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JUNE F. O'NEILL  
MARILYN P. O'MARA  
MEMBERS



## Unemployment Insurance Appeal Board

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TRACIE L. COVEY  
CHIEF ADMINISTRATIVE LAW JUDGE

JUSTIN DENTON  
MARK R. SOKOLOWSKI  
CHRISTOPHER M. TATE  
PRINCIPAL ADMINISTRATIVE LAW JUDGES

## Board Meeting

### Draft Minutes

Date: Wednesday, January 17, 2024

Location: Menands, NY

Present: Geraldine A. Reilly, Chair  
Randall T. Douglas, Member  
Marilyn P. O'Mara, Member  
Michael T. Greason, Member (via videoconference from Brooklyn, NY)  
Tracie Covey, Chief Administrative Law Judge  
Leighann Brown, Executive Director  
Christopher M. Tate, Principal Administrative Law Judge

Absent:  
June F. O'Neill, Member

Agenda:

1. Welcome
  2. Call to Order
  3. Roll Call
  4. Reading and adoption of agenda
  5. Reading and adoption of minutes – October 18, 2023, meeting
  6. Executive Director's Report
  7. Chief Administrative Law Judge's report
  8. Principal ALJ for Appeals' Report
  9. Other
  10. Adjourn
- **Call to Order/Welcome**

- Board Chair Geraldine Reilly began her remarks by welcoming all attending and those watching remotely to this meeting of the New York State Unemployment Insurance Appeal Board, which was the first meeting of 2024. She added that she was located at the Board's headquarters in Menands, New York.
- Chair Reilly thanked all those attending and watching the meeting for their interest in the operations and management of the UIAB. She added that the UIAB is an adjudicative body with jurisdiction over disputes regarding eligibility and payments concerning New York State Unemployment Insurance. She thanked everyone for their continuing interest in this consequential work.
- The meeting was noticed, the draft agenda was published, the minutes from the previous meeting, October 18, 2023, were circulated to the members, and the public was 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 thanks to all of those who have supported the work of the Board in addressing the many challenges they have faced. In addition, she thanked the staff and leadership in all of the UIAB offices, and she thanked her colleagues on the Board for their work, encouragement, and support.
- Reilly acknowledged the myriad technological innovations which this year has brought. Adding that the staff of the UIAB have accomplished, through the leadership of our Chief Administrative Law Judge (CALJ), and all of our Principals Administrative Law Judges (PALJs), and our director, a significantly "remote" workplace, while continuing to ensure that due process protections are met.
- She continued by saying that you will hear more about these exciting projects during the executive presentations but be assured that 2024 will be a year of technological advancement—which will change many aspects of how work is done at the UIAB, all in the interest of serving our customers and employees in a smarter and better way. Virtual Hearings, UISIM and other innovations are on the horizon.
- Chair Reilly added that she hopes that this consistent schedule of Board meetings presents a Board that is proactive and accessible; a Board which aggressively addresses 21<sup>st</sup>-century challenges; and that the UIAB addresses those tasks with optimism and confidence in the skill and effort of its many talented employees.
- Chair Reilly went on to say that each Board Member and each staff member is serious, interested, industrious and engaged in their approach to the important work done at the UIAB. She sincerely thanked them for that.
- Reilly also wanted to acknowledge and thank CALJ Tracie Covey, who is based in Syracuse, but attending the meeting in Menands; and has worked tirelessly to advance the Board and its Mission. Tracie assumed this role in a time of pandemic crisis and has led the Board judiciously and so well, since.
- Chair Reilly acknowledged Leigh Brown, the UIAB's hard-working and talented Executive Director, who attended the meeting in Menands. Leigh is a beacon for demonstrating leadership, fairness and goodwill, qualities which we highly value; thank you, Leigh!

- Reilly also thanked Christopher Tate, our PALJ for Appeals , who was present in Menands, for his work in these very challenging times.
- Reilly continued by thanking Melissa Sousa for taking minutes and Amy Higby, Nastassia Tripp, and Paul Homin who assisted with technology for this meeting. This is Melissa’s last day with us at the Board, and we wish her well in all her future endeavors. Thank you for your service to the Board and to our State, Melissa!
- 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 17, 2024.
- The meeting was called to order at 11:05 a.m.
- **Roll Call**
  - Attendance was taken by Executive Director Leigh Brown. A quorum was present.
- **Reading and adoption of the agenda**
  - Member Randall Douglas moved to accept the agenda.
  - Member Marilyn O’Mara seconded the motion.
  - Motion to accept agenda adopted unanimously.
- **Reading and Adoption of the minutes from the October 18, 2023, 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.
- **Executive Director Report – Leighann Brown**
  - Introduction:
    - Executive Director Brown began her report by wishing everyone a Happy New Year.
  - Technology:
    - At the last Board meeting, Executive Director Brown shared that our ALJs benefited from the administrative team rolling out an electronic case file (ECF) transmission initiative by creating a PDF that the ALJs utilized to hold remote hearings and increased the opportunity to increase their remote days from 20% to 40% per week if they chose. This has continued to evolve. In February, the judges are moving to a statewide model in managing hearings. With that evolution, the administrative team plans to roll out a statewide calendaring initiative.
    - She continued by noting that she and Chief Administrative Law Judge Tracie Covey have been working closely to move to a statewide model where and when possible, with Chair Geri Reilly’s support, to focus on a fair distribution of work statewide and compensate for

