

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5650**

Open Session

The Appeals Board convened at 1:00 p.m., January 15, 2020, in Sacramento 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	

2. Approval of the Minutes:

The December 18, 2019, Meeting Minutes were approved, as corrected, unanimously.

3. Chair's Report:

Chair Block wished those watching a Happy New Year. Chair Block reported the Board meeting was being live-streamed to provide transparency and allow people to see the Board at work. He reminded viewers the majority of the Board Members' work is performed between monthly Board meetings by reviewing individual appellate cases. Chair Block reported the Board reviewed and resolved 552 cases this last month and thanked Board Members for their hard work.

4. Board Member Reports:

Member Allen thanked all the staff of the agency for doing a great job.

5. Public Comment

No Public Comment.

6. Chief ALJ/Executive Director Report:

Chief ALJ/Executive Director Gonzales reported that CASE and CUIAB reached a temporary agreement on December 23, 2019, allowing CUIAB to increase caseload

assignments to the levels that had been previously in effect. The increase under the temporary agreement went into effect on January 6, 2020, and it is hoped that this will enable the Board to meet timeliness measures when measured on March 31, 2020. CASE and CUIAB will resume negotiations for a permanent solution in early March.

Chief ALJ/Executive Director Gonzales reported an unexpectedly high attrition rate among CUIAB judges. The attrition rate is currently 14.3%, constituting 16 ALJs through the current fiscal year, compared to an average of six to seven ALJs per year in prior years. The attrition, combined with some long-term leaves of absence and lower caseloads for almost six months, has adversely impacted the Board's timeliness performance. Field Offices are meeting the 45-day timeliness standard on an annualized basis; but CUIAB's 30-day performance is at 59.5%, just short of the federal standard. Field Office case age increased marginally to 32.3 days, thus not meeting the 30-day standard.

Chief ALJ/Executive Director Gonzales reported on efforts to address our timeliness performance. Field Offices have continued the measures previously enacted as discussed at a prior Board meeting. At least half of the offices are conducting mass calendars for the upcoming weeks. Presiding judges continue to hear cases and vacations are being limited. The workload management team continues to meet weekly, sometimes daily, to evaluate workload and transfer cases between offices. All interested ALJ Retired Annuitants have been hired and a new ALJ II has started work in the Bay Area Office of Appeals.

Chief ALJ/Executive Director Gonzales also reported that the Department of Labor (DOL) Region 6, met with CUIAB and EDD. Chief Gonzales, Lori Kurosaka, Jodi Remke and Chair Block participated in the meeting and discussed funding issues, modernization projects, and challenges such as the ALJ caseload caps and attrition.

Chief ALJ/Executive Director Gonzales reported one security incident addressed by Special Investigator Vega and the Legal Office. The incident occurred at the Inglewood Office of Appeals when an upset claimant came to the office, banged on windows and yelled at staff using profanities. The Highway Patrol was contacted and ultimately the claimant was arrested. The claimant later returned to the office asking for the decision in his case to be explained to him. An ALJ was assigned to discuss his decision with the claimant and the situation was de-escalated.

Vice-Chair Dan Reeves thanked Executive Director Gonzales for the work in reaching a temporary agreement with CASE and inquired about caseload changes in the Inland Field Office. Chief Gonzales advised that the changes arose from the Workload Management Group's active management, transferring cases throughout

field offices based on each office's capacity to hear matters. PALJ Remke also discussed the statewide focus of the Workload Management Group and the impact on the Inland Field Office.

Vice-Chair Reeves asked about retired annuitant positions previously reported, the number of ALJ positions remaining open, the estimated time to fill vacant positions, and the impact of hires on CUIAB's ability to meet timing standards. Chief ALJ/Executive Director Gonzales advised that there were openings throughout the state, but more in the Bay Area Office of Appeals, one of the larger offices. Six of the ten ALJ II positions for which CUIAB has recruited have been filled. The ALJ IIs possess hearing officer experience and require less training than an ALJ I, but must still be given time to adjust to full caseload requirements. There is no estimate on when the remaining ALJ II positions will be filled, but interviews are pending.

Member Allen asked whether the ALJ recruitment was a continuous recruitment. Chief ALJ/Executive Director Gonzales responded that the prior recruitment had a closing date, but that it could be initiated again if needed. Chief Gonzales intends to commence recruitment for 10 ALJ I positions in April.

Member Eng asked if the qualifications for the ALJ positions could be sent to him. Chief Gonzales advised that she would provide this.

