

BOARD OF EDUCATION OF BALTIMORE COUNTY
ETHICS REVIEW PANEL
ADVISORY OPINION 18-07

Advisory Opinion 18-07 is in response to a request made by petitioner, a part-time employee of a before and after school childcare provider at a Baltimore County Public School, inquiring as to whether it is permissible for such person to also accept employment as a part-time BCPS employee (cafeteria aide) within the same school.

The relevant section(s) of the Ethics Code (Section 8363) are as follows:

III. Employment and Financial Interests

- A. Except as permitted by Board policies when the interest is disclosed, or when the employment does not create a conflict of interest or appearance of a conflict, a school system official may not:
 - 1. Be employed by or have a financial interest in an entity that is subject to the authority of the Board or school system;
 - 2. Have a financial interest in or maintain secondary employment with a business entity that is negotiating with or has entered into a contract with the Board or school system; or
 - 3. Hold any other employment relationship that would impair the impartiality or independence of judgment of the official.

- B. The prohibition described above does not apply to:
 - 1. A school system official whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted in accordance with policies adopted by the Board;
 - 2. Subject to other provisions of regulation and law, a member of the Board in regard to a financial interest or employment held at the time of the oath of office, if the financial interest or employment was publicly disclosed to the appointing authority and the panel at the time of appointment; or
 - 3. Employment or financial interests allowed by opinion of the panel if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

The matter before the Ethics Review Panel is whether an employee of a BCPS vendor which operates a before-or after-school childcare program located in a Baltimore County public school may work in as a cafeteria aide in the same BCPS school. Ethics Code section 8363 III. A. States that “A. Except as permitted by Board policies when the interest is disclosed, or when the employment does not create a conflict of interest or appearance of a conflict, a school system official may not: ... 2. Have a financial interest in or **maintain secondary employment** (emphasis added) with a business entity that is negotiating with or has entered into a contract with the Board or school system;”

It is clear from the facts that the prospective employee of BCPS currently is employed by a BCPS vendor. However Section 8363 III. B. states that “B. The prohibition described above does not apply to: 1. A school system official whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted in accordance with policies adopted by the Board;”. From the facts presented it does not appear that there is a conflict of interest or appearance of a conflict of interest. Assuming there is no conflict of interest or appearance of conflict of interest, it is the belief of the panel that such proposed employment would not be in violation of the Ethics code.

The panel understands that these activities occur throughout the BCPS system and that valuable services are being provided to students and parents by BCPS employees who have a sound record of providing services to children. Furthermore, these programs have existed in the BCPS system for many years.

It is the feeling of panel members that finding these services to be in violation of the Ethics Code would severely limit the availability of persons to staff these before-school and after-school programs, causing a significant shortage of persons available to provide such services.

This exception does not preclude the panel from finding, in other specific instances involving the before- and after-school programs or other similar programs, that there are violations of the Ethics Code based on different statements of fact or circumstances.

This opinion has been signed by the Ethics Review Panel members and adopted on October 18, 2018.

Joseph M. Schnitzer, Esq., Chair
Theresa E. Barrett, Panel Member
Ralph Sapia, Panel Member

T. Ross Mackesey, Vice Chair
Samuel Johnson, Panel Member