shortages in the workforce. The statewide models for work and work management allow the UIAB to hire the best candidate available with fewer geographical restrictions.

- The UIAB modernization projects continue to progress as the BSA Team, ITS, and outside vendors continue to work through technological challenges. The UIAB's first day of Virtual Hearings will be on March 4, 2024. ITS needed time to ensure system adequacy, and we wanted time to provide in-depth training to personnel and marketing to introduce the system to our stakeholders. The UIAB is preparing for a demo presenting how stakeholders will use Virtual Hearing to be posted on our website on February 2<sup>nd</sup>. As a recap, Virtual Hearings will allow parties to attend their hearings by video and will have a telephone call-in feature for parties who do not have internet access. This system will record all hearings and will be the official recording of hearings.
- Executive Director Brown added to her report by saying that the Unemployment Insurance System Improvement Modernization (UISIM) project is on track. "Train the Trainer" training started in September 2023, and there was some training held at the end of October 2023. The facilitator end-user training will be in February 2024, and the remainder of the "Train the Trainer" training is being planned for April 2024. User acceptance testing (UAT) and System Integration Testing (SIT) continue to progress as expected.
- Staffing News:
  - In staffing news, our judicial and administrative staffing level is presently at 105 employees. The UIAB will welcome an administrative employee on February 2, 2024, a legal intern in Menands on February 15, 2024, and a new hire ALJ group on February 15, 2024 (2 – Brooklyn and 1 – Buffalo). We are waiting to hear back from a candidate for Menands, and we are waiting until April 2024 for an ALJ to join us in Hauppauge. Another legal intern is also possible; we are awaiting DOL approval.
  - CALJ Covey, the Principal Administrative Law Judges, and the Senior Administrative Law Judges conducted a significant number of interviews in November and December 2023 to find our incoming ALJs. We also promoted William Friedman (Rochester) to a Senior Administrative Law Judge last quarter and posted two Senior Administrative Law Judge positions last week to provide well-deserved promotional opportunities. Attrition continues. CALJ Covey and I will continue to identify opportunities to promote continuous recruitment for our ALJs and build from the solid recruiting foundation we worked on in 2023.
- Other News:
  - Executive Director Brown concluded her report by saying that, this year she started the weekly newsletter (Week at a Glance) with a focus on enhancing our well-being and developing or continuing (depending on who you are) our mental, emotional, and physical health for the welfare of personnel.
  - She added that studies show the benefits of continued wellness in the health of personnel, their happiness at home and work, resilience in and out of work, and the quality of their life and work. It will be a challenge to find something weekly, but it's a challenge she wanted due to the importance of the topic. As always, she is open to hearing feedback on what people want to read.
- Chair Reilly asked for questions or comments.

- Board Chair Reilly congratulated Executive Director Brown on the Week at a Glance and its light but serious attempt to engage staff with photos and recipes, etc.
- Member Douglas agreed with Chair Reilly and congratulated Executive Director Brown on a job well done.
- Member O'Mara also commended Executive Director Brown on the Week at a Glance and noted that the publication helps everyone to feel more connected.
- Member Marilyn O'Mara moved to accept the report into the record. Member Michael Greason, seconded. The report was unanimously accepted into the record.
- **Chief Administrative Law Judge's Report - Tracie Covey**
  - Introduction:
    - CALJ Covey began by wishing everyone a Happy New Year. She hopes this year brings you and your families happiness and good health.
  - Technology:
    - Chief Administrative Law Judge Tracie Covey began her report by saying that 2024 will be another year of technological advancements and improved efficiencies at the UIAB. As Executive Director Brown stated, the UIAB will be launching its virtual hearing system on March 4, 2024. This will be a big change for the hearing section as the system adds a video component to our hearings. It will also streamline our process by having parties log in to the hearing via computer or telephone instead of being called on the telephone by the judge.
    - The UIAB will soon be advertising this exciting transformation on its website and will be sending out flyers with our hearing packets to inform stakeholders of the change. This is also the year we go live with the computer modernization project that will update our entire UI System. We have already been seeing demos and are starting to receive training on the new system. We are looking forward to discovering the efficiencies and positive impact on our work that these updates will bring.
  - Bench Manual:
    - The UIAB continues to move forward with updates to the Bench Manual and will release a revised chapter on voluntary quit by the end of this month. A new misconduct chapter should be published by the end of the first quarter. Covey was also happy to announce that the UIAB will now be offering CLE (continuing legal education) credit for significant portions of our new hire training.
  - QA/FQR:
    - CALJ Covey began her report on to the Federal Quality Review for lower authority cases that were decided in the third quarter of 2023, the UIAB again had extremely high scores. The 20 randomly selected cases had an average score of 99.08%. All the cases achieved a passing grade – 16 of the 20 hearings had perfect scores of 100. All the judges and auditors continue to do exceptional work and remain dedicated to our mission. UIAB judicial staff are currently conducting federal audits for the 4<sup>th</sup> Quarter of 2023, which she will report on at the next meeting.

