Board Meeting
Draft Minutes

Date: Wednesday, October 20, 2021
Location: Menands, NY

Present:
Geraldine A. Reilly, Chair
Randall T. Douglas, Member (via videoconference from Plattsburg, NY)
Michael T. Greason, Member (via videoconference from Brooklyn, NY)
Marilyn P. O’Mara, Member (via videoconference)
June F. O’Neill, Member (via videoconference from Canton, NY)
Tracie L. Covey, Executive Secretary (via videoconference from Syracuse, NY)
Christopher M. Tate, Principal Administrative Law Judge

Agenda:
1. Welcome and Call to Order
2. Reading and adoption of agenda
3. Reading and adoption of Minutes – April 21, 2021 meeting
4. Executive Director’s report
5. Principal ALJ for Appeals Report
6. Other
7. Adjourn

Welcome and Call to Order

- Board Chair Geraldine Reilly began her remarks by saying that she hopes all attending and watching, and their families are enjoying good health and will continue to do so. Like so many others the UIAB was directly impacted by the pandemic, and while we grieved, we continue to do our work, doing what we can to serve the public and care for our employees. She added that due to the economic impact of the virus, we have seen a dramatic increase in our workload, and our employees have been steadfast in rising to the task of continuing to serve all New Yorkers who need our services. We at the UIAB are very grateful.

- Chair Reilly asked everyone to join her for a 10 second moment of silence to remember those we so sadly lost, and those who have suffered.
• Reilly asked Board Director and Executive Secretary Tracie Covey to take the role of Board members, and a quorum was present.

• Board Chair Reilly presided from the Board’s office in Menands, New York for this Wednesday, October 20, 2021 public meeting of the Board. This meeting is consistent with requirements of Chapter 417 of the Laws of 2021, signed by Governor Kathy Hochul on September 2, 2021 concerning elements of the Public Officers Law, Article 7, “The Open Meetings Law” – this law is operative through January 15, 2022.

• The meeting was noticed, the draft agenda published, the minutes from the previous, April 21, 2021 meeting had been circulated to the members, and the public had been invited to observe in real time. This meeting was recorded and will be made available, along with the minutes on the UIAB website, https://uiappeals.ny.gov

• Due to the pandemic, Board members and some staff were attending remotely. Chair Reilly thanked them for recognizing that every contribution to a decrease in social density and the possibility of spread, matters. She noted that with all members present, there was a quorum, and the meeting was recognized as the final official meeting of 2021.

• Chair Reilly expressed her gratitude to all of those who have supported the work of the Board in addressing the many tasks that they faced, including the staff and leadership of all UIAB offices and her colleagues on the Board for their work, encouragement, and support.

• Chair Reilly noted that this was the final meeting of 2021; and her hope that the consistent, quarterly schedule of Board meetings presents a Board that is proactive and accessible - and a Board which aggressively addresses the 21st century challenges that we face or that we anticipate—and that we address those tasks with optimism and confidence in the skill and effort of our many talented employees.

• Chair Reilly also wanted to acknowledge and thank Executive Director and Board Secretary Tracie Covey, who appeared remotely from Syracuse and Principal ALJ for Appeals Christopher Tate who attended the meeting in Menands. She added that Chief ALJ Jayson Myers was unable to attend this meeting, but his report will be incorporated into the report of Executive Director Covey. She also thanked Melissa Sousa for taking minutes and Amy Higby who assisted with technology.

• Chair Reilly took a moment before she called the meeting to order to remind members, staff and the public that the next public meeting of the Board will be held on Wednesday, January 19, 2022 at 11:00 a.m.

• She added that Board Members will receive a brief training session on legal updates immediately after this meeting which will be delivered by ALJ Allison Schwier.

