

**MINUTES  
FOR THE REGULAR MEETING  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD  
Docket No. 5611**

**Open Session**

The Appeals Board convened at 10:30 a.m., October 25, 2016, in Sacramento with Chair Robert Dresser presiding.

<b>1. Roll Call: <u>Members</u></b>	<b><u>Present</u></b>	<b><u>Absent</u></b>
Robert Dresser, Chair	x	
Michael Allen, Vice Chair	x	
Ellen Corbett	x	

**2. Approval of the Minutes:**

The minutes of September 13, 2016 Board meeting were approved unanimously.

**3. Chair's Report:**

Chair Dresser reported that he visited the Appellate Operations office and will visit the Sacramento Office of Appeals and the Fresno Office of Appeals in the near future.

Chair Dresser reported that the California Supreme Court granted CUIAB's Petition for Review in *Untied Educators of San Francisco AFT/CIO, NEA/CTA v. California Unemployment Insurance Appeals Board (San Francisco Unified School District)*.

Chair Dresser reported training in the Field Offices has been well received. He also noted that training is being developed for the support staff and thinks it will be available in December. He thanked Randy Petersen for his efforts.

Chair Dresser commented that both the PJs and ALJs received a pay raise and was pleased that compaction issues were avoided.

Chair Dresser reported timeliness statistics in September were just okay, but October may not be so good. He estimated that CUIAB has about 4,000 more cases in the current fiscal year than had been previously anticipated.

**4. Board Member Reports:**

Vice Chair Allen commented that he was pleased to hear about the pay raises for the PJs and ALJs, and that compaction issues were resolved.

Vice Chair Allen expressed his appreciation to staff and especially to his Board Member colleagues for taking on an additional caseload while he was on vacation.

Member Corbett expressed her appreciation that Vice Chair Allen was back from vacation and to Chair Dresser for his dedication. She especially wanted to thank ALJ Marti Geiger for always being available when she has the tough questions.

Member Corbett commented that there are occasions when members differ on their analysis which is normal but there are a few issues that she would like to take a look at to make sure training is available.

**5. Public Comment:**

No public comment.

**6. Chief ALJ/Executive Director Report:**

Lori Kurosaka gave the report on behalf of Chief ALJ/Executive Director Gonzales.

Ms. Kurosaka reported that the Field Operations has an open case balance of 18,640 UI appeals. The total number of open appeals for all programs is 29,679. UI extension cases now make up about 5% of the completed cases during the current fiscal year. That's down quite a bit from the peak of the recession. For the month of September, Field Operations met one of the three federal performance standards. That was the case aging standard. In response to this development, and in preparation for increased absences during the holiday season, last week Chief ALJ/Executive Director Gonzales notified the Presiding Judges and ALJs that there will be a two case per week increase in hearing assignments beginning November 14.

Ms. Kurosaka reported that starting last April increased resources were dedicated to reduce the number of open tax cases. Through September 2016, 2,386 tax audit and tax ruling petitions were heard by ALJs, and that has reduced the open balance on these cases by about 9%.

Chair Dresser remarked that the 9% reduction in tax cases was an impressive achievement.

**7. Chief ALJ of Appellate Operations, Elise Rose Report:**

Chief AO ALJ Rose reported that Appellate Operations is in compliance with all the DOL timeliness requirements and guidelines.

Chief ALJ Rose thanked two retired annuitants, Jorge Carrillo and Kevin Toole, for their recent help. She further noted that case aging standard was at 34 at the end of September and is now down to 32.7. Further, the 45-day time lapse standard has now increased to 74%.

Chief AO Rose reported that they have a couple of precedent decisions that are in the works.

Vice Chair Allen commented that he thinks it would be beneficial if a written report were made periodically to the Legislature and Governor's Office to advise them on new precedents adopted by the Board, or to bring attention to some pending issues that may need a legislative fix.

Chief AO Rose responded positively and asked if he was referring to the precedents for this year or going back a few years.

Vice Chair Allen replied possibly the last two years.

Chief AO Rose responded she would follow-up on Vice Chair Allen's suggestion.

Member Corbett added her support to Member Allen's suggestion.

Vice Chair Allen added that he is not talking about advocacy, but simply providing information that the Legislature and Governor's Office may want to know.

Chair Dresser stated it might be good to also report on the number of precedent decisions that have been issued over the years.

Member Corbett stated that if the Chair wanted to put together a sub-committee to come up with a list of issues that are recurring and complex, she would be glad to sit on it.

Chair Dresser asked Member Corbett if she would chair that committee.

Member Corbett stated she would be glad to. Both Chair Dresser and Vice Chair Allen commented that they would be glad to assist.

**8. Chief Information Officer, Nick Dressler Report:**

CIO Dressler reported that over the next several weeks the Southern California IT staff will be assisting with the remodel of the Orange County Office of Appeals.

