

BOARD OF EDUCATION OF BALTIMORE COUNTY

ETHICS REVIEW PANEL

ADVISORY OPINION 99-02

This Advisory Opinion 99-02 is in response to a request made by [REDACTED] [REDACTED] ("Petitioner"), an employee of Baltimore County Public Schools, inquiring as to whether the purchasing procedures utilized for the technical programs, Professional Care Grooming and Cosmetology are appropriate and not in violation of the Ethics Code.

The Petitioner has determined that the use of Mary Kay skin care and color cosmetic products and educational materials selected technical programs is beneficial to the skills taught and is the best overall system for these programs. The Panel has been provided documentation that as a matter of corporate policy Mary Kay has a requirement that purchases must be made by Mary Kay Consultants. In order to purchase these products and obtain the educational materials from Mary Kay, two Baltimore County School employees have become beauty consultants. The Panel has been assured that no Teacher/Consultant has or intends to receive any personal financial benefit from this relationship with Mary Kay Cosmetics. Confirming documentation has been provided from a Senior Sales Director for Mary Kay.

Policy 8363 of the Ethics Code prohibits employees from engaging in outside employment if that employment enables the person so engaged to benefit from business with the school system; is incompatible with the proper performance of official duties or impairs the impartiality or independence of judgment of the employee.

The relevant sections of the Ethics Code are as follows:

ETHICS CODE: *Conflict of Interest*

Section 8363

Board members, employees, and volunteers shall not participate on behalf of the school system in any manner 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 actions 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.*

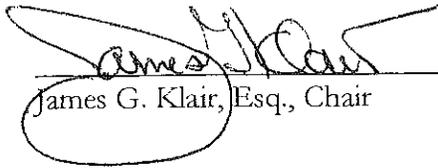
The issue before the Ethics Panel is whether the purchasing procedure described above violates the outside employment prohibition of the Ethics Code.

Based on the documents submitted to the Panel and the representation by the Petitioner the Panel has concluded that the purchase arrangement by these employees of the Baltimore County School System do not violate the outside employment prohibitions of the Ethics Code. Additionally, the procurement provisions of the State Education Article, Section 5-112 does not apply, as the \$15,000 threshold has not been reached.

The Panel recognizes, however, that the potential for abuse of the agreement with Mary Kay exists and cautions the Petitioner and the teachers/beauty consultants that any financial gain or improper influence on or impairment to their official duties would result in a violation of the Ethics Code. The relationship with Mary Kay must be strictly Non-profit for employees of the school system. There can be no personal enrichment. The relationship must exist in accordance with the school curriculum and no list of students or parents or related information can be compiled or released for commercial purposes – See Board of Education Policy Section 8363, F(c). However, from what is before the Panel, there appears to be none at the present time.

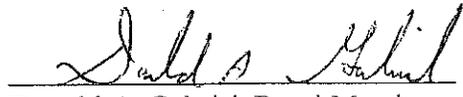
As to Advisory Opinion 99-02, it is the opinion of the Panel that the purchasing procedures described by the Requester in the application for an advisory opinion does not violate the Ethics Code.

This Opinion has been signed by the Ethics Panel members and adopted on February 25, 1999.


James G. Klair, Esq., Chair

ABSENT
Karen W. Strand, R.N., Panel Member


Roland L. Unger, C.P.A., Vice Chair


Donald A. Gabriel, Panel Member

DISSENT
Joy Shillman, Panel Member