Board Meeting
draft Minutes

Date: Wednesday, January 19, 2022
Location: Menands, NY (unless otherwise noted)

Present (via videoconference):

Geraldine A. Reilly, Chair
Randall T. Douglas, Member (Plattsburg, NY)
Michael T. Greason, Member (Brooklyn, NY)
Marilyn P. O’Mara, Member (Elmira, NY)
June F. O’Neill, Member (Canton, NY)
Tracie L. Covey, Executive Director / Executive Secretary (Syracuse, NY)
Jayson S. Myers, Chief Administrative Law Judge
Christopher M. Tate, Principal Administrative Law Judge

Agenda:

1. Welcome and Call to Order
2. Roll Call
3. Reading and adoption of agenda
4. Reading and adoption of minutes – October 20, 2021 meeting
5. Executive Director’s report
6. Chief ALJ’s report
7. Principal ALJ for Appeals Report
8. Other
9. 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 Executive Director and Board 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, January 19, 2022 public meeting of the Board. She went on to say that this meeting, today, is consistent with requirements of Chapter 417 of the Laws of 2021, signed by Governor Kathy Hochul on Sept 2, 2021, concerning elements of the Public Officers Law, Article 7, “The Open Meetings law” which was extended through legislation the Governor signed on Friday, January 14th, 2022.

- The meeting was noticed, the draft agenda published, the minutes from the previous, October 20, 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

- 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 first meeting of 2022; 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 went on to say that each Board Member, and each staff member is serious and interested—industrious and engaged in their approach to the important work that we do, and she sincerely thanked them for that.

- Chair Reilly went on to say that “Every day, the UIAB leadership team works to better this organization and to better serve the people of New York State. As you will hear in the reports, we are now training a cadre of new ALJs who will be instrumental in shaping the future of the Board. All involved in mentoring and nurturing our new judges should be commended—sharing their experiences and imparting personal knowledge is an invaluable training tool".
• Chair Reilly also wanted to acknowledge and thank our Executive Director and Board Secretary Tracie Covey, who is appearing remotely from Syracuse and who has worked tirelessly to advance the Board and our Mission. She also thanked Principal ALJ for Appeals Christopher Tate for his work in these very trying times.

• Chair Reilly then acknowledged UIAB Chief ALJ, Jayson Myers. She acknowledged the work he has accomplished, and his contribution not only to today’s meeting but to every success this Board has achieved. His efforts have been so consequential and his devotion to our work steadfast.

• Chair Reilly continued by thanking Melissa Sousa for taking minutes, and Amy Higby who assisted with technology for this meeting.

• Chair Reilly announced that after the meeting there would be a two-part training session—ALJ Jane Scott will provide an overview of the process regarding cases that are appealed to Court following an adverse decision by the Board. Then ALJ William Friedman will take us through a training session on Partial Unemployment and changes in the law governing that circumstance.

• 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, April 20, 2022 at 11:00 a.m.

• The meeting was called to order at 11:09 a.m.

  o Roll Call

    • Attendance was taken. All Board Members were present.

  o Reading and adoption of the agenda

    • Member Randall Douglas moved to accept the agenda
    • Member Michael Greason seconded the motion
    • Motion to accept agenda adopted unanimously

  o Reading and Adoption of the minutes, from the October 20, 2021 Board Meeting

    • Member Michael Greason moved to waive the reading and to adopt the minutes
    • Member June O’Neill seconded the motion
    • Motion to suspend reading and adoption of the minutes unanimously approved

  o Director’s Report - Tracie Covey

    • Recap:
      o The UIAB has completed an e-file pilot project, and continues to work on an Appeal library digitization project
The UIAB has nimbly moved ALJs and administrative staff between the lower and higher authority to address operational needs; navigated remote work, a full return to the office, and increased inventory and hearing schedules.

Significant time and resources have been devoted to a continuing computer modernization project, updates to the UIAB website and robocalling system, multiple judicial and administrative training sessions on the law, procedures, and new technology.

The UIAB staff have done all of this while focusing heavily on providing due process and extraordinary customer service during the second year of a global pandemic.

