

# POLICY

## BOARD OF EDUCATION OF MONTGOMERY COUNTY

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**Related Entries:** GCA-RA  
**Responsible Office:** Board of Education

### Ethics

#### A. PURPOSE

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

#### B. ISSUE

Chapter 277 of the 2010 Laws of Maryland directs and 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 MCPS school officials and employees.

#### C. DEFINITIONS

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

1. *Business entity* means a corporation, general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit. Business entity does not include a governmental entity.
2. *Board of Elections* means Montgomery County Board of Elections.
3. *Compensation* means any money or thing of value, regardless of form, received or to be received by any individual covered by this policy from an employer for service rendered. For purposes of *Section H. (Lobbying Disclosure)* of this policy, if lobbying is only a portion of a person's employment, "compensation" means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties.

4. *Doing business with* means having or negotiating a contract that involves the commitment, either in a single or combination of transactions, of \$5,000 or more of school system funds during a calendar year, being subject to the authority of the school system, or being registered as a lobbyist in accordance with Section H. (*Lobbying Disclosure*) of this policy.
5. *Employee* means any person employed by the Board, or the school system, including the superintendent of schools.
6. *Financial interest* means:
  - a) Ownership of any interest as the result of which the owner has received within the past 3 years, or is presently receiving, or is entitled to receive in the future in excess of \$1,000 annually; or
  - b) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than 3 percent of a business entity by an official or the spouse of an official.
7. *Gift* means the transfer of anything of economic value, regardless of the form, without adequate and lawful consideration. Gift does not include political campaign contributions regulated under Maryland or local law. (See also exemptions in section D.6.d.)
8. *Home Address* means the address of an individual's principal home, and designated second home as defined in Maryland law, if any.
9. *Immediate family* means a spouse and dependent children.
10. *Interest* means a 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 reporting period. Interest does not include:
  - a) An interest held in the capacity of a personal agent, personal representative, agent, custodian, fiduciary, or trustee, unless the holder has an equitable interest in the subject matter;
  - b) An interest in a time or demand deposit in a financial institution;

- c) An interest in an insurance or endowment policy or annuity contract under which an insurer promises to pay a fixed amount of money in a lump sum or periodically for life or some other specified period;
  - d) 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 has been determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code;
  - e) A college savings plan under the Internal Revenue Code; or
  - f) A mutual fund or exchange-traded fund that is publicly traded on a national scale unless the mutual fund or exchange-traded fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by the individual's governmental unit.
11. *Lobbying* means:
- a) Communicating in the presence of a school official with the intent to influence any official action of that official, and where \$100 or more is spent during a calendar year for food, entertainment, other gifts, or a series of gifts in furtherance of this activity; or
  - b) Engaging in activities having the express purpose of soliciting others to communicate with an official with the intent to influence that official in the outcome of any official action, where \$300 or more is spent in furtherance of this activity during the calendar year.
12. *Lobbyist* means a person required to register and report expenses related to lobbying under section H. of this policy.
13. *Official or school official* means each member of the Board, an employee of the Board, or certain MCPS school officials or employees, including the superintendent of schools.
14. *Panel* means the Board Ethics Panel.
15. *Person* includes an individual or a business entity.
16. *Qualified relative* means a spouse, parent/guardian, child, or sibling.
17. *School system* means the educational system under the authority of the Board.

18. *Subject to the authority of* refers to business entities regulated by the Board or subject to significant control or impact by policies of the school system relating to the operations of the entity.

**D. CONFLICTS OF INTEREST**

1. Participation

- a) Except as permitted by Board policy or MCPS regulation or in the exercise of an administrative or ministerial duty that does not affect the disposition or decision in the matter, an official may not participate in:
- (1) Any matter in which, to the knowledge of the official, the official or a qualified relative of the official, has an interest; or
  - (2) Any matter in which any of the following is a party:
    - (a) A business entity in which the official has a direct financial interest of which the official may reasonably be expected to know;
    - (b) A business entity for which the official, or a qualified relative of the official, is an officer, director, trustee, partner, or employee;
    - (c) A business entity with which the official or, to the knowledge of the official, a qualified relative of the official is negotiating or has any arrangement concerning prospective employment;
    - (d) A business entity that is a party to an existing contract with the school official or which, to the knowledge of the official, a qualified relative of the official, if the contract reasonably could be expected to result in a conflict between the private interests of the official and the school system or Board duties of the official;
    - (e) An entity, doing business with the Board or school system, in which a direct financial interest is owned by another entity in which the official has a direct financial interest, if the official may reasonably be expected to know of both direct financial interests; or

