

Advisory Opinion 22-06

This Advisory Opinion is in response to a request for an advisory opinion submitted by [REDACTED]

[REDACTED]

[REDACTED]

The [REDACTED] and confirmed that the vendor in question, BoardDocs (a Diligent Brand) does provide software services to the Baltimore County Public School system. Furthermore, the [REDACTED] confirmed said vendor did sponsor an event aboard the USS Midway Museum. This event required participants to register and obtain a wristband for entry. The vendor advertised the event as an “after dinner event for a night of networking and entertainment with some snacks, beer and wine on us.”

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In the request for an advisory opinion, the [REDACTED] questions whether BoardDocs is a vendor to the school system, whether the meals and beverages at the BoardDocs event constitute a gift, and if so, whether the gift must be reported on the [REDACTED] Financial Disclosure Statement. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] should not deduct any amount from my per diem even though it was a dinner I did not pay for.

[REDACTED]

[REDACTED]

The request for an advisory opinion implicates the provisions of the Ethics Code pertaining to Gifts (Policy 8362) and Financial Disclosure Statements (Policy 8364).

Regarding gifts, Policy 8362 III.C.1 provides that: “A school official may not knowingly accept a gift, directly or indirectly, from a person that the official knows or has reason to know: Is doing business with or seeking to do business with the Board of school system.” A “gift” is defined as the “transfer of anything of economic value, regardless of the form, without adequate and lawful consideration.” Policy 8362 II.A.1.

Accordingly, if BoardDocs is a vendor to the school system, a Board member or other school official may not knowingly accept food and beverages from BoardDocs without providing adequate and lawful consideration for the food and beverages.

That said, there are also numerous exceptions to the gift prohibition. As applicable here, Policy 8362 III.E.1. provides that: “Notwithstanding subparagraph III(C), a school official may accept: Meals and beverages consumed in the presence of the donor or sponsoring entity.” Accordingly, a Board member or other school official may accept a gift of meals and beverages from a vendor if such are consumed in the presence of the vendor. The meals and beverages would still be a gift, but they would be a permissible gift.

Of course, the above presumes that the gift came from a vendor to the school system. The requesting [REDACTED] questions whether BoardDocs is indeed a vendor to BCPS, noting [REDACTED]

[REDACTED] The Panel is not in a position to determine whether BoardDocs is a vendor to the school system. That question should be addressed to the appropriate school system staff. If BoardDocs is a vendor to BCPS, the gift provisions above are applicable.

With regard to the contents of the Financial Disclosure Statements, Policy 8346 requires the following information regarding gifts to be included on the filer’s Financial Disclosure Statement:

D. Gifts

1. The statement shall include a schedule of each gift in excess of \$20 in value or a series of gifts totaling \$100 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with the Board or the school system.
2. For each gift reported under this Paragraph, the schedule shall include:
 - a. A description of the nature and value of the gift; and
 - b. The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

Thus, if BoardDocs is a vendor doing business with the Board or the school system, the provision above is applicable and the [REDACTED] may wish to contact BoardDocs to ascertain the value of the meals and beverages so that it can be included on the Financial Disclosure Statement.

With regard to whether the value of the meals and beverages should be deducted from the per diem provided to [REDACTED] [REDACTED] that question appears to be outside of the purview of the Ethics Code and the Panel expresses no opinion on the matter.

Please note that pursuant to Policy 8366 the Panel's advisory opinions are made available to the public with the identity of the subject(s) deleted in accordance with applicable State laws regarding public records.

This Advisory Opinion has been adopted by the Ethics Review Panel members on June 16, 2022.

Tim Topoleski, Ph.D.
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