

# State of Nebraska

## Accountability and Disclosure Commission

P.O. BOX 95086  
Lincoln, Nebraska 68509  
[www.nadc.nebraska.gov](http://www.nadc.nebraska.gov)



11th Floor, State Capitol  
Phone (402) 471-2522  
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March 13, 2017

Larry Ebert II  
P.O. Box 541  
Bassett, NE 68714

Dear Mr. Ebert:

Reference is made to your Potential Conflict of Interest Statement which was filed with this office on March 13, 2017. As I understand it, you are a member of the Rock County Public School Board. Rock County Public Schools is considering entering into a contract with QTC Contracting, Inc. to finish a project at the high school. If QTC is hired, Ebert Concrete and Paving will be a subcontractor to the project. You state that you are the owner of Ebert Concrete and Paving.

The issue is whether you have an interest in the proposed contract between QTC Contracting, Inc. and Rock County Public Schools. In my opinion you do have an interest in the contract.

Section 49-14,103.01 of the Nebraska Political Accountability and Disclosure Act (NPADA) generally prohibits certain categories of public officials from having an interest in a contract with his or her governing body. By this provision, a member of a school board may not have an interest in a contract with the school district. A school board member is deemed to have an interest in a contract with the school district if the school board member or a parent, spouse or child of the school board member would receive a pecuniary fee or commission as the result of the contract. A school board member would also be deemed to have an interest in a contract if a business association of the school board member will benefit from the contract.

Section 49-1407 defines the term business as "any corporation, partnership, limited liability company, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint-stock company, receivership, trust, activity, or entity." By this definition, Ebert Concrete and Paving is a business.

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Section 49-1408 defines the term "business association" in part as a business in which the individual is "...a partner, limited liability company member, director, or officer." As its owner, you have a business association with Ebert Concrete and Paving.

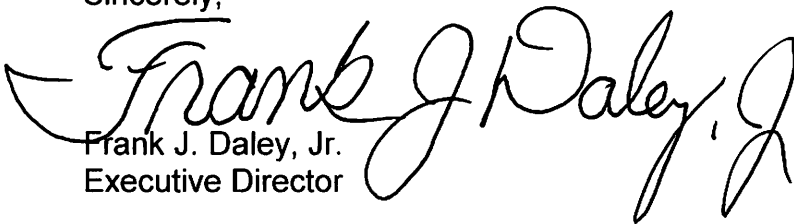
The prohibition in the NPADA against having an interest in a contract with the school district does not apply if you take the following steps:

- 1) Ensure that the matter of entering into the contract is an agenda item at a public meeting;
- 2) Make a public disclosure of your interest in the contract before the board votes;
- 3) Abstain from participating or voting on the matter;
- 4) Do not vote to make any payment under the contract; and
- 5) Do not act on behalf of the school district as to inspection or performance under the contract.

In order to make the required public disclosure you may: a) file a written statement (a copy of your Potential Conflict of Interest Statement) with the person who normally keeps records for the school district, or b) disclose your interest in the contract at the public meeting of the school board and ask that the minutes of the meeting reflect your disclosure. In either case, the disclosure must be made before the school board takes up the matter of awarding the contract.

Please understand that this is a staff opinion only and not a formal Commission Advisory Opinion. If you have any questions, please feel free to contact me.

Sincerely,



Frank J. Daley, Jr.  
Executive Director

xc: Tom Becker, Superintendent via email