- (f) A business entity that;
        - (i) The official knows is a creditor or obligee of the official, or a qualified relative of the official, with respect to anything of economic value; and
        - (ii) As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or qualified relative of the official.
  - b) An official who is disqualified from participating under section D.1.a) shall disclose the nature and circumstances of the conflict and may participate or act if:
    - (1) The disqualification leaves the Board with less than a quorum capable of acting;
    - (2) The disqualified official is required by law to act; or
    - (3) The disqualified official is the only person authorized to act.
  - c) The prohibitions of section D.1.a do not apply if participation is allowed by opinion of the Panel.
  - d) A former regulated lobbyist who is, or becomes subject under this section as, an employee or official, other than a member of the Board, may not participate in a case, contract, or other specific matter as an employee or official, other than a member of the Board, for one calendar year after the termination of the registration of the former regulated lobbyist if the former regulated lobbyist previously assisted or represented another party for compensation in the matter.
2. Employment and financial interests
- a) Except as permitted by Board policy or MCPS regulation when the interest is disclosed or when the employment does not create a conflict of interest or appearance of a conflict, an official may not:
    - (1) Be employed by or have a financial interest in an entity that is:
      - (a) Subject to the authority of the school system or Board; or

(b) Negotiating or has a contract with the school system or Board; or

(2) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official, affect their usefulness as employees in the school system, make time and/or energy demands that could interfere with their effectiveness in performing their regularly assigned duties, adversely affect their employment status, or would in any way conflict with assigned duties.

b) This prohibition does not apply to:

(1) An 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 by Board policy or MCPS regulations; or

(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 was disclosed on the financial disclosure statement filed with the certificate of candidacy to be a candidate to be a member of the Board; or

(3) Employment or financial interests allowed by opinion of the 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.

3. Post-employment

A former official may not assist or represent any party other than the Board or school system for compensation in a case, contract, or other specific matter involving the Board or the school system if the matter is one in which the former official significantly participated as an official.

4. Contingent compensation

An official may not assist or represent a party for contingent compensation in any matter before or involving the Board or the school system.

5. Prestige of office

- a) An official may not intentionally use the prestige of office or public position for the private gain of that official or the private gain of another, or to influence the award of a state or local contract to a specific person, unless it is part of the official duties of the official or as a usual and customary constituent service by a member of the Board without additional compensation.
- b) An official may not directly or indirectly initiate a solicitation for a person to retain the compensated services of a particular regulated lobbyist or lobbying firm.
- c) The performance of usual and customary constituent services by a member of the Board without additional compensation does not constitute the use of prestige of office or public position.
- d) Neither an official nor a member of the Board may use public resources to solicit a contribution as regulated under Maryland or local law. In addition, an official, other than a member of the Board, may not use the title of the official to solicit a political contribution as regulated under Maryland or local law.

6. Gifts

- a) An official may not solicit any gift.
- b) An official may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual lobbyist.
- c) An official may not knowingly accept a gift, directly or indirectly, from a person that the official knows or has reason to know:
  - (1) Is doing business with or seeking to do business with the school system or Board;
  - (2) Is subject to the authority of the school system;
  - (3) Is a lobbyist with respect to a matter within the jurisdiction of the official; or
  - (4) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by

the performance or nonperformance of the school system duties of the official.

