

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5655**

Open Session

The Appeals Board convened at 1:00 p.m., July 15, 2020, via Zoom conferencing 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 June 17, 2020, Meeting Minutes were approved unanimously.

3. Chair's Report:

Chair Block reminded the viewers that most of the work is not done during the meetings but is done between meetings. The Board has resolved 1,008 appellate cases in the past month.

Chair Block reported that Member Michael Allen has been reappointed and congratulated him. Chair Block reported that Member Allen will be working on CUIAB's upcoming newsletter.

Chair Block recognized the recent retirements of Elena Gonzalez, Cathy Vandeleur and Lori Kurosaka. Chair Block thanked Lori for her work in many areas, including her efforts in obtaining approval for a budget change proposal that provided additional funding for the Board's work on tax appeals.

4. Board Member Reports:

Vice-Chair Reeves congratulated and thanked Lori Kurosaka on her work in public service for over 40 years. Vice-Chair Reeves also congratulated Member Allen on his reappointment.

Member Eng thanked Lori Kurosaka for her help to him and the entire agency. Member Eng also thanked Mariluz Worden for arranging the Board's daily assignments and thanked the Chair and the Board's Chief Counsel in assisting with recent inquiries to the Board. Member Eng congratulated Member Allen on his reappointment.

Member Allen thanked the Board Members and Chair Block for the support provided during his process of reappointment, noting that it is a great honor to serve the people of California. Member Allen remarked that CUIAB has always strived to be better, fair impartial, and render justice. He thanked everyone in the agency for their work during this difficult time and announced that Member Kent-Monning will partner with him in preparing the Board's newsletter.

Member Kent-Monning thanked Lori Kurosaka for her assistance and congratulated her on her retirement. Member Kent-Monning also congratulated Member Allen on his reappointment and is looking forward to serving as co-editor with him on the Board's newsletter. Member Kent-Monning commented on the value of the Board's newsletter during a time of social distancing and thanked everyone in the agency for their work.

5. Public Comment

Jennifer Cogan offered comments regarding her positive experience with CUIAB and the appeal process but informed that the EDD has not yet implemented the decision.

Ben Hermes offered comments regarding the federal pandemic unemployment assistance program applied to mixed-income workers.

Kelley offered comments regarding hybrid and mixed-income workers and challenges she has experienced with EDD.

Robin Rogers offered comments regarding hybrid and mixed-income workers.

6. Interim Chief ALJ/Executive Director Report:

Interim Executive Director/Chief ALJ Michael Cutri congratulated Member Allen on his reappointment. He also thanked Lori Kurosaka for her hard work, guidance, and congratulated her on her retirement.

Interim Executive Director Cutri advised that CUIAB's time-lapse performance during June dropped slightly due to the redirection of the veteran ALJs assisting and

training the new ALJs. Year-to-date, the field offices have closed 70.9% of the cases within 30 days and 88.5% within 45 days, meeting federal time-lapse standards. The average case age is currently 24 days.

CUIAB received over 1,800 Pandemic Unemployment Assistance (PUA) appeals as of the last week in May. CUIAB closed over 196,000 cases in the last fiscal year, a 15% increase above the 18/19 fiscal year. Monthly, CUIAB is experiencing a 30% increase in unemployment insurance appeals above pre-pandemic levels. In the past fiscal year, CUIAB had an 18% increase in Disability Insurance appeals and a 43% increase in Paid Family Leave appeals.

The State has now triggered eligibility for the Federal-State Extended Duration Benefits program, providing for up to 20 additional weeks of unemployment insurance benefits to claimants.

To address increased appeals, CUIAB has hired new administrative law judges and the workload management group meets weekly to assign cases throughout the state to maximize resources.

To date, CUIAB has avoided COVID-19 office closures. In facilities where CUIAB is a co-tenant, building managers have deep cleaned impacted and common areas involving positive cases.

