

# POLICY

## BOARD OF EDUCATION OF MONTGOMERY COUNTY

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**Related Entries:** GCA-RA, GCA-RB

**Responsible Office:** Board of Education

### Ethics

#### A. PURPOSE

To promote the highest level of ethical conduct on the part of all persons associated with MCPS; to ensure the highest public confidence in the impartiality and independent judgment of Board of Education members and school employees; and, to provide guidance for MCPS personnel concerning ethics-related matters

#### B. ISSUE

Chapter 257 of the 1983 Laws of Maryland authorizes local boards of education to adopt appropriate provisions concerning conflicts of interest, financial disclosure, and lobbying to help ensure the highest public confidence in the impartiality and independent judgment of Board members and school employees.

#### C. POSITION

##### 1. Definitions

Words in this policy have their normal accepted meanings except as set forth below:

- a) *Business entity* means any corporation, partnership, sole proprietorship, joint venture, incorporated association; or firm, institution, trust, foundation, or other organization, whether or not operated for profit.
- b) *Compensation* means any money or thing of value received or to be received by any person covered by this policy from an employer for service rendered.
- c) *Doing business with* means having or negotiating a contract that involves the commitment, in a single or combination of transactions, of \$5,000 or more of school system funds during a calendar year, or being subject to the authority of the school system, or being registered as a lobbyist in accordance with Section C.4. of this policy.

- d) *Employee* means any person employed by the Montgomery County Public Schools, except that full- and part-time teachers are exempt from financial disclosure provisions by Maryland law (State Government Article, Section 15-601).
- e) *Employer* means any person paying or agreeing to pay compensation to another person for services rendered.
- f) *Financial interest* means:
  - (1) Ownership of any interest as the result of which the owner has received within the past 3 years, is receiving, or is entitled to receive in the future in excess of \$1,000 annually; or
  - (2) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than 3 percent of a business entity.
- g) *Gift* means the transfer of any service or thing of more than nominal value, regardless of form, without adequate and lawful consideration. Gift does not include the solicitation, acceptance, or receipt of political campaign contributions regulated under Maryland law. (See also exemptions in Section 2.b)(4).)
- h) *Interest* means any legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which was owned or held in whole or in part, jointly or severally, directly or indirectly, at any time during the calendar year. Interest does not include:
  - (1) An interest held in the capacity of a personal representative, agent, custodian, fiduciary, or trustee, unless the holder has an equitable interest therein
  - (2) An interest in a time or demand deposit in a financial institution
  - (3) An interest in an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed amount of money in a lump sum or for life or some other specified period; or
  - (4) A common trust fund or a trust which forms part of a pension or profit-sharing plan which has more than 25 participants and which is qualified under the Internal Revenue Code

- i) *Lobbying* means:
  - (1) Communicating in the presence of a school official or employee with the intent to influence any official action of that official or employee, where in excess of \$100 is spent during a calendar year for food, entertainment, other gift, or a series of gifts in furtherance of this activity; or
  - (2) Engaging in activities having the expressed purpose of soliciting others to communicate with a school official or employee with the intent to influence that official or employee in the outcome of any official action, where \$300 or more is spent in furtherance of this activity during the calendar year
- j) *Official or school official* means each member of the Montgomery County Board of Education, the superintendent, and any other employee identified by the Board as a school official.
- k) *Panel* means the Montgomery County Board of Education Ethics Panel.
- l) *Person* includes an individual or a business entity.
- m) *Subject to the authority of* refers to business entities regulated by the Board of Education or subject to significant control or impact by policies of the school system relating to the operations of the entity.

2. Conflicts of interest

- a) Board of Education members, school officials, and employees may not participate in a recommendation or decision on behalf of the school system in any matter which would, to their knowledge, have a direct financial impact on them, their spouse, or dependent child, as distinguished from the public generally, including matters where the official or employee:
  - (1) Holds or acquires a financial interest in a business entity subject to the authority of the school system or one that has or is negotiating a contract of \$1,000 or more with the school system
  - (2) Is employed by a business entity subject to the authority of the school system or one that has or is negotiating a contract of \$1,000 or more with the school system

