

## Advisory Opinion 21-07

This Advisory Opinion is in response to an *Application to Provide an Advisory Opinion* (“Application”) filed by a BCPS elementary school teacher. The teacher has authored a non-fiction children’s book which is available for purchase in a variety of retail outlets. The teacher has inquired whether she may accept an invitation from non-employee groups of BCPS, such as a PTA, to conduct a reading of her book or a book signing, within a BCPS facility before and/or after school hours. The teacher states that she would not engage in marketing, promotion, and/or sales of the book during school hours.

The relevant sections of the Ethics Code, Policy 8363, *Conflict of Interest - Prohibited Conduct*, provide as follows:

### VII. Prestige of Office

A. A school official may not intentionally use the prestige of office or public position:

1. For private gain of that school official or the private gain of another; or
2. To influence, except as part of the official duties of the school official, or as a usual and customary constituent service by a member of the Board without additional compensation, the award of a state or local contract to a specific person.

### 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.

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.

The Panel concludes that, subject to the restrictions below, the teacher may accept the invitation to participate in a book reading event or a book signing event as described in the Application. In so doing, and to avoid even the appearance of a conflict of interest based on the “prestige of office” provision of the Ethics Code, the teacher is advised that she may not offer copies of her book for sale at such events, and that she may not solicit BCPS students, their parents, or BCPS employees to participate in such events. Further, as recognized by the teacher, any marketing, promotion or sales of the book are to be conducted during the teacher’s leave or personal time, and without utilizing any BCPS materials or equipment.

Additionally, although the teacher has not indicated that she would receive any compensation from the event sponsor (such as a PTA) for participating in the events, in accordance with Policy 8363, Section IV, *Employment and Financial Interests*, the teacher should not accept any compensation from a sponsor that is subject to the authority of the Board of Education or that is negotiating with or has entered into a contract with the Board or school system. Finally, in reaching this determination, the Panel assumes that the use of a BCPS facility for such events has been done in accordance with the BCPS rules and procedures for use of such facilities.

This Advisory Opinion has been adopted by the Ethics Review Panel members on October 21, 2021.

Ralph Sapia, Esq.  
Chair

Tim Topoleski, Ph.D.  
Vice Chair

Owen Jarvis, Esq.  
Panel Member

Thomas Keech, Esq.  
Panel Member

Panel Member Cynthia Boyd, M.D. M.P.H., recused herself from consideration of this Application.