CUIAB's Virtual Call Center implemented mid-May, continues to utilize a group of 13 employees per week who otherwise would be unable to perform work due to COVID-19 impacts. The call center has averaged responding to 2,000 calls per week.

Vice-Chair Reeves inquired about CUIAB's performance regarding the Department of Labor's 45-day standard for Appellate Operations. Interim Executive Director Cutri advised that he was working with Presiding Judge for Appellate Operations, Jodi Remke, on this and she will address this in her report.

Member Allen asked whether in addition to the use of retired annuitants, whether administrative law judges of other state agencies whose caseloads may be reducing may be eligible for hire into CUIAB's ALJ positions. Interim Executive Director Michael Cutri advised he has contacted other agencies regarding the loan of ALJs as had been used on previous occasions.

Member Kent-Monning asked whether the Virtual Call Center maintained data regarding the purpose of the calls. Interim Executive Director Michael Cutri advised that it does and can provide a copy of the metrics kept.

Interim Executive Director Michael Cutri introduced Kristin Songcayauon, new Legal Analyst for CUIAB. Chair Block and the Board members welcomed Kristin and thanked her for assistance.

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

PALJ/AO Remke reported that AO continues to experience difficulty meeting DOL's 45-day time-lapse standards. For the month of June, 4.6% of cases were resolved within 45 days. Year-to-date, AO's 45-day performance is 39.61%. Performance under the 75-day standard is 98%.

To address performance, AO has increased ALJ caseloads, brought in a retired annuitant, and expects to have three additional ALJs commence work in August.

PALJ/AO Remke noted that there are currently twelve (12) cases pending involving Pandemic Unemployment Assistance. She will monitor these cases and review incoming PUA-related appeals to promote consistency.

Vice-Chair Reeves thanked PALJ/AO Remke for her explanation of the AO performance. He also asked about the statewide average days to process an appeal for the Paid Family Leave cases compared to the average days to process these cases in the Orange County Office of Appeals. Interim Executive Director Michael Cutri advised that often, due to a small number of this category of cases, the handling of a small number of cases can significantly impact average performance; but, he will look into this issue.

Member Eng asked about the increases in claimant writ petitions from May to June in the Board's Litigation Report. Chief Counsel Mark Woo-Sam advised that during the prior recession, CUIAB experienced an increase in writ petitions and that the current increase may similarly result from the increases in appeals to the Board.

Members Allen and Kent-Monning thanked PALJ/AO Remke for her assistance in their work resolving appeals.

8. Chief Information Officer, Jeff Willoughby Report:

Regarding CUIAB's appeals modernization project, CIO Willoughby reported that due to an EDD administrative error, the selected vendor had been disqualified. The Request for Order was re-advertised, vendor submissions will be scored. It is anticipated that the letter of intent to award will be sent by next week.

CIO Willoughby reported that he is currently working with CUIAB's legal staff

regarding options to enable parties to electronically submit documents for their appeals. He anticipates providing further information on this at the August 19 Board Meeting.

CIO Willoughby reported that they are working on improving information technology processes related to the scheduling of telephonic hearings. He will report on the outcome of this at the next Board Meeting.

CIO Willoughby addressed Board Member Eng's inquiry regarding integrating video into CUIAB's electronic hearings. CIO Willoughby advised that while the technology costs are relatively low—ranging from essentially no additional technology costs to several thousands of dollars per month—the workflow and processes to consistently implement video hearings in CUIAB's high numbers of appeals is challenging. CUIAB will continue to evaluate how to integrate the video into the hearing process. Chair Block thanked CIO Willoughby for his work on this.

Vice-Chair Reeves advised that he believes it is important to continually improve technological capacity in handling appeals and to continue to explore the potential for video in lieu of in-person hearings.

Member Eng thanked CIO Willoughby for his work on this and requested that he provide regular or quarterly updates.

Member Allen asked about electronic file formats documents that CUIAB will be able to receive through the planned information portal. CIO Willoughby advised that there has been discussion with the legal division regarding the variety of formats and they may attempt to narrow the options.