• The meeting was called to order at 11:07 a.m.

  o **Reading and adoption of the agenda**

  • Member Randall Douglas moved to accept the agenda
• Member June O’Neill seconded the motion
• Motion to accept agenda adopted unanimously

 o **Reading and Adoption of the minutes, from the April 21, 2021 Board Meeting**
  • Member Michael Greason moved to waive the reading and to adopt the minutes
  • Member Marilyn O’Mara seconded the motion
  • Motion to suspend reading and adoption of the minutes unanimously approved

 o **Director’s Report - Tracie Covey**
  • Agency Statistics:
    o The UIAB is not in compliance with USDOL acceptable level of performance markers. The validated data as of September 2021 shows that the Lower Authority average case age was 72.72 days, which is above the 30-day acceptable level of performance. At the current time, we are also not meeting compliance standards with 30 and 45-day time lapse markers, with only 6% of cases being decided within 30 days and 16% of cases being decided within 45 days.

    o The case age and time lapse statistics are due to issues at the UI Division. The average case age, prior to the cases reaching us, is 111 days. For most of this year, between 90 – 95% of the cases sent to us were already too old for us to meet the USDOL timeliness markers. We will not meet these markers and time lapse percentages until the UI Division is able to send us 65-70% of cases within 10 days of the receipt of the hearing notice.

    o The UIAB is also out of compliance with USDOL acceptable level of performance standards for the Higher Authority. Validated data for September 2021 shows that the average case age is 70.55, which is above the 40-day USDOL marker. This is primarily because of increased inventory and the need to focus the UIAB’s efforts on the lower authority hearings for the first half of this year.

  • **Staffing News:**
    o The UIAB judicial and administrative staffing level is currently at 128 judicial and administrative employees.

    o The UIAB had had several staff retire or leave for other opportunities this year and we are in the process of hiring replacements.

    o On the administrative side, we are continually recruiting and hiring qualified candidates as needed. At the present time, we are interviewing for two Business Service Analysts positions and have just hired a Spanish Language LSR who starts on October 28, 2021. Each of these positions is to backfill for individuals who have left the UIAB this year.
On October 28, 2021 the UIAB will welcome three new ALJs – Heather Prado (Syracuse), Jennifer Hilburger (Rochester), and Seeta Persaud (Buffalo).

Recruitment has just begun for six additional ALJs – two each in Rochester, Menands, and Brooklyn. We hope that they will be able to start somewhere around the beginning of 2022.

There is a promotional opportunity for a Senior ALJ position located in Hauppauge which has been posted.

Principal ALJ Teresa DeMeo, who oversaw the Brooklyn, Long Island and White Plains offices since 2008, retired from State service on September 1, 2021. We want to thank her for her 30 years of total service to the UIAB. Senior ALJ Justin Dentin, who has been a key contributor in several important initiatives over the last couple of ears, including the electronic case file/Content Navigator project for the FPUC overpayment cases, is serving as the Acting Principal ALJ overseeing the Brooklyn office. We are delighted to have him join or management team. For the present, Principal ALJ Mark Sokolowski is overseeing judicial staff at the other hearing locations.

In Buffalo, June Egeland has been appointed as Senior ALJ effective October 28, 2021. She has served on our Training Committee and prepared all our CARES Act and other federal legislation training guidance since April 2020. She replaces Mark Sokolowski who was the Senior ALJ in Buffalo before being appointed as Principal ALJ. We are very pleased to have her as part of our judicial supervisory team.

Training:

The eight ALJs who began in March of 2021 have now been trained in all areas of UI law, except for issues related to employer contributions and liability. Each of them continues to progress satisfactorily. They now have calendars equivalent to the experienced judges and their decisions have had very good results when appealed to the Board.

The three new hire ALJs will begin the UIAB’s six-week comprehensive new hire training next week. Thank you to Training Coordinator Senior ALJ Alison Ferrara for coordinating this training. Trainers will be ALJs Kathleen Mannix, Susan Aron, Dawa Jung-Acosta, Will Friedman, and Michelle Burrowes, Senior ALJs Alison Ferrara, Carol Procopio and June Egeland, Acting Principal ALJ Justin Denton, Business Systems Analyst Amy Higby, Principal ALJs Chris Tate and Mark Sokolowski, along with Chief Judge Jayson Myers and Executive Director Tracie Covey.

