

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5512**

1. Opening of Meeting:

The Appeals Board convened at 10:30 a.m., August 11, 2009 in Sacramento, with Chairwoman Bonnie Garcia presiding.

2. Roll Call: Members

Present

Absent

Bonnie Garcia, Chair

x

George Plescia, Vice Chair

x

Ann Richardson

x

Liz Figueroa

x

Cindy Montañez

x

Sharon Runner

x

3. Approval of the Minutes:

The July 6, 14, 29 and 30, 2009 minutes were approved by all members, with Member Plescia abstaining with regard to the July 14 and 29 minutes, as he was not present at those Board meetings.

4. Chair's Report:

Chair Garcia reported that our First Grandmother of California, the mother of Maria Shriver, Eunice Shriver passed away and she that we acknowledge, with a moment of silence, her work and contributions on behalf of both Californians and the United States, for her encouragement and help of the needy among us.

Chair Garcia thanked everyone as it has been a busy month, with sub-committee meetings and special projects, and a visit by the Department of Labor (DOL), who told us we are on track and in fact surpassing expectations on the list of recommendations. Chair Garcia stated that she would like to thank all staff for all of their work over the last six months. We expect the final report should be out perhaps by the end of September or October, and we will move on any recommendations they note as quickly as we can.

Chair Garcia asked Vice Chair Plescia if he wished to report on the "Little Plescia".

5. Board Members Reports:

Vice Chair Plescia stated that both mom Plescia and Contessa Plescia are doing very well. They are enjoying the experience and they thanked everyone who sent their messages to them and for all the gifts. It really brings life into perspective.

Member Runner congratulated the Plescia family with their first little girl and thanked the staff. We are working long hours especially with the DOL, Chair Garcia, and the amount of time they put in the last month since our last meeting is incredible and appreciated.

Member Richardson joined with Member Runner in congratulating Vice Chair Plescia on his new arrival. In addition to thanking the staff, she also thanked the Board for working so hard, especially Chair Garcia who has been extremely busy this last month trying to get these meetings and issues organized while also facing some challenges in responding to some inquiries. She also thanked all the AO judges, as the ALJs produce the bulk of the work in this Agency for the Board to review, and the quality is superb.

Member Figueroa reported that Jay Arcellana's mother passed away on Sunday, for those who would like to send a note. Services will be private, just for family. You can send him a note since we are still part of his family. Member Figueroa stated that she has visited both the Oakland and the San Francisco offices recently. It is still really a team effort with all the things that you do here in Sacramento. You see what is going on when you go to the other offices where everybody is working the hardest to meet the needs of our citizens. When she was in the Oakland office she could hear the conversations that occurred when claimants were coming in and asking questions that affect their everyday lives, and she was impressed by the manner that they were handled even though everybody was working on a crisis. They were getting mix messages about our furloughs and the concerns were (1) to answer the questions of the claimants in the most timely and respectful manner (2) she was hearing on a separate note the concern of our staff regarding baby sitting, when may I be able to take off, how my pay check is affected by the furlough. She wanted to encourage all of you to visit the offices, because you get a real sense of how all of these mandates affect not only the claimants but our staff and staff morale. She thanked everyone for their team efforts.

Chair Garcia thanked everyone, as over the last month we had four meetings, three of those that necessitated calling Board members back from vacations or calling some at various field offices where they were working, and she thinks she proved one thing: you don't have to be in Sacramento to take care of business, because we can use technology to our advantage to advance the work of the people. She thanked all staff for making that possible, especially out from their vacations.

6. Report by Stephen Egan, Assistant Secretary, Labor & Workforce Development Agency

Assistant Secretary Stephan Egan reported on the DOL visit audit or inspection during the last week in July, both in the Sacramento Field Office and the Oakland Field Office, in addition to speaking and meeting with the Appellate Operations. They spent a full day in the Sacramento Field Office, for example, and examined every single operation that is conducted, including spending an hour with the calendar clerk asking how it was done, why it was done, what happened in specific odd situations and the calendar clerk was able to answer all of those questions. They covered all the bases, 45 minutes in the mail room, and examined the waiting room, when the initial contact is made. They really did an in-depth review of what the field offices do and overall they were very complimentary of what we are doing. Specifically they were complimentary of a matrix which was a list of the suggested remedies to the backlog, with timeframes, and they feel that we have covered and addressed and identified all of the possible solutions that they had, and that we were working aggressively on them. As the Chair indicated, in about a month or so they are going to give us a full report, although they found no violations of our procedures and policies. They were unhappy with the furlough and I am sure will bring it up in the written report. They also identified what they found was a duplication between EDD and the Board where cases are registered at EDD and then sent over here where they are re-registered or verified. They felt that the function could either be consolidated or eliminated. Mr. Egan has already contacted EDD and setting up a meeting to see if the process can be split or consolidated to make sure that it is not duplicated.

