

EXAMINING THE NEW PHENOMENON OF TEACHERS AS BRAND AMBASSADORS



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Executive Summary

Within-school marketing has a new twist, and teachers are at the center. Corporate firms, particularly those with education technology products, have contracted with teachers to become so-called brand ambassadors. A brand ambassador is an individual who receives some form of compensation or perk in exchange for the endorsement of a product. Unlike celebrity endorsers, teachers can be thought of as “micro-influencers” who give firms access to their network of social influence.

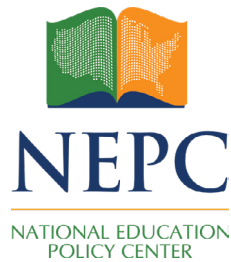
In this brief, we explore the ethical, legal and policy issues associated with the hiring of teachers as brand ambassadors. We delve into what it means to be a brand ambassador. We examine past examples of brand ambassador marketing outside of schools and reflect on the larger economic contexts—for teachers and for schools—within which the micro-influencer brand ambassador strategy has arisen. We situate teacher brand ambassadorships within broader marketing trends and within earlier instantiations of marketing in schools. And we consider the potential benefits that these relationships provide to teachers and their students and weigh these against the potential concerns, conflicts, and costs to teachers and students. Finally, we consider the need for potential protections of students’ interests, as teacher brand ambassadorships grow as a presence in public schools.

Recommendations

- We recommend that school districts review current codes of ethics and conflict-of-interest policies. Where necessary, states and districts should update these policies to reflect the challenges posed by new technology – such as social media – and brand ambassador programs.
- We recommend that districts include teachers and parents in this process of review-

ing ethics and conflict-of-interest policies and, more broadly, in the process of purchasing and researching curriculum. Policies should not be updated via a top-down approach.

- We recommend that these policies provide teachers and other public employees in the school community with ample and clear guidance on the ethics of their roles.
- Our final recommendation is the most obvious and important: Schools should be adequately funded so that every student receives the necessary resources to learn and teachers receive appropriate compensation for their work without relying upon corporate sponsorships or funding.



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Introduction

In 2016, tennis star Roger Federer made \$8 million in winnings and \$58 million in endorsements.¹ For decades, NASCAR drivers have made more from endorsement deals than winnings. Stars in golf, basketball, and soccer similarly make tens of millions of dollars endorsing products. Meanwhile, model Kendall Jenner is making millions as a so-called brand ambassador for Adidas; while her sister, Kylie, is a brand ambassador for Puma.² These sorts of product promotion contracts have become common forms of income for entertainment celebrities and sports stars, who are considered by marketers to be influential among buyers, particularly those who are younger.³

Endorsement deals such as these are studied by scholars interested in social influence,⁴ yet few people studying law or ethics have taken notice. That may be changing, however, as the brand ambassadorships move into new territory. On September 2, 2017, *The New York Times* published a feature article by reporter Natasha Singer, profiling a third-grade teacher in North Dakota who serves as a brand ambassador for several Silicon Valley companies. Unlike the celebrity agreements described above, the teachers discussed in the article are public employees with a duty to make decisions in the best interests of their students. Singer's article brought to light ethical issues that had, until then, received only scant attention. In this brief, we explore further the ethical, legal and policy issues implicated with the use of teacher brand ambassador programs in schools.

Specifically, we examine past examples of brand ambassador marketing outside of schools and reflect on the larger economic contexts within which the micro-influencer brand ambassador strategy has arisen. Moreover, we position teacher brand ambassadorships within

these broader marketing trends and also situate teacher brand ambassador programs within earlier instantiations of marketing in schools. We consider the possible personal and professional benefits that these relationships provide to teachers and their students, and we weigh these against the potential concerns, conflicts, and costs. Finally, we consider possible protections for the interests of students if teacher brand ambassadorships grow as a presence in public schools.

The Birth of the Teacher Brand Ambassador

The emergence of the teacher brand ambassador phenomenon in schools is new, but it builds upon two older marketing approaches: (a) endorsement by influentials and (b) marketing in schools. In this section, we clarify what we mean by the term *teacher brand ambassador* by situating it within both of these marketing practices.

