

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5673**

Open Session

The Appeals Board meeting convened at 1:00 p.m., January 12, 2022, 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 December 15, 2021, Meeting Minutes were approved unanimously.

3. Chair's Report:

Chair Block reminded that most of the Board's work is not done during the meetings, but in-between meetings. During the past month, the Board resolved approximately 500 second-level appeals, and Field Office Administrative Law Judges (ALJ) resolved thousands of first-level appeals.

4. Board Member Reports:

Members Allen and Kent-Monning offered their appreciation and support to workers and all persons affected by the pandemic.

5. Public Comment

None.

6. Chief ALJ/Executive Director Report:

During December, daily appeal transmittals from the Employment Development

Department (EDD) increased slightly over November to approximately 49% above pre-pandemic levels.

In December, the field offices issued nearly 25,883 decisions. CUIAB closed 4.3% of cases within 30 days and 5.8% of cases within 45 days. CUIAB continues to prioritize resolving the oldest cases and the average case age is approximately 100 days, compared to a national average case age of 144 days.

Since the last board meeting, there have been four brief office closures due to positive COVID cases. The offices were cleaned and re-opened with minimal operational disruption. Executive Director Cutri thanked the Administrative Services team for guiding each office through the protocols in response to COVID-19 cases and exposures.

CUIAB will conclude an ALJ recruitment on January 13, 2022, with interviews commencing soon thereafter. CUIAB currently employs 137 ALJs, including Retired Annuitant ALJs.

In December, Appellate Operations identified cases with audio recording deficiencies which required remands for new hearings. IT investigated and remedied the issue to minimize further impact. Cases identified as impacted by the recording are expedited for additional hearing after remand. Executive Director Cutri thanked the IT team for its rapid action on this.

There were no security incidents to report for December.

Vice-Chair Reeves thanked Executive Director Cutri and Chief Willoughby for their assistance with the audio recording issue and inquired about the percentage of employees out of work due to COVID-19, as well as impacts on CUIAB's daily operations. Director Cutri advised there are different tiers of isolation required following a positive COVID-19 test result or exposure depending on vaccination status and can later provide an accounting of time loss attributable to COVID. Vice-Chair Reeves asked how long an office is closed after positive cases of exposure. Director Cutri advised that the office is typically closed and cleaned that evening, then re-opened the following day.

Member Eng inquired about CUIAB's compliance with COVID-19 testing requirements. Executive Director Cutri explained that CUIAB continues to follow the State's weekly COVID-19 testing protocols. Member Eng also thanked Director Cutri and IT for their assistance concerning the recent audio recording issues.

Member Allen thanked Executive Director Cutri for his prompt response regarding the recent audio issue.

Member Kent-Monning thanked Executive Director Cutri and IT for their work on this issue and inquired about the availability of COVID-19 rapid tests for employees who may need to test before entering a CUIAB office.

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

Presiding Administrative Law Judge for Appellate Operations, Jodi Remke, reported that during December, AO resolved 92.5% of its cases within 45 days and 99.3% within 75 days. To date, AO has resolved 79.1% of its cases within 45 days.

Chair Block inquired about timeliness averages on a national level for appellate operations. PJ Remke will research and provide information on this.

Vice-Chair Reeves inquired about workload forecasts. Executive Director Cutri advised that CUIAB continues to meet with EDD on this, including deferred appeals workload.

Members Eng, Allen and Kent-Monning thanked PJ Remke for her assistance and work.

8. Chief Information Officer, Jeff Willoughby Report:

Chief Willoughby advised that IT is working on a permanent solution to the audio recording issues.

CUIAB is currently in Sprint 11 of the appeals modernization project. This spring, the team will be refining the workflow processes, ensuring accessibility, and preparing for user acceptance testing.

CUIAB is working with the Department of Technology to install redundant internet links at each field office. This is intended to be completed by Summer 2022.

The online check-in process continues to see robust use each day. CUIAB's pilot project to electronically exchange documents with EDD is working well and CUIAB will continue to work on refining and improving these systems.

Vice-Chair Reeves inquired about the ability to build redundancy into the audio recording processes to avoid future issues. CIO Willoughby advised CUIAB has implemented a notification to ensure the audio recording settings are correct.

Member Eng inquired about the measures taken to correct the audio recording issue. CIO Willoughby confirmed that CUIAB's IT had ascertained and implemented the corrections. Member Eng asked about anticipated dates as to when the audio issues will no longer be present in cases. CIO Willoughby advised that the issue was short-lived and anticipates that much of the impacted cases have already been identified.

Member Allen inquired about contingency planning for cloud-level failures. CIO Willoughby advised that cloud vendors offer levels of redundancy and that CUIAB is taking steps to ensure operations can continue to the extent possible in the event of cloud failures. Member Allen inquired about attendance at the Cyber Security Conference held in Washington D.C. for governmental agencies and the private sector. CIO Willoughby advised that the Department of Technology will disseminate information from this to CUIAB.

