



**MINUTES OF THE TWO-HUNDRED-AND-TWENTY-FIRST  
MEETING OF THE UNIVERSITY CIVIL SERVICE MERIT BOARD –  
MARCH 16, 2023**

**State Universities Civil Service System (University System)  
1717 Philo Road, Suite 24,  
Urbana, IL 61802  
& WebEx**

Chicago State University  
Cook Administration Building  
9501 South King Drive  
ADM Room 201  
Chicago, IL

Illinois State University  
718 W. College Avenue  
Room NSB 101A  
Normal, IL

Northeastern Illinois University  
5500 North St. Louis Avenue  
Student Union Building, Room 215  
Chicago, IL

University of Illinois at Chicago  
Room 201D  
715 S. Wood Street  
Chicago, IL

Western Illinois University  
1 University Circle  
Sherman Hall – Conference Room 205  
Macomb, IL

**Call to Order and Roll Call – Julie Annette Jones, Chair**

Chair Jones called the meeting to order at 1:05 p.m., stated that all votes would be held by roll call, and noted that the meeting was being held via WebEx. She also said that the agenda was posted in accordance with the Open Meetings Act. The posted agenda included directions on how to access the meeting electronically.

Members present at the University System Office and via WebEx were: Julie Annette Jones, Chair, from Illinois State University Board of Trustees; Barb Baurer, from Eastern Illinois University Board of Trustees; Pedro Cevallos-Candau, from Governors State University Board of Trustees; and Polly Radosh, from Western Illinois University Board of Trustees.

Member present by WebEx location not listed on page 1: John R. Butler, from Northern Illinois University Board of Trustees (joined the meeting at 1:34 p.m.);

Members absent were: Jason Quiara, from Chicago State University Board of Trustees; and John Simmons, from the Southern Illinois University Board of Trustees.

Also present were: Gail Schiesser, Executive Director; Don Harsh, Legal Counsel; and Teresa Rademacher, Secretary for the Merit Board. Various other university employees and State Universities Civil Service System (University System) staff were also in attendance.

### **Consideration of participation by other Merit Board Members not physically present at the meeting site**

Chair Jones asked for approval for Merit Board member John Butler, who is not physically present, to actively participate by other means per the Open Meetings Act requirements.

Dr. Cevallos-Candau moved to allow Merit Board member John Butler, from the Northern Illinois University Board of Trustees, to participate via a nonpublic WebEx location. Dr. Radosh seconded Dr. Cevallos-Candau's motion. In accordance with the Merit Board Bylaws, a roll call vote was taken, and the motion was approved with the following vote:

Dr. Cevallos-Candau .....	Aye
Chair Jones .....	Aye
Mr. Quiara .....	Absent
Dr. Radosh .....	Aye
Mr. Simmons.....	Absent
Ms. Baurer .....	Aye
Dr. Butler .....	Absent

### **Welcome two new Merit Board Members from Chicago State University and Eastern Illinois University and new Legal Counsel for the Merit Board**

Chair Jones welcomed two new Merit Board members: Jason Quiara from Chicago State University Board of Trustees and Barb Baurer from Eastern Illinois University Board of Trustees. Ms. Jones welcomed Don Harsh to the University System as the new Legal Counsel. Chair Jones thanked the past board members for their time serving on the University Civil Service Merit Board (Merit Board).

### **Approval of the Agenda for the 221<sup>st</sup> Meeting of the Merit Board – Julie Annette Jones, Chair**

Chair Jones requested a motion to approve the Agenda for the 221<sup>st</sup> Meeting of the Merit Board.

Dr. Radosh moved to approve the Agenda for the 221<sup>st</sup> Meeting of the Merit Board. Ms. Baurer seconded Dr. Radosh's motion. In accordance with the Merit Board Bylaws, a roll call vote was taken, and the motion was approved with the following vote:

Dr. Radosh.....Aye  
Mr. Simmons.....Absent  
Ms. Baurer.....Aye  
Dr. Butler.....Absent  
Dr. Cevallos-Candau.....Aye  
Chair Jones.....Aye  
Mr. Quiara.....Absent

### **Consideration of the Minutes of the 220<sup>th</sup> Meeting of the Merit Board, November 10, 2022**

The minutes of the 220th Meeting of the Merit Board, November 10, 2022, were transmitted to members of the Merit Board with the agenda materials.

Dr. Radosh moved to approve the minutes of the 220<sup>th</sup> Meeting of the Merit Board. Dr. Cevallos-Candau seconded Dr. Radosh's motion. In accordance with the Merit Board Bylaws, a roll call vote was taken, and the motion was approved with the following vote:

Dr. Radosh.....Aye  
Mr. Simmons.....Absent  
Ms. Baurer.....Aye  
Dr. Butler.....Absent  
Dr. Cevallos-Candau.....Aye  
Chair Jones.....Aye  
Mr. Quiara.....Absent

### **Merit Board Reorganization**

The Merit Board conducted reorganization activities, electing its officers for calendar year 2023. Chair Jones informed the Merit Board that this was the first meeting of the Merit Board for 2023, and the following officers needed to be elected for 2023: Chair, Vice Chair, Executive Committee, and the appointment of a Secretary for the Merit Board. Chair Jones asked Executive Director Schiesser to proceed with the election.