The Use of Social Influencers in Marketing

Firms have long drawn upon social influence to target consumers. Large marketing campaigns have historically relied upon the likenesses of famous celebrities to populate billboards, television commercials, and radio ads. Prominent examples include Nike recruiting Michael Jordan for the “Be Like Mike” campaign or Bo Jackson for the “Bo Knows” campaign. In such marketing campaigns, the success of the athlete is closely tied to success of the brand.⁵ These campaigns work because the marketing strategy is built around the star quality of an individual with a legion of followers.⁶ At the time of these earlier campaigns, the marketers used a celebrity to maximize the media platforms (e.g., television, radio, billboard, and print) that dominated advertising.

Advertising today continues to be a celebrity-rich domain,⁷ but the advent of new technology has invited new forms of marketing.⁸ Social media, for instance, has made it possible for any individual to simultaneously and instantaneously communicate with their entire social circle. In marketing, the response has been an increase in the viability of the “micro-influencer” advertising strategy.⁹

A micro-influencer is an individual who alone lacks the celebrity to be the center of an advertising campaign but who can be part of an aggregated group that together is capable of reaching a large mass of consumers. These micro-influencers engage in a type of “word of mouth marketing,” where a known person can be a particularly persuasive source.¹⁰ In other words, when we hear an endorsement from someone we know and trust, the endorsement is more credible—it is less likely to be recognized as an attempt to persuade, and it leaves a lasting memory.¹¹ Although the individual effect of each social influencer may be small, the aggregate effect of a network of influencers can be substantial. Lululemon, for instance, relied on a group of approximately 1,600 micro-influencers to market their line of athletic wear. The program differentiated between “elite” ambassadors and “store” ambassadors, with the latter typically having a smaller social following. Despite the smaller following,

Lululemon found that in concert with other micro-influencers the strategy proved to be an effective way to streamline broad brand awareness. In fact, in case studies of the brand's growth, Lululemon's success is often attributed to the decision to forego costly macro-influencers in exchange for a "hyper local" ambassador program.¹²

Further evidence of the growth of the micro-influencer strategy can be seen in the increased spending on this type of marketing. Advertising spending on social media platforms is expected to surpass \$50 billion in revenue by 2019, and influencer advertising will grow to a size that encapsulates a market somewhere between \$5-\$10 billion.¹³ The Bureau of Labor Statistics estimates that in 2016 roughly 86,000 individuals had already worked as "demonstrators and product promoters,"¹⁴ and this number has likely grown substantially since then.

Brand Ambassador Programs in Schools

Teacher brand ambassadorships are a new way to tell an old story. Even though this form of marketing is relatively new to schools, it fits within a well-established history of marketing in schools. The Commercialism in Education Research Unit (CERU) of the National Education Policy Center regularly publishes reports on schoolhouse commercialism.¹⁵ Several of these reports find that businesses have targeted schools as a means to target children as current and future consumers, and to do so in a relatively uncluttered marketing environment. That is, within a classroom, students have little alternative but to be a captive audience for the products being marketed. Young students especially, but even adults on occasion, can be unaware that they are being marketed to in a classroom setting.

A well-known example of marketing in classrooms is Channel One, an innovative idea from the early-1990s. Cash-strapped schools wishing to have a television, a VCR, and a satellite dish could sign up with the new company and get all of this for free. In fact, the company also provided a 12-minute news broadcast every school day. The only catch is that the school must broadcast the program to its students (without lowering the volume), and those 12 minutes include two minutes of commercials. This clever business model allowed the company to charge the commercial advertisers top dollar; but there was also a cost to the students and the schools. In fact, researchers estimated that Channel One costs taxpayers \$1.8 billion annually in lost instructional time, including \$300 million in class time lost during those commercials.¹⁶

Brand ambassadorships differ in key ways from such predecessors, but they also build on the earlier efforts—fueled in part by the rise and highly competitive nature of the education technology product market. Firms have always been aware of the need for product differentiation, but the especially competitive characteristics and potential for massive profit have made firms acutely aware of the need to stand out.¹⁷ Accordingly, these firms increasingly supplement traditional marketing techniques with more subtle techniques—such as the use of teacher brand ambassadorships—in an attempt to reach students and to circumvent traditional district purchasing procedures and policies.¹⁸ Amazon, Apple, Google and Microsoft have each developed their own teacher brand ambassador program, while each vies

for a greater share of the education technology market.¹⁹ The intent of these “bottom-up” approaches and of the micro-influencer strategy is to elicit favorable relationships within classrooms, districts, and schools.

