

Approved December 8, 2023

Nebraska Commission for the Deaf and Hard of Hearing Full Commission Board Meeting

Held at – Nebraska Commission for the Deaf and Hard of Hearing, 4600 Valley Road, Suite 420, Lincoln, NE 68510-4844

October 27, 2023 Meeting Minutes

A. Welcome

Chairperson Frances Beurivage called the meeting to order for the Nebraska Commission for the Deaf and Hard of Hearing (NCDHH) Full Commission Board on October 27, 2023, at 10:36 a.m. at the Nebraska Commission for the Deaf and Hard of Hearing, 4600 Valley Road, Suite 420, Lincoln, NE 68510-4844.

**It is noted before the meeting was called to order board member Candice Arteaga was recused from the meeting for a potential conflict of interest, as she had recently applied for a staff position at the Commission and had an interview with the management team.*

B. Notice of Open Meeting

Chairperson Frances Beurivage announced that the notice of the meeting was duly given, posted, published, and tendered in compliance with the Open Meetings Act, and all Board Members received notice simultaneously by email. The agenda was kept current in the Nebraska Commission for the Deaf and Hard of Hearing's office and on the NCDHH website. The materials generally used by the Board for the meeting today are on a table in a public folder that is available to the general public for the purpose of this meeting in accordance with the Open Meetings Act {Neb. Rev. Stat. §84-1412 (8)}. A copy of the Open Meetings Act is available for the duration of the meeting.

C. Roll Call

For the record, Board Members Ms. Frances Beurivage, Ms. Brooke Fitzpatrick, Ms. Valerie "Vali" Hitz, Mr. Jonathan Scherling, Ms. Sandra Shaw, and Ms. Peggy Williams were all present for roll call. NCDHH staff members present were Ms. Arlene Garcia Gunderson, Executive Director, Ms. Kelsey Cruz, Marketing & Communications Specialist and Ms. Kim Davis, Advocacy Specialist. Sign Language Interpreters present was Mr. Ben Sparks and Ms. Sharon Sinkler. Ms. Sinkler, Interpreter Program Coordinator was interpreting for Director Garcia Gunderson, she was not requested by the board to interpret. Mr. John Jelkin, Assistant Attorney General, was present as was Nicole Nath, HR Business Partner II, and Elise Wiedenfeld Human Resources. Chairperson Beurivage noted a quorum.

D. Review of Agenda

Director Garcia Gunderson reviewed the agenda with the board members.

E. Acceptance of Agenda

Ms. Peggy Williams moved to accept the agenda as presented. Ms. Sandra Shaw seconded the motion. With no further discussion, the motion carried with Ms. Beurivage, Ms. Fitzpatrick, Ms. Hitz, Mr. Scherling, Ms. Shaw and Ms. Williams all voting aye.

F. Chairperson of the Board's Report

1. Public Comments

No public comments.

2. Chairperson Frances Beurivage indicated she had no report to share; however, she noted the letter dated October 26, 2023, to the board from Executive Director, Ms. Arlene Garcia Gunderson, is acknowledged and will be submitted and filed into the record.
3. Chairperson Frances Beurivage indicated the board will go into closed session for discussion of a personnel matter related to an employee performance review. Chairperson Frances Beurivage indicated Ms. Arlene Garcia Gunderson will have the opportunity to address the board after closed session. Chairperson Frances Beurivage asked for a motion. Mr. Jelkin requested an amendment to the motion to include Ms. Garcia Gunderson having the opportunity to request the session remain open. Mr. Jelkin indicated it is a statutory right for the meeting to remain in open session if the individual so chooses. Ms. Arlene Garcia Gunderson requested the session remain open, and Chairperson Frances Beurivage confirmed the session will remain open.