Ms. Schiesser stated that Ms. Jones had agreed to continue to serve as Chair; Dr. Butler had agreed to serve as Vice Chair; Dr. Cevallos-Candau and Mr. Simmons had both agreed to serve on the Executive Committee; and Ms. Rademacher had agreed to serve as Secretary for the Merit Board.

Ms. Baurer made a motion to elect members per Ms. Schiesser's presentation. Dr. Radosh seconded Ms. Baurer's motion. In accordance with the Merit Board Bylaws, a roll call vote was taken, and the motion was approved with the following vote:

Ms. Baurer.....Aye  
Dr. Butler.....Absent

Dr. Cevallos-Candau .....Aye  
Chair Jones .....Aye  
Mr. Quiara .....Absent  
Dr. Radosh .....Aye  
Mr. Simmons .....Absent

The following officers were elected for calendar year 2023 :

Chair: Julie Annette Jones

Vice-Chair: John Butler

Executive Committee: Pedro Cevallos-Candau and John Simmons

Secretary for the Merit Board: Teresa Rademacher

### **Public Comments**

Chair Jones stated that seven individuals had submitted requests to the University System to present public comments. All of the requests were regarding Ara Gardner, Agenda Item 10. In accordance with the Merit Board Bylaws, the Merit Board allowed up to 30 minutes in total for public comments. Each individual was allowed up to five (5) minutes.

The first person who presented comments was Jack Carter. Mr. Carter stated that in his 23 years as working as a Mental Health Counselor, there had been inadequate training for patient handoffs at the University of Illinois at Chicago (UIC) in Behavior Health. Most of the education and information he had received had been from other places he had previously worked. Providing adequate information was not a priority during patient handoffs at UIC, and information about the patient, diagnosis, and behaviors were not provided during handoffs. He also stated that many incidents could have been avoided if UIC had provided more information during the handoffs. He further said that he had observed Ara Gardner, a UIC employee, and co-worker, as a quality staff member who was excellent in her role and always offered quality patient care.

Shelonda Dilworth presented comments regarding Ara Gardner's discharge case and what had happened in the unit. She pointed out that she did not feel Ms. Gardner had a fair investigation. She stated that no one questioned her (Ms. Dilworth), even though she submitted a letter about what had happened the day and that she was on the floor the day of the incident and had witnessed everything firsthand. She also stated Ms. Gardner was not argumentative, nor did she try to assault anyone. She further said that she felt management was deceitful because they kept referencing a handoff policy that they (employees) had been trained on as nurses; handoffs were done at the beginning when someone took over shifts for lunch. As a nurse, they do not require a handoff from a Mental Health Counselor or a nurse tech because that is their patient and the nurse tech's patient. She stated as a nurse they are in charge of that patient. The Mental Health Counselor does not have autonomy and is not in charge of that patient, so a nurse's handoff is not required of a nurse to a nurse when a patient wants to speak to a nurse. The only requirement is that they notify them that the patient wants to talk to them. Being a black nurse

at UIC, she felt overlooked, and it was irrelevant as a personal friend of Ms. Gardner; Ms. Gardner was a co-worker. She spoke up because of what she saw and because it was not right. She felt like the investigation was more personal and was not professional. She stated that, honestly, this was disheartening because this is the organization she works for, and it gave her a sense that if something ever happened to her and needed the truth to come out, it would not. She stated that she saw the videos and how they had redacted and blacked out Haley to show how Haley left the patient multiple times. She stated that she had spoken to the Charge Nurse about this too. A lot of this was unfair and seemed like a witch-hunt. She said they were not trained on how to handle a handoff. Nurses are the ones that give the counselors information and provide direction for that patient during the shift. The counselor does not act independently; they have to come to the nurses if the patient wants to talk. It is the nurse's and counselor's patient, and they should be working as a team, and that did not occur the day in question regarding Ms. Gardner's discharge.

Maria Villalobos also provided comments concerning Ms. Gardner's discharge case. Ms. Villalobos retired from UIC in August of 2022. She discussed her knowledge of handoffs. The nurse that complained that Ms. Gardner did not give her a handoff was the actual nurse for that patient. She gets a full report of that patient at the beginning of the shift and at lunch break. She relays that report to the nurse tech, nurse's aide, or Mental Health Counselor. The counselor is alone with the patient and does not have access to any changes. If the patient is actively trying to hurt themselves, the person sitting with the patient would be the person to call for help and let the nurse know something is happening. If the patient wants to talk to the nurse, the nurse knows the patient, and a handoff is unnecessary. As the nurse, you complete the 15-minute checks and understand that the patient is one-to-one. The nurse has more information than the counselor. She stated she had worked with Ms. Gardner for many years, and as a nurse, she knew the patient was well taken care of, and she would get all the information needed for that shift. She further stated she had a good amount of confidence in Ms. Gardner.

