



Frederick County Public Schools
Board of Education
CONFLICT OF INTERESTS AND
EMPLOYEE ETHICS
Policy 305

A. Policy Purpose

To sets forth expectations and clarifies guidelines for Frederick County Public Schools (FCPS) employees to avoid conflicts of interest in their conduct, to outline the action to be taken in the event of a potential conflict of interest, and to provide guidance for FCPS personnel concerning ethics-related matters.

B. Definitions

1. “Donations” are defined to mean equipment, materials, money, or property given to a school or to the school system for use in or in conjunction with educational or extracurricular programs.
2. “Donation campaign” is defined to mean organized outreach by an FCPS program, school, team, group or employee to solicit donations either online, by mail, or in person.
3. “Employee” is defined to mean any person employed by the Board, or the school system, including the Superintendent of Schools.
4. “FCPS resources” is defined to mean items purchased with public funds and owned and/or operated by FCPS, including, but not limited to facilities, including schools; vehicles; equipment; supplies; and intellectual property, including curricula and/or other proprietary or confidential information.
5. “Gift” is defined to mean the transfer of anything of economic value, regardless of the form, without adequate and lawful consideration.
6. “Immediate family” is defined to mean a spouse, parent, child or sibling.
7. “Immediate supervisory pathway” is defined to mean employees for whom one has responsibility for directing or overseeing the daily activities, and/or for evaluating an employee or conducting observations that would lead to an evaluation.
8. “Intellectual property” is defined to mean creations of the mind including, but not limited to, materials, social media and website content, inventions, processes, and other creative works and ideas embodied in a form that can be shared or can enable others to recreate, emulate, or manufacture them. Intellectual property can be protected by patents, trademarks, copyright or trade secrets.

9. "Out-of-season activities" is defined to mean athletics, athletic camps, and conditioning clinics associated with high school interscholastic athletics.
10. "Processes" is defined to mean a way of doing or making things.
11. "Tutoring" is defined to mean additional, special, or remedial instruction or support that occurs outside the regular school day for payment.

C. Policy Statement

1. The Board of Education of Frederick County (Board) is committed to a high standard of ethical conduct and professionalism.
2. It is a conflict of interest for an employee to take advantage of relationships with students, parents/guardians, employees, or others doing business with the school system for personal benefit or to benefit another individual or entity.
3. Similarly, it is a conflict of interest for employees to use their position, FCPS resources, and/or confidential or proprietary information acquired in their official school system position for personal benefit or to benefit another individual or entity.
4. Employees are encouraged to disclose potential conflicts of interest in advance or seek prior guidance regarding conduct about which there may be potential concerns. Not all conflicts of interest are expressly referenced in this policy.

D. Implementation

1. Supervisory Expectations

- a. FCPS employees in supervisory or leadership positions may not supervise within their immediate supervisory chain a spouse, relative, in-law, or any employee with whom they have a relationship.
- b. Supervisors may not engage in a financial relationship with employees within their immediate supervisory chain for the private benefit or gain of the supervisor or the supervisor's spouse, relative, in-law, or anyone with whom they have a relationship.
- c. Except as permitted by section D(3), a supervisor may not accept a gift from a subordinate FCPS employee or group of FCPS employees.

2. Financial Payment

- a. Employees shall not accept payment from an organization other than the Board to conduct school-related activities, for which parents must pay a fee, for students who attend or can reasonably be expected to attend the employee's assigned school(s), unless paid at the same rate as that applicable to stipends.
- b. An employee who is on leave from FCPS, in a paid or unpaid status, may not be employed by FCPS in any capacity during the period of leave.
- c. Exemptions may be approved by the Superintendent or their designee on a case-by-case basis consistent with terms of a partnership agreement, established between FCPS and outside entities, that support the educational mission of FCPS and provided that

staff who engage in such instruction may not be involved in the process by which students are referred to the program.