G. Employee Performance Review

Chairperson Frances Beurivage moved forward with the discussion of the employee performance review of Director Garcia Gunderson. Chairperson Frances Beurivage indicated the meeting was called in follow-up to Ms. Garcia Gunderson's six-month review, which occurred in September of 2023. Chairperson Frances Beurivage indicated some concerns have arisen since this performance review, which ultimately led to this special meeting. Chairperson Frances Beurivage indicated the board will discuss these concerns and decide how to proceed in light of this new information. Chairperson Frances Beurivage cited various documents board members received from staff and Ms. Garcia Gunderson, and she invited board discussion. Ms. Peggy Williams indicated emails from employees are concerning and questioned if Ms. Garcia Gunderson is capable of effectively and professionally leading the agency in light of this documentation. Ms. Valerie "Vali" Hitz noted the various complaints received from outside organizations and internal staff as concerning. Ms. Valerie "Vali" Hitz specifically referenced a concern that Director Garcia Gunderson misinformed the community at the September board meeting at the OAD that she as executive director of the Commission is responsible for appointing members to the board. Ms. Valerie "Vali" Hitz indicated this is not accurate as interested individuals must go through the appropriate process with the Governor Pillen's office.

Chairperson Frances Beurivage mentioned a documented complaint against Ms. Garcia Gunderson stemming from a recent NEAD (Nebraska Association of the Deaf) meeting. Chairperson Frances Beurivage stressed the

importance of maintaining good relationships with our stakeholders and indicated such reports are not conducive to maintaining a good collaborative relationship with the NEAD and other agencies such as EHDI and Nebraska Regional Programs. Chairperson Frances Beurivage again stressed the importance of maintaining positive and collaborative relationships with stakeholders.

Mr. Jonathan Scherling followed up with Ms. Garcia Gunderson in relation to the meeting and any follow-up. Ms. Garcia Gunderson stated the meeting occurred a week prior and was in reference to the Deaf Mentoring project. Ms. Garcia Gunderson indicated the meeting included Sarah Peterson and Vicki Steinhauer-Campbell. In follow-up, Ms. Garcia Gunderson stated she apologized to these individuals for being overly passionate about the Deaf mentoring program. Ms. Garcia Gunderson informed the board in the meeting she had identified herself as a certified Deaf mentor, attending the meeting since March. Ms. Garcia Gunderson indicated because the program involves HRSA funding there is a significant amount of vocabulary in the grant that may be difficult for the NEAD board to understand. Ms. Garcia Gunderson stated she became very involved and probably too passionate. Mr. Jonathan Scherling indicated he is on the advisory committee for the NEAD mentoring program. Mr. Scherling indicated once they received the grant funding, they set up an advisory committee and acknowledged initially the committee had a bit of a hands off mentality. Mr. Scherling indicated it is a great opportunity to work together to ensure the program's success. Executive Director Garcia Gunderson indicated the Commission has the staff support to help appropriate / manage the funding, and as a state agency, the Commission has the accountability piece, more so than a non-profit. Ms. Garcia Gunderson acknowledged she came across too strong, and the stakeholders involved in this meeting did not appreciate her approach.

Ms. Fitzpatrick mentioned concerns with board members receiving several complaints from staff members regarding a lack of professional behavior from Ms. Garcia Gunderson (e.g., yelling at staff and exhibiting demeaning behaviors). Ms. Fitzpatrick asked Ms. Garcia Gunderson to address these complaints. Ms. Garcia Gunderson indicated she always communicates with her managers, and that they regularly check in with her. Ms. Garcia Gunderson indicated she communicates less with other staff because her management team is in place to do so. Ms. Garcia Gunderson stated she does not understand where the reports of yelling are coming from, and she questioned if it is because she uses sign language full-time and staff members may not be used to this mode of communication. Ms. Peggy Williams indicated the management coordination Ms. Garcia Gunderson has established is a great strategy as it provides the Commission with extra support for the staff; however, Ms. Williams stressed all staff must be included in communications, not solely the management team. Ms. Garcia Gunderson agreed, and she stated she has 30 minute one-on-one meetings with staff and holds monthly meetings.

Chairperson Frances Beurivage interjected that since the six-month evaluation, the Board has received more staff complaints and cited the complaint from the NEAD meeting.

Ms. Valerie "Vali" Hitz asked Executive Director Garcia Gunderson about her behavior with staff and stakeholders. Ms. Garcia Gunderson indicated she is a firm leader, and this may be misconstrued as demeaning,

but it is not her intention. Ms. Valerie “Vali” Hitz asked Ms. Garcia Gunderson why Ms. Sharon Sinkler cannot interpret for the board. Ms. Garcia Gunderson indicated this is a conflict of interest.