Ms. Gardner presented comments. She stated that during the hearing, UIC had been through a one-party investigation stemming from an actual injury in a one-to-one patient incident. The university has been investigated several times, and at the time of her hearing, the employee involved was placed on a corrective action plan. UIC had been exposed to one-to-one violations in the past resulting in patient deaths and injuries, and staff had never been terminated related to those incidents. Ms. Gardner stated she was a union steward, was aware of the facts, and was a witness for plaintiffs in the past, and this is retaliation for the whistleblowing incident in 2016. She also stated that certain staff had been promoted if they had written things up about her. On the day in question, Ms. Gardner stated that she had reported Haley that morning and at lunch for her leaving her one-to-one patient alone and unsupervised. She further stated that she did not find out until June 23 that they had flipped the story and had said she had left the patient unsupervised. Ms. Gardner stated she never left the one-to-one patient unsupervised at any time and that she had handed the patient off to Haley both times. She said that Haley came into the room to pass out meds, and she told Haley she was going out to get something, and Haley said it was ok. Then when she came back, Haley was at the end of the hall, and the patient was alone. UIC said Ms. Gardner had violated policy, a policy that she had never seen before. She

further stated that if there was a new policy, she should have been educated on it. She stated that the unit had a new director, and she had a specific way she wanted everyone to handle handoffs. Ms. Gardner stated that she had not had a complaint with how she did handoffs in the past and that this was not the first day Haley, a certified psych nurse, had worked with her. She had done handoffs the same way every time, but she had reported Haley to the Charge Nurse twice that day. Even after one of the incidents, Shelonda informed the Charge Nurse that this would be a good time to educate Haley. Ms. Gardner said that she thinks all of this stems from speaking up for a paralyzed patient. This led to her calling a lawyer, the patient winning, and two days after that, they placed her (Ms. Gardner) on leave. She further stated that she had performed her job the same way she always had done. She further said that she had filed grievances against all three people involved in this investigation and questioned how she could conclude an investigation without interviewing all the parties involved.

Haley Morgan also presented comments about Ms. Gardner's discharge case. She stated she was a board-certified Mental Health Nurse in Illinois. Ms. Morgan said she was taking time out of her schedule to advocate for present, former, and current patients. While working at UIC Hospital, she worked with Ara Gardner and attempted to work with her in a peaceful manner to be more productive. Over time, she had witnessed multiple staff members lodge complaints in front of her and when she was the Charge Nurse. One nurse called the police on Ms. Gardner. She was sitting next to Ms. Gardner and witnessed her harassing the nurse to the point she could not focus enough to complete her job. She said she told the other nurse that she would be her witness to the police as the same thing had happened to herself. Ms. Morgan said on the day of the incident, Ms. Gardner had left her one-to-one patient alone in her room when she was under physician orders to be on strict observation 24/7 with a staff member assigned to her at all times. Ms. Gardner left her patient by walking away, and she asked Ms. Gardner to return to the patient. Ms. Gardner responded by pulling down her mask and began to berate her. Ms. Gardner insisted on remaining at the nurse's station, berating her while the patient was alone in her room. Ms. Morgan said she finally moved to get away from her, and at that point, Ms. Gardner decided to return to the patient's room. Psychiatric patients are the most stigmatized in the US and commonly receive substandard care. Mental health technicians have no licenses, credentials, or national exams. This allows for people that are untrained, unprofessional, and abusive to be allowed to work with patients at their most vulnerable times. Ms. Morgan asked the board to consider all patients' and staff's health and safety when deciding on the discharge because Ms. Gardner's actions because it made it extremely difficult to report negligence and lapse in care, and patients are the ones to suffer.

Roxanna Underwood, Attorney representing UIC, also presented comments. Ms. Underwood stated that Ms. Gardner was assigned a one-to-one patient at high risk of suicide; her only job that day was to care for her patient. This is not Ms. Gardner's first time being assigned to a one-to-one patient. There is no question in the record that Ms. Gardner was trained and knew the policy. This is the same policy in effect; she knows her responsibilities, and the record is clear. Everyone knows their job assignment and where to be at the beginning of every shift. Ms. Gardner left her assignment on two occasions that day, February 1, without securing coverage. Ms. Gardner had no regard for the patient, Ms. Haley, or the other patients in the unit. This is all

on video, the record was clear in this regard, and there was a thorough investigation. The second time Ms. Gardner left the same patient that day and walked down another hallway to attend to two patients quibbling about a lunch order. When she was notified to return to her patient, she blamed others for her negligence instead of having concerns for the patient's welfare and safety. These are not the first instances of Ms. Gardner neglecting her one-to-one assignments; there was a five-day suspension in 2015, and recommended that the Merit Board look at termination as the appropriate action in this situation.

Doreen Norris-Stojak presented comments. Ms. Stojak stated she was an employee at UIC Hospital and Clinic as an Associate Chief Nursing Officer and had worked in four different healthcare facilities over the last 39 years. In February 2022, her responsibilities included oversight of the UIC inpatient psychiatric department, where Ms. Gardner worked as a Mental Health Counselor. On February 1, 2022, Ms. Gardner's only responsibility assignment for that day was to keep a visual line of sight and remain at the patient's side who a physician deemed to be at high risk for suicide. Ms. Gardner was aware of the area where she left the patient, her ligature risk, where the patient could have harmed herself. What is particularly troubling about this case is Ms. Gardner's refusal to take responsibility for her actions and the ease with which she fabricates untrue or believable events. Ms. Gardner knew her expectations and did not complete a handoff of her patient before leaving them. She had been assigned to monitor suicidal patients in the past and was disciplined for leaving a suicidal patient in the past. Not only did Ms. Gardner seriously jeopardize the health and safety of her patient, but she also jeopardized the entire department. After a patient attempted suicide in a psychiatric department at another facility, the department was forced to shut down and transfer patients to the hospital. An attempted suicide by an unattended patient that was known to be at suicide risk could have forced this department to close. This is a very busy department, caring for 30 to 35 patients per day and the only facility in the state of Illinois to care for pregnant patients. If this unit had been shut down, these pregnant patients would have nowhere else to go in the state of Illinois to treat psychiatric patients and treatment would have been severely hampered. In her professional opinion, Ms. Gardner's conduct warrants discharge. Failing to uphold the nursing leadership decision concerning this individual would send a troubling message to the staff that we are powerless to remedy this type of behavior and that Ms. Gardner was a danger to the patients.