Many thanks to our Chair Geraldine Reilly for her capable leadership. Executive Director Covey also thanked: Chief Judge Jayson Myers, Principal Judges Chris Tate and Mark Sokolowski, Acting Principal Judge Justin Denton, UIAB Manager Janet Beaudoin, Training Coordinator Alison Ferrara, as well as all UIAB judicial and administrative staff – whose talent and hard work made these accomplishments possible.

**Staffing News:**

- The judicial and administrative staffing level for the UIAB is currently at 133 employees.

- Since the beginning of 2021, the UIAB has hired 13 new ALJs, two of whom just started in the first week of January 2022.

- The UIAB has also gained about eight new administrative staff, including two new members of our Business Systems Analyst team: Caitlin Smith, Business Systems Analyst 2 who started in late November 2021 and Liz Stonehill, Business Systems Analyst 1 who will start on February 3, 2022.

- In 2022, the UIAB will be continuously recruiting to fill vacancies left by retirements and individuals who have left for other opportunities.

**Technology:**

- The computer refresh is almost complete, with just a few remaining laptops to distribute and install. In total, 135 desktop PCs will have been replaced with new laptops. The UIAB is also in the process of replacing several laptops that were experiencing compatibility issues with our recording system and anticipate this will be completed by next week.

- The UIAB is working with two other units in the Department of Labor to develop a virtual hearing system that can be used across the agency. This new video conference technology would be a significant advancement for the UIAB as all of hearings are currently being held by telephone.
The UIAB also continues to move forward with the UISIM computer modernization project. The project’s completion date has been pushed back to the Fall of 2023. The UIAB has been told this is due to certain legislative changes and system design delays.

- Agency Statistics:
  - Although the UIAB is still not in compliance with USDOL acceptable level of performance markers, case age has decreased significantly since the last report.
  - Validated data as of December 2021 shows that the Lower Authority average case age was 37 days, which is above the 30-day acceptable level of performance (but a significant decrease from the 72.72 days that was last reported).
  - At the current time, the UIAB is also not meeting compliance standards with 30 and 45-day time lapse markers, with only 1% of cases being decided within 30 days and 7% of cases being decided within 45 days.
  - The case age and time lapse statistics are outside of the UIAB’s control. DOL’s average case age, prior to the cases even reaching the UIAB, is currently 136.9 days. For over a year now, over 85% of the cases they have sent to the UIAB are already too old for us to meet the USDOL timeliness markers.
  - We are also still out of compliance with USDOL acceptable level of performance standards for the Higher Authority but again, case age is decreasing. Validated data for December 2021 shows that the UIAB’s average case age is 61, which is above the 40-day USDOL marker (but a decrease from the 70.55 days that was last reported). This case age has been slowly decreasing as UIAB ALJs address the backlog of higher authority cases that was created in 2020 and 2021 when UIAB staff needed to focus on lower authority hearings quickly, and prior to adding judicial staffing to the organization.

- Chair Reilly asked for questions or comments
  - Chair Reilly thanked Executive Director Covey for her report and thanked her and UIAB judicial staff for their continued quality of work, keeping the Board an innovator. She continued in saying that adding 13 new ALJs is a huge accomplishment and recognized that the UIAB team has been upgraded and supplemented.

- Member June O’Neill moved to accept the report into the record. Member Marilyn O’Mara, seconded. The report was unanimously accepted into the record.

- Chief ALJ’s Report – Jayson Myers
  - Federal Quality Review:
In the most recent federal quality review, for the third quarter of 2021, UIAB ALJs’ average grade was 98.05%, which is up more than one point from the previous quarter’s 96.91.

The review process that takes place quarterly is that 20 randomly selected cases are scored according to 31 federal quality criteria that comprise the most important aspects of hearings and decisions according to the United States Department of Labor.

All 20 cases that were scored for the third quarter of 2021 achieved the U.S. Department of Labor’s passing grade of 85% or better, easily surpassing the acceptable level of performance of 80 percent, which is 16 cases, passing with grades of 85 or better. Ten of the 20 hearings scored had perfect scores of 100.