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

PALJ/AO Remke reported that Appellate Operations is meeting DOL timing standards. In December, 94.2% of the cases were closed in 45 days or less; 98.9% were closed in less than 75 days. Appellate Operations currently has three ALJs working half-time in the Sacramento Field Office to assist and that is working well. As a result of the field work and an increase in the number of UI appeals, the AO open cases balance has increased slightly but remains within the range of AO's capacity to resolve. After March, they will re-evaluate what assistance may continue to be provided to the field offices.

8. Chief Information Officer, Jeff Willoughby Report:

CIO Willoughby reported that IT will implement a new Information Security and Privacy Awareness Program in January. This will reinforce and improve their understanding of good personal security practices.

CIO Willoughby reported that CUIAB continues to work with EDD and the Department of Technology to create a solicitation package for a systems integrator to build CUIAB's new modern and secure systems.

CIO Willoughby reported that the Service Desk Team is working with a vendor on a new trouble ticketing system that he hopes to introduce in late spring. This will improve communication with the Service Desk as well as support and improve asset tracking and internal change management.

CIO Willoughby reported that IT will soon introduce "Microsoft Teams" to the organization. This will be used to communicate updates and provide important information to staff on major projects, including the Modernization Project and the trouble ticketing effort.

Member Allen asked if there was a target date for the paperless system for Field Operations. CIO Willoughby advised that the target date is early in 2021.

9. Chief Administrative Services, Robert Silva Report:

Chief Silva reported on overtime payments for the month of November 2019. CUIAB utilized 100 hours of overtime to address a backlog in Decision Typing. In December there was also overtime in the field offices in connection with verifying incoming appeals. CUIAB continues to operate well within its fiscal allocation for overtime.

Chief Silva reported that for November there was one lump sum payment of roughly \$32,000 for an employee separating in Field Operations. The projected shortfall for this category, which was at \$200,000 through October, is now \$110,000. As a result of the reduction in excess leave hours, CUIAB has been able to avoid significant fiscal impacts on lump-sum payments. In January 2015 CUIAB employees collectively had 18,529 excess hours beyond the 640-hour cap. As of January 2020, there are only 2,268 excess hours, an 88% reduction over the five-year period.

Chief Silva reported that in January 2020, some former retired ALJs may be eligible to return as retired annuitants. He is contacting them to determine interest.

Chief Silva reported that the procurement of the OE&E items, approved in the budget for the 2019/20 budget year, has been completed with the exception of modular furniture for the Sacramento Office of Appeals. That project is in the planning phase with Prison Industries Authorities and is expected to be completed within two to three weeks.

Chief Silva reported that EDD announced the fiscal year deadline to submit requests for IT goods is March 20, 2020. For non-IT goods, the deadline is April 22.

Chief Silva reported the County of San Benito took over the lease of the hearing room used in Hollister. Should the need arise, the county has agreed to allow CUIAB to use a hearing room at the Hollister site with two weeks advance notice.

Member Eng inquired regarding the Governor's recently-released budget— whether it addressed impacts of AB 5 for CUIAB, and whether there are discussions of the need for additional resources to CUIAB in connection with AB 5. Chief Silva advised that it did not contain items specific to CUIAB regarding AB 5, and that CUIAB will begin meeting with EDD in late February to discuss the budget.

Vice-Chair Reeves commented on the ongoing litigation involving AB 5, discussed the potential impact of AB 5 on CUIAB's workload, and asked about economic studies involving unemployment rates. Chief Silva advised that EDD's Program Estimates Group gathers data for the entirety of EDD and that CUIAB will meet with EDD after this has been performed. Chief ALJ/Executive Director Gonzales advised there have been informal conversations concerning the impact of the AB 5 on CUIAB's workload and that, to the extent EDD projected increases in its caseload, CUIAB would likely project a percentage of that increase.

Chair Block and Presiding Judge Remke also addressed AB 5's potential impact on CUIAB's workload as a result of the clarity AB 5 provides on worker classification.

Member Eng asked whether the ALJs handling tax petitions are specialized within CUIAB. Chief ALJ/Executive Director Gonzales informed that the ALJ II classification was established to handle more complex cases, which are generally tax cases, as well as a higher caseload. Tax cases are not assigned to the ALJ I classification.

Member Eng inquired about CUIAB's capacity to quickly address workload increases in tax petitions if needed. Chief ALJ/Executive Director Gonzales advised that the ALJs have the training and experience to do the work and that regular updates and trainings are made available. Chief ALJ/Executive Director Gonzales discussed the time involved in tax matters as they proceed through EDD's processes before they may reach CUIAB.

Member Allen thanked his fellow Board members for the quality of their questions and the staff's responses concerning CUIAB workload. Member Allen noted that CUIAB possesses institutional memory regarding the great recession and knowledge of how to address rapid increases in workload due to changing economic conditions.

Closed Session:

There were no Closed Session items. The Board adjourned at 1:51 p.m.

Adjournment