

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5683**

Open Session

The Appeals Board meeting convened at 1:00 p.m., November 10, 2022, with Chair Marty Block presiding.

1. Roll Call: <u>Members</u>	<u>Present</u>	<u>Absent</u>
Marty Block, Chair	X	
Dan Reeves, Vice-Chair	X	
Mike Eng	X	
Michael Allen	X	
Laura Kent-Monning	X	

2. Approval of the Minutes:

The October 26, 2022, Meeting Minutes were approved unanimously. Member Eng offered his appreciation for the quality of the minutes.

3. Chair's Report:

Since the last meeting, the Board resolved 565 second-level appeals, and Field Office Administrative Law Judges (ALJ) resolved thousands of first-level appeals.

Chair Block reported the National Association of Unemployment Insurance Appeals Professionals (NAUIAP) will hold its first webinar since the onset of the pandemic in December, titled "Dealing With People You Can't Stand."

4. Board Member Reports:

Members Allen and Kent-Monning thanked the CUIAB staff for their work.

5. Public Comment

Tom Runge offered comments regarding the scheduling of the hearing for his appeal.

6. Chief ALJ/Executive Director Report:

In October, the field offices resolved over 27,500 appeals. The volume of monthly appeals continued to rise, currently 67% above pre-pandemic levels as EDD processes deferred workload involving eligibility determinations extending as far back as 2020.

CUIAB closed 1.8% of cases within 30 days and 3.5% of cases within 45 days. The average case age was 113 days. Appeal timeliness continues to be a nationwide problem with an average case age of 218 days.

EDD and CUIAB met with the U.S. Department of Labor in person for the first time since the onset of the pandemic, and have scheduled quarterly meetings. EDD estimates its deferred workload will not be completed before well into 2023. CUIAB anticipates a corresponding elevated volume of appeals and therefore continues its ALJ and staff recruitments.

The next ALJ training cohort will begin on December 3, conducted by San Diego Office of Appeals Presiding Administrative Law Judge, Catriona Morrison. The following ALJ cohort will begin training on January 6, 2023.

The Elihu M. Harris Building in Oakland, California, was briefly closed on November 7, due to a bomb threat to the building not specific to CUIAB. However, this closure impacted CUIAB's operations at that location.

Since the last Board meeting, there were three office closures due to COVID and numerous positive COVID cases.

The Fresno, Oxnard, Orange County, and San Jose Offices of Appeals are now fully operating within the CAMS system. IT and subject-matter experts continue to address identified issues and enhance CAMS. Due to emerging issues, CUIAB has elected to place a temporary hold on the rollout of CAMS to additional field offices until the issues have been resolved.

Vice-Chair Reeves inquired about the average transmittal time from the date of appeal to CUIAB's receipt of the appeal. Chief Cutri advised that it averages from two to three weeks.

Member Eng thanked Chief Cutri for his availability between Board Meetings and inquired whether the appeal transmittal time is included within CUIAB's reported

performance metrics under the DOL timeliness standards. Chief Cutri confirmed that the performance metrics measure the time from the date of the appeal to the date of issuance of the decision. Member Eng inquired about the reason CUIAB chose not to modify its regulations to provide for CUIAB's direct receipt of appeals rather than transmitted by EDD. Chief Cutri advised that changing this procedure was not yet feasible due to information technology and business process changes currently being undertaken within CUIAB and EDD; however, it can be revisited at a later time.

Member Allen inquired about EDD's responses to situations involving mass layoffs. Chief Cutri advised that EDD has expeditious processes in place to respond to these events.

Member Kent-Monning requested clarification on EDD's redetermination process as impacting CUIAB's direct receipt of appeals. Chief Cutri confirmed that EDD possesses legal authority to issue a Notice of Redetermination after it receives and reviews an appeal, in some instances obviating the need for further review by CUIAB.

7. Presiding ALJ of Appellate Operations, Rebecca Bach Report:

Presiding Judge Bach reported that during October, AO resolved 45.2% of its cases within 45 days and 84.9% within 75 days. The average case age is 37 days.

Member Eng thanked PJ Bach for her assistance to the Board panels in their work and the quality of her written decisions.

Member Allen thanked PJ Bach for her assistance and work training Board Members in the CAMS system.

Member Kent-Monning thanked PJ Bach for her training and support.

8. Chief Information Officer, Jeff Willoughby Report:

Since the last Board meeting, Chief Information Officer Willoughby reported that CAMS has experienced delays in scheduling hearings and generating documents. IT is working to identify the root causes for this and resolve them.

Vice-Chair Reeves thanked CIO Willoughby and the IT staff for their work.

Member Eng expressed appreciation for the progress of the CAMS rollout.

Member Allen thanked CIO Willoughby and the IT staff for their technical support, and expressed his appreciation for the implementation of CAMS.

Member Kent-Monning agreed with temporarily pausing additional CAMS rollouts while addressing technical issues, and thanked CIO Willoughby and the IT staff for their work.