Chair Jones thanked everyone who had presented public comments and for taking the time to speak with the Merit Board. Additionally, she stated that as Merit Board members, they had rules to follow and were limited to what information they could use when making decisions. The information in Ms. Gardner's discharge record must be used, and public comments could not be used in making the decision.

### **Report of the Human Resource Directors Advisory Committee – Joshua Allen, DER for Governors State University**

Joshua Allen, Vice President of Human Resources, Governors State University (GSU), presented comments for the Human Resource Directors Advisory Committee (HRDAC). HRDAC had met and collaborated with the University System for the purpose of testing and examination. The

committee continues working together to ensure universities recruit and retain the best employees. That being said, he stated more work needed to be done. Such as impactful changes that could be made to help combat the great resignation trend. Historically the universities have competed with other higher education institutions and a local, regional labor market, but this has changed due to COVID. With remote options, universities now compete in a national market in both the private and public sectors. HRDAC is hopeful they can continue to review the Statute and rules. GSU, only 25 minutes from the Indiana border, receives continuous calls from candidates looking for employment without having to move and uproot their families. Student success is the mission; being unable to hire the best candidate due to a 25-minute geographical issue concerns him from an HR perspective. The HRDAC is also focused on providing a more robust and transparent candidate pool to hiring managers. We review grant-funded positions and analyze temporary appointments that best serve our departments and the university. The University System, HRDAC, and EAC will meet next month to discuss ways to work together.

### **Report of the State Universities Civil Service Employees Advisory Committee – Jill Odom, Chair**

Jill Odom stated that the State Universities Civil Service Employees Advisory Committee (EAC) met on January 19 and 20, 2023, and installed three new members, with an additional member to be installed in April. EAC currently has one vacancy from the State Universities Retirement System. EAC decided it was beneficial for their Executive Committee to meet with members of HRDAC to collaborate on important matters relating to civil service employees and the universities. The committee is looking forward to renewing its working relationship with HRDAC. She also stated that it has often been said that the Civil Service Act created in 1952 is old and outdated; it is important to remember the University System is the best place to develop and maintain an efficient program that ensures equity across the state for all employees. EAC is committed to assisting the University System and, thus, the Merit Board in updating the Statute and rules, along with the procedures, so long as the rights of the civil service employees remain the driving force. Ms. Odom asked the Merit Board to consider all sides of the request as changes are brought to them in the upcoming years; consider how the impact affects the universities human resource offices and how it will affect the universities as a whole. The committee continues to consider and promote employees dedicated to the universities.

### **Consideration of Discharge Proceedings Number UIC-22-20 filed against Ara Gardner by the University of Illinois at Chicago**

Executive Director Schiesser stated that the University of Illinois at Chicago (UIC) had filed Written Charges for Discharge against Ara Gardner on August 2, 2022, a Behavioral Interventionist since April 15, 2003. The name of Ms. Gardner's classification changed on June 1, 2022. This was a change in the University System's Classification Plan, not Ms. Gardner's employment. Ms. Gardner made a timely request for a discharge hearing.

Executive Director Schiesser gave an overview of the Hearing Record:



UIC filed seven charges against Ms. Gardner:

- 1) inappropriate and/or unacceptable communication;
- 2) untruthfulness;
- 3) leaving [a] One-to-One Patient without appropriately handing off said patient;
- 4) documenting inaccurate information concerning one-to-one patient;
- 5) unsatisfactory work performance;
- 6) conduct violative of or inconsistent with UI Health Policy No. CLPSY-11; and
- 7) failure to perform job responsibilities concerning one-to-one coverage and/or monitoring.

There had been two incidents of prior discipline for Ms. Gardner:

March 16, 2012, Written Reprimand for

- poor customer service;
- inappropriate communication with patient/family member; and
- inappropriate communication with co-workers.
- *(See Attachment to Written Charges for Discharge, 7/22/20 Intent to Discharge Letter (amended 7/25/22) from UIC to Ara Gardner, p. 6)*

April 8, 2015, 5-Day Disciplinary Suspension for:

- poor work performance;
- poor professional judgment;
- misuse of university equipment;
- inappropriate communication; and
- use of personal electronics while on duty.

The Hearing Record showed the following:

On February 1, 2022, Ms. Gardner was assigned to work one-to-one with a patient who had exhibited suicidal ideation. At approximately 8:00 a.m. on February 1, Ms. Gardner was with a one-to-one patient (the patient) in the patient's hospital room. Ms. Morgan entered the patient's room, and Ms. Gardner exited the room, leaving Ms. Morgan alone with the patient. At approximately noon on February 1, Ms. Gardner and the patient approached the counter at the nurse's station so that the patient could speak to Ms. Morgan. After a brief conversation with the patient, Ms. Morgan returned her attention to some documentation. Ms. Gardner was observed down the north hallway. The patient was observed alone in her room down the east hallway.