- b) Except as otherwise permitted in this policy, Board of Education members, school officials, and employees may not:
- (1) Engage in any employment that would affect their usefulness as employees in the system, would make time and/or energy demands upon the individuals that could interfere with their effectiveness in performing their regular assigned duties, would compromise or embarrass the school system, would adversely affect their employment status or professional standing, or would in any way conflict with assigned duties
  - (2) Represent any party for a contingent fee before the school system
  - (3) Act as a compensated representative of another, within one year following termination of school system service, in connection with any specific matter in which they participated substantially as a school official or employee
  - (4) Solicit any gift or accept any gift exceeding \$25 in value or series of gifts exceeding \$100 in value in a calendar year, from any person subject to the authority of the school system or who has or is negotiating a contract with the school system, except as provided below or where such gifts would not present a conflict of interest as determined by the Ethics Panel

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 would give the appearance of doing so, or the recipient has reason to believe that it is intended to do so, this section *does not apply to*:

- (a) Meals and beverages
- (b) Ceremonial gifts or awards of insignificant monetary value
- (c) Unsolicited gifts of nominal value
- (d) Trivial items of informational or advertising value only
- (e) Reasonable expenses for food, travel, lodging, and scheduled entertainment given in return for participating on a panel or for speaking at a meeting

- (f) Tickets or free admission to attend an interscholastic or intercollegiate sporting event or charitable, cultural, or political event, if the gift is a courtesy extended to the office
- (5) Intentionally use the prestige of their office for their own economic benefit or that of another  

The performance of usual and customary constituent services without additional compensation does not constitute the use of prestige of office.
- (6) Disclose or use confidential information acquired in their official school system position for their own economic benefit or that of another person
- c) If a disqualification under this section leaves the Board of Education 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 in writing to the Board of Education and may then participate or act.

3. Financial disclosure

- a) The following persons shall file public financial disclosure statements as provided in this section:
  - (1) Board of Education members
  - (2) Candidates for election to the Board of Education
  - (3) Superintendent of schools, deputy superintendent, associate superintendents, and the staff director in the Board of Education
- b) Any school official or employee who has responsibility for preparing, approving, or auditing, or who has the authority to commit the school system to rent, purchase, or lease, any of the following items with an aggregate value of \$100,000 in any fiscal year shall file a confidential financial disclosure statement as provided in this section:
  - (1) Personal service contracts
  - (2) Specifications for materials, supplies, or equipment; or

- (3) Requests for proposals or bids
- c) All persons specified in Sections 3.a) and 3.b) shall file an annual financial disclosure statement by April 30 for the preceding calendar year on a form approved by the Montgomery County Board of Education.
- (1) Those officials specified in Sections 3.a)(1) and 3.a)(3) shall file financial disclosure statements with the Montgomery County Board of Education Ethics Panel, and those statements shall be public, subject to restrictions stated below. Those officials and employees specified in Section 3.b) above shall file confidential financial disclosure statements with the Montgomery County Board of Education Ethics Panel. The Panel shall review the statements for completeness of form and for determination of any existing or potential conflict of interest. These statements shall be retained for a period of four years and then destroyed.
  - (2) Those persons specified in Section 3.a)(2) shall file a financial disclosure statement for the preceding calendar year with the Board of Supervisors of Elections at the time they submit their certificate of candidacy, and these forms shall be public, subject to restrictions stated below. Upon a candidate's election to the Board of Education, the Board of Supervisors of Elections shall transmit the financial disclosure form to the Ethics Panel.
- d) All statements filed by persons specified in Section 3.a) shall be made available during normal office hours for examination and copying by the public, subject to whatever reasonable fees and administrative procedures are established. Any persons examining or copying such statements shall be required to record their name, home address, and the name of the person whose disclosure statement was examined or copied.
- e) All statements filed pursuant to this section shall disclose the following interest:
- (1) Interests in real property located in Montgomery County, including:
    - (a) The nature of the property and its location by street or mailing address or legal description
    - (b) The nature and extent of the interest held, including conditions or encumbrances