Chairperson Frances Beurivage interjected and made the comment that discussion must remain civil and respectful to all. Chairperson Frances Beurivage instructed the board to shift focus and discuss possible resolution moving forward. Chairperson Frances Beurivage reminded the board of the various documents received and to touch on the main points coming from the documentation. Chairperson Frances Beurivage indicated we must facilitate a constructive communication process in order to formulate a plan moving forward.

Mr. Jonathan Scherling stated, as a Board, we all cherish the Commission, and we all want success in every aspect. Mr. Scherling stressed the importance of creating a safe space for the team and larger community, and the desire to work collaboratively with Ms. Garcia Gunderson. Mr. Scherling asked how the board can assist Ms. Garcia Gunderson in developing her leadership skills and ways to improve performance. Mr. Scherling indicated he reviews the reports sent by Ms. Garcia Gunderson, but he does not always reply to the communications. Mr. Scherling proposed developing strategies to maintain effective communications between staff and board members. Ms. Peggy Williams stressed board members must work to ensure the workplace is safe for all. Mr. Jonathan Scherling asked Ms. Garcia Gunderson about their regular staff meetings and employee responses to those meetings. Ms. Garcia Gunderson called upon her managers in the meeting to report. Ms. Kelsey Cruz, Communications & Outreach Coordinator, mentioned she is involved with the administration team consisting of Cindy Woldt, Jackie Novak and Gina Petersen. Ms. Cruz indicated at her last meeting the teams work was highlighted. Ms. Cindy Woldt was working with the media center, and while Ms. Petersen is relatively new to her position, she is doing a great job and motivated to learn the ins and outs of the agency. Ms. Cruz indicated Ms. Novak is working to keep the agency updated on all budget items. Ms. Garcia Gunderson then asked Ms. Kimberly Davis, manager of advocacy specialists, to update the board. Ms. Davis indicated they recognize employees for accomplishments. Ms. Davis indicated she self-adjusts to her employees, and she wants to avoid fostering any feelings of competition among staff. Ms. Davis acknowledged advocacy specialists feel frustrated in communicating with Ms. Garcia Gunderson, and in response she has encouraged one-one-one meetings between her advocacy specialists and Ms. Garcia Gunderson.

Ms. Garcia Gunderson indicated that when she started in the position everything funneled up to her, and accountability was a concern. Ms. Garcia Gunderson indicated her management philosophy has involved a shift from management styles of previous executive directors. Ms. Garcia Gunderson indicated the Commission works with a large population of stakeholders and provides programming to diverse entities to include hospitals, law enforcement, judicial systems, medical, education and so on. Chairperson Frances Beurivage stressed the board does not have concerns with the programming. Instead, the board’s concerns lie with interfacing professionally with staff and these various stakeholders.

Ms. Peggy Williams asked Mr. Jelkin what options are available to the board if it is unsatisfied with Ms. Garcia Gunderson’s job performance. Ms. Peggy Williams asked about the possibility of administrative leave. Mr. Jelkin stated Ms. Garcia Gunderson is an at-will employee and serves at the pleasure of the board and its

direction. Mr. Jelkin stated options range from supervision to any corrective activities and ultimately to termination. Mr. Jelkin asked Ms. Nath to confirm this and to add any relevant information. Ms. Nath confirmed and indicated corrective action, including termination, administrative leave, or any other type of leave could be administered by the agency if there is a purpose for it. Ms. Nath indicated the board could also further investigate the complaints and Ms. Garcia Gunderson's actions. Ms. Peggy Williams asked Ms. Nath to explain administrative leave. Ms. Nath indicated administrative leave may involve paid or unpaid leave status for the employee if the board needs to conduct further investigation. Ms. Nath indicated placing an employee on administrative leave means access to their office, staff and state resources would be disconnected.

