

BOARD OF EDUCATION OF BALTIMORE COUNTY
Ethics Review Panel

Meryl D. Burgin, Esq., Chair
Raymond A. Hein Esq., Vice Chair
Mary C. Burke, LCSW-C, BCD
Sharon M. Pusin, M.D., Esq.
Janel D. Sexton, M.A., Ph.D.

6901 Charles Street
Towson, Maryland 21204-3711
Phone: 410-887-4138
Fax: 410-887-4308

TO: Principals and Office Heads

FROM: Ethics Review Panel

DATE: April 25, 2008

RE: Advisory Opinion 08-01

On March 20, 2008, the Ethics Review Panel adopted Advisory Opinion 08-01 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 08-01

This Advisory Opinion 08-01 is in response to a request made by a petitioner, an employee of Baltimore County Public Schools (BCPS), inquiring as to whether it is permissible under the BCPS' Ethics Code for an employee to accept payment for the installation of a database the petitioner created and installed in four schools. The

petitioner has represented to the Ethics Review Panel that he created the database on his personal time using his personal computer and personal software.

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

ETHICS CODE: General (Section 8361)

The Baltimore County Public Schools are committed to promoting and practicing moral principles and values in both the delivery of instruction and the delivery of support services. Consistent with this conviction, the school system's "Precepts, Beliefs, and Values" and local public ethics laws in accordance with the State Ethics Commission, the Ethics Code establishes guidelines of ethical and professional conduct. This Code formally acknowledges the school system's commitment to its institutional responsibility to the students, parents, and the community. It advocates positive behavior and the avoidance of impropriety or the appearance of impropriety.

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.*

The matter before the Ethics Review Panel is whether a school may purchase, in this case, computer services and a computer database from an employee of the school system. The employee asserts that he created the database on his personal time and did not use either school system time or equipment to develop the database or to communicate with other school system employees regarding the development, sale, or installation of the database. There appears to be some disagreement as to whether school system time and/or equipment (i.e., the school system's e-mail system) was in fact utilized for these purposes. Nevertheless, based upon the facts as presented by the petitioner, the panel finds that a BCPS employee's sale to BCPS of a computer database he developed and installed constitutes a violation of the Ethics Code.

Ethics Code Section 8361 emphasizes that the Ethics Code advocates "the avoidance of impropriety or the appearance of impropriety." Section 8363(1)(b) prohibits a person engaged in outside employment from benefiting from business with the school system or from relationships with students and Section 8363(6)(a) prohibits a school system employee from using "the prestige of office for personal benefit." Under Section 8363(1)(b), the petitioner is engaged in outside employment (the development, sale, and installation of the computer database) and would personally benefit financially from such business with the school system. This financial benefit is not only a result of the outside employment but is also a result of petitioner's employment with the school system, both of which would violate Section 8363(6)(a).

This opinion has been signed by the Ethics Review Panel members and adopted on March 20, 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
Janel D. Sexton, M.A., Ph.D., panel member