

**BOARD OF EDUCATION OF BALTIMORE COUNTY**  
**ETHICS REVIEW PANEL**  
**ADVISORY OPINION 18-08**

Advisory Opinion 18-08 is in response to a request made by petitioner, an [REDACTED] [REDACTED] employed by Baltimore County Public Schools (“BCPS”), inquiring as to whether it is permissible for her spouse, who owns a local business, to submit a proposal in response to an Invitation for Bids issued by BCPS and if successful, contract with BCPS for services requested by BCPS.

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

Conflict of Interest – Prohibited Conduct

I. Policy Statement

Members of the Board of Education of Baltimore County (Board), the Superintendent and employees (hereinafter, “School Official”) shall not participate on behalf of the Board or school system in any matter which would, to their knowledge, have a direct financial impact, as distinguished from the public generally, on them, their immediate family or a business entity with which they are affiliated.

II. Participation

- A. Except as permitted by Board policies, or in the exercise of an administrative or ministerial duty that does not affect the disposition or decision in the matter, a school official may not participate in:
1. Any matter in which, to the knowledge of the school official, the official or a qualifying relative of the official has an interest; or
  2. Any matter in which any of the following is a party:
    - a. A business entity in which the school official has a direct financial interest of which the official may reasonably be expected to know;
    - b. A business entity, including a limited liability company or a limited liability partnership, for which the school official or a qualifying relative of the official is an officer, director, trustee, partner or employee ....
- C. The prohibitions listed above do not apply if participation is allowed by opinion of the Ethics Review Panel.

### 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 official may not:
  - 1. Be employed by or have a financial interest in an entity that is:
    - a. Subject to the authority of the Board or school system; or
    - b. Negotiating with or has entered into a contract with the Board or school system; or
  - 2. Hold any other employment relationship that would impair the impartiality or independence of judgment of the school official.
  
- B. The prohibition described above does not apply to:
  - 1. A school 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:
    - a. Was publicly disclosed to the appointing authority and the Ethics Review Panel at the time of appointment;
    - b. Was disclosed on the financial disclosure statement filed with the certificate of candidacy to be a candidate to be a member of the school board; or
  - 3. Employment or financial interests allowed by opinion of the Ethics Review 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 petitioner has advised that although her spouse owns the business, she is not an employee, officer, director of the entity seeking to contract with BCPS, nor is petitioner employed by BCPS in a capacity which is in any way involved with the BCPS bid or contract process.

Ethics Code Section 8363, subsection II limits an employee's participation in matters in which the employee, or a qualifying relative, has an interest. The Panel understands that the petitioner's spouse owns the business and therefore, the section would apply. However, the Panel further understands that the petitioner, as an employee, has not, and would not participate in the bid process.

Ethics Code Section 8363, subsection III addresses employment and financial interests further, and 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 official may not: 1. Be employed by or have a financial interest in an entity that is: a. Subject to the authority of the Board or school system; or b. Negotiating with or has entered into a contract with the Board or school system; ...” The relevant sections of this Ethics Code section are that “... a school official may not ... have a financial interest in an entity that is: ... b. negotiating with or has entered into a contract with the Board or school system; ...”.

Subsection III.B of Code Section 8363 states further that the prohibition does not apply to a school 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, and with petitioner having no participation in BCPS procurement process, it is the belief of the Panel that such proposed activity would not be in violation of the Ethics code, even though the petitioner’s spouse owns the business. It should be noted that the situation would be very different if the petitioner was involved in the procurement process on behalf of either the business entity or BCPS

This opinion has been signed by the Ethics Review Panel members and adopted on December 10, 2018.

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

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