTIFICATION, BY FORMAL DESIGNATION, IF KNOWN, OF MATTERS ON WHICH THE LOBBYIST EXPECTS TO ACT;
 - 6. IDENTIFICATION OF THE PERIOD OF TIME WITHIN A SINGLE CALENDAR YEAR DURING WHICH THE LOBBYIST IS AUTHORIZED TO ENGAGE IN THESE ACTIVITIES, UNLESS TERMINATED SOONER; AND

7. THE FULL LEGAL SIGNATURE OF THE LOBBYIST AND, WHEN APPROPRIATE, THE PERSON OR ENTITY ON WHOSE BEHALF THE LOBBYIST ACTS OR AN AGENT OR AUTHORIZED OFFICER OF THE PERSON OR ENTITY ON WHOSE BEHALF THE LOBBYIST ACTS.
- V. A LOBBYIST SHALL FILE A SEPARATE REGISTRATION FOR EACH PERSON OR ENTITY THAT HAS ENGAGED OR EMPLOYED THE LOBBYIST FOR LOBBYING PURPOSES.
 - VI. A LOBBYIST MAY TERMINATE THE LOBBYIST'S REGISTRATION BY PROVIDING WRITTEN NOTICE TO THE PANEL AND SUBMITTING ALL OUTSTANDING REPORTS AND REGISTRATIONS.
 - VII. A PERSON OR ENTITY MAY NOT ENGAGE IN LOBBYING ACTIVITIES ON BEHALF OF ANOTHER PERSON OR ENTITY FOR COMPENSATION THAT IS CONTINGENT UPON THE PASSAGE OR DEFEAT OF ANY ACTION BY THE BOARD OR THE OUTCOME OF ANY SCHOOL SYSTEM ACTION.
- VIII. ACTIVITY REPORT
- A. A LOBBYIST SHALL FILE WITH THE PANEL OR THE OFFICE DESIGNATED BY THE BOARD:
 1. BY JULY 31, ONE REPORT CONCERNING THE LOBBYIST'S LOBBYING ACTIVITIES COVERING THE PERIOD BEGINNING JANUARY 1 THROUGH JUNE 30; AND
 2. BY JANUARY 31, ONE REPORT COVERING THE PERIOD BEGINNING JULY 1 THROUGH DECEMBER 31.
 - B. A LOBBYIST SHALL FILE A SEPARATE ACTIVITY REPORT FOR EACH PERSON OR ENTITY ON WHOSE BEHALF THE LOBBYIST ACTS.
 - C. IF THE LOBBYIST IS NOT AN INDIVIDUAL, AN AUTHORIZED OFFICER OR AGENT OF THE ENTITY SHALL SIGN THE FORM.

- D. THE REPORT SHALL INCLUDE:
1. A COMPLETE AND CURRENT STATEMENT OF THE INFORMATION REQUIRED TO BE SUPPLIED WITH THE LOBBYIST'S REGISTRATION FORM.
 2. TOTAL EXPENDITURES ON LOBBYING ACTIVITIES IN EACH OF THE FOLLOWING CATEGORIES:
 - a. TOTAL COMPENSATION PAID TO THE LOBBYIST NOT INCLUDING EXPENSES REPORTED UNDER ITEMS b THROUGH i OF THIS SUBPARAGRAPH;
 - b. OFFICE EXPENSES OF THE LOBBYIST;
 - c. PROFESSIONAL AND TECHNICAL RESEARCH AND ASSISTANCE NOT REPORTED IN ITEM D.1. OF THIS SUBPARAGRAPH;
 - d. PUBLICATIONS WHICH EXPRESSLY ENCOURAGE PERSONS TO COMMUNICATE WITH OFFICIALS;
 - e. NAMES OF WITNESSES, AND THE FEES AND EXPENSES PAID TO EACH WITNESS;
 - f. MEALS AND BEVERAGES FOR SCHOOL SYSTEM OFFICIALS;
 - g. REASONABLE EXPENSES FOR FOOD, LODGING, AND SCHEDULED ENTERTAINMENT OF SCHOOL SYSTEM OFFICIALS FOR A MEETING WHICH IS GIVEN IN RETURN FOR PARTICIPATION IN A PANEL OR SPEAKING ENGAGEMENT AT THE MEETING;
 - h. OTHER GIFTS TO OR FOR SCHOOL SYSTEM OFFICIALS OR MEMBERS OF THEIR IMMEDIATE FAMILIES; AND
 - i. OTHER EXPENSES.

IX. SPECIAL GIFT REPORT

- A. WITH THE SIX-MONTH ACTIVITY REPORT REQUIRED ABOVE, A LOBBYIST SHALL REPORT, EXCEPT FOR GIFTS REPORTED IN VIII.D.2.h. ABOVE, GIFTS FROM THE LOBBYIST WITH A CUMULATIVE VALUE OF \$75.00 OR MORE DURING THE REPORTING PERIOD TO AN OFFICIAL OR MEMBER OF THE IMMEDIATE FAMILY OF AN OFFICIAL.