Mr. Jelkin stated Ms. Garcia Gunderson must have the opportunity to mention anything she feels relevant to this discussion and to the board. Ms. Garcia Gunderson cited the four page letter dated October 26, 2023, written to the board and submitted into the record. Ms. Garcia Gunderson mentioned experiencing being on the receiving end of negative behavior from Chairperson Frances Beurivage and her hesitation with Chairperson Beurivage's appointment. Ms. Garcia Gunderson informed the board she no longer will meet with Ms. Beurivage on a one-on-one basis because of this behavior. Ms. Garcia Gunderson indicated she requested to bring her administrative team into the meetings with Chairperson Beurivage, and this request was denied. Ms. Garcia Gunderson also cited her bi-weekly reports, and that she receives little feedback from board members in response to the reports. Ms. Garcia mentioned difficulties of being a Deaf woman and a person of color and questioned if her actions toward employees would be considered demeaning if she were a male in the position. Ms. Garcia Gunderson indicated the board has been highly critical of her since starting in March of 2023. Ms. Garcia Gunderson stressed it would be disruptive if she were to go on administrative leave. Ms. Garcia Gunderson cited upcoming interviews for the behavioral health coordinator position and upcoming legislative meetings, and she suggested it will hurt the agency if she is not present at these meetings. Ms. Garcia Gunderson also stressed frustration with the board not providing her direction or feedback from the recent evaluation. Ms. Sandy Shaw asked Ms. Garcia Gunderson what feedback she is seeking from the board. Ms. Sandy Shaw admitted she does not always respond to Ms. Garcia Gunderson's communications, so training of board members may be beneficial if it aids in communication. Ms. Garcia Gunderson expressed frustration that she receives little affirmation from board members and pointed to her work with the deaf-centric hospital event. Ms. Garcia Gunderson indicated Ms. Fitzpatrick is witness to this positive work. Ms. Garcia Gunderson also expressed frustration over not being able to respond board members regarding her evaluation. Ms. Garcia Gunderson took issue with board members' concerns she is not giving enough attention to the hard of hearing community, as Ms. Garcia Gunderson identifies as hard of hearing.

Chairperson Frances Beurivage asked the board for a motion to proceed in light of the discussion. Ms. Peggy Williams made the motion to place Ms. Garcia Gunderson on administrative leave, without pay, until a further investigation with staff and stakeholders takes place. The motion died. Board members discussed further options.

Ms. Valerie "Vali" Hitz made a motion to place Ms. Garcia Gunderson on administrative leave, with pay, until a further investigation with staff and stakeholders takes place. Ms. Hitz then withdrew her motion.

Mr. Jonathan Scherling suggested the development of a strategic plan to work with Executive Director Garcia Gunderson and the staff to determine overall recommendations and improvements. Mr. Scherling indicated the plan will assist Director Garcia Gunderson in her interactions with staff, board members and stakeholders. Mr. Scherling suggested training for the board members in terms of communication and collaboration. Ms. Valerie “Vali” Hitz raised the question of who will meet with Executive Director Garcia Gunderson going forward. Ms. Garcia Gunderson informed the board she would like to meet with her management team going forward or possibly the executive board. Board members discussed further options.

Mr. Jonathan Scherling made the motion for the board to develop a strategic plan and recommendations to assist Ms. Garcia Gunderson’s professional development and enhance her performance. Ms. Valerie “Vali” Hitz seconded the motion. Discussion ensued with chairperson Ms. Frances Beurivage indicating timelines and parameters will be established in the detailed plan. There was discussion among board members when and how the meetings would take place. Mr. Jelkin indicated the discussion must occur during a board meeting and cited the Open Meetings Act. Mr. Jelkin mentioned the meeting can occur over Zoom, but pointed out the board is limited to the number of virtual board meetings it can hold in a certain timeframe. Mr. Jelkin stressed there must be timely notice of the meeting in the appropriate forum. With no further discussion, the motion carried with Ms. Beurivage, Ms. Fitzpatrick, Mr. Scherling and Ms. Shaw all voting aye. Ms. Williams and Ms. Valerie “Vali” Hitz voted no.

H. Adjourn

Ms. Peggy Williams moved to adjourn the meeting at 12:01 p.m. Ms. Sandy Shaw seconded the motion. With no further discussion, the motion carried with Ms. Beurivage, Ms. Fitzpatrick, Ms. Hitz, Mr. Scherling, Ms. Shaw and Ms. Williams all voting aye.

Next Meeting Date

- TBD – 4600 Valley Rd, Room 4A, Lincoln and virtual option over Zoom.