- d) Notwithstanding paragraph 6. c) of this subsection, an official may accept:
- (1) Meals and beverages consumed in the presence of the donor or sponsoring entity;
  - (2) Ceremonial gifts or awards that have insignificant monetary value;
  - (3) An unsolicited gift that does not exceed \$20 in value, or an unsolicited series of gifts not exceeding \$100 in value in a calendar year, or trivial items of informational value;
  - (4) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official at a meeting which is given in return for the participation of the official in a panel or speaking engagement at the meeting;
  - (5) Gifts of tickets or free admission extended to members of the Board to attend a charitable, cultural, or political event, if the purpose of the gift or admission is a courtesy or ceremony extended to the Board;
  - (6) A specific gift or class of gifts which the Panel exempts from the operation of this subsection upon a written finding that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the school system or Board and that the gift is purely personal and private in nature;
  - (7) Gifts from a person related by blood or marriage, or any other individual who is a member of the household of the official; or
  - (8) An honorarium for speaking to or participating in a meeting, provided that the offering of the honorarium is in no way related to the school system or Board position of the official.
- e) Paragraph 6.d) above does not apply to gifts:
- (1) That would tend to impair the impartiality and independence of judgment of the official receiving the gift;



- (2) Of significant value that would give the appearance of impairing the impartiality and independent judgment of the official; or
- (3) Of significant value that the recipient official believes or has reason to believe is designed to impair the impartiality and independent judgment of the official.

7. Disclosure of confidential information

Other than in the discharge of official duties, an official may not disclose or use confidential information that the official acquired by reason of the official's public position and that is not available to the public for their own economic benefit or that of another person.

8. Procurement

- a) An individual or person that employs an individual who assists the school system or Board in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.
- b) The Panel may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procurement office.

**E. FINANCIAL DISCLOSURE STATEMENTS – GENERAL PROVISIONS**

1. Public record

- a) The Panel shall maintain all financial disclosure statements filed under this section.
- b) The Panel shall make financial disclosure statements available during normal office hours, for examination and copying by the public subject to reasonable fees and administrative procedures established by the Board.
- c) If an individual examines or copies a financial disclosure statement, the Panel shall record:
  - (1) The name and home address of the individual reviewing or copying the statement; and

(2) The name of the person whose financial disclosure statement was examined or copied.

d) Upon request by the individual whose financial disclosure statement was examined or copied, the Panel shall provide the individual with a copy of the name and home address of the person who reviewed the individual's financial disclosure statement.

e) For statements filed after January 1, 2019, the Panel may not provide public access to an individual's home address that the individual has designated as the individual's home address.

2. Retention requirements

The Panel shall retain financial disclosure statements for four years from the date of receipt.

3. Review by Panel

The Panel shall review the financial disclosure statements submitted for compliance with the provisions of this policy and shall notify an individual submitting the statement of any omissions or deficiencies. Evidence of noncompliance shall be pursued by the Panel.

**F. FINANCIAL DISCLOSURE STATEMENTS – CERTAIN SCHOOL OFFICIALS AND EMPLOYEES**

1. School officials and school employees who have decision-making authority or act as principal advisors to a person with that authority in any of the following capacities, in any fiscal year, shall file a financial disclosure statement as provided in this section:

a) making school system or school board policy;

b) exercising quasi-judicial, regulatory, licensing, inspecting, or auditing functions;

c) 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:

(1) Personal service contracts

- (2) Specifications for materials, supplies, or equipment
- (3) Requests for proposals or bids

2. Deadline for filing

- a) The school officials and employees referenced in paragraph F.1 are required to file a financial disclosure statement on or before April 30 of each year during which they are employed or hold office for the preceding calendar year.
- b) An official who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within 30 days after appointment.
- c) An individual who, other than by reason of death, leaves an office for which a statement is required shall file a statement within 60 days after leaving the office. The statement shall cover the calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual, as well as the portion of the current calendar year during which the individual held the office.

3. Contents of Disclosure Statement for Certain MCPS School Officials and Employees

The financial disclosure statement shall require the school employee to disclose outside employment, any conflicts of interests, and gifts received during the preceding calendar year from any person or entity that contracts with or is under the authority of the Board or the school system, including the name of the donor of the gift and the approximate retail value at the time of receipts. This statement shall be submitted to the Panel on a form approved by the Panel, under oath or affirmation.

- 4. An official or employee shall disclose employment and interest that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.

**G. FINANCIAL DISCLOSURE FORMS – BOARD MEMBERS AND CANDIDATES**

- 1. This section shall apply to all Board members and candidates for the Board.

