

**MINUTES  
FOR THE REGULAR MEETING  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD  
Docket No. 5514**

**1. Opening of Meeting:**

The Appeals Board convened at 9:00 a.m., September 8, 2009 in Sacramento, with Chairwoman Bonnie Garcia presiding.

**2. Roll Call: Members**

**Present**

**Absent**

Bonnie Garcia, Chair	x	
George Plescia, Vice Chair	x	
Ann Richardson	x	
Liz Figueroa	x	
Cindy Montañez	x	
Sharon Runner	x	

**4. Chair's Report**

Chair Garcia thanked staff for their diligence in working with EDD and the Labor Agency to improve and expedite the handling of appeals. These efforts will result in greater productivity in the months ahead.

**5. Board Member Reports:**

The other Board Members all concurred with Chair Garcia's statement of thanks, and also recognized the efforts of all employees in addressing the large volume of cases confronting the agency. Special note was taken of the new hearing video placed on the agency website to familiarize parties with the hearing process.

**13. Public Comment:**

Chair Garcia moved out of order to take public comments regarding proposed new and amended regulations to Title 22, CCR, which were as follows:

**CCR, Section 5400, Employment of a Board Member:**

Staff Counsel Hickox stated that a suggestion had been received that the regulation be expanded to include all exempt appointees rather than just Board appointees.

**CCR Section 5055, Electronic Hearing**

Mr. Dan Rounds from the Senate Office of Research asked, with reference to what

might constitute good cause, whether the existence of the backlog and the inability to meet the federal timeliness standards would be a consideration in whether or not to allow a phone hearing. He stated that this concern stems from the inclusion as good cause the unavailability of hearing locations, which could allow the agency to reduce hearing locations as a way to justify moving to more phone hearings.

Chief Counsel Hilton responded that was not the intent of this regulation, that the intent is to broaden good cause for the parties only, but that he could understand why that good cause condition would raise such concern. Chief Counsel Hilton stated that the agency would review that provision based upon Mr. Rounds' concern.

William Rudnick, Government Relations Manager, TALX Corporation provided comments: he is with the Government Relations for TALX Corporation that handles UI matters in the State of California. They are the largest third party administrative of UI matters in California and in the United States, at approximately 25,000 scheduled hearings in the State of California. He stated that they support the changes that will expedite unemployment insurance appeals for all parties that are involved, and respectfully ask the Board to further enhance the electronic hearing proposal so that telephone hearings become standard and in-person hearings be held only when warranted as deemed necessary by the Board. Adopting an additional procedure having the ALJs to rule on request by either party and take time on the request and communicate that back to the parties rescheduling for a phone hearing would only make the process more cumbersome. He stated that over 30 states in the United States currently do telephone hearings predominantly, with no diminishment of the quality of hearings.

There being no further public comment, Chair Garcia closed the Public Comment section and proceeded with the remainder of the agenda items, with clarification that any necessary changes to the proposed regulations would be considered by the Board at the November Board meeting.

**6. Assistant Secretary, Labor and Workforce Development Agency, Stephen Egan Report:**

Assistant Secretary Stephen Egan reported that the CUIAB and EDD are working to eliminate the duplication on registration work between the two agencies.

**7. Chief ALJ/Acting Executive Director Report:**

Chief ALJ/Acting Executive Director Alberto Roldan reported that he has completed visiting all of the offices of appeals throughout the State with the Pasadena Office of Appeals, which at the time was dealing with the station fire. The air conditioning system broke at about 12:00 p.m. that day but everyone stayed on board, setting up fans in the office and continuing to serve the public, showing their dedication and commitment to the public.

The workload in August continued to be very high, with 33,610 new cases and 32,474 dispositions. As of the end of August average case age was reduced from 57 days to 56 days, and we have increase by 2% the compliance for the 90-day time lapse. Three offices are particularly impacted with the workload, Inland Office, San Diego, and Sacramento. To address this problem we have organized a strike force that will go to each of those field offices to conduct hearings, beginning on October 5, 2009. In addition, judges from Appellate Operations office will be helping out in the Sacramento Office of Appeals. beginning in October.

Chief ALJ/Acting Executive Director Roldan commented that they are trying to accommodate the new hires by adding hearing rooms to existing locations, specifically right now in Sacramento, Los Angeles, and Inglewood. We are also moving the Regional Support Unit out of the Inland Office of Appeals in Rancho Cucamonga so that their space can be converted into additional hearing rooms and offices for the Inland Office of Appeals. Chair Garcia has also been working with him and the Facilities Unit to identify new property in the Indio and Murietta area to serve the Inland Office and the San Diego Office of Appeals.

Chair Garcia asked for an update on several issues: mass calendaring; telephone reminders; Dragon speak; and the phone pilot program.

Chief ALJ/Acting Executive Director Roldan reported he has communicated with the Presiding Judges that the Board wants mass calendars to be set on a regular schedule, such as the first and third weeks of the month, and for them to have a more measurable outcome.