- Covey continued by reporting that UIAB judges are also doing very well under our rigorous internal quality assurance program. For the 3<sup>rd</sup> quarter of 2023, 137 hearings were audited under this program and our error requiring a remedy rate was only 5.8%. Again, this is another example of the high quality of work being done by the judges at the UIAB.
- Statistics:
  - CALJ Covey reported that while our quality remains exceptional, low staffing levels continue to negatively impact the UIABs ability to meet USDOL acceptable level of performance markers at the Lower Authority. The validated data as of December 2023 shows that the Lower Authority average case age was 44.9 days. This continues to rise above the acceptable 30-day level. The UIAB is also still not meeting compliance standards with 30 and 45-day time lapse markers. In the 4<sup>th</sup> quarter approximately 9% of cases were decided within 30 days and 30% of cases were decided within 45 days. These numbers should be at 60% decided within 30 days and 80% decided within 45 days.
  - As Executive Director Brown mentioned, the UIAB is implementing a statewide calendaring and supervisory plan to strategically utilize our current workforce and are hopeful this will help mitigate some of our timeliness issues.
  - The higher authority continues to meet USDOL acceptable level of performance standards. Validated data for December 2023 shows that the average case age was 33.24 days, which is under the 40-day USDOL marker. Thanks to the Board Members continued hard work and the hard work higher authority ALJs and Seniors, inventory at the higher authority continues to remain low with no appreciable backlog.
- Judicial Staffing:
  - CALJ Covey continued her report by reiterating that the UIAB has lost a significant number of judges to retirement or other employment opportunities over the last few years. In 2023, 15 ALJs either retired or left for other opportunities. The UIAB is currently at our lowest staffing level in recent history, with only 32 ALJs and 18 Senior ALJs. We have recently extended offers of employment for four candidates who will be in Brooklyn, Buffalo and Hauppauge and are waiting to hear back from one additional candidate who would work in Menands. The UIAB is excited to bring these individuals on board on February 15, 2024.
  - CALJ Covey added that the UIAB is posting additional positions soon and will keep searching for qualified candidates to fulfill its critical mission. The UIAB is also committed to engaging in recruitment efforts when opportunities arise and is excited to be bringing on legal interns in the upcoming months.
- Chair Reilly asked for questions or comments.
  - Board Chair Reilly commented that CALJ Covey's comprehensive report was quite informative. She is encouraged by the news of Virtual Hearings beginning in March of 2024. Chair Reilly hopes that this will increase hearing efficiency for staff. She also congratulated CALJ Covey on her continued efforts to recruit new judicial staff.
  - Member Douglas added that he knows that recruitment struggles are being seen everywhere. He finds it hard to fathom that people are not more eager to take part in state service. He congratulated CALJ Covey on doing an incredible job.

- Member Randall Douglas moved to accept the report into the record. Member Marilyn O'Mara, 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 Frenkel, 221 AD3d 1397
    - Matter of Martinez, 2023 N.Y.App.Div. LEXIS 6382
    - Matter of Johnson, 2023 N.Y.App.Div. LEXIS 6493
    - Matter of Colon, 2023 N.Y. Slip. Op. 06420
  - Chair Reilly asked for questions.
    - Chair Reilly congratulated PALJ Tate for his leadership in reaching federal timeliness metrics. Also, Chair Reilly noted that all of the cases presented by PALJ Tate were affirmed Board decisions, and she commented on the excellence of the quality of UIAB decisions.
  - Motion to adopt the report and incorporate into the record was made by Member Randall Douglas. Member Michael Greason 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.

Submitted by Leighann Brown with the assistance of Melissa Sousa