

BOARD OF EDUCATION OF BALTIMORE COUNTY
Ethics Review Panel

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TO: Principals and Office Heads

FROM: Ethics Review Panel

DATE: November 14, 2008

RE: Advisory Opinions 08-05, 08-06, 08-07, 08-08,
08-09, 08-10, and 08-11 (combined)

On October 16, 2008, the Ethics Review Panel adopted Advisory Opinions 08-05, 08-06, 08-07, 08-08, 08-09, 08-10, and 08-11 (combined) in response to applications received from the petitioners.

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 OPINIONS 08-05, 08-06, 08-07, 08-08, 08-09, 08-10, and 08-11
(combined)

Advisory Opinion 08-05 is in response to a request made by petitioner, an employee of Baltimore County Public Schools (BCPS), inquiring as to whether it is permissible under the BCPS Ethics Code for a BCPS employee to be engaged in outside employment with a

recreation council who conducts a before-school gym program (“Early Bird Gym”) for BCPS students that is located at a BCPS elementary school facility.

Advisory Opinion 08-06 is in response to a request made by petitioner, an employee of Baltimore County Public Schools (BCPS), inquiring as to whether it is permissible under the BCPS Ethics Code for a BCPS employee to be engaged in outside employment with a recreation council who conducts four (4) different programs all held at a BCPS elementary school facility. These programs include a before-school gym program (“Early Bird Gym”); a before- and after-school music program; and two (2) summer camp programs.

Advisory Opinion 08-07 is in response to a request made by petitioner, an employee of Baltimore County Public Schools (BCPS), inquiring as to whether it is permissible under the BCPS Ethics Code for a BCPS employee to be engaged in outside employment with either a recreation council or a Parent Teachers Association who conducts before- and/or after-school programs in athletics/recreation and foreign language, all held at a BCPS elementary school facility.

Advisory Opinion 08-08 is in response to a request made by petitioner, an employee of Baltimore County Public Schools (BCPS), inquiring as to whether it is permissible under the BCPS Ethics Code to continue a before-school recreation program known as “The Early Bird Gym” at the BCPS elementary school facility. Although the petitioner does not specifically raise the issue of “outside employment” under the Ethics Code nor provides the Ethics Review Panel with facts relating to who employs the individuals responsible for the before-school program, it is the panel’s understanding based upon other information presented, that the BCPS employees who supervise these programs are employed by a recreation council to provide such services.

Advisory Opinion 08-09 is in response to a request made by petitioner, an employee of Baltimore County Public Schools (BCPS), inquiring as to whether the petitioner may continue to offer a “Summer Sports and Fitness Camp” through a recreation council at a BCPS elementary school facility.

Advisory Opinion 08-10 is in response to a request made by petitioner, an employee of Baltimore County Public Schools (BCPS), inquiring as to whether the petitioner may continue to offer a before-school recreation program, “the Early Bird PE program” through a recreation council at a BCPS elementary school facility.

Advisory Opinion 08-11 is in response to a request made by petitioner, an employee of Baltimore County Public Schools (BCPS), inquiring as to whether it is permissible under the BCPS Ethics Code to continue to offer a summer camp program through a recreation council and held at a BCPS elementary school facility.

The issue(s) in these seven (7) requests for advisory opinions are related and, therefore, the advisory opinions will be combined as one opinion.

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

ETHICS CODE: Definitions (Section 8360)

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

***Doing business with** means having or negotiating a contract that involves the commitment (either in a single or combination of transactions) of school system funds; or being subject to the authority of the school system; or being registered as a lobbyist in accordance with the lobbying disclosure provisions of Board of Education Policy 8365.*

ETHICS CODE: Conflict of Interest (Section 8363)

Board members, employees, and volunteers shall not participate on behalf of the school system in any matter which would, to their knowledge, have a direct financial impact, as distinguished from the public generally, on them, their spouse, dependent child, ward, parent, or other who shares the Board member's, employee's, or volunteer's legal residence or a business entity with which they are affiliated.

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.*

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 panel has reviewed the Joint Use Agreement between the Board of Education of Baltimore County and the Baltimore County Department of Recreation and Parks, executed on June 17, 2003, and the panel concludes that these two (2) entities are not “doing business with” each other as defined in Ethics Code Section 8360. Additionally, there is no evidence that parent teacher associations are “doing business with” the school system. Therefore, none of the entities that employ these BCPS employees for before- or

after-school or camp programs are “doing business with” the BCPS system and the BCPS employees are, as a result, not benefiting from business with the school system.

Furthermore, based upon the facts presented, there is no indication that these BCPS employees are engaged in the solicitation of BCPS students to attend the before- or after-school or camp programs and compensated based upon the number of students enrolled. Therefore, there is no reason for the panel to believe that the BCPS employees are business owners of the before-or after-school or camp programs or receive payment directly from parents of BCPS students. All information provided leads to the panel’s conclusion that the BCPS employees are employed through either a recreation council or a parent teacher association to provide services for these extracurricular programs. As a result, the Ethics Review Panel finds that such outside employment is not a violation of the Ethics Code.

This opinion has been signed by the Ethics Review Panel members and adopted on October 16, 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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