UIC alleges that Ms. Gardner violated a specific UI Health Inpatient Adult Psychiatry Management Policy and Procedure in both incidents. This specific UI Health Inpatient Adult Psychiatry Management Policy and Procedure stated that a patient considered at high risk should at all times be kept in direct visual line of sight at all times and in close physical proximity to their patient care companion so that the patient care companion could immediately intervene if the patient exhibits self-harmful or suicidal behavior.

Ms. Gardner stated that past practice allowed her to leave and get supplies when Ms. Morgan entered the room to see her patient. Ms. Gardner also testified she brought her one-to-one patient to the counter at the nurse's station for the patient to speak with Ms. Morgan. Ms. Gardner testified Ms. Morgan asked for a minute. After hearing Ms. Morgan say, "Ok," her patient walked over and left the immediate area where Ms. Morgan and the patient were talking.

The Hearing Officer made the following findings regarding the charges alleged by the UIC:

- UIC met its burden of proof on Charge #1, inappropriate and/or unacceptable communication;
- UIC failed to meet its burden of proof on Charge #2, untruthfulness;
- UIC met its burden of proof on Charge #3, leaving one-to-one patient without appropriately handing off said patient;
- UIC failed to meet its burden of proof on Charge #4, documenting inaccurate information concerning one-to-one patient;
- UIC failed to meet its burden of proof on Charge #5, unsatisfactory work performance;
- UIC met its burden of proof on Charge #6, conduct violative of or inconsistent with UI Health Policy No. CLPSY-11; and
- UIC met its burden of proof on Charge #7, failure to perform job responsibilities concerning one-to-one coverage and/or monitoring.

Mr. Harsh, Legal Counsel for the University System, stated that the employer had objected to some of the Findings of Fact, and UIC moved to strike the Employer's objections. Dr. Radosh motioned to overrule the Employer's objection to the Findings of Fact. Ms. Baurer seconded Dr. Radosh's motion. In accordance with the Merit Board Bylaws, a roll call vote was taken, and the motion failed with the following vote:

Dr. Radosh.....	No
Mr. Simmons.....	Absent
Ms. Baurer .....	Aye
Dr. Butler .....	Abstain
Dr. Cevallos-Candau.....	No
Chair Jones .....	Aye
Mr. Quiara.....	Absent

Chair Jones stated the Merit Board received the objections but did not receive any legal support or arguments to support the objection. As a member of the Merit Board, the board is not having a hearing, and the board does not have any information to decide on these objections. The Merit Board has a limited scope, and without this information, there is not much the Merit Board can do with these objections. Mr. Harsh confirmed since a legal argument was not provided; generally, this would be dismissed.

Dr. Radosh made a motion to overrule the Employer's objection to the Findings of Fact. Ms. Baurer seconded Dr. Radosh's motion. In accordance with the Merit Board Bylaws, a roll call vote was taken, and the motion was approved with the following vote:

Dr. Radosh.....	Aye
Mr. Simmons.....	Absent
Ms. Baurer.....	Aye
Dr. Butler.....	Aye
Dr. Cevallos-Candau.....	Aye
Chair Jones.....	Aye
Mr. Quiara.....	Absent

Chair Jones stated that the Employer's objection to the Finding of Fact was overruled by the employer's motion to strike the Employer's objection is moot, and the Merit Board does not need to address the motion.

Chair Jones discussed the actions of what the Merit Board needed to take: reinstate, reinstate with a suspension or discharge. Chair Jones suggested that the Merit Board go into closed session based on 5 ILCS 120/2(c)(4), evidence or testimony presented in open hearing, or in closed hearing where specifically authorized by law to a quasi-adjudicative body, as defined in this Act, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasons.

Dr. Radosh motioned that the Merit Board go into closed session to discuss the above discharge case. Dr. Butler seconded Dr. Radosh's motion. In accordance with the Merit Board Bylaws, a roll call vote was taken, and the motion carried.

Dr. Radosh.....	Aye
Mr. Simmons.....	Absent
Ms. Baurer.....	Aye
Dr. Butler.....	Aye
Dr. Cevallos-Candau.....	Aye
Chair Jones.....	Aye
Mr. Quiara.....	Absent

The Merit Board went into closed session at 2:19 p.m.

The Merit Board returned to open session at 3:07 p.m. Chair Jones stated that the Merit Board is being asked to adopt a decision and order in this case.

Dr. Cevallos-Candau made a motion to reinstate Ms. Gardner with a 15-day suspension. Dr. Radosh seconded Dr. Cevallos-Candau's motion. In accordance with the Merit Board Bylaws, a roll call vote was taken, and the motion was approved with the following vote:

Dr. Cevallos-Candau .....Aye  
Chair Jones .....Aye  
Mr. Quiara .....Absent  
Dr. Radosh .....Aye  
Mr. Simmons .....Absent  
Ms. Baurer .....Aye  
Dr. Butler .....Aye

Therefore, the following Decision and Order of the University Civil Service Merit Board was adopted.