Member Kent-Monning thanked CIO Willoughby and the IT staff for their work.

9. Chief Administrative Services, Robert Silva Report:

Chief Silva reported that an ALJ I recruitment closes today. Since the last Board meeting, CUIAB has hired four new support staff and promoted an employee to Legal Support Supervisor I in the Inland Office of Appeals. There are currently 17 support staff positions pending.

Each January, all agencies are required to submit an IT cost report to the California Department of Technology by February 1, 2022. This report categorizes and summarizes the Information Technology purchases from the previous Fiscal Year and the projected IT expenditures for the current Fiscal Year.

Chief Silva reported that all employees who participated in the November bilingual audit have completed their time-ladder and met the 10% use threshold.

CUIAB upgraded security cameras in the Sacramento Headquarters, Oakland, San Jose, Fresno, Los Angeles, and Orange County Offices of Appeals. The remaining facilities will be upgraded when the surge in COVID cases subside.

Regarding COVID exposures, approximately 1/3 of CUIAB's total positive COVID-

19 cases since April 2020 occurred in the past four weeks. Chief Silva described the update on isolation and quarantine protocols released by the California Department of Public Health on January 8, 2022, and advised that the statewide mask mandate has been extended to February 15, 2022.

In response to Member Kent-Monning's inquiry regarding the availability of COVID-19 rapid test kits, Chief Silva reported these are currently only available to the individuals who have not provided proof of COVID-19 vaccination and are required to submit to weekly COVID-19 testing.

Chair Block inquired whether the State has given direction regarding a potential 2nd booster shot. Chief Silva advised the State has not provided departments information or guidance on this.

Vice-Chair Reeves asked about the overall percentage of CUIAB employees who have tested positive for COVID-19 and/or were required to isolate. A specific number for the number of employees that have been out of work since April 2020 due to exposure to COVID-19 is not currently available; however, approximately 13% of the CUIAB staff have reported a positive COVID-19 test result. Vice-Chair Reeves inquired about the number of staff reporting to their respective offices 5 days per week. Chief Silva will provide the information to the Board upon availability.

Member Eng inquired about the COVID-testing processes. CUIAB's employees are eligible to perform COVID-19 rapid antigen tests at their homes and have been provided test kits in advance at no cost to the employees.

Member Allen inquired whether CUIAB provides N95 masks to employees. Chief Silva reported that each office has available, and can order N95 masks; however, CUIAB has not received direction from CalHR regarding wearing N95 masks in contrast to cloth masks in the workplace.

Member Kent-Monning thanked Chief Silva for his continuous work on COVID-19 issues and inquired about teleworking options for individuals who become ill or test positive before reporting to the office. Chief Silva explained if the duties of the classification can be performed remotely, CUIAB would allow it. However, for employees in classifications unable to work remotely, those employees will be required to use available leave. Member Kent-Monning asked about ways to pivot workload to relieve the impact on the in-office staff when employees must be out. Executive Director Cutri advised that at this point CUIAB has established the ability to redirect various types of work if an office becomes short-staffed.

10. Proposed New and Amended Regulations 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.

Vice-Chair Reeves asked for confirmation that discussions regarding implementing direct appeals to CUIAB could continue for potential future implementation and expressed his support for this. Chief Counsel Woo-Sam confirmed this. Chief Cutri further advised on the pilot programs to electronically transmit appeals between CUIAB and EDD.

Member Eng asked if there is an anticipated date to move forward with the filing of digital appeals with CUIAB. Chief Cutri advised that the appeals modernization program is not in a position to implement this; however, once the new program is fully developed, CUIAB may be able to again propose this process change. Member Eng inquired about the implementation costs associated with filing appeals directly with CUIAB. Chief Cutri and Chief Counsel Woo-Sam advised that the costs associated with this change stem from the breadth and complexity of business process changes needed by both EDD and CUIAB if electronic appeals are filed directly with CUIAB. Chief Counsel Woo-Sam provided clarification regarding the intent of changes regarding electronic hearings and confirmed that proposed changes would not diminish parties' due process rights.

Member Allen asked for clarification regarding the striking-out of the word "television" in the proposed regulations. Chief Counsel Woo-Sam advised the intent was to globally replace the word "television" with "video" in response to Member Eng's request during the April 2021 Board Meeting.

Member Kent-Monning commented on the efforts in developing the regulations and the benefits that have accrued as a result of the dialogue between EDD and CUIAB regarding the proposed changes.

Member Eng moved to adopt the recommendation to move forward with the amendments to Title 22, California Code of Regulations, Section 5000 et seq. The motion was adopted unanimously.

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Closed Session:

There was no Closed Session.

Adjournment