

BOARD OF EDUCATION OF BALTIMORE COUNTY

ETHICS REVIEW PANEL

ADVISORY OPINION 98-12

This Advisory Opinion 98-12 is in response to a request made by [REDACTED] member of the Board of Education, inquiring as to whether other lawyers in the law firm for which he works may represent persons before the Baltimore County School System.

Policy 8363 of the Ethics Code prohibits employees engaged in outside employment from "representing any party before the school system" or from participating in a matter which would have a "direct financial impact" upon the Board member or employee. This Policy further prohibits Board members or employees from representing "any party, for a contingent fee, before or involving the Board of Education."

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.

6. Prohibitions

(a) *No Board member or employee shall:*

represent any party, for a contingent fee, before or involving the Board of Education

act as a compensated representative of another party in connection with a case, contract, or any specific matter in which he or she participated substantially as a Board member or employee, within one (1) year following termination of service to the school system

use the prestige of office for personal benefit or that of another

use confidential information acquired in an official school system position for personal benefit or that of another.

(b) *An employee may not be in a position that directly supervises, evaluates, or disciplines an immediate family member. An employee may not use his or her position to benefit an immediate family member.*

The immediate question concerning the Petitioner is whether a conflict of interest, as defined by the Ethics Code, would result if the Petitioner's law firm represented any party before the Baltimore County School System. It is the opinion of the Ethics Panel that Ethics Code 8363, Sections 1 and 6, only address the Board member or employee themselves representing any party before the Board and for a contingent fee.

Since the question before the Ethics Panel involves another lawyer in the Board member's law firm and does not involve the actual Board member, the Panel feels there is nothing in the Ethics Code that would prohibit another lawyer in the Board member's law firm from representing any person before the Baltimore County School System, inasmuch as the instant matter is not to be decided by the Board itself.

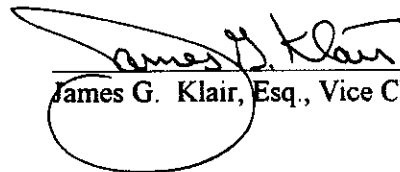
The panel does believe that it would be appropriate for any Board member, whose associate in his/her firm is representing any party in any matter upon which the Board would vote or sit in judgement, to recuse himself/herself from participation in such a matter.

In reference to Advisory Opinion 98-12, it is the opinion of the Panel that the above-described participation by an associate of the Board member not be prohibited.

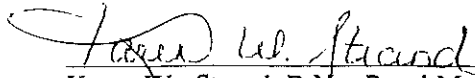
This opinion has been signed by the Ethics Panel members and adopted on December 17, 1998

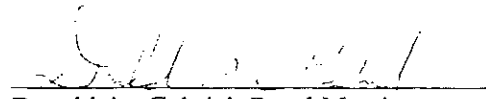


Roland L. Unger, C.P.A., Chair



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