

<b>POLICY</b>	<b>BOARD OF EDUCATION OF FREDERICK COUNTY, MARYLAND</b>	
<b>ETHICS</b>	<b>SECTION 109</b>	
<b>109.1 Definitions</b> <b>109.2 Organization</b> <b>109.3 Prohibited Conduct and Interests</b> <b>109.4 Financial Disclosure</b> <b>109.5 Lobbying Disclosure</b> <b>109.6 Exemptions and Modifications</b> <b>109.7 Sanctions</b> <b>109.8 Board Member Participation in Personnel and Collective Bargaining Matters</b>	<b>Adopted:</b> <b>5/14/08</b> <hr/> <b>Amended:</b> <b>5/9/07;</b> <b>2/20/08;</b> <b>5/14/08</b>	

**109.1 Definitions**

A. "Financial Interest" means:

1. Ownership of any interest as a result of which the owner has received within the past 3 years, or is presently receiving, or in the future will be entitled to receive, more than \$1,000.00 per year; or
2. Ownership, or ownership of securities of any kind representing or convertible into ownership, of more than 3 percent of a business entity.

B. "Official" or "School Official" means:

1. A member of the board; or
2. The superintendent;
3. An individual designated by the board to act in a negotiating capacity pursuant to Section 6-510 of the Education Article of the Maryland Code; or
4. An employee of the board who is paid according to the administrative and supervisory salary schedule.

C. "Gift" means the transfer of anything of economic value, regardless of the form, without adequate and lawful consideration. "Gift" does not include the solicitation, acceptance, receipt, or regulation of political campaign contributions regulated in accordance with the provisions of Article 33, Section 26-1 et. seq., Annotated Code of Maryland, or any other provision of state or local law regulating the conduct of elections or the receipt of political campaign contributions.

## 109.2 Organization

### A. Administration

There shall be a Frederick County school system ethics panel consisting of seven (7) members. The president of the board, assisted by the vice president, shall appoint panel members with the concurrence of a majority of the board. Resumes of applicants will be made available to the entire board during the screening process. Each member shall serve for a term of three years and shall be limited to serve two consecutive terms.

Upon the expiration of a panel member's term, the board will provide notification through the local media, the FCPS television channel, or the FCPS web site to solicit application for the membership vacancy. Ethics panel members serving in expiring terms who are eligible for reappointment will be considered for appointment, if they so indicate.

The panel may be assisted in carrying out its responsibilities by the board's attorney. In cases where the Board concludes that assistance by the board's attorney may create a conflict of interest or the appearance of a conflict of interest and in cases where the board's attorney disqualifies him or herself because of a possible conflict of interest, the ethics panel may request permission from the board to retain a different attorney to provide legal advice to the panel (with the board paying any associated legal costs).

The executive director of legal services shall serve as staff assistant to the ethics panel.

### B. Voting

Four (4) members of the panel shall constitute a quorum. Motions may be adopted with the concurrence of an absolute majority (four (4) votes) of the panel.

### C. Responsibilities

The panel shall have the following responsibilities:

1. Elect a chairperson annually from its members.
2. Devise, receive and maintain all forms generated by these regulations.
3. Provide advisory opinions to persons subject to the regulations as to the applicability of these provisions to them.
4. Conduct an information program regarding the purposes and application of these regulations.

5. Hear, process, and make findings regarding a complaint filed by any person alleging a violation of these regulations by the superintendent, a board member, or a lobbyist; and to report its findings and recommendations for action to the board, which, if it concurs with the panel, shall take enforcement action in accordance with Section 109.7 of this policy. A complaint and/or alleged violation against any other official or employee of the school system shall be processed, heard and determined by the superintendent and the board as provided by the Education Article of the Maryland Code.

