

ADVISORY OPINION 19-01

This Advisory Opinion 19-01 is in response to an Application filed by a classroom teacher (“Petitioner”) selected to participate in program provided by a tech company, which is a vendor doing business with the School System. The program is designed to provide information to the Applicant regarding the technology and to provide the company to receive product feedback and research.

The Applicant seeks an opinion related to four inquiries. The first two are related: is the Applicant able to accept an all-expenses paid conference given by the company and may she speak at conferences in the future with or without honorarium? The third question is whether the Applicant needs to report gifts and honorariums received. The Applicant’s final question is not within the jurisdiction of the Panel and will not be addressed – is product testing in the classroom acceptable. This last issue should be addressed by appropriate School System administrative officials. ;

QUESTION 1.

GIFTS

Policy 8362 defines a “Gift” as “anything of economic value, regardless of the form, without adequate and lawful consideration...” Section III(B) prohibits an official from accepting “a gift, directly or indirectly, from a person that the official knows or has reason to know is doing business with or seeking to do business with the Board or school system”; However, (E) provides certain exceptions specifically the following:

1. Meals and beverages consumed in the presence of the donor or sponsoring party; or
4. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the school system official at a meeting which is given in return for the participation of the official in a panel or a speaking engagement at the meeting;

The Panel has reviewed and discussed the provisions of the Ethics Code set forth above along with the facts provided by Applicant. The Panel believes that Ethics Code section 8362(III)(E)(4). expressly permits a school system official to accept "reasonable expenses for food, travel, lodging, and scheduled entertainment of the school system official at a meeting which is given in return for the participation of the official in a panel or a speaking engagement at the meeting." Although not expressly included in this list of expenses, it appears to the Panel that a meeting registration fee, lodging and reimbursement reasonable expenses (such as permitted in Section 8362.(III)(E)(4)), are substantially like the types of expenses that the Ethics Code permits a school system official to accept under these circumstances.

QUESTION 2.

DISCLOSURE

It is not clear from the Application if the Applicant is an employee who is required to file a Financial Disclosure Statement with the School System. Policy 8364 sets forth the requirements for the filing of Financial Disclosure Statements. Section (I)(H) requires that “Any other employees who have authority to make the final decision to commit the school system to

the expenditure of public funds,” must file the Statement. If the Applicant is otherwise required to file a Financial Disclosure Statement under the Policy, she should disclose the receipt of any gifts or honorariums. However, if she is not required to file the Statement, it is not necessary for her to report such receipts.

CONCLUSION

Accordingly, for the reasons set forth above, the Panel has concluded that Applicant’s participation and acceptance of the complimentary registration fee, lodging expense, and reimbursement for reasonable expenses, would be permitted under the Ethics Code.

The Panel also believes that if the tech company is deemed to be doing business with the Board or school system, then pursuant to Ethics Code Section the Applicant would need to be reported on her Financial Disclosure Statement, if she is required to file same.

This opinion has been signed by the Ethics Review Panel members and adopted on April 24, 2019.

T. Ross Mackesey, Chair
Ralph Sapia, Esq., Panel Member
Tim Topoleski, Panel Member

Samuel Johnson, Vice Chair
Joseph Schnitzer, Panel Member