The telephone reminder system has been up and running since the end of July, and based upon feedback from the field offices we have made some changes. For example, we are now scrubbing the CAT system closer to the date of the phone calls because of party information changes, such as contact information. It appears from early indications that the system that it is having a positive impact on the number of no shows.

Chair Garcia asked at what percentage are we closer. Chief ALJ/Executive Director Roldan replied that there might be a reduction of up to 10%.

The Dragon naturally speaking project was started with 21 judges, and we now have approximately 40 additional judges requesting the use of Dragon. The anecdotal information we are receiving from the judges is generally very positive.

Our backlog in the hub as of the end of August was about 3,100 cases. This has a negative impact on the judges because of the period of time between dictation and decision review, during which they may have forgotten some of the details, making review more time-consuming and difficult. There tends to be three categories of evaluation: Those judges who have found it to be speedier than dictation, since there is essentially no delay factor between decision creation and review; those who say it takes slightly longer than dictation but overall find the benefit of working

up their cases to be helpful; and those who find it be somewhat frustrating and that it slows down their productivity significantly. A more systematic review of the project is being conducted, and will be reported at a later date.

Member Montañez asked if the software can convert a dictated decision into a decision. Chief Information Officer Rafael Placencia responded in the affirmative. Member Montañez added that we could start going after that backlog.

Member Richardson asked if we are considering hiring additional people for the HUB because that is really where our backlog is right now with 7-10 days turnaround. Deputy Director Pam Boston replied that we are looking at hiring a total of 10 additional Senior Legal Typists to assist with the typing of the HUB.

Chief ALJ/Acting Executive Director Roldan commented that one of the challenges in using Dragon for the HUB is that staff would still have to go back and listen to the audio to ensure that the transcription that was made of the audio was correct. In order to achieve acceptable accuracy in the first cut, there needs to be a calibration between the dictator and the Dragon program. However, this is certainly worth exploring.

Member Richardson stated that she agrees it is worth a try because it allows us to skip over one step, the typists.

Chief ALJ/Acting Executive Director Roldan stated that the phone project has been disrupted somewhat because of the need to reassign the ALJ in charge to cover the San Jose Office.

Vice Chair Plescia asked about the mass layoff that will probably result from the closing of the automobile manufacturing plant in Fremont, with a couple of thousand workers being laid off.

Member Figueroa stated that it might actually be around 5000 workers, with additional economic impact upon sub-contractors, which would just devastate the community. She suggested that we work jointly with EDD to get information out to workers.

**8. Chief ALJ, Appellate Operations Branch, Jorge Carrillo Report:**

Chief ALJ/AO Jorge Carrillo referred to his report (Attachment A), noting a correction under Registration, which should say 2026 as opposed to 2206. A total of 1867 cases were closed, allowing the open balance of cases to grow slightly to 3,600 cases, 31% above the calendar year average. Once the new hires are fully trained, they should be able to reduce that open balance, although some productivity will be lost during the next three months when five appellate judges will be helping in the field.

The case average age is currently 39 days, one day under the required DOL standards. Appellate Operations met 2 of the 3 time lapse standards, and we were close on the third.

Appellate Operations has been working with the Orange County Office of Appeals to conduct a paperless pilot, which should start October 1. In conjunction with that is the Monthly Report (Attachment B) of the time it takes to process appeals from the Field Office to Appellate Operations under the current system. The time has improved significantly, now just under 5 days. Previously it was taking over 10 days.

All 23 appellate judges will be trained in Dragon Naturally Speaking this coming week. Chief ALJ/AO Carrillo is hoping that the judges will find it a useful tool for getting their decisions to the Board more quickly.

Member Richardson asked about the percentage of appeals from the Field to AO? Chief ALJ/AO Carrillo responded that the average is about 6%, but in the past month it was 5.5%.

Chair Garcia added that when we put all the pieces of these projects together we are going to save a lot of time, and we will be able to get decisions in the hands of the parties much sooner. The next big project is the transfer of appeals from EDD to the CUIAB.

**9. Chief Information Officer, Rafael Placencia Report:**

Chief Information Officer Rafael Placencia reported that IT is working on substituting notifications currently mailed by the CUIAB to EDD with strictly electronic transfer, focusing at this time on second level appeals notifications. This should result in savings in both cost and staff time.

Another IT project IT is to work off the call-reminder system to develop the ability for a party to reschedule a hearing from the same phone call used to remind them of the scheduled hearing.

IT has posted the hearing video to the Agency's public website, the culmination of a tremendous amount of work. Judging by the feedback so far, the video has been well-received. We are now working on a much-needed Spanish version of the video.

IT has been working with other sections to submit 6 proposals for funding from DOL, for a total of \$2.1 million. Two of those proposals involve appeals processing and Dragon Speak. Consultants will be brought in to help in creating feasibility studies. Member Richardson inquired as to the cost of the consulting contracts, to which CIO Placencia responded around \$700,000.