**STATE OF ILLINOIS  
STATE UNIVERSITIES CIVIL SERVICE SYSTEM**

<b>ARA GARDNER,</b>	)	<b>BEFORE THE UNIVERSITY CIVIL</b>
	)	<b>SERVICE MERIT BOARD</b>
<b>Employee,</b>	)	
	)	<b>DISCHARGE PROCEEDING</b>
<b>v.</b>	)	
	)	<b>No. UIC-22-20</b>
<b>UNIVERSITY OF ILLINOIS AT CHICAGO,</b>	)	
	)	
<b>Employer.</b>	)	

***DECISION AND ORDER OF THE  
UNIVERSITY CIVIL SERVICE MERIT BOARD***

**PROCEDURAL HISTORY**

Discharge proceedings have been commenced by the **UNIVERSITY OF ILLINOIS AT CHICAGO**, employer, against **ARA GARDNER**, employee, by service of Written Charges for Discharge by UPS overnight mail on August 2, 2022, and the Employee, **ARA GARDNER**, has filed a timely written request for Hearing. A Hearing was duly convened and held on October 26, 2022, and reconvened and concluded on November 16, 2022, in conformity with the procedures set forth in Section 250.110(f) of the Illinois Administrative Code (Code) (80 Ill. Adm. Code §250.110(f)). The complete Hearing Record has been certified and placed on file in this cause.

## **FINDINGS**

The University Civil Service Merit Board has examined and reviewed the Hearing Record, as supplemented, which includes the following:

1. Written Charges for Discharge, dated August 2, 2022
2. Suspension Notice Pending Discharge, dated August 2, 2022
3. Employee's Request for Hearing, received on August 10, 2022
4. Acknowledgment of Hearing Request, dated August 11, 2022
5. Notice of Convening of Hearing to the parties of record, dated August 19, 2022
6. Notice of Convening of Hearing to Hearing Officer, dated August 19, 2022
7. Notice of Representation for Employer, received August 19, 2022
8. Notice of Appearance for Employer and Request for Subpoenas, received September 2, 2022
9. Order Regarding Procedures for Remote Hearing, dated September 6, 2022
10. Subpoena, Ara Gardner, dated September 6, 2022
11. Subpoena, Haley Morgan, dated September 6, 2022
12. Subpoena, Maria Villalobos, dated September 6, 2022
13. Employee's request for Continuance, dated September 7, 2022
14. Communication with Hearing Officer to Vacate Hearing Date, dated September 8, 2022
15. Amended Notice of Convening of Hearing to Hearing Officer, dated September 20, 2022
16. Amended Notice of Convening of Hearing to the parties of record, dated September 20, 2022
17. Employee's request for Documents, received September 20, 2022
18. Employer's request for information, received September 20, 2022
19. Employee's request for Subpoenas, dated September 21, 2022
20. Subpoena, Anne Marie Chambers, dated September 21, 2022
21. Subpoena, Shelonda Dilworth, dated September 21, 2022
22. Employer's request for Subpoenas, dated September 22, 2022
23. Subpoena, Maria Villalobos, dated September 23, 2022
24. Subpoena, Ailene Quevedo, dated September 23, 2022
25. Subpoena, Haley Morgan, dated September 23, 2022
26. Employee's Witness List and Exhibits received September 27, 2022
27. Employer's Witness List and Exhibits received September 27, 2022
28. Employer's request for Continuance, dated October 3, 2022
29. Continuance Granted, dated October 3, 2022
30. Amended Notice of Convening of Hearing to the parties of record, dated October 4, 2022
31. Amended Notice of Convening of Hearing to Hearing Officer, dated October 4, 2022
32. Employee's request for Subpoenas, dated October 7, 2022
33. Employer's request for Subpoenas, dated October 7, 2022
34. Subpoena, Haley Morgan, dated October 7, 2022
35. Subpoena, Maria Villalobos, dated October 10, 2022

36. Subpoena, Ailene Quevedo, dated October 7, 2022
37. Subpoena, Anne Marie Chambers, dated October 7, 2022
38. Subpoena, Shelonda Dilworth, dated October 10, 2022
39. Notice of Reconvening of Hearing to the parties of record, dated October 31, 2022
40. Notice of Reconvening of Hearing to Hearing Officer, dated October 31, 2022
41. Transcript of Hearing, October 26, 2022, and November 16, 2022
42. Exhibits admitted into Record at Hearing, October 26, 2022, and November 16, 2022
43. Request for Findings of Fact from Hearing Officer, dated December 8, 2022
44. Findings of Fact rendered by Hearing Officer, dated December 28, 2022
45. Employee-Petitioner's Objections to the Hearing Officer's Findings of Fact, filed by Jonathan Goldman, Attorney for Employee, on January 26, 2023
46. Receipt and Notice of Filing of Employee-Petitioner's Objections to the Hearing Officer's Findings of Fact, dated January 26, 2023
47. Motion to Strike Objections to Hearing Officer's Findings of Act, untimely filed by Roxana M. Underwood, Attorney for Employer, on February 15, 2023
48. Letter to Roxana Underwood in regards to untimely Motion to Strike Objections to Hearing Officer's Findings of Act, dated February 16, 2023
49. Letter from Roxana Underwood in regards to February 16, 2023 letter, dated February 17, 2023

Now being fully advised of the matters contained in the Hearing Record, as supplemented, and based solely on the matters contained in the Hearing Record, as supplemented, the University Civil Service Merit Board makes the following jurisdictional and factual findings and issues the following Decision and Order:

1. That this discharge proceeding has been commenced and conducted in compliance with Section 250.110(f) of the Code and all applicable State and Federal Laws and that the University Civil Service Merit Board has jurisdiction of the parties and subject matter thereof.
2. That the Hearing Record, as supplemented, does not support and sustain one or more of the charges of the employer, **UNIVERSITY OF ILLINOIS AT CHICAGO**, against the employee, **ARA GARDNER** and/or the charges as proven by said employer fail to

establish just cause for discharge; however, the record provides a sufficient basis for discipline other than discharge.

