BOARD OF EDUCATION OF BALTIMORE COUNTY

ETHICS REVIEW PANEL

ADVISORY OPINION 99-03

This Advisory Opinion 99-03 is in response to a request made by [redacted] ("Petitioner"), [redacted] of the Baltimore County Public Schools, where she presents two inquiries pertaining to the acceptance of compensation by Baltimore County Public School employees for services provided during the summer school recess. Specifically, we are asked whether certain relationships with WESTAT, a testing and assessment company for educational programs, would create a conflict of interest, and secondly, whether compensation received from Wicomico County would create an Ethics Code violation. Board Policy 8363 of the Ethics Code prohibits employees from engaging in outside employment, if that employment enables the person so engaged to benefit from business with the school system.

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 manner 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 actions of the employee*
- *affects the performance of the employee*

(b) *A person engaged in outside employment may not:*

- *benefit from business with the school or from relationship 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.*

The Panel has been advised that WESTAT is not currently a vendor for Baltimore County Public Schools or the [redacted] Department of Baltimore County Public Schools. In this particular case, WESTAT was hired by the Getty & Annenburg Foundations (a private company), and that the two schools in Baltimore County that participated in the pilot assessment did so for free. WESTAT has schools participate across the country in an evaluation of their testing and assessment mechanisms. This review and evaluation is performed in schools (like Baltimore County Public Schools) that do not use the Getty & Annenburg Foundations programs.

First, the Panel is asked whether Baltimore County Public Schools' [redacted] teachers (who are 10 month employees) may participate in the scoring of these assessments for WESTAT during their summer recess without being in violation of the Ethics Code. Additionally, we are advised that WESTAT will pay Baltimore County Public Schools for these teachers' time during the summer to do the project, and that these teachers will be paid by the school system, a standard per diem rate for summer work.

Under the facts as presented to the Panel, there would be no violations of the Ethics Code for these employees to participate in this project.

Another prong of this request is whether the Petitioner who, as Coordinator (a 12 month employee), may participate in the scoring as a team leader and receive compensation. The issue here is whether the Petitioner should use leave, and be directly paid by WESTAT for her supervision of the teachers during the four days of assessment scoring, or stay on the Board payroll and have WESTAT reimburse the school system.

The Panel has been advised that the process of scoring the assessment question is considered by the Curriculum Department to be desirable for Baltimore County Public Schools employees.

While the Panel is of the opinion that either method of compensation would not constitute a violation of the Ethics Code, the Panel's view is that the preferred practice would be to have WESTAT reimburse the school system.

The second inquiry presented to the Panel by the Petitioner is whether she can provide her services to Wicomico County for two days and receive compensation to work with [redacted] teachers in that county in aligning their curriculum with the Maryland Essential Learner Outcomes, a State Department of Education Program. Again, the Petitioner asks whether taking leave and receiving compensations directly is a violation, or can she receive payment on behalf of the Office[redacted].

As we discussed above, both options are proper. However, the Panel prefers the practice of Wicomico County reimbursing the Baltimore County school system. The exchange of expertise between school systems is encouraged, and the school systems should be involved, rather than a direct payment to the employee on leave status.

This Advisory Opinion has been signed by the Ethics Panel members and adopted on July 15, 1999.

James G. Klair, Esq., Chair

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

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

Donald A. Gabriel, Panel Member

Joy Shillman, Panel Member