2. Deadline for filing

- a) Board members shall file financial disclosure statements on or before April 30 of each year for the preceding calendar year with the Panel on a form approved by the Panel, under oath or affirmation.
- b) Candidates to be members of the Board
  - (1) Except for an official who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be a member of the Board shall file a financial disclosure statement each year beginning with the year in which the certificate of candidacy is filed through the year of the election.
  - (2) A candidate to be a member of the Board shall file a statement required under this section:
    - (a) In the year the certificate of candidacy is filed, no later than the filing of the certificate of candidacy. This statement may be filed with the Board of Elections with the certificate of candidacy or with the Panel prior to filing the certificate of candidacy.
    - (b) In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy, this statement shall be filed with the Panel; and
    - (c) In all other years for which a statement is required, this statement shall be filed on or before April 30 with the Panel.
  - (3) Failure to file a statement
    - (a) If a statement required to be filed by a candidate is overdue and not filed within 8 days after written notice of the failure to file is provided by the Board of Elections, the candidate is deemed to have withdrawn the candidacy.
    - (b) The Board of Elections may not accept any certificate of candidacy unless a statement required under section G. has been filed in proper form.

(4) Within 30 days of the receipt of a statement required under this section, the Board of Elections shall forward the statement to the Panel, or the office designated by the Panel or Board.

c) Appointment to Position

An official who is appointed to fill a vacancy on the Board and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within 30 days after appointment.

d) Resignation of Position

An individual who, other than by reason of death, leaves the Board of Education shall file a statement within 60 days after leaving the office. The statement shall cover the calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual, as well as the portion of the current calendar year during which the individual held office.

3. The Student Member of the Board of Education (SMOB) is elected by the secondary students of MCPS. The SMOB is elected for a one-year term that begins July 1 and ends June 30. Within 30 calendar days of the announcement of the election results, the SMOB must submit a financial disclosure form (as outlined in Section G.4.) covering the preceding calendar year through the date of election to the Montgomery County Board of Education Ethics Panel. The SMOB shall file a financial disclosure form by June 30 of the year the SMOB term ends, covering from the date of election until the expiration of the SMOB's term.

4. Contents of Financial Disclosure Form for Board Members and Candidates

Board members and candidates must complete a financial disclosure form approved by the Panel, under oath or affirmation disclosing the following interests:

a) Interests in real property

A statement filed under this section shall include a schedule of all interests in real property wherever located. For each interest in real property, the schedule shall include:

(1) The nature of the property and the location by street address, mailing address, or legal description of the property;

- (2) The nature and extent of the interest held, including any conditions and encumbrances on the interest;
- (3) The date when, the manner in which, and the identity of the person from whom the interest was acquired;
- (4) The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;
- (5) If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and
- (6) The identity of any other person with an interest in the property.

b) Interests in corporations and partnerships

A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the school system or Board. For each interest reported under this paragraph, the schedule shall include:

- (1) The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;
- (2) The nature and amount of the interest held, including any conditions and encumbrances on the interest;
- (3) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and if known, the identity of the person to whom the interest was transferred; and
- (4) With respect to any interest acquired during the reporting period:
  - (a) The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

- (b) The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.
- (c) An individual may satisfy the requirement to report the amount of the interest held under item 2.b)(2) of this paragraph by reporting, instead of a dollar amount:
  - (i) For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or
  - (ii) For an equity interest in a partnership, the percentage of equity interest held.

c) Interests in business entities doing business with the school system or Board

A statement filed under this section shall include a schedule of all interests in any business entity that does business with the school system or Board, other than interests reported under paragraph b) of this subsection. For each interest reported under this paragraph, the schedule shall include:

- (1) The name and address of the principal office of the business entity;
  - (a) The nature and amount of the interest held, including any conditions to and encumbrances on the interest;
  - (b) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest, and, if known, the identity of the person to whom the interest was transferred; and
  - (c) With respect to any interest acquired during the reporting period:
    - (i) The date when, the manner in which, and the identity of, the person from whom the interest was acquired; and

- (ii) The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

d) Gifts

A statement filed under this section 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 calendar year from, or on behalf of, directly or indirectly, any one person who does business with the school system or Board. For each gift reported the schedule shall include:

- (1) A description of the nature and value of the gift; and
- (2) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

e) Employment with or interests in entities doing business with the school system or Board

