

**MINUTES  
FOR THE REGULAR MEETING  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD  
Docket No. 5631**

**Open Session**

The Appeals Board convened at 1:00 p.m., June 13, 2018, in Sacramento with Chair Marty Block presiding.

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

**2. Approval of the Minutes:**

The May 16, 2018 Meeting Minutes were approved unanimously.

**3. Chair's Report:**

Chair Block welcomed new Presiding Judge of Appellate Operations (AO), Jodi Remke. He acknowledged the good work she will do in the future. He thanked Judge Bach for all the great work she did for AO in the interim.

Chair Block noted the June Board meeting would be the last meeting for retiring Member Dresser. He recognized the many years of service and the various different capacities Member Dresser worked for the agency. He invited Member Dresser to include comments and his CUIAB experiences in his report to the Board.

Chair Block reported that Executive Director Gonzales and he will be attending the National Association of Unemployment Insurance Appeals Professionals (NAUIAP) Training Conference in Maryland next week. He will be conducting two workshops both related to onboarding, a term for orienting new Board Members to an organization. He stated the workshops will discuss how new Board Members should be brought on and trained. He enquired if anyone had ideas that they thought he should include in his workshop.

Member Corbett suggested new Board Members should attend more field office hearings to observe the process and to see the interaction between the claimant, the opposing side and the judge. She stated that by attending hearings the Board Member develops respect for the amount of cases taken on by the FO ALJ and the conditions they work within. In addition, it helps for the Board Member to watch the demeanor of people they are interfacing with and the challenges they may have to deal with in the field setting. She added it would be helpful to have a solid understanding of processes of the organization/agency, in the beginning, as opposed to learning the process along the way. She also suggested discussing Precedent Decision processes.

Vice Chair Allen stated he attended a field office hearing and also visited the Employment Development Department (EDD) office during his Board Member orientation. He commented that visiting the different departments at EDD, and getting an understanding for how each department functions, was very interesting. It took away the abstractness by seeing what they were actually doing and how they were doing it.

Chair Block commented that would be a good idea for Judge Remke as well since she will be heading up the future Board orientations.

Vice Chair Allen commented the relationship between EDD and CUIAB was explained during his visit to EDD. Although it seems obvious it was good to hear other people's perspectives. He suggested that during Board Member training each specialist, Administrative Law Judge (ALJ), in an area should train the Board Member instead of one judge. He noted each ALJ has a different way of approaching cases and it would be helpful to hear the diversity. This also establishes a relationship between Board Members and the AO judges. Lastly, he suggested Board Members receive additional on-going training especially on some of the more difficult issues.

Member Dresser concurred with his colleagues. He added it would be helpful to supplement the Board Member training by going to field offices to observe how they process their cases.

Chair Block stated that the NAUIAP training panel will be consist of three people. One panelist, an ALJ from Arizona, had prepared a PowerPoint presentation which Chair Block will use as a starting point and build on. He noted that the presentation illustrated different training for Board Members that have experience with an organization from those coming into an organization new. The presentation also separated out the training of Board Members from that of Board Chairpersons, noting there was more management and governance for the Board Chairs.

Vice Chair Allen suggested that one factor which should be looked at when training Board Members is their management experience. He noted the Board Members' positions are quasi-judicial requiring management responsibility for the whole agency. He advised finding out if a person has ever managed or if they have had formal training.

Chair Block noted the ALJ's presentation also separated appointed members by attorneys and non-attorneys, noting in California Board Members all are required to be attorneys.

Chair Block reported that the upcoming regional Sexual Harassment Training for the ALJs will be held in Sacramento, Oakland and Los Angeles. He will be attending all three training sessions on behalf of the Board. He will add insight from a Board Members' perspective. The attorneys conducting the Sexual Harassment Training were adept at defining what is and what is not sexual harassment, to the extent you can define it, and what goes into sexual harassment and what does not. Other questions for judges will be: If it is sexual harassment by a person then it probably is misconduct, but if it is not sexual harassment it can still be misconduct, so where might those lines be? Secondly, if a person, who is being harassed quits, if its sexual harassment, that seems on its face a good reason for quitting, but if it is not sexual harassment that does not mean it is not a good reason for quitting. He noted those are the types of issues he wants to discuss with the ALJ's, the issues which affect unemployment law.

Member Corbett added that there seems to be various levels of sexual harassment that people seem to grab onto, such as, really bad sexual harassment versus not so bad sexual harassment and where that falls in the discussion and analysis of misconduct.

Chair Block noted that Executive Director Gonzales will also attend all three training sessions.

Lastly, Chair Block reported that he will be submitting an article for the CUIAB newsletter, expected out in the next couple of weeks. Member Dresser may also be submitting his memoirs. Vice Chair Allen noted there was still time for anyone to submit an article.