Depending on the brand they promote, brand ambassador teachers receive compensation or perquisites (perks) ranging from “swag,” which may include t-shirts or bags with company logos, to a choice of a “digital gift” or 3-D printer, micro-credentials in subjects like STEM and finance, or perhaps an all-expenses-paid trip to a brand-related meeting or convention.²⁰ While each program is different, an illustration is provided by the cable network Cartoon Network (owned by Time Warner). The Network offered teachers who participated in the “CN STEAMBassador” program an influencer kit with swag, access to Cartoon Network events, early access to Cartoon Network content for themselves and their students, and on-going networking opportunities with Cartoon Network’s Board of Advisors.²¹

In return, Brand Ambassador programs expect teachers to take on a variety of roles inside and outside of the classroom. At the most basic level, a teacher who is a brand ambassador is usually required to use the company’s products as part of classroom lessons. Most programs then require that teachers share their product experiences on their social media accounts, blogs, and more generally with their social network of other teachers, friends, parents, and students. Further, teachers are often expected to act as representatives of their brand²² and attend product conferences and teacher summits on behalf of the product, plus participate in interviews. In some cases, teachers are asked to fill the roles of recruiter, salesperson, and “de facto customer service representatives” who can respond to other teachers’ inquiries about the products.²³

The Benefits and Costs of Teacher Brand Ambassador Programs

On the surface, teacher brand ambassador arrangements appear innocuous and even a win-win for companies, teachers and students: a teacher gains access to teaching materials and the potential for some personal compensation, students gain access to resources that would otherwise be unavailable, and firms receive a teacher’s endorsement and gain access to students, parents, teachers and school administrators for a relatively low cost. These programs, however, have embedded within them a number of characteristics that pose threats to the profession of teaching and to students’ learning.²⁴ In this section, we consider these potential benefits and harms from teacher brand ambassador programs.

The Benefits and Costs to Firms

For firms, the micro-influencer strategy affords them a number of benefits for a relatively low cost. For example, while a firm may allocate millions of dollars to pay a celebrity brand ambassador, a micro-influencer—who might have anywhere from 100 to 50,000 followers or work in a school with 50 to 100 other teachers—might be compensated with anything from

a t-shirt to a minimal monetary payout.²⁵ This low fiscal cost potentially allows firms to recruit, and maintain, relationships with multiple teachers at once.

In addition, the design of social media platforms allows for an individual's "influence" to be easily quantified through that person's "reach" or social following.²⁶ Analysts can quantify and monetize the interactions and social activity generated with each post using, for example, an individual's Twitter, Instagram, Pinterest, and Facebook followers. For teacher brand ambassadors, this digital influence is in addition to the influence teachers exhibit in schools. Accordingly, teachers represent an especially convenient and appealing group of influencers. Within their community (i.e., among schools, students, parents, and colleagues), teachers carry a high level of respect and admiration, a characteristic that is integral to the success of the micro-influencer strategy.²⁷ Students and parents are less likely to doubt the judgment of a teacher they know than the judgment of a stranger or even a celebrity.²⁸ Because of this, the educational products marketed by firms through the voice of teachers can experience an immediate boost in credibility and value.

Moreover, brand ambassadors are often independent contractors and easily replaced when necessary. For instance, because provisions are often explicitly written into contracts stating that individuals are not to break federal, state or local laws, firms can easily terminate contracts that go awry.²⁹ In this way, the micro-influencer strategy allows firms to avoid tying a brand name to celebrities—like Tiger Woods, OJ Simpson, Lance Armstrong, or Maria Sharapova—who leave open the risk of a scandal that renders the endorsements valueless—or worse.³⁰ This allows firms to benefit from the social influence of a teacher without granting any guarantee to teachers or students that the products procured in exchange for this social influence will continue.