**DECISION AND ORDER**

**WHEREFORE, IT IS HEREBY ORDERED:**

1. The Findings of Fact of the Hearing Officer, attached hereto, are approved and certified to the employer, **UNIVERSITY OF ILLINOIS AT CHICAGO**, to the extent not inconsistent with the findings made herein.
2. The University Civil Service Merit Board discussed the testimonies, evidence, exhibits admitted into the record, the Findings of Fact, and other Information in the official hearing record.
3. The employee, **ARA GARDNER**, shall be reassigned to perform the duties in a position in her classification following the completion of a 15 day suspension without pay. Any time served while on a Suspension Notice Pending Discharge shall be applied towards the fulfillment of this suspension.
4. This Order is FINAL and is subject to the Administrative Review Law. Section 250 of Title 80 of the Illinois Administrative Code does not authorize the Merit Board to hear any motion or request for reconsideration.
5. The name of the Hearing Officer and each of the parties is as follows:

**Hearing Officer**

Mr. Michael J. Dudek  
Attorney at Law

**Parties of Record**

Ms. Roxana M. Underwood  
Attorney at Law

Mr. Jonathan C. Goldman, Esq.  
Attorney at Law

**DATED AND ENTERED** this 16<sup>th</sup> day of March, 2023.

UNIVERSITY CIVIL SERVICE MERIT BOARD

By: /s/ Julie Jones  
Julie Jones, Chair  
University Civil Service Merit Board

ATTEST:

/s/ Teresa Rademacher  
Teresa Rademacher  
Secretary for the Merit Board

**Update and action on proposed rulemaking to Sections 250.5, 250.20, and 250.100 of the Illinois Administrative Code (80 Ill. Adm. Code §250.5, §250.20, and §250.100) regarding definitions, Designated Employer Representative (DER) changes/forms, and creation of a Transfer List for employers to use in the appointment of law enforcement**

Executive Director Schiesser stated that sections 250.5, 250.20, and 250.100 of the Illinois Administrative Code (80 Ill. Adm. Code §250.5, §250.20, and §250.100) had been published in the Illinois Register on January 6, 2023. The First Notice Period ended on February 20, 2023, and the Merit Board was asked to submit the proposed revision for the Second Notice Period.

Executive Director Schiesser also mentioned that the Emergency Rule currently in effect for section 250.100 (80 Ill. Adm. Code §250.100) would expire on April 29, 2023, regarding the appointment of law enforcement and that there could be a lapse between the time the emergency rule expires and when the rule is adopted.

Ms. Baurer made a motion to approve the submitted proposed revisions to JCAR for the Second Notice Period. Dr. Butler seconded Ms. Baurer's motion. In accordance with the Merit Board Bylaws, a roll call vote was taken, and the motion was approved with the following vote:

Ms. Baurer .....Aye  
Dr. Butler .....Aye  
Dr. Cevallos-Candau .....Aye  
Chair Jones .....Aye  
Mr. Quiara .....Absent  
Dr. Radosh .....Aye  
Mr. Simmons .....Absent

**Consideration of proposed rulemaking to Sections 5350.20, 5350.30, 5350.100, 5350.210, and 5350 Appendix A of the Code (2 Ill. Adm. Code §5350) regarding rulemaking**



Executive Director Schiesser stated that several technical changes are proposed in this rulemaking. This proposal also removes the Administrative Advisory Committee from the administrative rules since this committee was dissolved by the Merit Board late last year. The last change is in the organizational chart; we have separated legal and compliance into separate divisions. Executive Director Schiesser stated that the University System sought permission to move this proposed rulemaking to the First Notice Period.

Mr. Butler motioned to approve the rulemaking for the First Notice Period. Dr. Radosh seconded Mr. Butlers' motion. In accordance with the Merit Board Bylaws, a roll call vote was taken, and the motion was approved with the following vote:

Dr. Butler .....	Aye
Dr. Cevallos-Candau .....	Aye
Chair Jones .....	Aye
Mr. Quiara .....	Absent
Dr. Radosh .....	Aye
Mr. Simmons .....	Absent
Ms. Baurer .....	Aye

### **Governance, Risk, and Compliance Audit Program review of recent activities**

Ms. Neitzel commented that the University System remains regularly engaged with Chicago State University (CSU) due to the audit conducted in 2020. The University System has been involved on a weekly basis at a minimum with CSU.

She also updated the Merit Board regarding the status of the other audits: State Universities Retirement System audit was finalized on January 5, 2023; follow-up activities related to the CSU FY22 audit; final stages for Illinois State University and Governor State University; and will finalize the SIU School of Medicine report within the next week or two.

She also informed the Merit Board of the upcoming audits: Eastern Illinois University, University of Illinois at Urbana-Champaign, and three agency audits will also be scheduled by the end of the fiscal year (June 2023).

