

BOARD OF EDUCATION OF BALTIMORE COUNTY

ETHICS REVIEW PANEL

ADVISORY OPINION 20-03

This Advisory Opinion 20-03 is in response to an Application to Provide an Advisory Opinion (“Application”) filed by the Applicant, an executive level/management officer employed in the Baltimore County Public Schools (BCPS). The Applicant has been employed as a part-time adjunct professor with a local college since 2016, teaching one course per semester, (Assessing Needs and Evaluating Progress) at a rate of \$3,000 to \$3,100 per course. The college has a number of partnerships with BCPS and other school systems in the State. The Applicant reported that she has included all payments earned from the college on her annual BCPS Financial Disclosure Statements and that the work has been completed in the evenings and primarily over weekends. The students taught by the Applicant have been teachers employed in a number of public and private schools in Maryland, including BCPS.

Policy 8363 reads, in pertinent part, as follows:

**Policy 8363 – Conflict of Interest – Prohibited Conduct**

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; or

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.

#### VI. Prestige of Office

A. A school official may not intentionally use the prestige of office or public position for private gain of that official or the private gain of another.

The Panel determined that accepting a part-time paid teaching position at a local college would not violate any provisions of the Policy prohibiting conduct that would result in a conflict of interest or the improper use of the prestige of office or public position, even though the institution has a number of partnerships with BCPS. The Panel has determined that such employment would not create a conflict of interest or appearance of a conflict.

### THE CONFLICT OF INTEREST PROVISIONS

Policy 8363 generally prohibits BCPS employees from being employed by an entity that has a contract with the School System, with certain exceptions. Section III.A. of that Policy begins with: “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,*” (emphasis added), an employee may not be employed by an entity that has entered into a contract with the Board or School System. Furthermore, section III.B.3. provides that the prohibition does not apply to employment “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.” The Application indicated that the college has a “number of partnerships with BCPS” and other school systems, so it would appear that it is an entity that has “entered into a contract with the Board or school system.” However, the Panel has determined that even though there were, and are, contractual relationships, the Policy would not be violated by the Applicant accepting a part-time paid teaching position.

The Panel is aware that colleges and universities often employ part-time adjunct faculty to teach classes, where the individual’s particular experience, knowledge, and background would benefit the institution and its students in specific subject areas. The Panel is aware that

although these positions are paid, the amount of the compensation is typically fairly minor compared to the amount of time and work necessary for the position. In this case, the Applicant reported that the compensation was \$3,000 to \$3,100 per course. It seems clear that the Applicant's knowledge of education generally and assessing needs and evaluating progress, would make her a very valuable person to teach such a course and the Panel has determined that teaching such a course would not result in a conflict of interest or an appearance of a conflict.

### THE PRESTIGE OF OFFICE PROVISION

Policy 8363 also contains a provision prohibiting employees from "intentionally" using "the prestige of office or public position for private gain." Although the Applicant received compensation for the part-time position, and it is likely that her employment with the School System contributed to her being asked to teach the course, the Panel does not see this situation as a violation of the prestige of office provision of the Ethics Code. The Panel is aware of other situations where School System employees earn money outside the School System directly related to their positions and are not violations of the prestige of office provision. For example, teachers are expressly allowed to provide private tutoring services or offer private educational services outside of school, as long as those services are not provided to a student the "employee currently instructs." (Policy 8363, section X.C.)(See also Board Policy 4005 - Tutoring/Educational Services, which also prohibits providing such services during the duty day.)(See, also, Advisory Opinion 18-03, which found no violation when teachers serve, for compensation, as AP exam readers; Advisory Opinion 19-03, where the Panel found no violation when the Applicant was paid to write curriculum for another school system; and Advisory Opinion 19-02, where the Panel found no violation when the Applicant, an attorney employed by the School System, was compensated to teach a school law course at a law school.) Also, the Panel is unaware of any BCPS policy generally prohibiting employees from being employed as adjunct faculty members at the college or university level. Thus, even though the Applicant's experience, knowledge, and background in education may have arisen, in part, from her employment with the School System, the Panel does not believe she has improperly used the prestige of her office or position under these circumstances, and as long as the Applicant is not using School equipment, technology, or material, and is preparing and teaching during non-duty hours, the Panel concludes that there is not a violation of the prestige of office provision.

### CONCLUSION

The Panel has determined that there would be no violation of the Ethics Code by the Applicant accepting part-time paid employment teaching an education course at a local college, even if that institution has partnerships with BCPS.

This Opinion has been adopted by the Ethics Review Panel Members and adopted on April 20, 2020.

Samuel Johnson, Chair  
T. Ross Mackesey, Panel Member

Ralph Sapia, Esq., Vice Chair  
Tim Topoleski, Panel Member