9. Chief of Administrative Services, Robert Silva Report:

CUIAB currently employs 134 Administrative Law Judges. Retired annuitant ALJs as a group work approximately 10 ½ additional position equivalents. Since the October Board meeting, 9 Administrative Law Judges accepted offers of employment. During calendar year 2022 CUIAB also hired 41 support staff but had 31 separations.

Since the October Board meeting, there were 5 reported COVID cases with 3 office closures.

Chief Silva spoke with EDD's Safety Unit regarding potential changes to COVID protocols following the conclusion of the COVID State of Emergency in February 2023. At this time, no information regarding changes in protocols has been received.

Vice-Chair Reeves inquired about the Department of Finance's budget projections for CUIAB considering changes in economic forecasts regarding increased unemployment. Chief Silva advised that CUIAB is not inhibited from hiring additional ALJs based on the Board's approved budget.

Member Eng thanked Chief Silva for his sensitivity to the Board members' concerns regarding language assistance and requested clarification on what documents constitute "vital documents" for the purposes of translation. Chief Silva described the 5 documents this comprises. Member Eng inquired if the decrease in the number of PUA appeals will result in a decrease in the amount of PUA training and whether CUIAB specifically recruits for expertise in specialized areas of work such as tax petitions. Chief Cutri advised that CUIAB trains newly hired ALJs on all case types a first-year ALJ might hear, including PUA cases. Tax cases are typically heard by ALJs with at least one year experience and ALJs are provided additional training as needed.

Member Allen inquired about overtime usage in 2022. Chief Silva advised that there

are 40-50 employees performing overtime, equating to approximately 12.5 full-time positions. The classifications utilizing overtime are Legal Support Supervisor, Program Technician III, Management Services Technician, Senior Legal Typist, Office Technician and Office Assistant.

Member Kent-Monning thanked Chief Silva for his responses to questions raised in the October Board meeting.

10. Revision to Board Policy Statement No. 17, Telework

Chief Counsel Mark Woo-Sam provided an overview of the Revision to Board Policy Statement No. 17, Telework.

Vice-Chair Reeves inquired about the impact of the policy revision on CUIAB's conduct of in-person hearings, and specifically whether it required CUIAB to conduct hearings telephonically by default. Chief Counsel Woo-Sam advised that the revised telework policy would be distinct from the Board's choices regarding the manner of scheduling hearings and that adoption of the revised telework policy would not constitute a Board choice to schedule hearings by default telephonically. Vice-Chair Reeves inquired whether ALJs would remain eligible to telework absent adoption of the revisions to the policy. Chief Counsel Woo-Sam advised that the State administration requires departments to adopt a telework policy in accordance with statewide standards; but if CUIAB did not adopt the proposed telework policy at this time, CUIAB would continue to operate under its emergency telework policy. Vice-Chair Reeves inquired about the impact of Governor Newsom's announcement that the COVID State of Emergency would end in February 2023. Chief Counsel Woo-Sam advised that the declaration of a state of emergency, itself, did not mandate and govern CUIAB's telework policies.

Member Eng requested clarification on agencies' ability to establish specific telework policies. Chief Counsel Woo-Sam advised that the Department of General Services, in conjunction with CalHR, negotiated a master telework agreement with all the State's employee organizations. Each agency is required to adopt a telework policy consistent with the master agreement, but the policies may be tailored to each agency's specific operational needs.

Member Allen requested confirmation that the proposed policy is consistent with the negotiated statewide policy and enables CUIAB to offer telework to employee classifications as it determines appropriate. Chief Counsel Woo-Sam confirmed this is accurate.

Member Kent-Monning requested clarification on whether the listing of identified job classifications are a component of the revised telework policy. Chief Counsel Woo-Sam confirmed that the list of job classifications indicating telework eligibility is part of the proposed revised telework policy.

Chair Block requested confirmation that the goals of the policy revisions are to meet the interest of the administration in establishing a state-wide telework policy, the interests of employee organizations in telework, and the business needs of CUIAB in providing its public service. Chief Counsel Woo-Sam confirmed this was accurate and advised that should CUIAB wish to resume its prior practice of scheduling all hearings as in-person by default, it would require a notice to unions with opportunity to meet and confer over the impact of the change in working conditions.

Member Allen moved to adopt the revisions to Board Policy Statement No. 17. Member Kent-Monning seconded the motion and the motion was adopted unanimously.

11. Approval of Proposed Amendments to California Code of Regulations, title 22, Section 5000, et seq.

Chief Counsel Mark Woo-Sam provided an overview of proposed amendments to the California Code of Regulations, title 22, section 5000, et seq.

Member Eng moved to adopt the proposed changes to Title 22, California Code of Regulations, Section 5000 et seq., contingent on the Board receiving no comments during the 15-day public comment period. Should CUIAB receive public comment during the 15-day public comment period, the comments would be brought to the Board for consideration. Member Kent-Monning seconded the motion and the motion was adopted unanimously.

Closed Session:

There was no Closed Session.

Adjournment