

State of Nebraska

Accountability and Disclosure Commission

P.O. BOX 95086
Lincoln, Nebraska 68509
nadc.nebraska.gov

December 22, 2023



Centre Terrace, 1225 L St. #400
Phone (402) 471-2522
Fax (402) 471-6599

Sean Flowerday
Lancaster County Commissioner
555 South 10th Street, Suite 110
Lincoln, Nebraska 68508

Re: Potential Conflict of Interest Statement

Dear Mr. Flowerday,

This will acknowledge receipt of a letter addressed to the Executive Director of the Nebraska Accountability and Disclosure Commission from David Durbin, Chief Administrative Officer in Lancaster County. The letter addresses the question of whether you would have a potential conflict of interest with respect to actions you may take as a member of the Lancaster County Board of Commissioners ("Board") with respect to a Nebraska non-profit corporation known as CEDARS Youth Services, Inc. ("CEDARS"). Your wife has a position with that Corporation.

The letter in question notes that matters may come before you as a Commissioner having to do with contracts or claims relating to CEDARS. It is our understanding, after having spoken with Mr. Durbin, that your wife is not an officer or director of CEDARS. It is our further understanding that neither you nor she would receive any direct financial benefit (or detriment) from decisions which the Board may make with respect to contracts or claims with respect to CEDARS.

Under the terms of Section 49-1499.03 of the Nebraska Political Accountability and Disclosure Act ("NPADA") you would have a potential conflict of interest in those circumstances where you are: "...required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to [you] or..., a member of [your] immediate family, or a business with which [you..are] associated.."

The term "immediate family member" is defined in Section 49-1424 of the NPADA. The term is defined as follows: "Immediate family shall mean a child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes." Your wife is an immediate family member.

The term "business with which you are associated" is defined in Section 49-1408 of the NPADA. It would mean either a business where you or your wife had a financial interest in the stock of the business or a business in which you or your wife are a "partner, limited liability company member, director, or officer." As noted above, speaking with Mr. Durbin, it is my understanding that neither you nor your wife have a business association

with CEDARS. Moreover, since neither you nor your wife have a business association with CEDARS, and since neither of you have a current or proposed contract between the Board and CEDARS, you would not fall within the terms of §49-14,103.01, which generally prohibits interests in contracts between you (or your wife) and the Board unless specific exceptions are met.

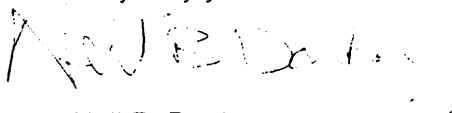
Based upon the information which Mr. Durbin has provided to us, we conclude that you do not have a financial interest in current or prospective contracts or claims between the Board and CEDARS.

However, the NPADA does not address the question of "appearance of conflict." Where there is not a statutory conflict of interest, it may be wise to abstain from voting on matters where you have some relationship with the party which is the subject of the vote. Mr. Durbin appears to recognize the importance of appearance of conflict when he notes that you have already decided not to vote on contracts and claims relating to CEDARS.

In preparing this opinion, we are relying upon the accuracy of the facts, as we have expressed them in the letter. If our expressed understanding of these facts is incorrect or incomplete, please advise us immediately. In particular, if there is a potential with respect to a particular contract or claim that you are voting upon, where you or your wife will receive a direct financial benefit or detriment, then you would be required to recuse yourself from a vote or other action with respect to that matter.

Thank you for your timely filing of the subject letter. Please contact me directly if you have any questions concerning this opinion.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Neil B. Danberg", written over a horizontal line.

Neil B. Danberg
General Counsel

NBD/sl

CC: David Durbin
Lancaster County Chief Administrative Officer
555 South 10th Street, Suite 110
Lincoln, Nebraska 68508



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December 12, 2023

David Hunter

Executive Director

Nebraska Accountability and Disclosure Commission

P.O. Box 95086

Lincoln, NE 68509

Dear David:

I am writing to you on behalf of County Commissioner Sean Flowerday to deliver a written statement to the Accountability and Disclosure Commission ("Commission") that Commissioner Flowerday has come aware of a potential conflict arising out of his being required to take an action or make a decision in the discharge of his official duties as County Commissioner for the County of Lancaster, Nebraska, ("County") that may cause financial benefit or detriment to businesses with which his spouse is associated. *See* Neb. Rev. Stat. § 49-1499.03(1). Commissioner Flowerday also has become aware of the potential application of the prohibition against contracts when an officer's spouse will receive a payment, fee, or commission as a result of the contract. *See* Neb. Rev. Stat. §§ 49-14,103.01 through 49-13,103.07.

Specifically, the spouse of Commissioner Flowerday is employed as Senior Director of Policy and Advocacy by CEDARS Youth Services, Inc., a Nebraska non-profit corporation.

At the same time, as a member of the Board of County Commissioners of the County of Lancaster, Nebraska ("Board"), Commissioner Flowerday is required to take actions and/or make decisions regarding contracts entered into between the aforementioned Nebraska non-profit corporation, as well as claims arising out of such contracts, at regular meetings of the Board. Accordingly, Commissioner Flowerday is writing to disclose this potential conflict.

Commissioner Flowerday intends to abstain from participating in discussions regarding or voting on such contracts and claims and to follow such additional action as the Commission shall advise. In addition, Commissioner Flowerday intends to follow the dictates of Neb. Rev. Stat. § 49-14,103.01(5) with respect to contracts

between the County and the aforementioned Nebraska non-profit corporation with which his spouse has a potential business association and/or from whom his spouse has the potential to receive a payment, fee, or commission as a result of the contract.

Please advise on behalf of the Commission what action or actions Commissioner Flowerday shall take in these matters, including prescribing that he remove himself from influence over the action or decision on these matters.

As always, your assistance is greatly appreciated. Please do not hesitate to contact me if you have any questions or need additional information to respond to this letter disclosing Commissioner Flowerday's potential conflict of interest.

Sincerely,

A handwritten signature in blue ink, consisting of a series of connected loops and curves, followed by a period.

David A. Derbin
Chief Administrative Officer
County of Lancaster, Nebraska

Cc: Matt Hansen, County Clerk