- (c) For interest acquired or transferred in the year for which the filing is made, the nature and amount of consideration or the fair market value of the interest at the time acquired or transferred
  - (d) The identity of any other person with an interest in the property
- (2) Financial interest in a business entity with which the school system has been known to or is likely to do business, including:
  - (a) The name and address of its principal office
  - (b) The nature and extent of the interest held either in terms of number of shares or percent of equity interest, including conditions or encumbrances
  - (c) For interests acquired or transferred in the year for which the filing is made, the nature and amount of consideration or the fair market value of the interest at the time acquired or transferred and, if known, the person from or to whom the property was acquired or transferred
  - (d) The identity of any other person who may share the interest
- (3) Any gift exceeding \$25 in value or series of gifts exceeding \$100 in value from any person received during the calendar year, or by any other person at the direction of the person making the statement, from or on behalf of any person doing business with the school system, including the nature and value of the gift and the identity of the person from whom, or on behalf of whom, the gift was received
- (4) Employment by any entity doing business with the school system, including offices, directorships, or salaried employment held by the person making the statement or his/her spouse or dependent child during the calendar year, including:
  - (a) The name and address of the principal office of the business entity
  - (b) Title and nature of the office, directorship, or salaried employment and its beginning date

- (c) If known, the unit or units in the school system with which the entity has done or is doing business
  - (d) The nature of "doing business" as specified in the Definitions section of this policy
- (5) Amounts in excess of \$250 owed by the persons filing the statement, their spouse, or dependent child during the calendar year, other than retail credit accounts, to persons doing business with the school system, including:
  - (a) The identity of the person owed and the date the liability was incurred
  - (b) The amount owed at the end of the calendar year
  - (c) The terms of payment and the extent to which the principal amount of the liability was increased or decreased during the year
  - (d) Any security pledged for the liability
- (6) Names of spouse or dependent children employed by the school system
- (7) Any other interests or information the person making the statement finds appropriate to disclose in light of the purposes of this policy
- f) If any financial disclosure statement does not appear to comply with the provisions of this policy, the person filing the statement will be notified of any apparent omission or discrepancy, and evidence of noncompliance with this policy shall be pursued by the Ethics Panel.
- g) In addition to the financial disclosure provision set forth in this section, persons specified in Section 3.a) shall file a statement with the Ethics Panel disclosing any interest or employment, the holding of which would require disqualification from participation pursuant to 2.a) of this policy, sufficiently in advance of any anticipated action to allow adequate disclosure to the public.

4. Lobbying Disclosure

- a) Any person representing him/herself, a business entity, or an organization who personally appears before the Board of Education, a school official, or employee with the intent to influence that body or individual in the performance of official duties, and who in connection with such intent expends or reasonably expects to expend in excess of \$100 in any calendar year on food, entertainment, or other gift or series of gifts for any member of the Board or a school official shall register with the Ethics Panel within 5 days after first making the appearance.
- b) Any person representing him/herself, a business entity, or an organization, who communicates with one or more members of the Board of Education or school employees, or who solicits others to communicate with a school official or employee with the intent to influence that official or employee in the outcome of any official actions, and who incurs expenses of more than \$300 for this purpose in any calendar year, shall register with the Ethics Panel within 5 days after expending these funds.
- c) The registration statement shall identify the name and address of the lobbyist and any person on whose behalf he/she acts, and the subject matter which the registrant appeared before the Board or school official.
- d) Registrants under this section shall file a report within 30 days after the end of any calendar year disclosing the value, date, and nature of any food, entertainment, or other gift provided to a Board member or school official. Where the value of a gift exceeds \$25 in value or series of gifts exceeds \$100 in value in the calendar year, the registrant shall disclose the name of the Board member, school official, or employee to whom it was made.
- e) Registrations and reports filed pursuant to this section shall be maintained by the Ethics Panel as public records, available for inspection and copying subject to the conditions specified in Section 3.d) of this policy.
- f) The provisions of this section do not apply to the following acts:
  - (1) Appearances before the Board of Education or any school official by specific invitation or request, if the person engages in no further or other activities in connection with the passage or defeat of Board policies related to the matter on which the appearance is made

- (2) Appearances before the Board of Education or any school official as part of the official duties of a duly elected or appointed official or employee of the Board of Education, the state, a political subdivision of the state, or of the United States, and not on behalf of any other entity
- (3) Actions of a publisher or working member of the news media in the ordinary course of disseminating news or making editorial comment to the general public, but who does not engage in further or other lobbying that would directly and specifically benefit the economic, business, or professional interests of that person or that person's employer
- (4) Appearances before the Board of Education or any school official at the specific invitation or request of a registrant, provided no other act is undertaken for which reporting is required, and provided the witness identifies him/herself as testifying at the request of another person
- (5) Representation of a bona fide religious organization solely for the purpose of protecting the right of its members to practice the doctrine of the organization

5. Exemptions and Modifications

Exemptions or modifications to the provisions of this policy may be permitted by the Ethics Panel if it determines that application of those provisions would:

- a) Constitute an unreasonable invasion of privacy
- b) Significantly reduce the availability of qualified persons for public service
- c) Not be required to preserve the purposes of this policy

6. Ethics Panel

- a) There is a Montgomery County Board of Education Ethics Panel which consists of five members appointed by the Board of Education.
- b) Terms of members shall be for three years and established so that one member's term expires each year.

