Board Meeting
Minutes

Date: Wednesday, April 21, 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, Acting 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 – January 27, 2021 meeting
4. Executive Secretary’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 30 second moment of silence to remember those we so sadly lost, and those who have suffered.
Board Chair Reilly presided from the Board’s office in Menands, New York for this Wednesday, April 21, 2021 public meeting of the Board. The meeting had been noticed, the draft agenda had been published, the minutes from the previous, January 27, 2021 meeting had been circulated to the members, and the public had been invited to observe. This meeting has been recorded and will be made available, along with the minutes on the UIAB website.

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

Chair Reilly expressed 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 person 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 Board Secretary Covey. She also thanked Melissa Sousa for taking minutes.

Reminder: the next public meeting of the Board is scheduled for Wednesday July 21, 2021 at 11:00 a.m.

The meeting was called to order at 11:08 a.m.

- **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 January 27, 2021 Board Meeting**
  - Member June O’Neill asked to have the minutes corrected to read that she had attended the January 27, 2021 Board Meeting remotely from Canton
  - Member Michael Greason moved to waive the reading and to adopt the minutes as corrected
  - Member Marilyn O’Mara seconded the motion
• Motion to suspend reading and adoption of the minutes unanimously approved

o **Director's Report - Tracie Covey**

• Staffing News:
  
o The UIAB judicial and administrative staffing level is currently at 138 employees.
  
o The UIAB hired eight new ALJs who started on March 4, 2021. They have completed the first round of the UIAB’s comprehensive new hire training, including training on the role of the ALJ, misconduct and voluntary leaving of employment without good cause separations, overpayments and willful misrepresentations, total unemployment, valid original claim, federal and UIAB quality assurance, federal benefit programs, language access, evidence, and credibility.
  
o Trainers on these topics were Chief Judge Myers, Principal ALJs Christopher Tate and Teresa DeMeo, acting Principal ALJ Mark Sokolowski, Senior ALJs Alison Ferrara, Denyse Hodges, Carol Procopio, Justin Denton, Carol Johnson, acting Senior ALJ June Egeland, and ALJs Michelle Burrowes, Eva Lynn Hayko, and Kathleen Mannix.
  
o The new ALJs started holding hearings on April 19, 2021 and will continue to progress through quarterly trainings for the next year. Currently, we are also evaluating the need for additional judicial staff based on projected inventory and retirements.
  
o Administrative staffing has remained relatively stable. Over the last few months, the UIAB has hired several new individuals to replace staff who have left for other opportunities, or for retirement but overall, the numbers have remained consistent.

• Technology Update:
  
o The UIAB team continues to move forward with the UISIM computer modernization project and are now in the design phase. The project has an anticipated completion date of December 2022.
  
o The e-file pilot project continues to progress. ASO is scheduled to begin uploading case file documents into the system next week and we will start holding paperless hearings in mid-May. Amy Higby is the project lead and liaison with ITS. Senior ALJ Justin Denton is the judicial lead and Labor Services Representative Heather Malmberg is the administrative lead for the project. Senior ALJ Herbert Fowler and ALJs Susanna Lafrate, Julie Rosen, and William Friedman will also play critical roles in the project by holding the hearings with the new e-file and reporting back to us on impediments and needed improvements. Hearings held in the pilot project will be ongoing for approximately 60 days and will give us a good indication if the system can be used as a stop gap measure until UISIM goes live.
- UIAB recently updated the video on its website to better explain telephone hearings. Content is being developed that explains difficult UI terms and recent Board decisions continue to be uploaded into the searchable decision database.

- Agency Statistics:
  - The UIAB is not in compliance with USDOL acceptable level of performance markers. The validated data as of March 2021 shows that the Lower Authority average case age was 62.88 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 4% of cases being decided within 30 days and 9% of cases being decided within 45 days.
  - The case age and time lapse statistics are due to issues at the UI Division. They have a backlog of over 1600 cases and the average case age is 121.2 days. For the last couple of months, between 90-95% of the cases they have sent are already too old to meet the USDOL timeliness markers.
  - The UIAB is also slightly out of compliance with USDOL acceptable level of performance standards for the Higher Authority. Validated data for March 2021 shows that the average case age is 43.17, which is above the 40-day USDOL marker. This is primarily because the UIAB has had to focus the its efforts on the increased inventory at the lower authority which has resulted in the re-assignment of higher authority ALJs and administrative staff to hearings. We very much appreciate that operational flexibility.

- Latest Federal Quality Review:
  - UIAB ALJs' average grade was 98.56% for the fourth quarter of 2020. Twenty randomly selected cases were scored according to the 31 federal quality criteria. All 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. Thirteen of the 20 hearings scored had perfect scores of 100. The continued excellence of UIAB judicial staff in this area is something to be proud of.
  - The UIAB continues to administer its own Quality Assurance Program. The audits focus on the fundamental elements of fair hearings and decisions. We are striving to complete at least 140 of those audits every quarter. The results of the QA audits also show that our judges are consistently applying our internal QA program appropriately.

- Chair Reilly asked for questions or comments
  - Member Randall Douglas asked if every state in the nation is also having difficulty meeting timeliness issues and continued by saying that the fact that the UIAB is still at 98% does deserve kudos to Tracie, Chris, and the whole team.
Chair Reilly added that the pandemic is causing unprecedented economic turbulence and that the UIAB remains committed to quality assurance and customer service excellence and staff should be commended for their efforts.

Executive Director Tracie Covey added that we are now conducting all hearings by telephone and that the new video on the UIAB website helps parties know what to expect during their hearing.

Member June O'Neill asked if it would be possible for Board Members to meet the new ALJs virtually before the next Board Meeting to which Executive Director Tracie Covey said something can be set up in the next month.

- Member June O'Neill 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 Bonilla*, 190 AD3d 1173
  - Chair Reilly asked for questions
    - Chair Reilly thanked PALJ Tate for his deep dive into the cases and they had a brief discussion about independent contractors vs. employees.
    - Chair Reilly also added that the work of the Higher Authority judges should be commended.
  - Motion to adopt the report and incorporate into the record was made by Member Marilyn O'Mara. Member June O'Neill 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 Marilyn O'Mara moved to adjourn the meeting and Member Randall Douglas seconded the motion. The motion to adjourn was unanimously adopted. The meeting was adjourned at 11:34 a.m.

Adopted October 20, 2021.