A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the school system or Board. For each position reported under this paragraph, the schedule shall include:

- (1) The name and address of the principal office of the business entity;
- (2) The title and nature of the office, directorship, or salaried employment held and the date it commenced; and
- (3) The name of each school system or Board unit with which the entity is involved as indicated by identifying one or more of the three categories of “doing business,” as specified in the Definitions section of this policy.

f) Indebtedness to entities doing business with or regulated by the individual’s school system unit or department

A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with or regulated by the individual’s school system unit or department owed at any time during the reporting period by the individual or by a member of the



immediate family of the individual if the individual was involved in the transaction giving rise to the liability. For each liability reported under this paragraph, the schedule shall include:

- (1) The identity of the person to whom the liability was owed and the date the liability was incurred;
- (2) The amount of the liability owed as of the end of the reporting period;
- (3) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and
- (4) The security given, if any, for the liability.

g) Employment with the school system or Board

A statement filed under this section shall include a schedule of the immediate family members of the Board member or candidate employed by the school system or Board in any capacity at any time during the reporting period.

h) Sources of earned income

- (1) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income at any time during the reporting period.
- (2) A minor child's employment or business ownership need not be disclosed if the Board or school system does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.
- (3) For a statement filed on or after January 1, 2019, if the individual's spouse is a lobbyist regulated by the Board, the individual shall disclose the entity that has engaged the spouse for lobbying purposes.

- i) A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.
5. For the purposes of sections G 2. (a) (b), and (c) of this policy, the following interests are considered to be the interests of the individual making the statement:
- a) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.
  - b) An interest held by a business entity in which the individual held a 30 percent or greater interest at any time during the reporting period.
  - c) An interest held by a trust or an estate in which, at any time during the reporting periods;
    - (1) The individual held a reversionary interest or was a beneficiary; or
    - (2) If a revocable trust, the individual was a settlor.
6. In addition to the financial disclosure provisions set forth in this section, Board members and candidates shall file a statement with the Panel disclosing any interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by such person, sufficiently in advance of any anticipated action to allow adequate disclosure to the public.

**H. LOBBYING DISCLOSURE**

- 1. Persons representing themselves, a business entity, or an organization who personally appears before the Board, 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.
- 2. Persons representing themselves, a business entity, or an organization, who communicates with one or more members of the Board 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.

3. The registration statement shall identify the name and address of the lobbyist and any person on whose behalf the lobbyist acts, and the subject matter which the registrant appeared before the Board or school official. The registration statement shall cover lobbying activities undertaken during the calendar year.
4. 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 school official. Where the value of a gift exceeds \$20 in value or series of gifts exceeds \$100 in value in the calendar year, the registrant shall disclose the name of the school official to whom it was made.
5. 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 E. 1. of this policy.
6. The provisions of this section do not apply to the following acts:
  - a) Professional services in advising and rendering opinions to clients as to the construction and effect of proposed or pending Board actions when these services do not otherwise constitute lobbying
  - b) Appearances before the Board upon its specific invitation or request if the person or entity engages in no further or other activities in connection with the passage or defeat of Board actions
  - c) Appearances before an organizational unit of the school system upon the specific invitation or request of the unit if the person or entity engages in no further or other activities in connection with the passage or defeat of school system or Board action
  - d) Appearance as part of the official duties of a duly elected or appointed official or employee of the State or a political subdivision of the State, or of the United States, and not on behalf of any other entity
  - e) Actions of a publisher or working member of the press, radio, or television in the ordinary course of the business of disseminating news or making editorial comment to the general public who does not engage in further or other lobbying that would directly and specifically benefit the economic, business, or professional interests of the person or entity or the employer of the person or entity

- f) Appearances by an individual before the Board at the specific invitation or request of a registered lobbyist if the person performs no other lobbying act and notifies the Board that the person or entity is testifying at the request of the lobbyist
- g) Appearances by an individual before the Board or an organizational unit of the school system at the specific invitation or request of a registered lobbyist if the person or entity performs no other lobbying act and notifies the unit that the person or entity is testifying at the request of the lobbyist
- h) The representation of a bona fide religious organization solely for the purpose of protecting the right of its own members to practice the doctrine of the organization
- i) Appearance as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in lobbying for counties and municipalities and not on behalf of any other entity

**I. EXEMPTIONS AND MODIFICATIONS**

The Ethics Panel may grant exemptions and modifications to the provisions of Sections D and F of this policy to employees (but not members of the Board) when the Panel determines that application of those provisions is not required to preserve the purposes of this chapter and would—

- 1. constitute an unreasonable invasion of privacy;
- 2. significantly reduce the availability of qualified persons for public service; and
- 3. not be required to preserve the purposes of this policy.