Chief ALJ Myers thanked the UIAB hearing judges across the state and their supervisors, the Senior ALJs, who conduct these audits. He also thanked the judicial staff at the Higher Authority who, as part of their reviews, identify errors in the hearing records that come up on appeal to the Board. Their work also helps to ensure the highest level of quality in UIAB hearings and decisions.

- **Quality Assurance Program:**
  - To ensure a continuing high level of quality, the UIAB administers its own Quality Assurance Program. The audits focus on the fundamental elements of fair hearings and decisions.
  - UIAB staff are doing 140 of those audits every quarter, which is 600 percent more than the USDOL requires, demonstrating our commitment to rigorous internal quality control

- **Staffing:**
  - Acting Principal ALJ Justin Denton has been doing a very good job in succeeding the former Principal ALJ who retired last year. He oversees the Brooklyn and Long Island hearings operations and continues to play integral roles both as a Change Champion in the UI Systems Integration Modernization project and as a contributor in discussions of potential virtual hearing systems.
  - Judge Denton’s acclimation to his new role has allowed Principal ALJ Mark Sokolowski to concentrate on judicial operations for hearings in White Plains, Menands, Syracuse, Rochester, and Buffalo. Principal ALJ Christopher Tate continues to oversee judicial operations at the Higher Authority.
  - The UIAB has appointed two new Senior ALJs since the last meeting of the Board. Kathleen Mannix was appointed Senior ALJ in Menands. She had been an ALJ with the UIAB for 10 years and we look forward to her doing a great job in her new role. Also appointed as a Senior ALJ, at our Hauppauge, Long Island location is Allison Schwier. She had previously served as an ALJ at both our Brooklyn and
Hauppauge offices, and we likewise look forward to her doing a great job in her new position.

- The three ALJs who started with the UIAB on October 28, 2021, Heather Prado in Syracuse, Jennifer Hilburger in Rochester, and Seeta Persaud in Buffalo, completed their training in December 2021 and began to hear cases. Their supervisors will observe and audit a large portion of their hearings during their initial period on calendar. They are hearing two cases per day which will soon increase to three.

- Two new ALJs started in Menands on January 6, 2022, Kryszystof Wendland, also known as Chris, and Michael Trajbar. They will undergo our intensive six weeks training. Training Coordinator Senior ALJ Alison Ferrara is now coordinating the third training of an incoming class within the last year and has done a terrific job in that regard.

- **Training:**

  - The trainers for the newest entering ALJ class are ALJs Susan Aron, Dawa Jung-Acosta, William Friedman, and Michelle Burrowes, Senior ALJs Alison Ferrara, Carol Procopio, Kathleen Mannix, and June Egeland, Principal ALJs Justin Denton, Chris Tate and Mark Sokolowski, Amy Higby of our Business System Analyst team, Tracie Covey, and CALJ Jayson Myers. The UIAB has developed a deep bench of trainers for which we are very thankful.

- **Organizational Note:**

  - Chief Judge Myers also wanted to especially acknowledge and thank ALJ Eva Lynn Hayko who has stepped into the role of drafting the Noteworthy Decisions monthly memo that goes out to Board Members and judicial staff. She does a terrific job writing these memos very professionally.

- **Chair Reilly asked for questions or comments**

  - Chair Reilly commended CALJ Myers and his team for their commitment to continued quality work for the UIAB.

- **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 Absolute Home Health Care*, 199 AD3d 1135
• Chair Reilly asked for questions
  o Chair Reilly thanked PALJ Tate for his inclusion of Matter of Blomstrom which involved independent contractor issues

• Motion to adopt the report and incorporate into the record was made by Member June O’Neill. Member Michael Greason seconded the motion which was unanimously adopted.
  o Other
    • Chair Reilly asked for new business and hearing none asked for a motion to adjourn
  o Adjourn
    • Member Michael Greason moved to adjourn the meeting and Member Marilyn O’Mara seconded the motion. The motion to adjourn was unanimously adopted. The meeting was adjourned at 11:35 a.m.

Adopted July 20, 2022.