Efficiency Training is also being prepared by the UIAB Training Committee which is intended to enhance the skills and deliver practice tips to ALJs in areas of practice such as opening statement, document practice, file preparation, avoiding repetition and irrelevancy, and explanations of procedures. Those involved in this project include Alison Ferrara, Susan Aron, Kathleen Mannix, Michelle Burrowes, Chris Tate, Will Friedman and June Egeland.
• On behalf of the UIAB, Covey thanked ALJ Jane Scott who has drafted a User Guide for Conforming Orders as a Knowledge Transfer project. With UIAB Manager Janet Beaudoin, ALJ Jane Scott has also contributed to drafting a User Guide for processing attorney fees.

• Latest Federal Quality Review:
  o UIAB ALJs’ average grade was 96.91% for the second quarter of 2021. Twenty randomly selected cases were scored according to the 31 federal quality criteria. All 20 cases scored achieved the U.S. Department of Labor’s passing grade of 85% or better, easily surpassing the acceptable level of performance of 80 percent passing with grades of 85 or better. Nine of the 20 hearings scored had perfect scores of 100. We again want to thank our hearing judges across the state and their supervisors, the Senior Judges, as well as the judicial staff at the Higher Authority who review the hearing records that come up on appeal to the Board. It takes a total team effort to achieve and maintain high performance.
  o The UIAB continues to administer its own Quality Assurance Program. The audits focus on the fundamental elements of fair hearings and decisions. We are doing 140 of those audits every quarter. We are committed to rigorous internal quality control. Doing 120 more audits per quarter, or 600 percent greater than what the U.S. Department of Labor requires, demonstrates that commitment.

• Technology:
  o The UIAB team continues to move forward with the UISIM computer modernization project and are now completing the design phase. The project still has an anticipated completion date of December 2022.
  o The e-file pilot project wrapped up recently. The UIAB could not expand this to include all our inventory for various reasons. It was determined that the “out-of-the-box” version of the program was too “process heavy” for us to use on a larger scale. However, we learned valuable lessons about what we need from an electronic file system and are leveraging this knowledge and experience in developing the e-file we will use when UISIM goes live in December 2022.
  o We also continue to work on our library digitalization project. A team of administrative staff are organizing 239 banker boxes full of Board decisions that pre-date 2008. Those decisions will be sent to an outside vendor for scanning into PDF format. It is anticipated that the scanning will begin December 1. The UIAB will then house the decisions electronically in an internal archive.

• Chair Reilly asked for questions or comments
  o Chair Reilly thanked Executive Director Covey for her report and thanked her and UIAB judicial staff for their continued quality work at getting case closer to acceptable levels. Each report that has been issued by the UDSOL is showing improvement in case age based on their analysis.
• Member Randall Douglas moved to accept the report into the record. Member Michael Greason, seconded. The report was unanimously accepted into the record.

○ Principal ALJ Report - Christopher Tate

• Principal ALJ Tate discussed four cases affirmed by the Court:
  ○ Matter of Frederick, 2021 N.Y.App.Div. LEXIS 5158

• Chair Reilly asked for questions
  ○ Chair Reilly commended PALJ Tate on his selection of cases which reflect the diverse cases seen every day at the UIAB.

• Motion to adopt the report and incorporate into the record was made by Member June O'Neill. Members Michael Greason and Marilyn O'Mara seconded the motion which was unanimously adopted.

○ Other

• Chair Reilly asked for new business and hearing none asked for a motion to adjourn

○ Adjourn

• Member Randall Douglas moved to adjourn the meeting and Member Michael Greason seconded the motion. The motion to adjourn was unanimously adopted. The meeting was adjourned at 11:30 a.m.

Adopted January 19, 2022