**J. ETHICS PANEL**

- 1. There is a Montgomery County Board of Education Ethics Panel which consists of five members appointed by the Board.
- 2. Terms of members shall be for three years and established so that at least one member's term expires each year.
- 3. 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.

4. The Panel shall elect a chairman from among its members.
  - a) The term of the chairman is one year.
  - b) The chairman may be reelected.
5. The Panel shall be assisted in carrying out the responsibilities specified in this policy by the ethics officer and the Board which, in consultation with the superintendent of schools, shall see that needed legal, technical, and clerical assistance is provided to the Panel.
6. The Board 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.
7. The Panel is the advisory body responsible for interpreting this policy and advising persons subject to this policy regarding its application.
8. The Panel shall implement a public information and education program regarding the purpose and implementation of this policy.
9. The Panel shall be the custodian of all forms submitted by any person under this policy and shall provide public access to such forms in accordance with this policy.
10. Request for advisory opinion
  - a) Any official, employee, or other person subject to this chapter may request an advisory opinion from the Panel concerning the application of this policy.
  - b) The Panel shall respond promptly to a request for an advisory opinion and shall provide interpretations of this policy within 60 days of the request based on the facts provided or reasonably available to the Panel.
  - c) In accordance with applicable state laws regarding public records, the Panel shall publish or otherwise make available to the public copies of the advisory opinions with the identities of the subjects deleted.
11. Filing a complaint
  - a) Any person may file a complaint with the Panel alleging a violation of any of the provisions of this policy.

- b) A complaint shall be in writing and under oath.
- c) The Panel may refer a complaint to legal counsel for the Board or other legal counsel approved by the Board for investigation and review.
- d) If the Panel determines that there are insufficient facts upon which to base a determination of a violation, the Panel shall dismiss the complaint.
- e) If there is a reasonable basis for believing a violation has occurred, the subject of the complaint shall be given an opportunity for a hearing which will be conducted by the Panel.
  - (1) A respondent may propose a settlement or cure to the Panel before a hearing.
  - (2) If the Panel determines that the proposed settlement or cure is consistent with the purposes of this policy, the Panel shall recommend that the Board accept the proposed settlement or cure.
  - (3) If the Board concurs with the recommendation of the Panel, the Board shall accept the proposed settlement or cure.
- f) The Panel's findings of a violation resulting from the hearing shall include findings of fact and conclusions of law.
- g) The Panel shall report its findings and recommendations for action to the Board.
- h) If the Board concurs with the findings of a violation and recommendations of the Panel, the Board may take enforcement action as provided in this policy.
- i) The Board may dismiss a complaint:
  - (1) On the recommendation of the Panel; or
  - (2) If the Board disagrees with a finding of a violation by the Panel.
- j) After a complaint is filed and until a final determination by the Board, all actions regarding a complaint are confidential. Concurrence by the Board with a finding of a violation by the Panel is public information except as otherwise precluded by law.

- k) If a Board member is the subject of a complaint filed with the Panel, the Board member may not vote or participate in the Board’s deliberations on the complaint.

12. 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 Board.
- 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.

**K. 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.

**L. IMPLEMENTATION STRATEGIES**

The position of ethics officer for MCPS is hereby established. The ethics officer shall report directly to the Board. 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.

**M. REVIEW AND REPORTING**

This policy will be reviewed in accordance with the Board policy review process.

**Related Sources:** Annotated Code of Maryland, General Provisions Article §§ 5-205, 5-206, and 5-815—5-820, and Appendix A, under Code of Maryland Regulations, Board of Education Ethics Regulations

**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; amended by Resolution No. 442-12, October 9, 2012; amended by Resolution No.249-19, April 9, 2019.