

**MINUTES  
FOR THE REGULAR MEETING  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD  
Docket No. 5647**

**Open Session**

The Appeals Board convened at 1:00 p.m., October 16, 2019, 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	
Dan Reeves, Vice Chair	x	
Mike Eng	x	
Michael Allen	x	
Ralph Lightstone	x	

**2. Approval of the Minutes:**

The September 11, 2019, Meeting Minutes were approved unanimously.

**3. Chair's Report:**

Chair Block reported the Board meeting was being live-streamed and welcomed those watching. Chair Block commented that live-streaming Board meetings provides transparency and allows people to see the Board at work on matters of public interest. However, he reminded viewers that although the Board only meets once a month, the majority of the Board Members' work time is taken up between meetings by adjudicating individual quasi-judicial appellate cases relating to unemployment compensation, disability compensation, and tax petitions. Those cases are appealed to the Board from the CUIAB's first level of appeal. He noted that during the last month the Board reviewed and resolved 1,037 appellate cases.

**4. Board Member Reports:**

Member Eng inquired as to the possible impact of AB5, relating to worker status, on CUIAB workload going into the future, and whether we are planning for any such workload impact. Member Eng requested a follow-up report for January.

Vice Chair Reeves agreed that Member Eng raised a valid point about AB5, and suggested EDD may have done some analysis on this issue. Vice Chair Reeves

also stated that any increased workload may need to be built into the next budget.

Chief Silva responded although it was too late for a BCP consideration for January, he could meet with the Fiscal Programs Division of the EDD to see if they have discussed this for inclusion in the next budget cycle. Chair Silva stated that he would do so and report back to the Board.

Vice Chair Reeves and Member Lightstone had no report.

Member Allen expressed his appreciation to all the staff of the agency; managers, judges, support staff and his fellow Board Members for their hard work. He noted that Chair Block was doing an excellent job and the agency is moving forward in the right direction.

## **5. Public Comment**

No Public Comment.

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

Chief ALJ/Executive Director Gonzales reported that for the first time in a number of years the field did not make any of the three timeliness standards required by the Department of Labor in the month of September, although with regard to the yearly average, measured on March 31 each year, the field is still meeting the 30 and 45-day time lapse requirements.

Chief ALJ/Executive Director Gonzales acknowledged this was not good news, and they are working diligently to analyze the situation and address the causes, which include a recent arbitration ruling that required CUIAB to reduce the weekly ALJ caseload assignments, increased retirement numbers, and an uptick in appeals. Steps have already been taken to address those causes, including hiring new judges, mass calendars, increased retired annuitant usage, loaning of AO judges to help out in the field, more cases to be handled by the PALJ's, and finally notice to CASE in order to regain our authority to adjust caseloads as the level of appeals require.

Chief ALJ/Executive Director Gonzales also reported that the agency is scheduling ethics training that is specific to CUIAB judges. There will be three sessions, North, South, and Sacramento. This is an important element of our judges' responsibilities, both in terms of fairness and the quality of our hearings.

Chair Block commented it sounded like Chief ALJ/Executive Director Gonzales has

taken several steps to remedy the missed timeliness standards, and asked if she anticipates that the field will back on track for the month of October and, if not, what can be done to get there.

Chief ALJ/Executive Director Gonzales responded that she does not believe there will be enough time by then to totally reverse the numbers, particularly as some of the remedies take time to implement, for example hiring new judges and regaining our ability to adjust caseloads, which is dependent upon the time it takes to meet and confer with CASE.

Chair Block suggested considering more drastic measures, because he does not want to get to March and fail to meet our timeliness goals. He thanked Chief ALJ/Executive Director Gonzales for all the changes she has already made, stating that they are doing a really good job trying to address the situation, but we just need to do more.