The Benefits and Cost to Teachers

For some brand ambassador teachers, the compensation of perks or the social following associated with participating in these programs may be the driving motivation. However, we suspect that most teachers who are willing to enter into these partnerships do so simply to supplement their teaching. For these teachers, promoting brands on social media or inviting brands into a classroom can seem like an inconsequential price to pay in exchange for resources that may improve the functionality of their classroom. Thus, the main benefits associated with teacher brand ambassador programs are likely seen to be communal (providing additional classroom resources) as opposed to private (receiving pecuniary rewards).

However, as described above, teacher-focused brand ambassador programs are structured so that risk is primarily borne by the teacher. This leaves teachers in a potentially precarious situation if a product were to fail or otherwise be problematic. Privacy issues, in particular, tend to arise around new technology applications. As one example, consider what happened in a Melbourne (Australia) school when a well-intentioned teacher used a product called "Seesaw," which recruits teachers to use their products through a brand ambassador program.³¹ Seesaw allows parents to view "test results, photos of students' work and clips

of class presentations that they can comment on,” and the teacher used Seesaw without informing parents of the extent of the digital application (e.g., that their young children were being filmed without parental permission). One parent commented in response to the product being used without her consent, “It was creepy ... I didn’t know where the data was stored or for how long.”³² Technology has also introduced new forms of bullying into schools,³³ and teachers should be wary of the potential for a brand ambassador product being misused by a bully.

Further, teacher brand ambassador programs are not educational programs designed with the intent of fostering student learning; they are designed for the purpose of stimulating brand exposure, fostering the sale of a product, and building a consumer base. Concerns about the reputation of teachers or the well-being of students are secondary to the marketing purpose. For example, when McDonald’s proffers a McTeacher’s Night its primary concern is not student outcomes.³⁴

However, owing in part to their very real needs and relatively easy replaceability, teachers—even if they wish to negotiate—have little to no leverage in negotiating the terms of their engagement as brand ambassadors. The result is that firms can dictate teachers’ role and responsibilities, and they ultimately impose upon teachers the additional burden of unilaterally ensuring that the material brought into the classroom is suitable for their students. Teachers have little or no support in reviewing or assessing the value of the materials offered. In this way, a product offered through a brand ambassador program becomes part of the school’s academic curriculum without any indication of the efficacy of the product.

In addition, school districts and parents have no way to know whether the decision to use an educational product was grounded strictly in pedagogical considerations or to a consideration tied to a corporate brand ambassador agreement. Consider, for instance, the experience of the Baltimore County Public Schools (BCPS) and its former superintendent, Shaun Dallas Dance. Dr. Dance, like many superintendents, was offered the opportunity to attend national edtech conferences with all expenses paid. Shortly after one such conference, he convinced the BCPS school board to approve a \$200 million budget allocation for the implementation of a one-to-one laptop program. As of January 2018, the district spent \$147 million, but the program had produced lackluster results. In addition, in March of 2018, Dr. Dance pleaded guilty to perjury after it was found that he concealed “the nature and extent of his outside business interests and conflicts of interest.”³⁵ This example is on a much larger scale than any decision a brand ambassador teacher would be called upon to make—and the example also involves the crime of perjury. But the overlap with brand ambassadorships is that parents, students and the public cannot know when a decision is improperly influenced.

The Benefits and Costs to Students

The strategy behind teacher-focused brand ambassadorships—and arguably behind all school-based marketing—largely arises from the deep financial need faced by public schools. As these firms know, teachers are tasked with delivering an education to students within a

public system that often lacks adequate resources due to severe underfunding.³⁶ Within this context, firms find dedicated teachers facing the task of meeting high educational expectations with inadequate resources, who do their best to cobble together needed resources.³⁷ This is especially true of teachers working in schools where systemic discrimination and chronic underfunding have severely restricted students' opportunities to learn.³⁸

Through brand ambassadorships, companies offer to help fill the resources void left open by federal, state, and local funding. In this way, these marketing endeavors are a symptom of larger social, political, and cultural problems. But aren't these programs nonetheless beneficial for students, given this reality? Although the resources might not be what the teachers would use if making independent decisions, isn't something better than nothing?