CIO Dressler reported a contract was signed with Planet Technologies to help with CUIAB's email migration. He expects the migration to be seamless and that users should not even notice.

CIO Dressler reported that EDD has received the request for offer to send out for replacement of CUIAB's digital recording equipment.

Lastly, CIO Dressler reported that IT has been working individually with each office to help them reprogram the Automatic Calendaring System.

Member Corbett asked about security measures to protect CUIAB's IT assets and smart phones.

CIO Dressler responded that everything that is housed within CUIAB is on a private network. The only access to the outside world is through the internet. IT is very proactive about keeping CUIAB's internet virus detection defenses up to date.

Member Corbett asked if there was any concern about hacking through the small appliances that people might bring in to use. CIO Dressler responded that they are not connected to the network.

Vice Chair Allen asked if, regarding the recording devices, there would be any user involvement during the selection process.

CIO Dressler responded that there is a selection committee that has already been formed. It includes AO, Field Operations, and support staff.

**9. Chief Administrative Services, Robert Silva Report:**

Chief Silva reported that the upcoming month of November is going to be the Annual Bilingual audit month.

Chief Silva reported that they have been working on a lease renewal for several months for the San Diego Office of Appeals. It is almost finalize. A 16% annual savings is anticipated once the lease has been renewed. The savings are accomplished through a combination of space reduction and a renegotiation of the square footage charge.

Chief Silva reported that Lancaster hearing outstation lease renewal negotiations have progressed. It now appears as though CUIAB is going to stay in the existing facility.

Chair Dresser thanked the group of managers for bearing with him for weekly senior staff meetings. Additionally, he wanted to particularly thank Lori Kurosaka and Janet Maglinte for their work with the Department of Finance.

**Action Item:**

**10. Board to Consider Case No. AO-388135, Riva Partners, (Johnson), for designation as a precedent and possible vote.**

Chief AO Rose identified the decision before the Board as one that interprets UI Code § 1032.5 and the implementing regulations. These provisions and the proposed precedent decision address the question of what constitutes less than full time employment. The decision before the Board has already been unanimously approved. The only remaining issue is whether the decision should be designated as a precedent.

Chief AO Rose continued that the Board needs to decide whether the decision meets the criteria for being designated as a precedent. She indicated that the recommendation of the Precedent Decision Committee and the Chief of AO is for the Board to designate the decision as a precedent.

Vice Chair Allen commented that the decision is very good work and accomplishes the goal of providing guidance on an important issue.

Chief AO Rose added that the parties were invited to submit written argument or oral comments. No response was received.

Chair Dresser asked if there was a motion. Member Corbett moved to designate the decision as precedent. Vice Chair Allen second. Each Board member voted. The motion passed unanimously.

**Board to consider adoption and amendment of various Appeals Board Policies.**

Chief Counsel Howard Schwartz commented that this item is converted from an action item into information item. He stated what he wanted to give the Board

some background and to bring the policies back at another date for final approval. He stated that the CUIAB Security Committee in conjunction with Carl Vega and himself have been developing and reviewing these policies and they now have drafts to share with the Board.

Chief Counsel Schwartz explained the Weapons and Board Policy is already established and that the only revisions are to update statutory references and clarify the role of Peace Officers who are on our premises.

Chief Counsel Schwartz stated that they have been working on a new and revised policy on Security and Workplace Violence.

Chief Counsel Schwartz commented that drafts of these policies have been circulated to a number of stakeholders including the Security Committee, PJs, LSS IIs, senior staff.

Drafts were also provided to CASE and SEIU. CUIAB recently received letters from both of those unions. CASE provided some specific suggestions. SEIU requested that adoption of the policies be delayed until its negotiations with the State over a successor MOU are complete. CUIAB plans to meet with the unions in the near future and will bring the policies back to the Board for final adoption thereafter.

Member Corbett supports and appreciates Chief Counsel Schwartz's recommendation that they have an opportunity to work with the unions in order to address some very valid concerns that have been raised. She further asked whether CUIAB keeps statistics on the numbers of safety issues at the various hearing locations.

Chief Counsel Schwartz stated that CUIAB does. Special Investigator Carl Vega added that CUIAB has an Incident Reporting program that produces a monthly and yearly incident report.

Member Corbett commented that she appreciates the fact that they do track safety incidents. She asked if CUIAB has had some serious threat cases.

Mr. Vega responded that CUIAB has had a few.

Vice Chair Allen stated that he supports the recommendation to defer action until further discussion can be held with CASE and SEIU.

Chair Dresser thanked Mr. Vega, a former Highway Patrolman, for taking the lead in developing and revising the policies. Chair Dresser stated that the Board will defer action until further notice.

**Closed Session:**

The Board adjourned open session at 11:15 a.m. The Board commenced a closed session at 11:20 a.m. Closed session was adjourned at approximately 11:53 a.m.

The Board reconvened in open session at approximately 11:54 a.m. The Board had nothing further to report and recessed at 11:55 a.m.