3. **Gifts**

- a. An employee may not solicit any gift nor may they directly facilitate the solicitation of a gift, on behalf of another person, from an individual lobbyist.
- b. An employee may not knowingly accept a gift, directly or indirectly, from a person that the employee 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 employee 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 employee;
 - 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 employee; or
 - v. Is an association, or any entity acting on behalf of an association, that is engaged only in representing counties or municipal corporations.
- c. Notwithstanding, items a and b above, employees may accept:
 - i. Meals and beverages consumed in the presence of the donor or sponsoring entity;
 - ii. Ceremonial gifts or awards that have insignificant monetary value;
 - iii. Unsolicited gifts of nominal value that do not exceed \$20 in cost or trivial items of informational value;
 - iv. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the employee at a meeting which is given in return for the participation of the employee in a panel or speaking engagement at the meeting.
 - v. Gifts of tickets or free admission extended to employees to attend a charitable, cultural, or political event, if the purpose of the gift or admission is a courtesy or ceremony extended to employees.
 - vi. A specific gift or class of gifts which the ethics 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;
 - vii. Gifts from a person related by blood or marriage, or any other individual who is a member of the household of the employee;
 - viii. An honorarium for speaking to or participating in a meeting, provided that the offering of the honorarium is in no way related to the position of the employee; or
 - ix. A gift from a group of FCPS employees provided that no individual contribution exceeds the \$20 limit set forth above, that the gift is given on a special and infrequent occasion (*e.g.*, a wedding, a baby shower, etc.), and that the gift does not identify expressly or by omission individuals who did not contribute (*i.e.*, the gift is from all employees in the department, division, or office and not just those who contributed to the cost).

- d. The exceptions above do not apply to a gift:
 - i. That would tend to impair the impartiality and independence of judgment of the employee receiving the gift;
 - ii. Of significant value that would give the appearance of impairing the impartiality and independent judgment of the employee; or
 - iii. Of significant value that the recipient believes or has reason to believe is designed to impair the impartiality and independent judgment of the employee.
- e. **Donations and Wish Lists.** School-based employees may receive donations of supplies from a “Wish List” in accordance with the Superintendent’s regulations, provided that all donations to staff will be used to supplement rather than supplant FCPS educational programs.

4. **Conflicts of Interest**

- a. Except as permitted by Board policy or regulation, or in the exercise of an administrative or ministerial duty that does not affect the disposition or decision in the matter, an employee may not participate in:
 - i. Any matter in which, to the knowledge of the employee, the employee or a qualified relative of the employee has an interest; or
 - ii. Any matter in which any of the following is a party:
 - 1. A business entity in which the employee has a direct financial interest of which the employee may reasonably be expected to know;
 - 2. A business entity for which the employee or a qualified relative of the employee is an officer, director, trustee, partner, or employee;
 - 3. A business entity with which the employee or, to the knowledge of the employee, a qualified relative of the employee is negotiating or has any arrangement concerning prospective employment;
 - 4. A business entity that is a party to an existing contract with the school employee or which, to the knowledge of the employee, a qualified relative of the employee, if the contract reasonably could be expected to result in a conflict between the private interests of the employee and the school system or the Board duties of the employee;
 - 5. An entity, doing business with the Board or school system, in which a direct financial interest is owned by another entity in which the employee has a direct financial interest, if the employee may be reasonably expected to know of both direct financial interests; or
 - 6. A business entity that: (1) the employee knows is a creditor or obligee of the employee or a qualified relative of the employee with respect to a thing of economic value; and (2) as a creditor or obligee, is in a position to directly and substantially affect the interest of the employee or qualified relative of the employee.
- b. An employee who is disqualified from participating under paragraph (D)(4)(a) shall disclose the nature and circumstances of the conflict and may participate or act if:
 - i. The disqualification leaves a body with less than a quorum capable of acting;
 - ii. The disqualified employee is required by law to act; or

iii. The disqualified employee is the only person authorized to act.

5. Employment, Financial Interests, and Business Entities

- a. Except when the interest is disclosed and approved by the Superintendent or their designee or when the employment does not create a conflict of interest or appearance of a conflict, an employee may not:
 - i. Be employed by or have a financial interest in an entity that is subject to the authority of the school system or Board or that is negotiating or has entered a contract with the school system or Board; or
 - ii. Hold any other employment relationship that would impair the impartiality or independence of judgment of the employee.
- b. This prohibition does not apply to an 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.
- c. Except as permitted by Board policy or regulation, an employee may not participate in a business entity with which the employee or a qualified relative of the employee is negotiating or has any arrangement concerning prospective employment, is engaged in contract proposals, or provides any direct financial interest.
- d. Employees engaged in outside employment are prohibited from benefiting from business with the school system or from relationships with students, including (but not limited to) engaging in recruitment or referral activities for personal financial gain.