### **Report of the Executive Director – Gail Schiesser**

Executive Director Schiesser responded to comments from the two previous Merit Board meetings in which Jami Painter from the University of Illinois and Melissa Mlynski from the University of Illinois Springfield spoke about the matter of a pilot program. Both stated that she simply said no to the proposal. Executive Director Schiesser understood that perceptions of events differ from person to person. However, suggesting to the Merit Board that she dismissed a proposal out of hand without appropriate consideration was untrue. The University System staff, Ms. Painter and Ms. Mlynski, met at least twice and have had several long and extensive emails regarding what the University System needs for a Pilot Program to contain before it can take action. A Pilot Program needs to state clear goals, what NEEDS to be changed in the

administrative rules, and identify evidence that we all need to see in order to determine if the program was successful. After the last meeting concerning the pilot program proposal, the universities submitted no new materials, and our agency is still not in a position to proceed. She stated that the office would continue to work with the universities to establish a workable proposal. A workable proposal means a program designed to determine if an identified change in our administrative rules will result in the outcome sought. She further stated that she wants to assure members of the Merit Board that we are not here to hinder progress as long as that progress supports the tenets of the University System and establishes safeguards for civil service employment based on merit and fitness.

Executive Director Schiesser also stated that the University System has underspent to date for the budget update due to the delay in hiring a new Legal Counsel. The agency is pursuing some agency enhancements; some funds are unspent at the end of the year. Regarding the FY 24 budget request of \$1,241,800, the agency testified before the House Appropriation Committee and will testify with the Senate Appropriation Committee next week. She also stated that she hopes to hire an additional staff member and provide a minimum cost of living salary adjustment.

Executive Director Schiesser also updated the Merit Board regarding the Classification Plan update. Since last April, the agency has sought to shift all classifications, not already as credential assessments, to credential assessments, except for police classifications. She reported that the agency has nearly completed this shift. The agency is also working on organizing approximately 40 IT classifications into fewer, more usable classifications and trimmed the classification plan down to 919. Finally, the University System is developing a nested and interlocking review and revision cycle for our classification plan that allows them to maintain, improve and update our classification plan in an ongoing orderly, and systematic way.

### **Report of the Legal Counsel – Don Harsh**

Don Harsh, Legal Counsel, stated that there are currently several matters in various courts around the state:

#### **In Madison County, the State of Illinois vs. Chad Bateman**

In June 2019, the Executive Director signed a criminal complaint alleging that an applicant at SIUE attempted to cheat on an Electrician exam. The University System asked the Madison County State's Attorney to prosecute that matter. It has remained in criminal misdemeanor court and continued every 60-90 days. The case has been pushed back to May 9, 2023.

#### **Vincent Bradford**

On December 10, 2020, the Merit Board dismissed Mr. Bradford from the University of Illinois at Chicago. Mr. Bradford filed a complaint for Administrative Review. UIC filed a Motion to Dismiss; the motion is a continuance state as Mr. Bradford is currently incarcerated. The Attorney General represents us. We are waiting for the University of Illinois to be served, then a briefing schedule will be set.

### **Christopher Bean**

In February 2021, Christopher Bean, a former University of Illinois at Chicago employee, filed a charge against the Labor Organization against the University System. The Executive Director of the IELRB recommended in December 2021 that the charges be dismissed on February 4, 2022. Mr. Bean filed timely exceptions to the Order. On April 22, 2022, the IELRB found nothing in Mr. Bean's exceptions warranted overturning the Executive Director's recommendations and affirmed the dismissal. On May 27, 2022, Mr. Bean filed an appeal with the Appellate Court of the State of Illinois, asking to be made whole with numerous complaints against the System Office, UIC Hospital, IELRB, and Service Employees International Union. We have asked the Attorney General's Office to represent us, and they have agreed. The court is waiting on Mr. Bean to submit his brief based on the merits.

Chair Jones asked if any of the Merit Board members had questions, and Mr. Cevallos-Candau asked for clarification as to which university this matter was with. Executive Director Schiesser stated this was with the University System. Dr. Butler wondered if there were any issues with universities not complying with Merit Board orders. Executive Director Schiesser said currently, there are no issues with university compliance.

### **Other Items as presented**

The next board meeting is scheduled for June 8, 2023. Executive Director Schiesser suggested moving the scheduled meeting back on the calendar as no discharge hearings will be heard at the June meeting. In addition, the FY 25 budget material would not be ready for board approval at the June meeting. The University System suggests moving the June 8 meeting to August 3. No members indicated they were unavailable. They are also pushing the October 19 meeting back to November 9. These are tentative dates pending a doodle poll on new members' availability will be sent later.

Ms. Baurer made a motion to adjourn the meeting. Dr. Radosh seconded Ms. Baurer's motion. In accordance with the Merit Board Bylaws, a voice vote was taken, and the motion carried.

Ms. Baurer.....	Aye
Dr. Butler.....	Aye
Dr. Cevallos-Candau.....	Aye
Chair Jones.....	Aye
Mr. Quiara.....	Absent
Dr. Radosh.....	Aye
Mr. Simmons.....	Absent

The meeting adjourned at 3:34 p.m.

Respectfully submitted,

*/s/ Teresa Rademacher*

Teresa Rademacher  
Secretary for the Merit Board

APPROVED:

*/s/ Julie Jones*

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Julie Jones, Chair  
University Civil Service Merit Board

August 24, 2023

Date