



# State of Nebraska

## EQUAL OPPORTUNITY COMMISSION

### NEBRASKA EQUAL OPPORTUNITY COMMISSION MEETING OF July 21, 2023

Commissioner Arnold called the meeting to order in Lincoln, Nebraska at 9:01 a.m. on July 21, 2023. It was established, after a roll call, there was a quorum.

#### I. ROLL CALL

##### *Commissioners Present*

John Arnold, Chairperson  
Eric Drumheller

Royce Jeffries  
Lynn Brennan

##### *Staff Present*

Paula Gardner, Executive Director  
Brandie Hinkle, Investigator III  
Brian Cutright, Investigator

Ben Watson, Unit Director  
Andrea Berry, Unit Director  
Rebekka Hergenrader, Admin Tech

#### II. NOTICE OF PUBLICATION

Director Gardner read the dates of publication for the current Commission meeting.

#### III. APPROVAL OF MINUTES

Commissioner Arnold approved the meeting minutes for June 16, 2023.  
Commissioner Jeffries seconded

#### IV. ADDITIONS OR CORRECTIONS

#### V. PUBLIC INPUT (Non-Case)

Limit of 5 minutes per person for a total of a 30-minute session.

#### MAIN OFFICE:

1526 K St, Suite 310  
Lincoln, NE 68508-2734  
Phone: 402-471-2024  
Fax: 402-471-4059  
800-642-6112

#### BRANCH OFFICES:

1313 Farnam St, Suite 318  
Omaha, NE 68102-1836  
Phone: 402-595-2028  
800-382-7820

505A Broadway Suite 600  
Scottsbluff, NE 69361-3515  
Phone: 308-632-1340  
800-830-8633

#### ONLINE:

Website:  
[NEOC.nebraska.gov](http://NEOC.nebraska.gov)

Facebook:  
<https://fb.me/NebEOC>

NEOC

VI. INTRODUCTION TO PUBLIC INPUT (Agenda Cases)

The cases, wherein a party to the case was present or provided a written statement, were moved to the front of the agenda under Section VII. CASE DISPOSITIONS.

VII. CASE DISPOSITIONS

- A. EMPLOYMENT Respondent was present  
NEB 1-22/23-9-52953

Commissioner Arnold moved for no reasonable cause.  
Commissioner Jeffries seconded the motion.

ROLL CALL:           Ayes:    Drumheller, Jeffries, Brennan, Arnold  
                          Naves:  
                          Abstained:  
                          Motion Carried

- A. EMPLOYMENT Complainant was present  
NEB 1-22/23-7-52775

Commissioner Drumheller moved for no reasonable cause.  
Commissioner Brennan seconded the motion.

ROLL CALL:           Ayes:    Brennan, Arnold, Drumheller, Jeffries  
                          Naves:  
                          Abstained:  
                          Motion Carried

- A. EMPLOYMENT Complainant had a written statement, Respondent was present  
NEB 3-22/23-7-52812

Commissioner Drumheller moved for no reasonable cause.  
Commissioner Arnold seconded the motion.

ROLL CALL:           Ayes:    Drumheller, Jeffries, Brennan, Arnold  
                          Naves:  
                          Abstained:  
                          Motion Carried

- C. HOUSING Complainant and Respondent were present  
NEB 2-20/21-11-3636

Commissioner Jeffries moved for no reasonable cause.  
Commissioner Brennan seconded the motion.

ROLL CALL:           Ayes:     Brennan, Arnold, Drumheller, Jeffries  
                          Nays:  
                          Abstained:  
                          Motion Carried

- C. HOUSING Respondent was present  
NEB 2-21/22-6-3741

Commissioner Arnold moved for no reasonable cause.  
Commissioner Drumheller seconded the motion.

ROLL CALL:           Ayes:     Jeffries, Brennan, Arnold, Drumheller  
                          Nays:  
                          Abstained:  
                          Motion Carried

- C. HOUSING Respondent was present  
NEB 2-22/23-12-3777

Commissioner Drumheller moved for no reasonable cause.  
Commissioner Brennan seconded the motion.

ROLL CALL:           Ayes:     Arnold, Drumheller, Brennan, Jeffries  
                          Nays:  
                          Abstained:  
                          Motion Carried

- A. EMPLOYMENT
  - NEB 2-22/23-11-53115
  - NEB 1-22/23-9-52978
  - NEB 2-20/21-2-51885
  - NEB 1-22/23-7-52841
  - NEB 2-22/23-10-53018

Commissioner Arnold moved for no reasonable cause on the above cases.  
Commissioner Brennan seconded the motion.

ROLL CALL:           Ayes:    Arnold, Drumheller, Jeffries, Brennan  
                          Nayes:  
                          Abstained:

VIII. SUCCESSFUL AGREEMENTS

NEB 1-22/23-3-53320-RD

Commissioner Arnold moved to adopt the agreement.  
Commissioner Brennan seconded the motion.

ROLL CALL:           Ayes:    Jeffries, Brennan, Arnold, Drumheller  
                          Nayes:  
                          Abstained:  
                          Motion Carried

ADMINISTRATIVE ACTIONS

- A. WITHDRAWL
  - NEB 2-22/23-4-53374-RS

Commissioner Arnold moved to administratively close the above case based on the Complainant withdrawing the charge.  
Commissioner Jeffries seconded the motion.

