

BOARD OF EDUCATION OF BALTIMORE COUNTY

ETHICS REVIEW PANEL

ADVISORY OPINION 98-10

ADVISORY OPINION 98-11

This Advisory Opinion 98-10 is in response to a request made by [REDACTED] for Baltimore County Public Schools, relating to the Petitioner accepting an invitation, extended by a vendor of Baltimore County Public Schools to the Petitioner, to issue an unpaid personal-use product endorsement of the vendor's software.

This Advisory Opinion 98-11 is in response to a related request made by the above-mentioned Petitioner, to accept a paid part-time position as an on-site trainer with the same vendor who has requested the product endorsement.

These opinions are being consolidated in that the Ethics Panel believes that the former request for opinion serves as a bridge to the latter request. Both requests involve the same Petitioner and the same vendor.

Policy 8363 of the Ethics Code prohibits employees from using "the prestige of office for personal benefit or that of another." This Policy further prohibits employees from participating in outside employment if the work "impairs the impartiality or independence of judgement or action of the employee," and, "affects the performance of the employee."

The relevant sections of the Ethics Code are as follows:

*ETHICS CODE: Conflict of Interest*

*Section 8363*

*Board members, employees, and volunteers shall not participate on behalf of the school system in any matter which would, to their knowledge, have a direct financial impact, as distinguished from the public generally, on them, their spouse, dependent child, ward, parent, or other who shares the Board member's, employee's, or volunteer's legal residence or a business entity with which they are affiliated.*

*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 without prior written approval from the principal or other appropriate administrator.*

5. Royalties/Personal Gain

(a) *No royalties will be paid to employees or volunteers for textbooks, instructional materials, or programs written or produced during working hours.*

(b) *No Board member, employee, or volunteer, will be permitted to use—for commercial purposes—any photographs or information—including test scores and other confidential data—gained through his or her position unless prior approval is provided in writing from the Superintendent of Schools.*

(c) *No Board member, employee, or volunteer will be permitted to compile lists of students' and/or parents' names, addresses, phone numbers, or related information available through his or her position for any other person or commercial enterprise unless the compilation of such data has been approved in writing by the individual's supervisor and serves a valid educational purpose and only as permitted by the provisions of the Annotated Code of Maryland, State Government Article, §10-611 et seq.*

The facts as presented in the first request are that the Petitioner has been asked by the vendor, a producer and marketer of software currently in use by Baltimore County Public Schools, to give a personal-use endorsement of this product which will appear in an educational journal. The Petitioner presently has an excellent working knowledge of this software, acquired within the scope of employment with Baltimore County Public Schools. The endorsement, as written, is an unconditional endorsement of the product. The written endorsement also indicates that additional upgrades within the 160-school [REDACTED] group are being planned. The Petitioner will not be paid for this endorsement.

The Panel has identified two areas that cause it not to favor making such an endorsement. First, although the Petitioner would not be paid for this endorsement, the Petitioner would receive personal benefit in the sense that the Petitioner's name and job title would appear in an educational publication. Such publicity would likely result in an enhancement of the Petitioner's reputation and marketability among the circulation of readers of the publication. The Petitioner has established expertise and experience with this software product and because such expertise and experience was developed through the Petitioner's employment with the Baltimore County Public Schools, the prestige of the Petitioner's position would be utilized for the Petitioner's personal benefit and that of another, the vendor. Such personal benefit is clearly prohibited by the Ethics Code.

The Petitioner's endorsement of the product would also create another conflict. As a [REDACTED] who trains, installs, and tests software products in the course of the Petitioner's employment with Baltimore County Public Schools, such endorsement could compromise future discussions relating to alternative software products which other vendors may want to introduce into the school system and for which the Petitioner might be asked to provide an opinion. While it may be within the abilities of the Petitioner to provide an impartial and independent opinion, the appearance of conflict in the eyes of others, resulting from the endorsement, could preclude such opinion being viewed as impartial.

The facts as presented in the second request are such that the Petitioner has been offered a paid part-time employment position with the same vendor who has requested the product endorsement. Acceptance of this position would create an employee/employer relationship between the Petitioner and the vendor which could be viewed as a conflict of interest. This employment offer follows from expertise and experience acquired as an employee of the Baltimore County School System. Establishment of an employment relationship with the vendor could taint any opinion or analysis of measurement or comparison of the vendor's software against that of a competitor, and creates the appearance of an unlevelled playing field upon which one vendor is favored over another. Such conflict is likely to affect the job performance of the Petitioner.

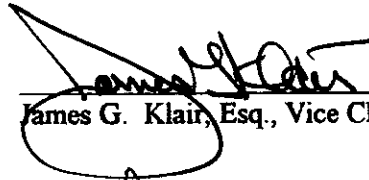
In reference to Advisory Opinion 98-10, it is the opinion of the Panel that making this endorsement would violate the Ethics Code.

In reference to Advisory Opinion 98-11, it is the opinion of the Panel that this secondary employment would violate the Ethics Code.

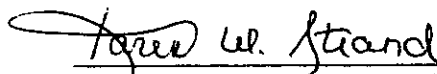
This opinion has been signed by the Ethics Panel members and adopted on 9/10/98.



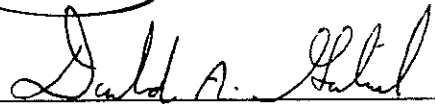
Roland L. Unger, C.P.A., Chair



James G. Clair, Esq., Vice Chair



Karen W. Strand, R.N., Panel Member



Donald A. Gabriel, Panel Member



Joy Shillman, Panel Member