

MONTGOMERY COUNTY BOARD OF EDUCATION
Rockville, Maryland

January 18, 2022

CONFIDENTIAL
MEMORANDUM

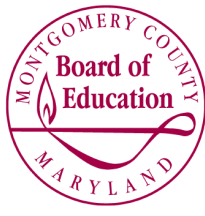
To: Members of the Board of Education

From: Scott Jofus, Member of the Board of Education

Subject: Response to the Ethics Panel Advisory Opinion

On January 12, 2022, the Board of Montgomery County's Ethics Panel issued an opinion regarding my role as a Board of Education member and its relationship to my wife's work as executive director of KID Museum and my own position as co-founder and president of FourPoint Education Partners. It is my intention to adhere to the recommendations of the Board's Ethics Panel and to refrain from carrying out any work that my firm conducts with Montgomery County Public Schools.

Should you have any questions or additional concerns, please do not hesitate to reach out to me.



MONTGOMERY COUNTY BOARD OF EDUCATION

Expanding Opportunity and Unleashing Potential

850 Hungerford Drive ♦ Room 123 ♦ Rockville, Maryland 20850

January 12, 2022

SENT VIA EMAIL ONLY: Scott@fourpointeducation.com

CONFIDENTIAL

Dr. Scott Joftus
8610 Ridge Road
Bethesda, Maryland 20817

RE: Request for Advisory Opinion – KID Museum and Children’s Opportunity Fund

Dear Dr. Joftus:

The Board of Education of Montgomery County’s Ethics Panel (“Panel”) has received your request for an advisory opinion regarding the impact of Montgomery County Board of Education (“Board”) Policy BBB, *Ethics*, on your duties as a member of the Board. The Panel understands that you are the co-founder and president of FourPoint Education Partners and that, as described on FourPoint’s website, you lead “engagements in the areas of school and district improvement, system reviews and strategic planning, and leadership development.” In your December 12, 2021, correspondence to the Ethics Panel, you state that:

This email is to request an opinion from the Ethics Board about a potential or perceived conflict relating to my wife, Cara Lesser, and – separately – the Children’s Opportunity Fund.

Cara Lesser is the founder and executive director of KID Museum, which is based in Montgomery County, in Bethesda. KID Museum, established 10 years ago, provides children and youth with hands-on, STEM-based learning experiences and supports school systems in providing these experiences for their students.

KID Museum is currently under contract, competitively bid, with MCPS to provide services to students and teachers. This contract was reviewed and approved by the Board of Education long before I applied for the Board (in fact prior to the passing of Ms. O’Neil). KID Museum has demonstrated the value of its programs, working across three MCPS administrations. KID Museum is currently in discussions with MCPS about an an [sic] amendment to its contract for school year 2021-22. Again, these discussions began well before I applied for the board, and I have played absolutely no role in nurturing the relationship with MCPS, discussing scope of work or budget, or negotiating terms of a current or potential contract. As a board member, I will recuse myself from any board decisions related to KID Museum.

The second potential or perceived conflict involves the Children’s Opportunity Fund. My firm (FourPoint Education Partners) completed work (although I was not involved) for the Children’s Opportunity Fund in June 2021. For this contract,

FourPoint examined where summer services and programs for children and youth were delivered within key zip codes for [sic] Montgomery County. FourPoint has also been discussing (well before I applied for the Board) with the Fund a new contract that would begin in January 2022. This contract would have FourPoint (again, I will not be involved) determine demand for afterschool programs for children and youth in Montgomery County and will likely involve collecting information via interviews and/or surveys from MCPS students and/or caregivers. If you decide it necessary, I would recuse myself from any Board decisions affecting the Children Opportunity Fund.

Your request for an advisory opinion implicates the conflict of interest provisions of Policy BBB, *Ethics*. These provisions are discussed below, with sections that are particularly relevant to this advisory opinion emphasized.

Policy BBB, *Ethics*, D.1., with certain exceptions, places restrictions on an official's ability to participate in the disposition or decision of a variety of matters. These restrictions and exceptions are as follows:

- 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 for 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.

Policy BBB, *Ethics*, D.1. Emphasis supplied.

Pursuant to Policy BBB, *Ethics*, C.16 the term “qualified relative” means a *spouse*, parent, child, or sibling.

Policy BBB, *Ethics*, C.16 Emphasis supplied.

With regard to the KID Museum, you note that Ms. Lesser is the founder and executive director of the KID Museum, based in Bethesda, Maryland, which “provides children and youth with hands-on, STEM-based learning experiences and supports school systems in providing these experiences for their students.” You further note that the KID Museum has contracted with MCPS for many years; that the KID Museum has an existing contract with MCPS to provide services to students and teachers; and that discussions are underway to amend this contract for the 2021-2022 school year. With this background, you state that “[a]s a board member, I will recuse myself from any board decisions related to KID Museum.”

The Panel appreciates your sensitivity to this matter. Given the participation restrictions set forth in Policy BBB, *Ethics*, D.1.a.2.b., and as Ms. Lesser (by virtue of being your spouse) is a “qualified relative,” the Panel advises that you should recuse yourself from participating in any decision-making pertaining to matters involving the KID Museum.

Regarding the Children's Opportunity Fund (the "Fund"), you note that your firm, FourPoint Education Partners, recently completed a contract with the Fund where your firm "examined where summer services and programs for children and youth were delivered within key zip codes fo[r] Montgomery County." You state that your firm is currently engaged in discussions for a new contract with the Fund, to begin in January 2022, and that under this new contract your firm would "determine demand for afterschool programs for children and youth in Montgomery County and will likely involve collecting information via interviews and/or surveys from MCPS students and/or caregivers." You state that if the Panel determines it to be necessary, you would "recuse [yourself] from any Board decisions affecting the Children's Opportunity Fund."

The Panel again appreciates your sensitivity to this matter. The Panel believes that the participation restrictions set forth in Policy BBB, *Ethics*, D.1.a.2.d., counsel against your participation as a Board member in matters involving the Fund. The Panel believes that it could be perceived that your firm would be a beneficiary of the relationship between the school system and the Fund if the Fund were to then contract with your firm to assist it in providing services to the school system. In order to avoid the appearance of a conflict of interest, the Panel advises that you should recuse yourself from participating in any Board decisions involving the Fund, and that you should not participate in your firm's implementation of its contract with the Fund, which you have advised you would not be involved. Please note that the Panel is not suggesting that your firm may not contract with the Fund regarding projects involving the school system. That is a matter between the Fund and your firm.

In closing, the Panel thanks you for your request for an advisory opinion to help guide you in the execution of your duties as a Board member as they relate to Policy BBB, *Ethics*, and appreciates your awareness of situations where a potential conflict of may arise.

Please note that the Panel makes its advisory opinions available to the public with identifying information deleted to the extent possible.

Sincerely,
Board of Education of Montgomery County
Ethics Panel
Susan Beard
Daniel Fisher
Carrie Michell
Lisa Jones Toms

Ethics Panel Member David Curren did not participate in the consideration of this matter.

Copy to:
Members of the Board of Education
Ms. Webb
Ms. Seabrook