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

7. Tutoring or Educational Services. In recognizing the potential conflict of interest that may be created when a parent and current staff members contract for services to serve a child beyond the school day, the following policy statements shall govern those requests.

- a. Tutoring or educational services must occur outside of the employee's hours of duty.
- b. An FCPS employee may not tutor or provide educational services to students who attend, or can be reasonably expected to attend, a school at which the employee works.
- c. Staff members shall not provide tutoring or educational services for private gain in school buildings.
- d. Staff members shall not use the facilities or equipment of the school system to provide tutoring or educational services for private gain.
- e. Staff may not use work time or resources to advertise their services
- f. Employees may not receive compensation from a non-FCPS entity or individual to prepare students to take an examination for admission into a FCPS program.
- g. Exemptions may be approved by the Superintendent or their designee on a case-by-case basis including:
 - i. During the summer in programs for children with disabilities in which the number of specialized staff members are few,

- ii. Consistent with terms of partnership agreements, established between FCPS and outside entities, that support the educational mission of FCPS and provided that staff who tutor may not be involved in the process by which students are referred to the program.

8. Out-of-Season Activities and Additional Educational Services

- a. Employees may engage in out-of-season activities consistent with the Superintendent's regulations and with the [Maryland Public Secondary School Athletic Association Handbook](#).
- b. FCPS staff involved in these activities must do so on their own personal time. Staff time should not be utilized for tasks involving planning, inquiries, collection of fees, or any other camp activities.
- c. FCPS may not collect a fee from students who participate in out-of-season activities.
- d. Participation in out-of-season activities is not mandatory to be a part of any team. Staff may encourage engagement but participation in out-of-season activities may not be used to determine selection for in-season activities.

9. Procurement and Development of Materials, Supplies, Equipment, or Materials Created by an Employee

- a. An individual or person that employs an individual who assists a 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. The Panel may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring unit of the school system.
- b. Employee-created supplies, equipment, or materials must be selected and approved for procurement in compliance with existing Board procedures for such items.
- c. The fact that the item was created by a current or former employee shall not be considered as a factor for or against its selection.
- d. In order to avoid conflicts of interest, employees shall recuse themselves from participating in any procurement decision, selection, or other decision-making process from which they or a spouse, relative, in-law, or anyone with whom they have a relationship may personally benefit.
- e. Supplies, equipment, or materials, whether created alone by an employee or group of employees, for which FCPS time, facilities, materials, or resources have been used or which were created within the scope of their employment are the property of the Board.

10. Intellectual Property (IP)

- a. The Board does not inhibit employees, outside of their work duty day and apart from their employment with FCPS, using their own resources, to research, author, or produce materials and/or other forms of IP. The Board also recognizes the right of employees to own business interests in companies which produce such IP, subject to the terms of this Policy.
- b. **IP - Within the Scope of Employment.** The Board is the owner of any and all rights to works, including any derivative works, created by an employee or group of

employees while within the scope of the employment or created using FCPS time, facilities, materials or other resources, unless there is a written agreement to the contrary.

c. IP – Outside the Scope of Employment.

- i. Employees who wish to research, author, or produce materials or other forms of IP whose source is a combination of their work performed for FCPS and their own independent efforts outside of the course and scope of their employment must meet with the Superintendent or their designee prior to proceeding with the project.
- ii. The Superintendent shall make the final determination as to whether the project and any resulting IP is within the scope of the employee's employment, partially within the scope of the employee's employment, or outside the scope of the employee's employment. The decision shall be provided to the employee in writing.
- iii. The Superintendent's determination may be appealed to the Board pursuant to the process described in [Policy 105](#), *Appeal and Hearing Procedures*, for appeals pursuant to section 4-205(c) of the Education Article of the Annotated Code of Maryland.
- iv. The Superintendent is directed to implement a regulation describing the meeting process.
- d. An employee may not, for private use or for use unrelated to the school system, make use of any FCPS or Board property or personnel without prior written permission of the Superintendent or their designee or student work without prior documented written permission obtained from the student, if the student is of age, or from the student's parent or legal guardian, if the student is not of age.
- e. Any employee found in violation of this section of Policy may be subject to employee discipline.

