

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5629**

Open Session

The Appeals Board convened at 1:00 p.m., April 18, 2018, in Sacramento with Chair Marty Block presiding.

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

2. Approval of the Minutes:

The March 22, 2018 Meeting Minutes were approved unanimously.

3. Chair's Report:

Chair Block reported he had attended a Labor and Workforce Development Agency (LWDA) meeting earlier in the day. He was pleased to report to them on two important items: First, that the California Unemployment Insurance Appeals Board (CUIAB) was on target for all of the March federal deadlines, and secondly, that CUIAB was on target to meet June 2018 goals defined in the Tax Budget Change Proposal (BCP). He also stated we will have June 2019 goals, next year, for the Tax BCP. He was hopeful CUIAB would meet them as well next year. Chair Block stated the LWDA appreciated CUIAB had met its targets.

4. Board Member Reports:

Vice Chair Allen thanked Assistant Executive Director, Lori Kurosaka for helping put together the summer edition of the CUIAB Newsletter. He also thanked Acting PALJ Bach, for her continued work on the precedent decision process and the Precedent committee.

Member Corbett commented on a few items. First, she thanked Vice Chair Allen and Acting PALJ Bach, for their work on the Precedent committee. Second, Member Corbett commented that in light of national trends she wondered if CUIAB should compile a list of the sexual harassment precedents for review. She stated she wanted to make sure the agency was current in regards to this issue. Chair Block commented that Judge Bach is doing a great job as Acting PALJ of AO. He also stated the agency plans to hire a permanent PALJ of AO within two months. Chair Block suggested we wait for the new Presiding Judge of AO before a full review of the harassment cases was taken on. Member Corbett agreed. Vice Chair Allen commented on the permanent position for PALJ of AO saying the new presiding judge will find the agency in very good order. He stated Judge Bach was working on a memo describing issues the Precedent committee is currently working on, as well as a list of issues to consider going forward.

Member Dresser made four suggestions he thought the Board might want to consider. He suggested changing the time limit to request reopening of an appeal from 20 to 30 days to be consistent with statutory time limit to file appeals. He thinks Hugh Harrison has weighed in on this. Secondly, he suggested working with EDD on California Training Benefits to highlight the need to apply within 16 weeks of receiving benefits. Thirdly, in Section 1329.1 cases, he has seen that often EDD does not fully advise claimants as to their options of when it is best to file a UI claim. He questions if a legislative change would be desirable to clarify what responsibility a Department representative might have in advising claimants on the timing of the filing of their claims. Lastly, he suggests that the front page of our Field Judge decisions expressly state that if the appeal to the Board is late, the appellant must explain the reasons why it is late or the appeal may be dismissed. He realizes this information is on the attached information sheet, but the parties frequently do not review the attachment.

5. Public Comment:

No public comment.

6. Chief ALJ/Executive Director Report:

Chief ALJ/Executive Director Elena Gonzales reported the agency ended the year in great shape in regards to the March numbers. She reported March results stating 65.4 % of Unemployment Insurance cases were closed within 30 days and 86.2 % were closed within 45 days. The average case age was 19.3 days.

Executive Director Gonzales reported Field Operations (FO) will begin regional training. The agency has enlisted a local law office, The Shaw Law Group, to assist in training for the Administrative Law Judges (ALJ). The topics include sexual harassment prevention as well as training on appropriate questioning for parties involved in cases with alleged sexual harassment. She invited all Board Members to attend the training if they wished and she listed the dates for the training: Oakland June 26, 2018, Sacramento June 27, 2018 and Los Angeles June 28, 2018.

Executive Director Gonzales reported that in May CUIAB will conduct yearly evaluations for all employees on file. The supervisors have been asked to complete evaluations by the end of May.

Vice Chair Allen asked if the Safety Committee, which meets periodically, has any safety issues the Board should be aware of concerning the safety of staff or the safety of the general public. Executive Director Gonzales reported the Safety committee meets once a month, keeps track of issues, and prepares a report. She stated there have been few issues, mostly related to parties being upset at the hearings, which they address by giving staff and ALJ training on how to respond in situations before they escalate to problem status. Executive Director Gonzales also reported the Safety Committee recently identified all the panic buttons throughout the agency. Vice Chair Allen asked if the Board, in the past, had received Safety Committee minutes or written reports in the monthly Board meeting folders or if they could start receiving such written reports. Vice Chair Allen stressed the importance of the Board's role in being aware and proactive in all safety concerns. Chair Block suggested Executive Director Gonzales could summarize any Safety Committee updates in her monthly report to the Board. Vice Chair Allen agreed stating the Executive Director Gonzales's monthly summaries would be acceptable. Executive Director Gonzales agreed with the solution.

Member Corbett asked if the FO offices have metal detectors and if the staff and ALJ's have training in situations involving weapons. Executive Director Gonzales reported there is on-going video training being held individually by the FO offices. Executive Director Gonzales asked Special Investigator, Carl Vega to elaborate on the video training. Investigator Vega stated the video being shown, "Run, Hide, Fight" is produced by the Sheriff's Department and is approved statewide. He said the video specifically addressed staff options in situations where weapons were introduced in the work place. Executive Director Gonzales went on to say the video is being shown at each office in a group setting with discussion available afterwards. She stated group viewing was less frightening for staff and more

informative as some training included local California Highway Patrol officers on hand to answer questions.

