

Advisory Opinion 22-10

This advisory opinion is in response to your request, as the [REDACTED] [REDACTED] regarding: 1) your appointment to [REDACTED] (the “Consortium”), and 2) your private company, [REDACTED] (the “Company”) which has created an online course (the “Course”) which may be taken by persons employed by BCPS or other school systems.

The Consortium

Based on the information you have provided, the Panel understands that in October 2022, [REDACTED], you were appointed to the Consortium [REDACTED] based on your expertise [REDACTED]. Information that you have provided states that the Consortium “is a new state agency responsible for developing a statewide framework to expand access to comprehensive and non-stigmatized behavior health services for all Maryland students” and was “created by the General Assembly as part of the Blueprint for Maryland’s Future, Chapter 36 of 2021 (Kirwan education reform bill).” The “Consortium has 24 members and includes representatives from the state and local departments of education, health, human services, and juvenile services, and members of the legislature, and other individuals representing the education and behavioral health communities.” In consultation with the Consortium, the [REDACTED] (“CHRC”) will administer a grant program “to provide grants and technical assistance to fulfill the duties of the Consortium.”

You state that:

[REDACTED] duties on the Consortium consist of participating, providing input, and voting in aspects of the following: Developing a framework for the creation of support partnerships, providing guidance to CHRC for the development of RFP, developing best practices for the delivery of behavioral health services and positive classroom experience, and developing a model for reimbursement of services (Medicaid; commercial insurance, etc.). The meetings for the Consortium occur during the BCPS workday.

Given the above, you state that you “want to know how to account for the time used to attend Consortium meetings during the workday. Am I using personal time for the meetings?”

It is the understanding of the Panel that while the experience and expertise obtained through your position with BCPS led to your appointment to the Consortium, your position with BCPS is separate from your duties with the Consortium. Accordingly, as would be the case with other forms of secondary employment, the fulfillment of your duties with the Consortium should be conducted on your personal time and without the use of BCPS resources.

The Company/Course

You have advised the Panel that your Company has created an online course called [REDACTED] (the “Course”) which has received conditional approval from the Maryland State Department of Education (“MSDE”). You advise that the Course is open to any persons “seeking MSDE credits to assist with renewing their teaching certificate” or to those who otherwise wish to further their professional development. You further advise that the Course is marketed to administrators, counselors, mentors, and teachers. The Course “will be marketed through private and company social media platforms, your business website, and strategic outreach to universities and organizations” but “will not be directly marketed to BCPS staff members.” The fee for the Course [REDACTED] can be paid either by the relevant school system or the individual.

In this regard, you state that the potential “conflict [REDACTED] related to the” Course is that although “there will be no direct marketing to BCPS staff, there will be marketing through local universities, private schools, and organizations that may or may not have BCPS staff as students or members.”

The Panel advises that it does not see a conflict of interest merely because a BCPS employee takes the Course or learns of the Course through the avenues you describe. Consistent with Policy 8363, the Panel further advises that you should not utilize the prestige of your position with BCPS when marketing the Course.

The Panel would like to express its appreciation for this request for an advisory opinion and your sensitivity to the ethical considerations which generated the request.

This Advisory Opinion has been adopted by the Ethics Review Panel members on February 24, 2023.

Tim Topoleski, Ph.D.
Chair

Thomas Keech, Esq.
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Owen Jarvis, Esq.
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