### **109.3 Prohibited Conduct and Interests**

#### **A. Participation prohibitions**

Except as permitted by board regulation, a school official or employee may not participate in:

1. Any matter, except in the exercise of an administrative or ministerial duty which does not affect the disposition or decision with respect to that matter, if, to his knowledge, he, his spouse, parent, child, brother, or sister has a financial interest therein.
2. Any matter, except in the exercise of an administrative or ministerial duty, where any of the following is a party thereto:
  - a. Any business entity in which he/she has a direct financial interest of which he/she may reasonably be expected to know;
  - b. Any business entity of which he/she is an officer, director, trustee, partner, or employee, or in which he/she knows any of the above listed relatives has such financial interest;
  - c. Any business entity with which he/she or, to his/her knowledge, any of the relatives listed in section 109.3 A. 1. is negotiating or has any arrangement concerning prospective employment;
  - d. Any business entity which is a party to an existing contract with the school official or employee, or which the official or employee knows is a party to a contract with any of the above named relatives, if the contract could reasonably be expected to result in a conflict between the private interests of the official or employee and his official duties;
  - e. Any entity, doing business with the board, in which a direct financial interest is owned by another entity in which the school official or employee has a direct financial interest, if he/she may be reasonably expected to know of both direct financial interests; or
  - f. Any business entity which the school official or employee knows is his/her creditor or obligee, or that of any of the relatives listed in paragraph a. of this subsection, with respect to a thing of economic value and which, by reason thereof, is in a position to affect directly and substantially the interest of the official or employee or any of the above-named relatives.

3. If a disqualification under paragraphs a. or b. of this subsection leaves the board with less than a quorum capable of acting or if the disqualified official is required by law to act or is the only person authorized to act, the disqualified person shall disclose the nature and circumstances of the conflict to the board and may participate or act.

B. Employment restrictions

1. Except as permitted by regulation of the board when such interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, a school official or employee may not:
  - a. Be employed by, or have a financial interest in, any entity subject to his authority or that of the school system, or any entity which is negotiating or has entered a contract with the school system; or
  - b. Hold any other employment relationship, which would impair the impartiality or independence of judgment of the school official or employee.
2. This prohibition does not apply to:
  - a. A school official or employee 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 rules and regulations adopted by the board; or
  - b. An interest or employment held by a board member at the time of appointment or election, provided it is disclosed to the appointing authority at the time of appointment, or was disclosed on the candidate disclosure form at the time of filing for office.
3. A former school official or employee may not assist or represent another party other than the board for compensation in a case, contract, or other specific matter involving the board if that matter is one in which he significantly participated as an official or employee.
4. A school official or employee may not assist or represent a party for contingent compensation in any matter before or involving the board other than in a judicial or quasi-judicial proceeding; provided, however, that nothing herein shall preclude school official or employee from assisting or representing a party for contingent compensation in any matter before or involving entities where fees are established by law.
5. Members of the Board of Education of Frederick County may not be employed by Frederick County Public Schools for at least one (1) year following the member's departure from the board by resignation or the end of the member's term of office.

- C. Use of prestige of office. A school official or employee may not intentionally use the prestige of his/her office for their own private gain or that of another. The performance of usual and customary constituent services, without additional compensation, does not constitute the use of the prestige of office for school officials' or employees' private gain or that of another.
- D. Solicitation or acceptance of gifts
1. A school official or employee may not solicit any gift.
  2. Except as provided in items 3. and 4. below, a school official or employee may not knowingly accept any gift, directly or indirectly, from any person that he knows or has reason to know:
    - a. Is doing business with the school system;
    - b. Is subject to the authority of the school system; or
    - c. Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his official duty.
  3. A school official or employee may accept a gift from a school employee if the gift has a value of \$50.00 or less.
  4. Unless a gift of any of the following would tend to impair the impartiality and the independence of judgment of the school official or employee receiving it or, if of significant value, would give the appearance of doing so, or, if of significant value, the recipient official or employee believes, or has reason to believe, that it is designed to do so, subsection D. 2. does not apply to:
    - a. Meals and beverages;
    - b. Ceremonial gifts or awards with a value of \$50.00 or less;
    - c. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the school official or employee for a meeting which is given in return for participation in a panel or speaking engagement at the meeting;
    - d. Gifts of tickets or free admission extended to members of the board to attend a professional or intercollegiate sporting event or charitable, cultural, or political events, if the purpose of such gift or admission is a courtesy or ceremony extended to the office;
    - e. A special gift or class of gifts which the panel exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the school system and that the gift is purely personal and private in nature;
    - f. Gifts from a person related by blood or marriage, or a spouse, child, ward, financially dependent parent or other relative who shares the school official's or employee's legal residence, or a child, ward, parent, or other relative over whose financial affairs the person has legal or actual control; or
    - g. Honoraria
    - h. Gifts by vendors or potential vendors with a value of \$25.00 or less.

