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December 8, 2021

Latina Wilson, Chairperson
Board of Education of Charles County
P.O. Box 2770
La Plata, Maryland 20646

re: Ethics Panel Advisory Opinion No. 21-01

Dear Ms. Wilson:

The Charles County Board of Education's Ethics Panel (the "Ethics Panel") has been requested to provide this advisory opinion concerning the applicability of Board Policy 8160 ("Ethics Policy") to the receipt of a group gift to an employee.¹

The question comes from a Charles County Public Schools principal, who said that they received a gift from their staff on Monday, November 1, 2021, in the amount of \$511 in the form of a gift card to Massage Envy. The gift card was presented to them for Principal Appreciation Month. The gift card was neither expected nor solicited. Upon asking, the principal was informed by the teacher who organized this gift that the amounts donated by a total of 70 staff members ranged from \$1 to \$20, with an outlier donation of \$100 from one staff member. The organizing teacher has the list of donors, but the principal has not seen it and has asked that the list remain anonymous to them.

¹ Section 3(i)(1) of the Ethics Policy states that the Ethics Panel shall "Interpret the policy and advise persons subject to them as to their application, including:

- i. directly receiving requests for advisory opinions from persons subject to the policy as to the applicability of the provisions to them;
- ii. meeting in person and developing requested advisory opinions in a timely manner;
- iii. publishing and making available to all persons affected by the policy copies of advisory opinions, with the identity of any person deleted;
- iv. reporting in a timely manner to the Board of Education as to any request received and advisory opinion developed, with the identity of any person deleted, along with any recommendations for changes to or needed clarification of the policy.

The Board's Ethics Policy provides that acceptance of a gift (i.e., a thing of economic value) is not allowed, except as provided under the Ethics Policy. Specifically, the Ethics Policy states:

Section 4(g) Gifts.

- (1) An official may not solicit any gift.
- (2) An official may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual lobbyist.
- (3) An official may not knowingly accept a gift from a person that the official knows or has reason to know:
 - (i) Is doing business with or seeking to do business with the school system or Board unit with which the official is affiliated;
 - (ii) Is subject to the authority of the school system or Board of Education;
 - (iii) Is a regulated lobbyist with respect to matters within the jurisdiction of the official; or
 - (iv) 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.
- (4)
 - (i) This paragraph does not apply to a gift:
 - (a) That would tend to impair the impartiality and independence of judgment of the official receiving the gift;
 - (b) Of significant value that would give the appearance of impairing the impartiality and independent judgment of the official; or
 - (c) 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.
 - (ii) Notwithstanding paragraph (3) of this subsection, an official may accept:
 - (a) Meals and beverages consumed in the presence of the donor or sponsoring entity;
 - (b) Ceremonial gifts or awards that have insignificant monetary value;
 - (c) Unsolicited gifts of nominal value that individually do not exceed \$20 in cost or a series of gifts totaling \$100 or less from or on behalf of any one person;
 - (d) Trivial items of informational value;
 - (e) 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;
 - (f) Gifts of tickets or free admission extended to members of the Board of Education 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 of Education;
 - (g) A specific 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 or Board of Education and that the gift is purely personal and private in nature;
 - (h) Gifts from a person related by blood or marriage, or any other individual who is a member of the household of the official; or
 - (i) 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.

Nothing in this provision would seem to clearly allow a gift from school system staff to an employee valued at \$511. The value of the gift exceeds the \$20 limit allowed under the Ethics Policy, the gift is provided to an individual employee covered under the Ethics Policy, the gift is coming from individuals subject to the authority of the school system (i.e., other employees), and none of the stated exceptions in the Ethics Policy seem to apply.

Nevertheless, the Ethics Panel advises that other factors involved in this situation should be considered. Specifically, the Ethics Panel notes that the gift was given on behalf of and from numerous individuals and not just one person. According to the teacher organizing the gift, 70 different staff members contributed to the gift in amounts ranging from \$1 to \$20, with one outlier donation of \$100. Setting aside the outlier, each of the other donation was within the limits set out in the Ethics Policy. Additionally, the total value of the gift (\$511) divided by the number of givers (70) equates to \$7.30, below the limits allowed under the Ethics Policy.

The Ethics Panel recognizes that there is one outlier, a \$100 donation from one employee toward the gift. Importantly, however, the principal is not aware of the identity of that individual, or in fact any of the individuals who actually contributed. Additionally, the principal neither expected nor solicited any gift whatsoever from anyone covered by the Ethics Policy.

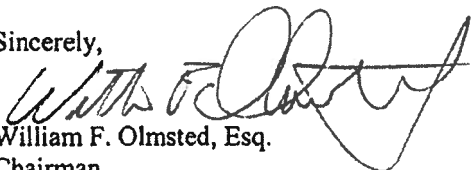
In this matter, it is the advice of the Ethics Panel that the principal in this situation may accept and use the gift given to them, and such a gift would not be a violation of the Ethics Policy. However, the principal should report the gift on their annual Financial Disclosure Statement for the calendar year 2021, which must be filed prior to April 30, 2022.

The Ethics Panel recognizes that this may be an unusual situation in that the amount of the gift was as large as it was and the number of contributors was as numerous as it was. Although this particular situation may have been unique, employees have regularly sought informal interpretations from supervisors and other Board staff concerning the receipt of gifts, especially during the holiday season. It is the Ethics Panel's view that as long as an employee does not solicit any gift, a gift of more than \$20 may be accepted under the Ethics Policy if the value of the gift divided by the number of contributors toward the gift equates to \$20 or less. Any such gift should be disclosed on the subsequent annual Financial Disclosure Statement if the recipient is required to file one under the Ethics Policy. In addition, if the value of any gift exceeds the Ethics Policy limits, the recipient has the option to turn over the gift when possible to the school system for use by the school system without any violation of the Ethics Policy or need to report the receipt on the subsequent annual Financial Disclosure Statement.

This Advisory Opinion should be shared with all school system employees but should not be viewed broadly as an approval or encouragement for the receipt of gifts under the Ethics Policy. The Ethics Panel suggests that all employees be reminded of the Ethics Policy's gift provisions.

On behalf of the Ethics Panel, I submit this Advisory Opinion to the Board as provided under the Ethics Policy.

Sincerely,


William F. Olmsted, Esq.
Chairman

cc: Members, Board of Education
Members, Ethics Panel
Maria V. Navarro, Ed.D, Superintendent of Schools