Chair Block confirmed two items with Executive Director Gonzales: the first item, that the decisions rendered by the FO ALJ's are always sent by mail after the hearing and the second item, that the FO ALJ's never indicate their positions to parties at the hearings.

7. Chief ALJ of Appellate Operations Report:

Acting Presiding Judge Rebecca Bach reported on the March numbers stating the numbers were very good. Judge Bach reported the time lapse requirement for completion of cases within 45-days is 50% but AO had a completion rate of 90.2%. She also reported the time lapse requirement for 75-days is 80% but that AO had a completion rate of 98.1 %. Judge Bach also reported our case aging is expected to be at 40 days or less and our case aging for March was 21.4. She reported AO opened 1085 cases and closed 1,016 cases which left an open balance of 902 cases of which 818 cases were Unemployment Insurance (UI) cases. Judge Bach stated AO continued to be in great shape.

8. Chief Information Officer, Nick Dressler Report:

Chief information Officer (CIO) Dressler reported the IT Department is working to meet procurement deadlines, and that he is working closely with Chief Silva to make sure purchases do not go over budget.

CIO Dressler reported the File Bound upgrade project is coming to a close. He stated most likely it would be completed by the end of this month pending testing and training issues. He reported the File Bound upgrade would allow for work load changes in AO, and would allow for the IT department to roll out new equipment and to upgrade all of the agencies existing equipment to Windows 10.

Chair Block asked CIO Dressler when the Windows 10 project and the Portal project would be completed. CIO Dressler stated the Portal project was making progress and that a semi-working model should be done within 30 days. He estimated the Windows 10 project would be done by the end of the year. Chair Block commented on the importance of setting target completion dates. He asked for a demonstration of the portal project for the May Board meeting. CIO Dressler asked for an additional month stating he would shoot for a demonstration of the portal project at the June Board meeting. Chair Block asked CIO Dressler how many months he expected it would take ranging from three months to six months.

CIO Dressler stated it would be closer to six months, but he felt more comfortable with an estimated goal of the end of the year.

Member Corbett asked CIO Dressler when the newest version of Windows 10 would come out. She wanted to make sure the agency did not upgrade to Windows 10 and then have a newer version come out later. CIO Dressler stated the Windows 10 upgrade was safe and there was no risk of the upgrade becoming obsolete.

9. Chief Administrative Services, Robert Silva Report:

Chief Silva gave an update of overtime usage. He reported AO did not report any overtime usage in February but FO used 95 hours of overtime for decision typing, their monthly average for the fiscal year. Chief Silva said the continued overtime of decision typing in the field causes a projected budget shortfall of approximately \$21,000. Chief Silva stated they would be able to balance-out FO's budget shortfall by using some of IT department's budgeted overtime funds. On average, IT department uses 100 hours of overtime each month, but that in February they only used 50 hours of overtime. The overall shortfall projected in last month's report (\$25,000) was actually going to be less \$5,000 of what he reported last month.

Chief Silva next reported on overtime/lump sum payouts stating there was a shortage due to an employee leaving unexpectedly, which required a lump sum payout of about \$50,000. Another lump sum payout may be required in May. The combination of both payouts would send Field Operations over and above their fiscal allocation of \$238,000.

Chief Silva reported they had received their overall expenditure February reports from EDD, and that even with the projected shortfalls which he had reported on, CUIAB was on pace to come within the budget the Board adopted for 2017/18.

Chief Silva reported CUIAB branches submitted call letter requests for next fiscal year 2018/19. Utilizing some of the current year reserve they have moved some of the purchases forward.

Chief Silva reported on the Orange County Office of Appeals modular furniture project. He stated the purchases would be made within the fiscal year, but the installation of the furniture might be pushed back to July or August.

Chief Silva reported two Board approved projects involving Oakland Office of Appeals and the Los Angeles Office of Appeals were too large in scale to be completed this fiscal year.

Chief Silva reported John Lewis, Chief ALJ, for the Alcohol and Beverage Control (ABC) inquired about hearing room usage in San Bernardino, Santa Barbara and San Luis Obispo. Chief Silva stated he started the contract process to allow ABC to use some hearing room space in San Bernardino. He stated CUIAB is unable to help in Santa Barbara and San Luis Obispo due to limited space.

Chair Block commented that the Agricultural Labor Relations Board (ALRB) had expressed their gratitude to our agency for the use of space CUIAB had provided.

Action Item:

11 Board to Consider Case No. AO-410086 Brenda Smith for designation as a precedent and possible vote.

Acting PALJ Bach stated that the decision before the Board, AO-410086, had already been unanimously approved by the four member Board. Judge Bach stated that the decision had been mailed out March 26, 2018 and that on March 28, 2018 a letter from CUIAB had been sent to interest parties regarding the possibility of the decision being made a precedent. Judge Bach stated the agency had not received any responses. Chair Block asked if there were any questions from Board Members and seeing none he asked for a roll call vote. Member Dresser made a motion to adopt AO-410086 as a precedent decision. Vice Chair Allen made a second motion to approve. AO-410086 was adopted as a precedent by a unanimous vote of 4-0.

Closed Session:

There was no closed session. Chair Block adjourned open session at 1:33 p.m.

Adjournment