ROLL CALL:           Ayes:    Brennan, Arnold, Drumheller, Jeffries  
                          Nayes:  
                          Abstained:  
                          Motion Carried

- B. EEOC
  - NEB 1-22/23-1-53199
  - NEB 1-22/23-11-53103
  - NEB 1-21/22-3-52593
  - NEB 1-22/23-11-53087

Commissioner Arnold moved to administratively close the above case based on adoption of the findings of the EEOC.

Commissioner Jeffries seconded the motion.

ROLL CALL:           Ayes:    Arnold, Drumheller, Jeffries, Brennan  
                          Nays:      
                          Abstained:  
                          Motion Carried

X.     CONCILIATION

None at this time.

XI.    CONCILIATION CASES TO BE CONSIDERED FOR PUBLIC HEARING

None at this time.

XII.   PUBLIC HEARING

None at this time.

XIII.  CIVIL ACTION

None at this time

XIV.   BUSINESS

- 1.    Previous Month's General Ledger Report

Commissioner Arnold moved to approve and accept the previous month's General Ledger report.  
Commissioner Brennan seconded the motion.

ROLL CALL:           Ayes:    Drumheller, Jeffries, Brennan, Arnold  
                          Nays:      
                          Abstained:  
                          Motion Carried

2. In-State Travel for the Fiscal Year

Commissioner Arnold moved to approve and accept In-State Travel for the Fiscal Year. Commissioner Drumheller seconded the motion.

ROLL CALL:           Ayes:     Drumheller, Jeffries, Brennan, Arnold  
                          Naves:  
                          Abstained:  
                          Motion Carried

3. Federal Funds Carryover

Commissioner Arnold moved to approve and accept federal funds to carry over to the next fiscal year. Commissioner Brennan seconded the motion.

ROLL CALL:           Ayes:     Drumheller, Jeffries, Brennan, Arnold\*\*  
                          Naves:  
                          Abstained:  
                          Motion Carried

4. Outreach Report—Unit Director, Ben Watson

Director Watson announced that on July 22<sup>nd</sup>, 2023 is the annual Disability Pride Day Picnic at Antelope Park in Lincoln. We will have an outreach booth for people to learn about the NEOC. Director Watson also invited commissioners to attend.

Director Watson added that he has been in talks with Heartland Workforce Solutions about future partnerships, training and outreach.

5. Director's Report – Executive Director, Paula Gardner

Director Gardner shared that the NEOC had an unexpected resignation in the Omaha office earlier in the month, but because we were within the 90-window for the applicant pool from a previous open investigator position, we were able to hire Brett Ekstrum. He will be joining us on July 31, 2023.

Director Gardner stated that the NEOC has hired someone for the Office Specialist position, Meagan McCaul will be starting August 7, 2023.

Director Gardner referenced the HUD conference in Denver she mentioned last month's commission meeting and encouraged a commissioner to attend. Director Gardner noted that the conference is being held August 30-31, 2023 in Denver. Director Gardner announced that Unit Director Shelley Foss is attending EEOC Conference in Baltimore

the following week. The conference is offering some of the sessions virtually, so staff will be given an opportunity to participate in those if they wish.

Director Gardner informed the commission of two Supreme Court decisions that will impact the NEOC. The first one is related to religious accommodations. This decision expanded what an employer is required to do when considering a religious accommodation in the workplace. It is now similar to the accommodation process for disability, requiring employers to demonstrate that the accommodation would have substantial cost to the employer or negative impact on the employer's business if the accommodation is denied. This is not something the Commissioners will be making decisions on as it falls under the Nebraska Fair Employment Practice Act.

Director Gardner also discussed the other case that could have an impact on Public Accommodation. The decision states that a state law (this case is from Colorado) cannot force an individual to speak in ways that defy the individual's conscience about a matter of major significance. This specific case was from a web designer who argued that creating websites for same sex couples would violate her right to free speech, and the court agreed. The court did note that it may be difficult to determine what qualifies as expressive activity under the first amendment, but gave examples of website, speech writers, artists and movie directors. This was a very narrow finding so it remains to be seen if we will see it in our Public Accommodations filings.

Director Gardner also reported the Pregnant Workers Fairness Act went into effect at the end of June. This is a new federal law provides additional protection related to pregnancy, childbirth or related medical conditions relative to accommodations in the workplace. Since Nebraska already has these protections in FEPA, it won't change how the NEOC will investigate. It just adds additional federal protections.

#### XV. ADJOURNMENT

Commissioner Arnold declared the July 21, 2023, Commission meeting ended at 10:54 a.m.

Commission Meeting Minutes

Page - 8 -

Respectfully submitted,



Rebekka Hergenrader  
Administrative Technician

8.2.2023

Date



Paula Gardner  
Executive Director

8.2.2023

Date

The Minutes of the Nebraska Equal Opportunity Commission meeting of July 21, 2023 have been corrected and accepted, and henceforth approved on this date.



Jolee C. Arnold  
Chairperson

9/15/2023

Date