Member Kent-Monning thanked CIO Willoughby for his work involving the telephonic hearing processes. Member Kent-Monning suggested that CUIAB offer a range of options to facilitate claimants' abilities to submit documents electronically, such as by providing scanning kiosks in the field offices accessible to parties. CIO Willoughby advised that CUIAB is looking at the possibilities to make the interaction between the constituents and CUIAB simple and understandable before the implementation of CUIAB's appeals modernization project.

9. Chief Administrative Services, Robert Silva Report:

Chief Silva reported that CUIAB has received funding from the Department of Labor for the Pandemic Unemployment Assistance, Pandemic Emergency Unemployment Compensation and Federal Pandemic Unemployment Compensation Unemployment Insurance Programs. The State was awarded 19.3 million for these

programs and, of that, CUIAB received slightly less than \$100,000. Chief Silva also confirmed that CUAB's workload associated with these programs will not be subject to DOL's time-lapse measures for appeals.

Chief Silva reported that EDD issued a travel bulletin on June 16, announcing travel restrictions. However, CUIAB's mission is considered essential and therefore CUIAB may continue to travel in-state when deemed essential to accomplish its mission. This will enable CUIAB to install the security camera replacement equipment that has been procured.

Regarding out-of-state travel, the Governor's office directed out-of-state travel be canceled for SFY 2020-2021. If CUIAB has mission-critical out-of-state travel, it must request specific approval from the Governor's office.

Chief Silva reported there are five ALJs in Field Operations beginning August 3, some of whom are transferring from other State agencies that are projecting potential downsizing. CUIAB is in the process of filing support staff vacancies in field operations and plans to announce recruitments for thirteen additional support staff positions and backfill positions in IT. Chief Silva advised that due to EDD's workload backlog, hiring processes are taking longer than usual.

Chief Silva reported that it is waiting for the receipt of categorical budget authorities from EDD Fiscal Programs Division to enable CUIAB to prepare its fiscal year 2000-2001 budget proposal. EDD has advised that it anticipates providing this on August 7, which will enable CUIAB to prepare a budget for the Board's consideration at its September meeting.

Chief Silva thanked Lori Kurosaka for her service and congratulated her on her retirement.

Member Eng inquired about what upcoming travel was anticipated. Chief Silva advised this would include an assortment of repairs, security camera installations, IT-related network installations, and employee ergonomic evaluations.

Member Allen requested clarification on the federal funding CUIAB received. Chief Silva advised that the recently received funds are for the Federal Fiscal Year 2020-2021.

Member Kent-Monning thanked Chief Silva for his report and for providing her information regarding new ALJ hires.

10. Revision to Appeals Board Policy Statement No. 20

Chief Counsel Woo-Sam presented proposed changes to Appeals Board Policy Statement No. 20 and requested the Board to approve providing notice to the employee organizations of the proposed changes. Chief Counsel Woo-Sam advised that the language of the current policy prohibiting weapons at workplaces could limit weapons kept at employees' homes when employees are telecommuting. The proposed changes would clarify that CUIAB's weapons prohibitions only apply to facilities where CUIAB is the owner of the facility, leasing the facility or occupying the facility with another entity, and do not extend to the employees' personal residences.

Member Eng moved, and the motion was seconded, to authorize providing notice to employee organizations of the Board's intent to adopt the proposed modifications to Board Policy Statement No. 20.

Member Eng inquired if other board policies may require review at a later meeting concerning teleworking, such as policies involving software and hardware. Regard Board Policy Statement No. 20, Member Eng asked if the revision to the policy follows another agency and questioned which employee unions would be impacted by the policy. Chief Counsel Woo-Sam is unsure of other agencies making this revision and advised that the policy would apply to all CUIAB employees, which are currently represented by bargaining units 1, 2, and 4.

The motion was passed by unanimous vote to provide notice to employee organizations of the Board's intent to adopt the proposed modifications to Board Policy Statement No. 20.

Adjournment