

BOARD OF EDUCATION OF BALTIMORE COUNTY
Ethics Review Panel

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TO: Principals and Office Heads

FROM: Ethics Review Panel

DATE: March 14, 2008

RE: Advisory Opinion 07-14

On February 7, 2008, the Ethics Review Panel adopted Advisory Opinion 07-14 in response to an application received from a petitioner.

In compliance with Ethics Code Policy 8366, "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." In an effort to keep individuals abreast of the panel's interpretations of the Ethics Code policies, please share this information with your staff.

Consistent with the panel's rules of procedure, you will note the deletion of the petitioner's name and any personally identifiable information in order to ensure anonymity. As subsequent advisory opinions are issued, they will be made available through the *Superintendent's Bulletin* and Outlook.

If you or members of your staff have any questions, please contact Dr. Carol Batoff, administrative liaison to the Ethics Review Panel, at 4138.

BOARD OF EDUCATION OF BALTIMORE COUNTY

ETHICS REVIEW PANEL

ADVISORY OPINION 07-14

This Advisory Opinion 07-14 is in response to a request made by a petitioner, an employee of Baltimore County Public Schools (BCPS), inquiring whether it is permissible for him to sell CDs to his former students. Petitioner has recorded and copyrighted an album on cassette, which he gives to his students each year as a gift. He

would like to transfer the album to CDs and sell them to former students (with parental consent) and donate the profits to a non-profit organization.

The relevant section(s) of the Ethics Code are as follows:

ETHICS CODE: Conflict of Interest (Section 8363)

1. Outside Employment

(a) *Board members, employees, and volunteers may not participate in outside employment if the work:*

- *is incompatible with the proper performance of official duties*
- *impairs the impartiality or independence of judgment or action of the employee*
- *affects the performance of the employee.*

(b) *A person engaged in outside employment may not:*

- *benefit from business with the school system or from relationships with students*
- *represent any party before the school system*
- *use confidential information acquired in his or her official school system position for personal benefit or that of another.*

(c) *Any employee with instructional responsibility shall not tutor, for compensation, any student whom he or she is currently teaching.*

6. Prohibitions

(a) *No board member or employee shall:*

- *represent any party, for a contingent fee, before or involving the Board of Education*
- *act as a compensated representative of another party in connection with a case, contract, or any specific matter in which he or she participated substantially as a board member or employee, within one (1) year following termination of service to the school system*
- *use the prestige of office for personal benefit or that of another*
- *use confidential information acquired in an official school system position for personal benefit or that of another.*

(b) *An employee may not be in a position that directly supervises, evaluates, or disciplines an immediate family member. An employee*

may not use his or her position to benefit an immediate family member.

The matter before the Ethics Review Panel is whether a BCPS employee may sell items to former students and donate any profits to a non-profit organization. The panel finds that this practice would be a violation of Ethics Code Section 8363(1)(b) and 6(a).

Ethics Code Section 8363(1)(b) prohibits a person engaged in outside employment from benefiting from business with the school system or from relationships with students. The selling of the CDs to former students, even if no profit is retained, would constitute a form of outside employment and result in free advertising of the petitioner's CDs; thus benefiting the petitioner. Any solicitation for a non-profit entity by a BCBS employee, through the use of the school system, would create not only the appearance of a conflict of interest, but would also be deemed the use of the prestige of office for the personal benefit or that of another, prohibited by Section 8363(6)(a).

This opinion has been signed by the Ethics Review Panel members and adopted on February 7, 2008.

Meryl D. Burgin, Esq., chair
Raymond A. Hein, Esq., vice chair
Mary C. Burke, LCSW-C, BCD, panel member

Sharon M. Pusin, M.D., Esq., panel member
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