- B. THE LOBBYIST SHALL REPORT GIFTS UNDER THIS PARAGRAPH REGARDLESS OF WHETHER THE GIFT WAS GIVEN IN CONNECTION WITH LOBBYING ACTIVITIES.
 - C. THE REPORT SHALL INCLUDE THE DATE, BENEFICIARY, AMOUNT OR VALUE, AND NATURE OF THE GIFT.
- X. NOTIFICATION TO OFFICIAL AND CONFIDENTIALITY
- A. IF ANY REPORT FILED UNDER THE POLICY CONTAINS THE NAME OF A SCHOOL SYSTEM OFFICIAL OR A MEMBER OF THE OFFICIAL'S IMMEDIATE FAMILY, THE PANEL SHALL NOTIFY THE OFFICIAL WITHIN 30 DAYS.
 - B. THE PANEL SHALL KEEP THE REPORT CONFIDENTIAL FOR 60 DAYS FOLLOWING RECEIPT BY THE PANEL.
 - C. WITHIN 30 DAYS OF THE NOTICE REQUIRED BY THIS SUBSECTION, THE OFFICIAL MAY FILE A WRITTEN EXCEPTION TO THE INCLUSION IN THE REPORT OF THE NAME OF THE OFFICIAL OR THE MEMBER OF THE OFFICIAL'S IMMEDIATE FAMILY.
- XI. THE PANEL MAY REQUIRE A LOBBYIST TO SUBMIT OTHER REPORTS AS THE PANEL DETERMINES TO BE NECESSARY.
- XII. PUBLIC RECORD
- A. THE PANEL OR OFFICE DESIGNATED BY THE BOARD SHALL MAINTAIN ALL REGISTRATIONS AND REPORTS FILED UNDER THIS POLICY FOR FOUR YEARS FROM THE DATE OF RECEIPT BY THE PANEL. THE PANEL OR OFFICE DESIGNATED BY THE BOARD SHALL MAINTAIN ALL FINANCIAL DISCLOSURE STATEMENTS FILED UNDER THIS POLICY.
 - B. THE PANEL SHALL MAKE LOBBYING REGISTRATIONS AND REPORTS AVAILABLE DURING NORMAL OFFICE HOURS, FOR EXAMINATION AND COPYING BY THE PUBLIC SUBJECT TO REASONABLE FEES AND ADMINISTRATIVE PROCEDURES ESTABLISHED BY THE SCHOOL SYSTEM. (*SEE, SUPERINTENDENT'S RULE 2373, PUBLIC INFORMATION ACT REQUESTS: SCHEDULE OF FEES*).

XIII. THE PANEL SHALL REVIEW THE REGISTRATIONS AND REPORTS FILED UNDER THIS POLICY FOR COMPLIANCE WITH THIS POLICY AND SHALL NOTIFY PERSONS ENGAGING IN LOBBYING ACTIVITIES OF ANY OMISSIONS OR DEFICIENCIES. THE PANEL OR BOARD MAY TAKE APPROPRIATE ENFORCEMENT ACTION TO ENSURE COMPLIANCE WITH THIS POLICY.

XIV. ANNUAL REPORT

- A. THE PANEL SHALL COMPUTE AND MAKE AVAILABLE A SUBTOTAL UNDER EACH OF THE REQUIRED CATEGORIES IN SUBPARAGRAPH VIII.D. OF THIS POLICY.
- B. THE PANEL SHALL COMPUTE AND MAKE AVAILABLE THE TOTAL AMOUNT REPORTED BY ALL LOBBYISTS FOR THEIR LOBBYING ACTIVITIES DURING THE REPORTING PERIOD.

[Any person who personally appears before any Board member or employee with the intent to influence that person in performance of his or her official duties, and who, in connection with such intent expends or reasonably expects to expend in a given calendar year a cumulative value in excess of \$25 on food, entertainment, or other gifts, shall file a registration statement with the Ethics Review Panel no later than January 15 of the calendar year or within five (5) days after first making such appearances.

The registration statement shall include complete identification of the registrant and of any other person on whose behalf the registrant acts. It shall also identify the subject matter on which the registrant proposes to make such appearances and shall cover a defined registration period not to exceed one calendar year.

Registrants under this section shall file a report within 30 days after the end of any calendar year during which they were registered, disclosing the value, date, and nature of any food, entertainment, or other gift provided to a Board member or employee. Where a gift or series of gifts are made to a Board member or employee exceeding a \$25 market value, the Board member or employee shall also be identified.

The registrations and reports filed pursuant to this policy shall be maintained by the Ethics Review Panel as public records available for public inspection and copying.]

Legal ReferenceS: *ANNOTATED CODE OF MARYLAND, STATE GOVERNMENT ARTICLE §15-101, LEGISLATIVE FINDINGS; POLICY; LIBERAL CONSTRUCTION*
Annotated Code of Maryland, State Government Article [,] §§15-701 to 15-715, LOBBYING [, 15-814]
ANNOTATED CODE OF MARYLAND, STATE GOVERNMENT ARTICLE §§15-811 to 15-815, LOCAL BOARDS OF EDUCATION
COMAR 19A.05, BOARD OF EDUCATION REGULATIONS

Related RULE [Policies]: Superintendent's Rule 2373, *Public Information Act REQUESTS: Schedule of Fees*

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