**4. Board member Reports:**

Vice Chair Allen reported he was working on the Precedent Committee with Judge Bach and Chief Counsel Gonzalez. He had requested a memo describing the standard operating procedures for how precedent decisions are brought to the Board. There was a complication with the existing flow chart being unclear. The project was put on hold until Judge Remke came on board. He noted the importance of documenting procedures for successors and to build institutional memories. This was the reasoning for documenting the precedent decision procedures. He was pleased Judge Remke was now on board and that the Precedent Committee could resume.

Vice Chair Allen acknowledged his pleasure to serve on the Board with the Board Chair emeritus, Robert Dresser. He wished Member Dresser well in his retirement and noted he would be missed.

Member Corbett echoed Vice Chair Allen's comments to Member Dresser. She expressed her appreciation to Member Dresser for onboarding her as a new member to the agency, and for being very supportive. She commented he had made his mark and she thanked him for his service.

Member Dresser responded he was honored and privileged to have served with the judge's and staff who do the heavy lifting to make sure the decisions get out on time and in high quality. He commented that he has done his stay as Board author, Board Chair, and Board Member and thanked everyone.

**5. Public Comment:**

Blake Bandy, Attorney from EDD, addressed the Board on behalf of EDD to thank Member Dresser for his service on the Board. He wished Member Dresser good luck in the future. Member Dresser sent his regards to EDD General Counsel, attorneys and staff.

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

Chief ALJ/Executive Director Gonzales wished Member Dresser a happy retirement. She noted that Member Dresser was instrumental in helping to get the Board out of Corrective Action, as well as streamline the Field Operations and Appellate Operations.

Executive Director Gonzales welcomed Judge Remke. She looks forward to Judge Remke working with the Board and helping to get the agency organized on some priority issues.

Executive Director Gonzales reported Field Operations (FO) will be conducting the required annual Sexual Harassment Prevention Training in three locations, Oakland, Sacramento and Los Angeles. The regional training will be facilitated by the Shaw Law Group. Chief Counsel Gonzalez worked with the Shaw Group on elements of questioning parties, on cases that involve sexual harassment, which was added to the curriculum. The Administrative Law Judges Association (ALJA) will host a luncheon after the morning training. The afternoon training will include presentations by Presiding Judge Faulkner on Standards of Quality Review, by Judge Mayer on Credibility Findings and Decision writing, and by Judge Harrison titled Potpourri to cover a variety of everyday issues which the ALJs face. She is impressed with the training and inspired that Chair Block will be attending to greet the ALJs.

Executive Director Gonzales reported FO is doing well on the timeliness standards required by Department of Labor (DOL). In May, FO closed 75.3% of their cases within the 30-day time lapse standard. The DOL standard for 30-days is 60%. FO closed 93.5% of their cases in 45-days and the DOL standard is 80%. The average case age for May was 20.2 days and the DOL standard is 30 days. The current balance of open cases is just under 18,000 cases.

Executive Director Gonzales reported the Security Committee had one significant incident in May. A claimant refused to leave the facility after the hearing and threatened to take legal action if the ALJ called security. The claimant did eventually leave and security was then called. It was discovered after the incident that the claimant had made comments to an Employment Development Department (EDD) employee regarding the outcome of his hearing. She stated it would have been helpful to have that information in advance. She noted that FO is working with EDD to improve communication and procedure between EDD and CUIAB. It is important to make sure EDD staff knows how and who at CUIAB to relay information regarding parties and security concerns. She stated they are working through complications such as ex parte communications but procedures are being followed.

## **7. Presiding ALJ of Appellate Operations, Jodi Remke Report:**

Presiding ALJ Remke thanked the Board for the opportunity to serve as PALJ-AO. She is excited to be here and to start her new position.

PALJ Remke reported AO's May numbers continue to look good. The time lapse requirement for completion of cases within 45-days or less is 50% and AO is at 88%. The time lapse requirement for 75-days is 80% and AO is at 96.9%. She reported case aging is expected to be at 40 days or less and AO's case aging for May was 26.2. As far as overall workload, AO opened approximately 1,200 cases and closed just over 1,000 cases with an ending balance of 1,281 cases. PALJ Remke commented AO had strong numbers and it was a great time to start a job, when numbers look good and she can work on other procedures and issues.

Chair Block thanked Judge Remke. Member Dresser also welcomed Judge Remke. Member Corbett said she looked forward to working with her. Vice Chair Allen stated he has recently seen cases involving documentation issues for parties who are required to prove their legal authority to work in the USA. He suggested making sure the FO ALJs know acceptable and proper documentation they should be asking for from parties. Judge Remke said she would look into that and suggested to possibly include it in the upcoming regional training.