11. Uses of Proprietary or Confidential Information

- a. No employee is permitted to compile lists of students and/or parent/guardian information available through their position, for any other person or commercial enterprise.
- b. Employees may not disclose or use proprietary information acquired by reason of their employment with FCPS that is not available to the public. Any exceptions must be approved in advance in writing by the superintendent or their designee

12. Fraud, Waste, and Abuse

- a. The Board has an expectation that all employees conduct themselves in accordance with Board policy and FCPS regulation, along with local, state and federal laws. The Board requires its employees to display the highest standards of business and personal conduct as they perform their duties and responsibilities.
- b. It is the responsibility of all Board members and FCPS employees to be alert for any indications of fraud, abuse, or illegal activity involving FCPS funds or property.
- c. If an employee believes there are dishonest, fraudulent or illegal actions occurring that violate applicable laws or local regulations and that impact FCPS operations is essential that the Board member or employee have a confidential avenue to report the conduct.

13. Financial Disclosure

- a. Except as provided in COMAR 19A.05.02.02(C)(2)(b), FCPS 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 an annual financial disclosure:
 - i. Making school system or school board policy; or
 - ii. Exercising quasi-judicial, regulatory, licensing, inspecting, or auditing functions.
- b. The annual financial disclosure required by this section shall be filed on or before April 30th of each year.
- c. The annual financial disclosure required under this section shall include disclosure of gifts exceeding \$20, or a series of gifts totaling \$100 or more, received during the preceding calendar year from any person that contracts with or is under the Board's or school system's authority, including the name of the donor of the gift and the approximate retail value at the time of receipt.
- d. The Superintendent is directed to identify, by position title, those individuals who meet the requirements for filing an annual financial disclosure and to annually review the list to ensure the appropriate employees are filing annual financial reports.

14. Exemptions and Modifications. The Board may grant exceptions and modifications to the provisions of this Policy to employees when the Board determines that application of those provisions is not required to preserve the purposes of this Policy and would:

- a. Constitute an unreasonable invasion of privacy; and
- b. Significantly reduce the availability of qualified persons for employment.

15. Ethics Panel

- a. Employees may seek advisory opinions regarding the interpretation of this Policy as it relates to matters subject to the Ethics Panel's authority as outlined in [Policy 109, Board and Board Candidate Ethics](#), by utilizing the [Application to Request an Advisory Opinion](#) form.
- b. A complaint and/or alleged violation against any employee of the school system shall be processed, heard and determined by the Superintendent with due process rights afforded under the Education Article of the Annotated Code of Maryland. A complaint may be filed with the Ethics Panel using the [Ethics Panel Complaint Form](#), which includes the Ethics Panel's investigation procedures.
- c. The Panel (and, when applicable, the Superintendent) may dismiss a complaint if, after receiving an investigative report, it is deemed there are insufficient facts upon which to base a determination of a violation.

16. Sanctions

- a. Violation of any employee of the provisions of this policy shall constitute grounds for discipline or personnel action, where provided by the law, consistent with procedures set forth in the Education Article of the Annotated Code of Maryland; and/or,
- b. The Panel may assess a late fee of two dollars (\$2.00) per day, up to a maximum of twenty-five dollars (\$25.00), for failure to timely file a financial disclosure statement.

17. Retaliation. An employee may not retaliate against an individual for reporting or participating in an investigation of a potential violation of this Policy.

E. Related Information

1. **Board Policy**
 - a. [Policy 105](#), *Appeal and Hearing Procedures*
 - b. [Policy 109](#), *Board and Board Candidate Ethics*
 - c. [Policy 300](#), *Personnel*
 - d. [Policy 426](#), *Fundraising in Schools*
2. **Code of Maryland Regulations (COMAR)**
 - a. [COMAR § 19A.05.02.00, et. seq.](#), *Review Criteria*
3. **External Resources**
 - a. [Maryland Public Secondary School Athletic Association \(MPSSAA\) Handbook](#)
4. **FCPS Regulations**
 - a. [Regulation 200-33](#), *Donations*
 - b. [Regulation 300-38](#), *Fundraising*
5. **FCPS Resources**
 - a. [Ethics Panel Advisory Opinion Request Application](#)
 - b. [Ethics Panel Complaint Form](#)
 - c. [FCPS Ethics Panel Website](#)
6. **Maryland Statutes**
 - a. Md. Gen. Provis., Title 5, Subtitle 8, *Maryland Public Ethics Law, Local Government Provisions*

F. Policy History (Maintained by Legal Services)

<i>Responsible Office</i>	Human Resources, Fiscal Services, Legal Services
Adoption Dates	03/27/24
Review Dates	2023, 2024
Revision Dates	