In some cases, the answer is indeed that the products likely benefit classroom instruction. But the products offered are largely untested and have no proof of efficacy. In some cases, then, more effective curricula, educational tools and lessons may be pushed aside.³⁹ In the most egregious cases, this may reduce students' in-classroom experience to an educational infomercial. In fact, because of the teacher's divided loyalty, this situation makes it unclear to parents, supervisors, or even a teacher, whether the decision to use a brand ambassador product is the result of the obligations to the company or to the students—for valid educational reasons.⁴⁰

In those situations where the product or its usage is problematic, the students are harmed; but the education technology firms can nonetheless benefit, by using the experience of students and teachers as research and development to improve the production of their products. When vendors are offering untested or unproven materials, students play the role of guinea pigs, and the teacher compromises the integrity of the classroom. Again, this strategy is not new. In a 1996 article titled, *Mad Rushes Into the Future: The Overselling of Educational Technology*, Doug Noble wrote, "computer-based education is more about using the education market in the service of technological product development than it is about using technology in the service of education."⁴¹ Little has changed over the succeeding two decades; the recent pushback against Summit Learning combined concerns about data mining and privacy with concerns about exposing students to an unproven product.⁴²

Moreover, while school districts press forward with initiatives that are centered around the use of technology, an opportunity cost arises when they forego evidence-based educational initiatives (e.g., smaller class sizes and intensive tutoring). Consider again the \$147 million spent for the use of laptops in Baltimore county public schools. How else might these resources have been spent?⁴³

Policies Addressing Issues Concerning Teacher-Focused Brand Ambassadorships

A conflict of interest can arise when someone is acting with divided loyalties—presenting both legal and policy concerns.⁴⁴ Laws in this area focus in particular on conflictual situations involving those making public policy as well as those in self-regulating professions

(e.g., law itself), since they threaten the policymaker's or professional's ability to perform their specified functions competently and fairly.⁴⁵ As discussed below, teachers as governmental employees technically fall within conflict laws governing governmental employees—even though those laws were likely written with policymakers, not teachers, in mind.

Teachers' primary duty is to their districts and students and is carried out by performing central teaching functions. When teachers' loyalty to their districts and students is undermined by a duty owed to a third party, those teachers have a conflict of interest.⁴⁶ When teachers become brand ambassadors and make any decision pertaining to curriculum or pedagogy, it becomes almost impossible for parents, supervisors, or even the teachers themselves, to determine whether the company incentives play a role.⁴⁷ Brand ambassador arrangements, by creating conflicts of interest, thus inherently undermine teachers' ability to perform their core functions with integrity.⁴⁸

If teacher brand ambassador programs continue and grow, teachers' unions and school districts should be prepared. In this section, we examine national, state, and local conflict of interest policies and professional codes of ethics. This examination of state and local policies focuses primarily on codes of ethics and conflict of interest policies in the state of Colorado because of our familiarity with these policy settings; laws and policies across the U.S. are, however, very similar—except as noted.

National policies that address the threats of teacher-focused brand ambassadorships

A number of national organizations have adopted model codes of ethics for educators. Although these codes are not binding law, they provide guidance for school districts when creating their own codes of ethics.

The National Education Association provides a *Code of Ethics of the Education Profession*.⁴⁹ The provision relating to conflicts of interest states: "The educator shall not accept any gratuity, gift, or favor that might impair or appear to influence professional decisions or actions."⁵⁰ The clause straightforwardly cautions teachers that it is unethical to take gifts that might give someone reason to believe the giver has influence over teaching decisions. If a company gives a teacher free software for the classroom, for instance, a reasonable person would not suspect that the company has influence over the teacher's decisions. However, if a company gives a brand ambassador teacher a percentage of sales of the software, a reasonable person would conclude that the company does have influence over the teacher's decisions. *New York Times* reporter Natasha Singer described one such offer: "The competition for these teacher evangelists has become so fierce that GoEnnounce, a one-year-old platform where students can share profiles of their accomplishments, decided to offer a financial incentive—a 15 percent cut of any school sales that resulted from referrals."⁵¹ (The company reports that no teacher had asked for the commission by the time of Singer's article.)

The Association of American Educators, which presents itself as an alternative to unions, also has a Code of Ethics, which states that, "The professional educator endeavors to pres-

ent facts without distortion, bias or personal prejudice.”⁵² This code also provides, “The professional educator does not use institutional or professional privileges for personal or partisan advantage.”⁵³ When brand ambassador teachers receive significant compensation (e.g., a product or a trip), they are arguably using their professional privileges for personal advantage. These companies contract with teachers for a marketing purpose: to reach districts, schools, other teachers, and students. The “but for” causation is straightforward: *but for* their position as teachers, they would not be afforded the same opportunity to become brand ambassadors.

