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MATTHEW J. TIERNEY
PRINCIPAL ADMINISTRATIVE LAW JUDGES

Draft Minutes of UIAB Board Meeting, Wednesday, January 17, 2018

Present in Troy: Geraldine A. Reilly, Chair; Randall T. Douglas, June F. O'Neill, Board Members; Jayson Myers, Chief Administrative Law Judge, Christopher Tate, Principal Administrative Law Judge, Matthew Tierney, Principal Administrative Law Judge, Daniel Langford

Present in Brooklyn: Michael T. Greason, Board Member, Susan Borenstein, Executive Secretary, Patricia Marshall

Present in Elmira: Marilyn P. O'Mara, Board Member

By Videoconference from Syracuse: Tracie Covey

Agenda:

- Introduction and acknowledgement of the winners of UIAB Employee Recognition Awards
 - Welcome and Call to Order
 - Reading and adoption of agenda
 - Adoption of Minutes – October 18, 2017 meeting
 - Director's report
 - Chief ALJ report
 - Court Decision Update – Principal ALJ for Appeals
 - Report on USDOL Federal Quality Review
 - Other
 - Adjourn
1. Introduction and acknowledgement of the winners of UIAB Employee Recognition Awards
 - Prior to the formal start of the meeting, each Board Member, Executive and guest introduced him/herself. Chair Reilly then introduced to the Board the guests, all winners of the first annual UIAB Employee Recognition Awards: Tracie Covey, winner of the UIAB Annual Leadership Award; Daniel Langford, winner of the Career Achievement Award; and Patricia Marshall, winner of the UIAB Award for Excellence.
 - Chair Reilly then noted the contributions to the UIAB of each of the awardees. Each of the Board Members thanked the awardees for their contributions.
 - Chair Reilly excused the guests.
 2. Welcome and Call to Order
 - Chair Reilly presiding from Troy, New York opened the meeting. She reported that the public had been noticed and invited and that the draft agenda had been

published, minutes of the previous meeting circulated to members, and the public invited.

- Chair Reilly acknowledged Board Members Douglas and O’Neill who were in attendance with her in Troy and Board Member Greason who attended remotely in Brooklyn and welcomed Board Member Marilyn Piña O’Mara who was attending her first Board meeting, and then stated that the required quorum was met. She thanked all those who have supported the work of the Board, the staff and leadership of all UIAB offices and primarily her colleagues on the Board for their work, encouragement and support. Chair Reilly also acknowledged and thanked Director Borenstein, Chief ALJ Myers, and Principal ALJ Tate for their work, as well as Principal ALJ Tierney who was in attendance to report on the USDOL Federal Quality Assurance Program. Finally, she thanked ALJ Susan Aron who conducted a Board training later in the day.
 - The meeting was called to order at 11:10am.
3. Reading and adoption of the agenda
 - Member Douglas moved to adopt the agenda
 - Member O’Neill seconded the motion
 - Motion to adopt agenda adopted unanimously
 4. Reading and Adoption of the minutes, October 18, 2017 Board Meeting
 - Member Greason moved to dispense with the reading and to adopt the minutes
 - Member Douglas seconded the motion
 - Motion to suspend reading and adoption of the minutes unanimously approved
 5. Report of Executive Secretary Susan Borenstein
 - Secretary Borenstein reported on the USDOL average case age and timeliness markers as follows: Lower Authority average case age for the month of December 2017 was 28.4 days, almost two days below the 30-day acceptable level of performance. For Higher Authority the average case age in December was 49.2 days – higher than the 40-day acceptable level of performance.
 - She expressed concern with the Lower Authority timeliness markers which obligate the Board to mail 60% of the decisions within 30 days of the hearing request and 80% within 45 days. Currently the UIAB is not meeting these markers primarily because cases received from the UI Division have a high case age when received, making it extremely difficult to get the cases scheduled and heard and decisions rendered and mailed within the 30 and 45-day period.
 - The number of UIAB staff is currently at 139.
 - Secretary Borenstein reported that a LEAN project in Brooklyn to improve the efficiency of scheduling hearing cases has started. Perry Cerrato, the Deputy Inspector General of the Justice Center, is the lead facilitator. She described the origin of LEAN-- the creation of the Sage Commission in 2011 by Governor Cuomo to identify structural and operational changes that would help to make state government more effective.
 - Finally, Borenstein noted that on January 8, 2018 a “kick-off” meeting to start the update of the UIAB case management system was held. This update is occurring simultaneously with the modernization of the entire UI and UIAB computer system.
 - Chair Reilly asked for questions. Member Douglas asked how the Board could assist in lowering the average case age in the Higher Authority? Member O’Mara asked how the update of the case management system would affect the case age? Member O’Neill asked how she could ascertain the date of the initial hearing request. A short discussion ensued. Board Members agreed that they

would look at the labels on the case file to see the case age and would also endeavor to review and sign the oldest cases first and return them immediately for mailing.