Vice Chair Reeves commented that part of the problem is higher rates of attrition and asked how quickly the spots can be filled. He acknowledged we have this whole civil service process, so that means we probably miss another month of timelines. He asked if those spots will be filled in November, will they be all online by the end of December, and how much time is involved in terms of getting new judges up to hearing a full load of cases.

Chief Gonzales responded that one of the reasons they advertised for ALJ IIs rather than the ALJ Is is because ALJ IIs can hit the ground running. ALJ IIs know how to hear a case, how to handle evidence and how to ask questions.

Vice Chair Reeves asked if we could work on a dual-track where we are going for the experienced ALJs, but if we don't get enough applicants, is there a way to start the ALJ I process now and get that clock running.

Chief Gonzales agreed, stating that they are working on just such an option.

Member Eng also expressed concerns about filling in for the recent attritions at the appellate level.

PALJ Remke responded that she would not recommend they seek to refill right now given the current workload numbers in AO. AO just does not have the caseload right now and that is also why they are looking to have AO assist in the field.

Member Allen asked how many actual vacancies there are at the ALJ II level.

Chief Silva responded that he does not have that number with him right now. He can report back to Member Allen outside the scope of the meeting, but the current recruitment is for 10 administrative law judges.

In response to the suggestion by both Member Allen and Member Lightstone, Chief Gonzales stated that she would explore the possibility of borrowing judges from other hearing agencies to help out short term.

Chair Block commented that he hates to put our leadership on the spot because they all do such a great job and if anyone is watching, our field offices have historically done a great job. But he expressed a need to kick up the urgency on this matter, the sense of urgency. Our primary goal really is to meet these federal deadlines, to be fast and to be fair, and to be friendly. He commented that if we get to December and we haven't made all three of these timeliness requirements, he thinks we need to do something more drastic. Hopefully, that will not be necessary.

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

PALJ/AO Remke reported Appellate Operations (AO) and the Board continue to meet the Department of Labor (DOL) guidelines. The percentage of cases closed in 45-days or less was 96%, and the guideline is greater than 50%. The percentage of cases closed in 75-days or less was 99.9%, and the guideline is greater than 80%. Case aging increased slightly at 22.2 days, while the standard is 40 days or less. She noted that the AO numbers are so good because the workload balance is low, and they are taking this opportunity to lend some AO ALJs to help in the Field, while also regaining or renewing their field experience.

#### **8. Chief Information Officer, Jeff Willoughby Report:**

CIO Willoughby reported vendors have responded to IT's Request for Information on the Modernization Project. They are now completing the evaluation of the responses and doing a market analysis. IT is working with subject matter experts throughout the organization to gather the requirements necessary to move into the next stage, as well as meeting with the Department of Technology's project teams and executive staff.

Member Eng thanked CIO Willoughby for the response he received regarding Vice Chair Reeves prior questions about the Audit Report, and asked about forwarding the report to all Board Members. CIO Willoughby responded he would be happy to share the report with all Members.

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

Chief Silva reported from the Overtime Report that, for the first two months of the current fiscal year there was hardly any overtime use, with IT recording only 7.5 hours.

Chief Silva reported that conversely there was quite a bit of activity in the category of Lump Sum Payments to separating employees, with employees separating in July and August for a total cash payout of \$84,000 of accumulated leave.

Chief Silva reported that on October 1, office supply allocations and purchasing guidelines were distributed to all cost centers within CUIAB so they could begin needed purchasing. On October 2, a list of approved positions in the budget was distributed to all the cost centers.

Chief Silva reported they are in the middle of recruitment for 10 Administrative Law Judge II positions in the Field Operations, with a final filing date of October 25.

Chief Silva previously reported that they were in the process of updating the Service Level MOU with EDD, which specifies their administrative support responsibilities for the Board. Chief Gonzales signed the MOU, yesterday, and now it is with EDD for execution.

Member Allen asked if the MOU was available to read. Chief Silva said he would forward it.

### **Closed Session:**

There were no Closed Session items. The Board adjourned at 1:42 p.m.

## **Adjournment**