State Policies

As discussed in the next section, most teachers looking for guidance will ultimately turn to the conflict-of-interest policies of their school districts. But district-level policies often implement state law. These state laws address ethics and conflicts of interest for public employees in a general sense; they are not typically specific to teachers. While policymakers and employees with, e.g., purchasing discretion are the types of government employees of most concern, state ethics laws are generally written and interpreted to cover all public employees.⁵⁴ These statutory conflict of interest laws serve a public purpose in the sense that they provide confidence in the operation of the government.⁵⁵ For example, Colorado law, which is typical of state approaches, defines a public employee as “a temporary or permanent employee of a state agency or any local government, except a member of the general assembly and an employee under contract to the state.”⁵⁶ Public school teachers are thus subject to such conflict-of-interest laws.

As public employees, teachers are subject to restrictions on what kinds of gifts they can receive while operating in their official capacity:⁵⁷

A public officer ... or an employee shall not; accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value; which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

A teacher serving as brand ambassador may be violating this law by accepting gifts from companies that are ultimately seeking to build their brand’s reputation in schools. In addition, Colorado has regulations in place that dictate what kind of behavior is unethical for an educator:

It shall be unethical behavior for a license holder [e.g., the holder of a teaching license] or applicant to solicit, accept, or agree to accept or to have ever solicited, accepted or agreed to accept anything of substantial value from any person when the license holder or applicant knows, or a reasonable person could construe, that the conferment of the thing of value is for the purposes of influencing the license holder or the applicant’s professional judgment or performance of professional duties.⁵⁸

Other state boards and commissions have considered issues worth noting, pertaining to brand ambassador-like arrangements for public employees. For example, the West Virginia Ethics Commission has wrestled with a number of relevant questions. In one decision, the commission concluded that the state's restriction on public employee commercial endorsements prevented the state from entering into an agreement with a large software vendor that would have included West Virginia teachers in a promotional video. The state itself asked for the advisory opinion because the relevant state agency concluded that the software was beneficial, and the state wanted the educators to participate. But West Virginia law provides: "A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person."⁵⁹

Local policies that address the threats of teacher-focused brand ambassadorships

Borrowing from national and state ethics and conflict-of-interest policies, school districts can assist their teachers by providing adequate and clear guidance. While the state laws cited above are important, teachers are likely to experience the laws through school district guidance and enforcement. The decision as to whether and how to enforce conflicts rules generally lies at this district level. Moreover, these policies and their enforcement (or not) are normally the last word; courts are very unlikely to second-guess decisions made by school district leaders, particularly elected school boards.⁶⁰

Typically, state statutes provide authority for each school district's board of education to create its own policies. The Colorado law, for example, authorizes districts to "adopt written policies, rules and regulations, not inconsistent with law that may relate to the efficiency, in-service training, professional growth, safety, official conduct, and welfare of the employees, or any classification of the district."⁶¹ Conflict-of-interest policies likely fall under the "official conduct" language of this statute, thus authorizing each school district to adopt its own set of policies and procedures around potential conflicts of interest.⁶² As a practical matter, these district policies are likely to pull language from state statutes and from provisions in state constitutions. Below, we examine the policies of three Colorado school districts, to better understand how these policies guide teachers' decisions about whether to participate in a brand ambassador program.

The Boulder Valley School District (BVSD) implemented the following policy, which is based on language from the Colorado Constitution:⁶³ "No district employee shall engage in or have a financial interest, directly or indirectly, in any activity that conflicts or raises a reasonable question of conflict with his or her duties and responsibilities in the school system."⁶⁴ While the financial benefits for teachers who are brand ambassadors tend to be small, they do exist.⁶⁵ In applying the BVSD rule, the question thus becomes whether the brand ambassador activity "conflicts or raises a reasonable question of conflict with his or her duties and responsibilities in the school system."⁶⁶ A teacher might contend that the product being introduced will have benefits for their students—with the logical conclusion that there is no conflict since their normal duties are advanced by the arrangement. That is, while the first part

of the policy restriction is met (a financial interest), the argument is that there is no conflict with job duties. As a practical matter, that judgment will be made by the school district.