- E. Disclosure of confidential information. Other than in the discharge of his/her official duties, a school official or employee may not disclose or use for their own economic benefit or that of another confidential information, which they have acquired by reason of their public position and which is not available to the public.

#### **109.4 Financial Disclosure**

- A. Each school official shall file annually no later than January 31 of each calendar year of holding office, a statement with the ethics panel disclosing any gifts in excess of \$50.00 in value received during the preceding calendar year from any person under the authority of the school system or having a contract with the school system. The statement shall identify the donor of the gift and its approximate retail value at the time of receipt.
- B. Each school official shall file a statement with the ethics panel disclosing any interest or employment the holding of which would require disqualification from participation pursuant to section 109.3 A. of this policy, sufficiently in advance of any anticipated action to allow adequate disclosure to the public.
- C. Disclosure statements filed pursuant to this section shall be maintained by the ethics panel as public records available for public inspection and copying.

#### **109.5 Lobbying Disclosure**

- A. Any person who personally appears before any school official or employee with the intent to influence that person in performance of his/her official duties, and who, in connection with such intent expends or reasonably expects to expend in a given calendar year in excess of \$100.00 on food, entertainment or other gifts for such officials, shall file a registration statement with the ethics panel no later than January 15 of the calendar year or within 5 days after first making such appearances.
- B. The registration statement shall include complete identification of the registrant and of any other person on whose behalf the registrant acts. It shall also identify the subject matter on which the registrant proposes to make such appearances, and shall cover a defined registration period not to exceed one calendar year.
- C. Each registrant under this section shall file a report within 30 days after the end of any calendar year during which he or she was registered, disclosing the value, date, and nature of any food, entertainment or other gift provided to a school official or employee. Where a gift or series of gifts to a single official or employee exceed \$75.00 in value, the official or employee shall also be identified.
- D. The registrations and reports filed pursuant to this section shall be maintained by the ethics panel as public records available for public inspection and copying.

## **109.6 Exemptions and Modifications**

The ethics panel or the board, as appropriate, may grant exemptions and modifications to the provisions of sections 109.3 and 109.4 of this policy if it is determined that application of those provisions would:

- A. Constitute an unreasonable invasion of privacy;
- B. Significantly reduce the availability of qualified persons for public service; and
- C. Not be required to preserve the purposes of this policy.

## **109.7 Sanctions**

Violation by any school official or employee of the provisions of this policy shall constitute grounds for discipline or personnel action, or removal from office where provided by law, consistent with procedures set forth in the Education Article of the Maryland Code and the policy manual of the board. Persons or organizations found in violation of the lobbying provisions of these regulations shall be publicly identified and shall be subject to such penalties as may be provided by law.

## **109.8 Board Member Participation in Personnel & Collective Bargaining Matters**

- A. A board member may participate in personnel and collective bargaining matters concerning the Frederick County Teachers Association, the Frederick Association of School Support Employees, and the Frederick County Administrative and Supervisory Association if his/her spouse, parent, child, brother, or sister is employed in the respective unit when the family member does not reside in the board member's immediate household.
- B. A board member may participate in personnel and collective bargaining matters concerning the Frederick Association of School Support Employees Supervisory Unit or the Administrative, Management, and Technical Group if:
  - 1. The family member does not reside in the board member's immediate household; and
  - 2. Where no conflict exists or when the interests of the board member is found to be too remote and insubstantial to affect the integrity of his/her public action.
- C. This policy may not be construed to permit a board member to participate in a decision to hire, transfer, promote, sever employment, or otherwise take individual personnel action regarding the board member's spouse, parent, child, brother, or sister whether or not the family member resides in the board member's immediate household.