**8. Acting Chief Information Officer, Lori Kurosaka Report:**

Acting CIO Kurosaka welcomed Judge Remke. She was pleased to have Judge Remke join the team. She congratulated Member Dresser on his retirement and thanked him for his public service.

Acting CIO Kurosaka reported they have received 63 applications for the CIO position. They have scored the applications and are preparing to interview candidates. She was impressed with the strong candidates.

Acting CIO Kurosaka reported the agency has been notified by the Department of Technology that the state ISO will conduct an Information Security Audit, a mandatory security audit which focuses on policies and adoption of Information Security tools. Along with CUIAB, EDD and DIR are also calendared for an audit this fiscal year.

Acting CIO Kurosaka reported the Web portal demonstration was not ready and postponed to a later date. Chair Block asked if she knew when the demonstration would be ready. She replied she did not have an estimate at this time but would inform the Board before the next meeting.

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

Chief Administrator Silva welcomed Judge Remke to the agency. Chief Silva wished Member Dresser a happy retirement and thanked him for all of his support for Administrative Services over the past years.

Chief Silva reported on the Monthly Overtime Lump/Sum Payout Report and that in April CUIAB had the lowest overtime month of the fiscal year. The only branch which had significant overtime was the IT department. The 62 hours of overtime usage in April represented a 26% decrease from the previous monthly average. Also, there were no Lump/Sum Payout expenditures in April, although the report projects a budget surplus of \$36,000 for Lump Sum. However, there were two employees that retired in May and their estimated payouts totaled about \$77,000 so the expenditures are going to be closer to the allocation than what is indicated in the monthly report.

Chief, Silva reported that in April, CalHR authorized 2017/18 Leave Buy-Back Program for state employees. CUIAB engaged in that process and although some payments are still in process, from the data gathered from employee requests, the estimate for the expenditure is \$165,000. Chief Silva reported that even with the buy-back expenditures we are still spending within the Personnel Services Budget for 2017/18.

Chief Silva followed up on his previous report regarding Administrative Services centralizing the attendance and timekeeping functions into Administrative Services. He stated they conducted interviews for a Management Services Technician position in Administrative Services. He said they are seeking name clearance so they can hire and with that hire they will be able to transition all of the remaining CUIAB cost centers into Administrative Services for the attendance functions.

Chief Silva reported the Inglewood Office of Appeals facility renewed its 10-year lease which will begin on September 1, 2018. Starting June 22, the Agriculture Labor Relations Board (ALRB) will begin using office space in the Oxnard Field office. He thanked PALJ Maerowitz for assisting in making this move a smooth transition.

Chief Silva reported they are in the process of compiling the data gathered from the May Bilingual Audit for employees. He will update the Board of the results at the next Board meeting.

Chief Silva reported that they met with Fiscal Programs to go over the budget allocations for the 2018/19 Budget. The data that was discussed was not finalized, but it was enough to utilize as an informal base to put together a spending plan for next fiscal year. Based on the Budget Call Letter requests Valerie Graziano, Budget Officer, is building the schedule of salary and wages for next year while he builds the Operating Expenses and Equipment Budget. Once completed, the department heads can meet to fit the spending plan into the proposed budget for the next fiscal year. Then he can bring the proposal to the Board.

Vice Chair Allen asked if the bilingual auditing is standardized throughout the state or is it different for each department/agency. Chief Silva responded the difference is in the dates which are used, CUIAB conducts the audit every May and November. The audit is in place to ensure that employees are earning their bilingual pay differential. Vice Chair Allen asked if the translations are mostly letters. Chief Silva stated bilingual employees use bilingual skills for telephonic calls and letters. In some instances assistance with hearings, but mostly hearings are covered under contracts with interpreters.

Chair Block commented that at last month's meeting of the agency leadership, the Chair and General Counsel from ALRB were effusive in their praise of the admin staff for their work in the sharing of the office space and facilitating everything. He stated that reflected well on all of CUIAB. He thanked Chief Silva and added that Secretary Lanier was very pleased to hear that also.

Lastly, Member Corbett commented that she thinks they all forgot to say something in their opening comments about how they are going to miss Michelle Frachevois. They had an opportunity to celebrate her retirement just before the Board meeting. Michelle has always been a kind voice and willing to help in any way, and has been a calming presence they will miss. She quietly goes about her work and we almost don't know she is there but now that she will not be there, we will miss her. She always made sure our records were correct. We will all miss her very much.

**Closed Session:**

There was no Closed Session. The Board adjourned Open Session at 1:35 p.m.

**Adjournment**