Similarly, the Code of Ethics of Aurora (Colorado) Public Schools provides “that each employee be free of any investment association or other relationship that could conflict with her/his responsibility to act objectively in matters affecting the District.”⁶⁷ The issues posed here are very similar to those in Boulder. To what extent does a relatively small reward affect a brand ambassador’s objectivity when faced with a decision that affects the district and implicates their role as a brand ambassador? Again, the school district’s judgment would likely be conclusive, and the judgment would probably depend on what kind of incentives the teacher receives. A teacher who receives the use of a 3-D printer for their classroom would be less likely to have that perk affect decision-making than if the perk also provided such a printer for use in the teacher’s house. Similarly, teachers who receive an all-expense-paid trip to a conference may lose their sense of objectivity towards district-related decisions.

The Aurora Public Schools policy also provides examples of circumstances in which a conflict of interest might arise. One such example is as follows: “Receiving any compensation, in addition to regular salary and benefits, whether the compensation is financial or otherwise, for the performance of duties with respect to which any employee already receives payment from the District.”⁶⁸ The comparable language for the Colorado Springs guide to proper conduct for public employees states, “An employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he [sic] has a substantial financial interest in a competing firm or undertaking.”⁶⁹ The nature of teachers’ role as brand ambassadors puts them in a position where an official act may benefit one organization (brand company or school district) but might be detrimental to the other (school district or brand company). Any type of conduct that puts a teacher in this position is problematic and should be examined. But the word “substantial” (in the Colorado Springs policy) would likely exclude smaller benefits received by brand ambassador teachers.

Another portion of the Colorado Springs policy, concerning gifts to and solicitations by staff, is also worth mentioning:

All employees of the District are prohibited from accepting gifts of other than nominal value from companies or organizations doing business with the District. Exceptions to this policy are the acceptance of minor items which are generally distributed by the company or organization through its public relations program.⁷⁰

Because teacher-focused brand ambassadorships potentially provide students with benefits, and because teacher compensation is generally small, the threats posed by these arrangements will not necessarily prompt schools district to step in. However, given the threats to educational integrity and the well-being of students, school districts should respond accordingly to the emergence of the teacher brand ambassador phenomenon.

Conclusion and Recommendations

Teacher-focused brand ambassador programs create partnerships between teachers and private firms. Although they are framed as opportunities for teachers to supplement their classroom with new educational products that would otherwise be financially out of reach, brand ambassador programs raise ethical questions and create potential conflicts of interest. It is unclear whether a teacher who participates in a brand ambassador program would have chosen a different lesson or approach but for the contractual obligation to the product. Because of this, teachers are at risk of violating state and district conflict-of-interest policies. Meanwhile, students become the captive audience for the firm's marketing efforts.

Yet the reality facing many teachers is one of significant financial need. Public schools remain severely underfunded, with the weight of this burden falling heavily on schools in urban, predominantly African American and Latinx, communities as well as on many lower-income rural communities. To fill this financial void, teachers often use their personal assets to meet classroom needs. It is understandable, then, when teachers seize the new brand ambassador tool proffered as a way to help their students. Students' educations may sometimes benefit from these products, while other times their educations may suffer. In each case, however, the decision-making that results in the product's use is problematic—subject to conflicts of interest and entangled with fiscal pressures that should not influence a teacher's deliberations. Meanwhile, the product's producer gains an immediate return on investment when the product is used in a classroom and shared in a teacher's social network. Teachers' role accordingly expands from public servants to agents of special interests. In this scenario, only the advertisers are clear winners.

Recommendations

- We recommend that school districts review current codes of ethics and conflict-of-interest policies. Where necessary, states and districts should update these policies to reflect the challenges posed by new technology – such as social media – and brand ambassador programs.
- We recommend that districts include teachers and parents in this process of reviewing ethics and conflict-of-interest policies and, more broadly, in the process of purchasing and researching curriculum. Policies should not be updated via a top-down approach.
- We recommend that these policies provide teachers and other public employees in the school community with ample and clear guidance on the ethics of their roles.
- Our final recommendation is the most obvious and important: Schools should be adequately funded so that every student receives the necessary resources to learn and teachers receive appropriate compensation for their work without relying upon corporate sponsorships or funding.

