

## Advisory Opinion 23-10

This advisory opinion is in response to your request [REDACTED] for the Baltimore County Public Schools (BCPS) regarding the permissibility of engaging in secondary employment with [REDACTED] a company that has a contract with BCPS.

You shared the following information along with your application to provide an advisory opinion:

- A few years ago, after attending [REDACTED] training presented by [REDACTED] you approached [REDACTED] official regarding the potential development of a [REDACTED] training model [REDACTED].
- Currently [REDACTED] is under contact with the Baltimore County Board of Education (“Board”)( [REDACTED] to provide [REDACTED] training and consultation to BCPS professionals.
- You are seeking to enter a contract [REDACTED] to develop a [REDACTED] training course. [REDACTED] would pay you an hourly rate for all services rendered.
- Your planned work would not relate to [REDACTED] training and/or consultation with BCPS.
- All work under the contract [REDACTED] would be done on your own time and would not overlap with your contracted services to BCPS.
- Any material you would utilize in your work [REDACTED] would be obtained outside of BCPS. And any work product produced through your planned contract [REDACTED] would not replicate the BCPS curriculum.

The Panel also took notice of the following facts found in documents published on the BCPS website in its review of your application for this advisory opinion:

[REDACTED] the Board approved contract [REDACTED] to provide for professional development and onsite coaching and technical assistance designed to help BCPS professionals [REDACTED] “ [REDACTED] for those students who have [REDACTED] difficulties [REDACTED] ” [REDACTED] was one of the bidders chosen to provide the training.

- [REDACTED] the Board approved a new competitively bid five-year contract, [REDACTED] for [REDACTED] training and consultation [REDACTED].

- Contract [REDACTED] provides for [REDACTED] training and consultation to “equip participants to provide [REDACTED] for those students who have [REDACTED] difficulties [REDACTED].”

## CONFLICT OF INTEREST

The relevant sections<sup>1</sup> of the Board of Education’s Ethics Code provide as follows:

### Policy 8360, *Ethics Code – Applicability and Definitions*

#### I. Applicability

The Ethics Code of the Board of Education of Baltimore County (Board) applies to members of the school Board, candidates to be members of the school board, the Superintendent, and employees.

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

#### II. Definitions

D. School Official – Each member of the Board of Education of Baltimore County, the Superintendent, and school system employees.

#### IV. 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.

---

<sup>1</sup> The Panel did not consider Policy 8362’s prohibitions on BCPS employees accepting gifts because the compensation you receive is not a transfer of anything of economic value “without adequate and lawful consideration.” In addition, because you are not involved in the procurement process that resulted in the Board’s contract [REDACTED], or that may result in modification of said contract, your “impartiality and independence of judgment” would not be a part of the contracting process [REDACTED].

B. The prohibition described in Paragraph IV(A) 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.

.....

ANALYSIS

The Panel notes that the express language of Policy 8363 prohibits your secondary employment [REDACTED], a business entity that has a contract with BCPS, except under narrowly defined exceptions.

You indicate in your request that you [REDACTED] for BCPS. Accordingly, the Panel does not believe your duties are ministerial. Therefore, the exception in Section 2(B)(1) does not apply. Because you are not a Board member, the exception in Section 2(B)(2) does not apply.

Section 2(B)(3) identifies a third exception to Policy 8363's general prohibition on the secondary employment - if the Panel determines the unique circumstances of the employment do not create a conflict of interest or the appearance of a conflict of interest<sup>2</sup>. In its review of the unique circumstances of your employment, the Panel took into account its recent extensive analysis of this same issue in Advisory Opinion 23-09. Accordingly, the Panel chooses to highlight the specific factors related to your proposed secondary employment [REDACTED] that demonstrate it does not create a conflict of interest or the appearance of a conflict of interest.

- (1) While you provide [REDACTED] to BCPS students and work for [REDACTED] that supervises and implements the Board's contract

---

<sup>2</sup> Because Policy 8363, Section 2(B)(3) describes a narrow case-by case analysis by the Panel, this opinion is limited to your request concerning your secondary employment [REDACTED].

[REDACTED], you do not currently influence the Board's contracting [REDACTED].

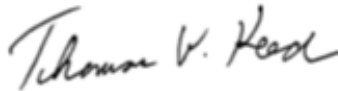
- (2) Your planned participation in the development of a training program [REDACTED] [REDACTED] will help you gain professional knowledge that will support [REDACTED] and thereby benefit BCPS students.
- (3) Your planned secondary employment [REDACTED] will occur outside your workday with BCPS and you will not utilize any BCPS resources when working [REDACTED].
- (4) Your participation as a paid consultant [REDACTED] would align with BCPS' interests [REDACTED] [REDACTED] that meet the needs of all students rather than create a conflict of interest or an appearance of a conflict of interest.

For the above reasons this Panel concludes that it would not be a violation of Policy 8363, Conflict of Interest, for you to secure secondary employment [REDACTED] to develop a [REDACTED] training course, provided you have no involvement in the administration of any aspect of the Board's current contract [REDACTED] and you do not promote or advocate for the use or adoption of the [REDACTED] training course within or beyond the contract [REDACTED].

This Advisory Opinion has been officially adopted by the Ethics Review Panel members at its January 23, 2024, meeting.



Tim Topoleski, Ph.D.  
Chair



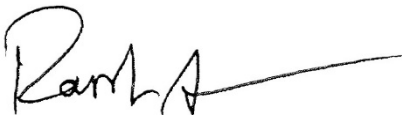
Thomas Keech, Esq.  
Vice Chair



George Makris, Esq.  
Panel Member



Owen Jarvis, Esq.  
Panel Member



Ralph Sapia  
Panel Member