- c) Panel members shall not be incumbent members of the Board, school officials or employees, persons employed by a business entity subject to the authority of the Board, or spouses of such persons.
- d) The Panel shall be assisted in carrying out the responsibilities specified in this policy by the ethics officer and the Office of the Board of Education which, in consultation with the superintendent, shall see that needed legal, technical, and clerical assistance is provided to the panel.
- e) The Board of Education encourages all persons affected by this policy to seek the advice of the Ethics Panel as to any potential conflict of interest or other matter within the scope of this policy.
- f) The Panel shall:
  - (1) Interpret this policy and advise persons subject to it as to its application
    - (a) The panel shall respond promptly to a request by any official, employee, or other person subject to the provisions of this policy for an advisory opinion concerning its application.
    - (b) Copies of these interpretations, with the identity of any person deleted, shall be made public in accordance with applicable federal or Maryland Laws regarding public records.
    - (c) The panel shall provide interpretations of this policy based on the facts provided or reasonably available to it and, if necessary, ask the Board of Education for an addition or amendment to this policy, which shall be subject to subsequent approval by the State Ethics Commission
  - (2) Be responsible for hearing any complaint filed regarding an alleged violation of this policy by any person
    - (a) Complaints shall be made in writing and signed by the complainant and shall be referred to the ethics officer for investigation and review in consultation with legal counsel and the Ethics Panel.

- (b) From the time a complaint is filed until there is a final determination by the Board, all actions regarding the complaint shall be confidential.
- (c) If, after receiving an investigative report, the panel determines that
  - (i) There is no violation, or insufficient facts upon which to determine a violation, it shall dismiss the complaint
  - (ii) There is a reasonable basis for believing a violation has occurred, it shall give the subject of the complaint a hearing
  - (iii) A report of the hearing shall include findings of fact and conclusions of law. If it finds a violation, the panel shall report its findings and recommendations for action to the superintendent and Board of Education.
- (3) Determine any exemptions or modifications to the provisions of this policy as provided for in Section 5
- (4) Approve financial disclosure and lobbying disclosure forms to implement this policy
- (5) Receive, file, and provide public access to financial disclosure and lobbying forms which are filed with the panel
- (6) Direct the implementation of an educational program to inform school employees and the public about the purposes and implementation of this policy

7. Sanctions

- a) A finding that a Board member, school official, or employee has violated these provisions shall constitute grounds for removal from office, discipline, or other personnel action consistent with provisions of the *Annotated Code of Maryland, Education*, or the policies of the Montgomery County Board of Education.

- b) Persons or organizations found in violation of the lobbying provisions of this policy shall be publicly identified and subject to other penalties as provided by law.

**D. DESIRED OUTCOME**

MCPS will maintain high standards of ethics on a regular and ongoing basis. All those subject to this policy, including administrators, teachers, and support staff will thoroughly understand and fully adhere to the highest ethical standards. Ethical principles such as honesty, integrity, responsibility, and citizenship will be in the forefront of all activities and promoted to the greatest possible extent with MCPS.

**E. IMPLEMENTATION STRATEGIES**

The position of ethics officer for the Montgomery County Public Schools is hereby established. The ethics officer shall report directly to the Board of Education. The ethics officer will support and facilitate the work of the Ethics Panel and provide leadership for implementing all MCPS activities concerning ethics and conflicts of interest.

**F. REVIEW AND REPORTING**

This policy will be reviewed by the Board of Education every three years.

*Policy History:* Adopted by Resolution No. 1003-83, December 13, 1983; amended by Resolution Nos. 203-84, 204-84, 205-84, 206-84, 207-84, March 13, 1984; reformatted in accordance with Resolution No. 333-86, June 12, 1986 and Resolution No. 458-86, August 12, 1986, and accepted by Resolution No. 550-88, October 24, 1988; amended by Resolution No. 209-99, March 22, 1999; modified to reflect Resolution No. 314-03, June 10, 2003.