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Also, see: Regarding influence, according to Singer (2017), "Some education experts warned that company incentives might influence teachers to adopt promoted digital tools over rival products or even traditional approaches, like textbooks" (p. 2).

48 Consider, for example, the divided loyalties and interests that might arise from a contract used by the Dremel company, which makes 3-D printers. The contract signed by Dremel's brand ambassadors includes the following provisions (emphasis added):

COMPENSATION AND EXPENSES In consideration for the Dremel Idea Builder Ambassador's full performance of all Services and all rights granted by Dremel Idea Builder Ambassador hereunder, Company will provide Dremel Idea Builder Ambassador with one Dremel Idea Builder 3D40 (and 10 spools of filament) ("Product") for use for the Services during the Term (as defined below).

3.o. TERM AND TERMINATION The term of this Agreement shall commence on August 1, 2016, and shall continue through July 31, 2017, unless earlier terminated in accordance with the terms hereof (the "Term"). Company may terminate this Agreement at any time, without cause, by giving at least fifteen (15) days prior written notice to the Dremel Idea Builder Ambassador. Company may terminate this Agreement immediately for cause or breach, unless Dremel Idea Builder Ambassador corrects his/her breach (if correctable) within five (5) days' notice of breach from the Company to Company's satisfaction. * * * This agreement is in effect until the unit is returned in satisfactory condition. The product remains the property of Company.

Pursuant to this contract, the product that the teacher wants to use remains owned by the company; Dremel does not transfer ownership to the school district. Teachers know that they must continue promoting the product, or it may be taken away.

DREMEL IDEA BUILDER AMBASSADOR - https://slideblast.com/dremel-idea-builder-ambassador-agreement-in-_59681fec1723dde6a82cf2cf.html

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- 59 W.Va. Code § 6B-2-5(b)(1), which also includes exceptions that the commission determined do not apply: “Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in *de minimis* private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.”
- 60 Two cases that involved conflict of interest disputes did not address the issue of brand ambassadors but nonetheless offer useful insights into how the court handles conflict of interest disputes in the k-12 context:
- In *Meridith v. Board of Ed. Of Community Unit School Dist. No. 7*, 7 Ill. App. 2d 477 (3d Dist. 1955), a teacher was dismissed because he operated a seed and fertilizer business outside of school hours. The court did not rely on a specific regulation, but it upheld the board of education’s dismissal of the teacher. The court reasoned that this decision was a province of the board in the exercise of its discretion to determine whether “the outside activities of the [teacher] had progressed to such an extent as to interfere with the performance of his duties as a member of the teaching staff” (*Meridith*, 1955, p. 486). In making this decision, the court declined to interfere with the board’s power in the absence of any “malicious, capricious, or arbitrary action by the board.” This case, which evidences deference typical of judicial review of school-board decisions, demonstrates the limits a court specifies in overturning actions taken by a school board. Judges are generally unwilling to overturn the action of a board absent malicious, capricious or arbitrary action.
- In *Montrose County Sch. Dist. RE-1J v. Lambert*, 826 P.2d 349 (Colo. 1992), a school board member filed a lawsuit challenging the board’s decision not to hire her as a teacher. The board rested its decision on its conflict of interest policy, but the plaintiff alleged that the denial violated her equal protection rights at the state and federal level. The court reviewed the board’s policy, which allowed board members’ spouses to teach, but not board members themselves. The court determined that it was reasonable for the board to believe that “the conflict of interest created when a board member is also a teacher is more direct and compelling than the conflict that may arise when the board member’s spouse is a teacher.” Applying rational-basis scrutiny to the board’s action, this case illustrates that enforcement of conflict-of-interest policies is highly likely to withstand constitutional challenges.

- 61 Colorado Revised Statutes § 22-31-110.
- 62 Moreover, in addition to possibly violating state conflict of interest laws, public school teachers may be breaching their employment contracts by serving as brand ambassadors. Whether a breach of contract occurs depends on the facts of the situation, as well as the specific language in the contract and the district's policies. See Pauken & Daniel (2007): "Ethics codes, whether they are promulgated by state legislatures, public school boards, or individual schools, are often incorporated directly into the contracts of public school employees" (p. 25).
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