- Chair Reilly then thanked Secretary Borenstein for her efficiency and work and asked for a Motion to accept the report. Member O'Neill so moved and Member Greason seconded the motion. The report was accepted unanimously.
6. Report of Chief Administrative Law Judge (ALJ) Jayson Myers
- Chief ALJ Myers began his report with the excellent results of the 2017 Third Quarter Federal Quality Review. He noted that the UIAB average score for the was 97.6% based on 40 randomly selected cases which were scored on a 31-point quality criterion. All 40 of cases scored passed with a score of 85% or better and 19 received perfect scores of 100% confirming the talent and dedication of the judicial staff.
 - He noted that since the last Board meeting a training on writing decisions in plain language was given at seven of the eight UIAB locations with one location Syracuse remaining. He commended Senior ALJs Denton, Beason, Hodges and Covey for their work in facilitating the trainings.
 - Regarding judicial trainings, Chief Myers reported that during the first half of the year a training that will refresh judicial staff on the appropriate way for a hearing judge to work in cases involving interpreters will be conducted. Soon thereafter there will be a customer service training for the entire staff.
 - Deborah Esrick attended the CLE Accredited Provider Conference on November 19 on behalf of the UIAB. The biggest news from the conference was a new category of required legal credits effective January 1, 2018 – Diversity, Inclusion and Elimination of Bias” -- will be required.
 - Chief AJ Myers reported that a task force of Brooklyn staff will meet on January 26, 2018 to discuss steps to facilitate the easier completion of decisions in hearings with multiple case numbers.
 - Chief ALJ Myers noted that ALJ Kathleen Mannix (Troy) has been serving commendably on a LEAN committee project workgroup for nonmonetary determinations for the last two years. The project is now winding down.
 - Finally, the Chief reported that the we are currently recruiting for four new ALJs in the Brooklyn hearing section.
 - Chair Reilly thanked the Chief Judge for his leadership and the quality of the judicial team. She asked for questions and, hearing none, asked for a motion to accept the report. Member Douglas moved to adopt the report. Member O'Mara seconded the motion and it was unanimously adopted.
7. Report of Principal Administrative Law Judge Christopher Tate
- Principal ALJ Tate discussed three cases affirmed by the Court:
 - *Matter of Huang*, 63 NYS3d 149, decided November 9, 2017
 - *Matter of Lasker*, 36 NYS3d 758, November 9, 2017
 - *Matter of Raupov*, 155 AD3d 1284, decided November 16, 2017
 - Chair Reilly asked for questions and, hearing none, asked for a motion to adopt the report. Member O'Neill moved to adopt the report. Member Greason seconded the motion which was unanimously adopted.
8. Report on Federal Quality Review (FQR)
- Principal ALJ Matthew Tierney reported on his responsibility to coordinate the USDOL Quality Review process at the UIAB

- He described the audit process whereby 40 randomly selected hearing cases are scored using 31 criteria. A passing score for a single reviewed case is 85%, while for the UIAB to obtain an overall passing score, 80% of the cases reviewed must receive a score of 85% or better.
 - The scoring process is weighted depending upon the elements being scored. The five critical elements which can determine whether or not a case passes are: Confrontation; Cross-Examination; Hearing within the Scope of the Notice; Bias and Prejudice and Findings of Fact.
 - Principal ALJ Tierney concluded his remarks by indicating that the UIAB consistently meets and exceeds the due process requirements. The average score for three quarters of 2017 was 97.13%, a very strong score.
 - Chair Reilly asked for questions and hearing none asked for a Motion to accept the report. Member Douglas so moved, and Member O'Mara seconded the motion which was unanimously adopted.
9. New Business: Chair Reilly asked for new business and hearing none asked for a motion to Adjourn
- Member Greason so moved and Member O'Mara seconded, and the motion to adjourn was unanimously adopted.

Submitted by: Susan Borenstein