

**THE ST. MARY'S COUNTY PUBLIC SCHOOLS  
ETHICS PANEL**

In the Matter of {

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Advisory Opinion No: 2017-01

Request for Advisory Opinion

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**SUPPLEMENTAL ADVISORY OPINION**

On February 16, 2017, the St. Mary's County Public Schools Ethics Panel (the "Panel") issued Advisory Opinion 2017-01. Upon receipt of the Advisory Opinion, you submitted the following additional questions for the Panel's consideration at its February 23, 2017 meeting.

1. What impact, if any, would the use of alternative instructors (other than you) have on , ability to offer the proposed driver's education classes at
  
2. Could offer the classes at

Finally, in response to the Panel's follow-up question whether the alternative instructors referenced in your Question #1 would be St. Mary's County Public School ("SMCPS") employees, you advised that the first session of classes at would be taught by non-employees.

In its February 16, 2017 Advisory Opinion, the Panel determined that your ownership interest in, and potential employment as a driving instructor by posed a conflict of interest, because your involvement could possibly impair the impartiality or independence of your judgment as a administrator.

The Panel's concern will be partially addressed if you do not teach any classes offered to students yourself. However, your ownership interest in coupled with your position as an administrator at continues to pose the same conflict of interest regardless of whether you teach any class offered to students, and irrespective of where the classes are offered to students. Consequently, the Panel has determined that it would be inappropriate for to offer the driving classes to students as long as you maintain your ownership interest in the company, and continue to serve as an administrator at . Classes offered to students would not pose the same conflict of interest insofar as your involvement is concerned.

The Panel also believes it is necessary to further explain the possible application of the Prestige of Office rule to the proposed business arrangement. Under the Prestige of Office provision in the Regulation BCA-R (middle of page 4), "[a] school employee may not intentionally use the prestige of office or public position for the private gain of that . . . school employee or the private gain of another."

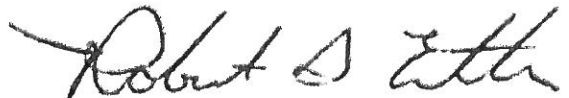
In the present context, the Prestige of Office prohibition applies in at least three possible ways. First, \_\_\_\_\_ cannot permissibly hold itself out as being owned by, or market or promote the classes as being taught by SMCPs. Second, any non-owner, SMCPs employees who serve as instructors will not be able to market or promote the classes on the basis that they are SMCPs employees. Finally, SMCPs employees who are not directly involved in the business arrangement (either as an owner of the entity or class instructor) cannot base any recommendation of, or otherwise market or promote the classes offered by

\_\_\_\_\_ in their capacity as SMCPs employees. Each of the foregoing actions would be prohibited under the Prestige of Office provision because they would improperly result in the private gain of the individual (if the action was taken by \_\_\_\_\_, you individually, or an SMCPs employee hired as an instructor), or another (if the SMCPs employee taking the action was not an owner of \_\_\_\_\_ hired to serve as an instructor).

In sum, while the students and their parents may know, or otherwise come to learn that you are a part-owner of \_\_\_\_\_ and an administrator at \_\_\_\_\_, and that other class instructors may be SMCPs employees, the classes cannot be intentionally marketed or promoted on that basis by any individual acting in their capacity as an SMCPs employee.

3/1/17  
Date

  
Wayne T. Lockley  
Ethics Panel Chair

  
Robert Ertter

  
John Walters

**BEFORE THE ST. MARY'S COUNTY PUBLIC SCHOOLS  
ETHICS PANEL**

In the Matter of [REDACTED]

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Advisory Opinion No: 2017-01

Request for Advisory Opinion

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**ADVISORY OPINION**

On or about January 19, 2017, you submitted a Request for an Advisory Opinion, inquiring whether driver's education classes could be offered to students attending [REDACTED] under the following circumstances. You previously submitted a comprehensive set of responses to a series of written questions posed by the Ethics Panel on December 23, 2016, which the Panel also considered before issuing this opinion.

The classes would be offered after school hours at [REDACTED] by an entity known as [REDACTED]. You are part-owner of [REDACTED] and might also receive hourly compensation for teaching the classes. Fees for the class would be paid by the parents directly to [REDACTED].

After considering your request at its January 19, 2017 meeting, the Panel determined that the proposed driver's education class would violate the SMCPs Ethics Regulation (Regulation BCA-R) for the following two reasons.

1. Employment and Financial Interests (Regulation BCA-R, bottom of page 3)

- Except as permitted by applicable law, Board of Education Policy or Regulation when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, a . . . school employee may not . . . (c) Hold any other employment relationship that would impair the impartiality or independence of judgment of the . . . school employee.

The Panel determined that your ownership, interest in, and potential employment as a driving instructor by [REDACTED], posed a conflict of interest, or at least the appearance of a conflict of interest, because your involvement could possibly impair the impartiality or independence of your judgment as a [REDACTED] administrator. For example, the Panel was concerned that you might be required to discipline, or otherwise be integrally involved in the discipline of a [REDACTED] student who was currently a fee paying student in, or had previously taken the driver's education class.

2. Prestige of Office (Regulation BCA-R, middle of page 4)

- A . . . school employee may not intentionally use the prestige of office or public position for the private gain of that . . . school employee or the private gain of another.

The Ethics Panel also concluded that the arrangement would violate the Prestige of Office prohibition in the Ethics Regulation because it determined that you could not feasibly disassociate yourself from your role as a . . . administrator and SMCPS employee, particularly if the classes were offered at . . .

2/16/17  
Date



Wayne T. Lockley  
Ethics Panel Chair



Robert Ertter

Absent

Bridget Jarvis



John Walters