**10. Deputy Director, Administrative Services Branch, Pam Boston Report:**

Deputy Director Pam Boston reported that for Phase II hiring there remain 7 ALJ and 16 support staff positions to fill. For Phase III hiring we have sent out the Job Bulletins; we already filled 5 ALJs and 8 support staff positions.

Trainer Pam Barrall has developed tutorials for Outlook, Excel, and Word, now available on the Bench and included in the meeting package (Attachment C). Additionally, Pam has taken over the Dragon training from IT, and will be working with ALJ Waters incorporate Dragon training into the new ALJ training.

Health and Safety Officer Kim Langan is working on a pandemic preparedness and response plan for CUIAB to address the H1N1 virus. A draft should be available by the end of the month.

Deputy Director Boston commented on the Exit Survey (Attachment D), noting that the objective is to assist us in identifying why individuals leave CUIAB, and how it can be made a better place to work. Completion of the Exit Survey will be voluntary, and will not become a part of any employee personnel file. About a week before the employee separates the Personnel Office will send a letter to the employee asking if they wish to participate either in an online survey or face to face interview, or both. The face to face interview will be done at a Division level, or the employee can request to have it done by any member of senior staff. The online survey can be submitted electronically, or to assure anonymity, printed out and mailed. Individuals have up to a year to complete the survey, to give employees more time and distance before commenting, in particular if there is the potential for return.

Chair Garcia asked, since we will be hiring a number of new typists, if we shouldn't be conducting a work study since there have been so many changes in the manner in which the Agency does business.

Deputy Director Boston responded that the latest study was conducted in 2005, and that she agreed it was time for another study, which she has already discussed with Chief ALJ/Acting Executive Director Roldan. They will probably use an outside vendor or contractor to conduct the study this time, rather than the State Personnel Board as before.

Chair Garcia asked if the new typists are going to be in the office or work at home. Deputy Director Boston replied that she is not sure, that normally we hire new typists to work in the office and then over a period of time allow them to work at home.

Chief ALJ/Acting Executive Director Roldan commented that the more experienced

they become, and based on the economy of scale, working at home is beneficial for the agency.

Chair Garcia stated she has no objection for somebody working at home if that is more economical for us and helps us achieve to our goal, but we need to measure that productivity because we now have Dragon speak to utilize. Before we move toward hiring we need to complete the study. It is unacceptable that we have somebody waiting 5 or 6 days for something to come out of the hub. If there is any correction, it is an additional 5 or 10 days. Technology does not replace people, we must recognize there are some efficiencies we can achieve. Today we can get to the decision on who is going to do the study and move to the hiring.

Deputy Director Boston responded that she briefly talked with Business Services about doing a Request for Proposal for the study, and will have more information at the next Board meeting.

Chair Garcia asked about borrowing people from other agencies to help us get caught up. Deputy Director Boston replied that is an option, and she will find out what departments use Senior Legal Typists in a similar manner.

Chair Garcia stated that if we have Senior Legal Typists in other agencies, we can do an interagency agreement where they can do overtime over here to help us with our backlog.

#### **11. Chief Counsel's Report:**

Chief Counsel Ralph Hilton reported seven new court cases for August, and four cases closed, all of which upheld the Board's decision. There is one significant court case in which the plaintiff has petitioned for review by the California Supreme Court, but the court is unlikely to accept the case since there are no conflicting decisions in the lower courts. The case represents a challenge to Precedent Tax Decision 495 regarding couriers.

#### **12. Unfinished & New Business**

Chair Garcia noted that the Board had already completed the first item, and the Employee Exit Survey is ready for a vote since it was discussed previously.

The Board voted unanimously to adopt the Exit Survey.

DOL technology grant applications: This matter has also been previously discussed, but does not require a vote. Member Richardson requested a copy of the application.

UI Strike team proposal: The Sacramento, San Diego and Inland offices are carrying an unusually high inventory of cases, so the agency has created a strike team of judges to focus its resources during the last quarter of the year to bring

that inventory down. Chair Garcia pointed out that the high inventory is due to the fact that those offices are located in areas of very high unemployment, not because of any lack of effort t by the judges in those offices.

A recent public hearing in the Los Angeles Office of Appeals gave the Board Members a welcome opportunity to meet and talk with staff, and one the Board would like to continue. The Board discussed returning to a prior practice of alternating sites for Board meetings, with a meeting every other month at an office location outside of headquarters. The Chair asked staff to look into holding a Board meeting at the San Diego Office before the end of the calendar year.

**3. Approval of the Minutes:**

The August 11, 2009 minutes were approved by all members.

Chair Garcia asked that future minutes be prepared in more of a summary format rather than verbatim.

**14. Closed Session:**

The Board went into closed session. No votes were reported.

**Adjournment**