Member Figueroa asked what the procedure is if they make a certain request or suggestion and one of them happens to be the furlough. What can we do, could we act on the furlough situation, how does that work?

Assistant Secretary Egan asked Chief Counsel Hilton to respond to this question.

Chief Counsel Hilton stated that the federal government does not have any direct authority or power over our State budget. However, if DOL finds that there is a violation of federal law in how we administer the UI program, there are remedies available to them that could impact the State's budget, such as through conformity proceedings, but with corrective action plans usually being the first step in that process.

Member Montañez questioned whether there is an indication as to whether or not the Secretary of Labor has had a conversation with the Governor on this issue.

Assistant Secretary Egan responded that he does not know of any direct conversation but he understands there was some correspondence a while back.

Member Montañez asked how much money we could potentially lose if we continue with the furlough situation. So we continue the backlog, we increase the

backlog of cases so claimants don't get a response and we continue to lose funding for every case that we don't get done.

Assistant Secretary Egan replied that they indicated that they it could have ramifications in the future, as he understands the federal budget relies on what is completed this year, which could reduce the amount of our budget in the future.

Member Montañez asked if that is going to be covered in that report. Assistant Secretary Egan responded that he does not know.

Member Montañez asked about the Matrix, to which Chair Garcia advised that it is in their meeting packets.

Member Montañez stated that Alberto, Jorge, Bonnie and the whole team that's been thinking ahead, what is it that we have to do to implement the suggestions, things that would truly make a difference and technology changes, especially on how we get the cases from the day they come in all the way through they go out quicker. Raphael and IT staff are doing a good job and it is very positive that DOL came and actually had these positive comments about what we are doing.

Chair Garcia stated at the exit interview they did indicate that our budget years don't align. That is a problem for us because we are always behind. As you know we got our advice that we are being reimbursed at the 100% level just six weeks before we ended our year, and that is after we had the tsunami of work, and so it made it extremely difficult to say we are going to have this fund and we are going to be able to use that. Being able to implement some of things were only as a result of funds that we received after the fact and hope that will drive down our workload. She wants to thank Lori specifically for keeping us all on task, what you are seeing here is her work and that was part of the organizational change that we made here, making sure that the Board members have the information and making sure that our staff when we assign them things knew specifically what we needed, so we were able to get a clear picture of it, because with all these additional work coming in we kept putting more and more on staff without recognizing how much they already had. This is certainly a good tool for us as well, we could hold back a little bit on our eagerness to solve the problems. I am sure we will hear today from our individual staff members but what we need to be aware of are the implications of what happens when we cannot close a case file because at the end of the day we are going to have to close it and we are not going to be able to bill for it. What the Asst. Secretary is telling us and what the federal government looks at is what is completed by their deadline, and everything else in essence we get no reimbursement but we still need to close out. So we really have to look at a way of aligning both of those needs. Whatever we get paid this year may be paid the same amount or even less the following year, and our work increases and we still have work in the pipeline we are losing out on revenues. We have to be able to forecast three or four years out.

Member Richardson commented that additionally we are hiring all these new judges, so if we get a reduction in revenue then we end up having to lay off the judges we hired to solve the problem.

7. Report by Alberto Roldan, Chief ALJ/Acting Executive Director

Chief ALJ/Acting Executive Director Alberto Roldan reported that despite the hullabaloo that took place in July, with a lot of focus on the Board that was kind of negative, objectively our performance during the month of July was record setting in a very positive fashion for the State of California. One of our main missions is reducing the raw inventory of cases that are an open balance our books, and we reduced the open balance by close to 2000 cases. We had a high water mark of open cases in all categories, UI, DI, and Tax with 94,025 cases in June 2009 and there were concerns that we were going to wind up in a situation where we might be looking at over 100,000 open cases. July though was a month in which the judges at the Field Operations level set a record of dispositions where they resolved 36,722 cases in a one month period and reduced the overall inventory of cases of 92,040. He would point out just to have some context, this is a department of approximately 700 employees and fewer than 200 field administrative law judges at any given time. That was a very heavy workload being carried by the individual judges. This was not in response to any of the media attention that has occurred, because frankly the calendars of the judges are set close to a month in advance and all of the calendars that were worked on by the judges in the month of July were set in the month of June and the reality is this is the effort of the Board to add additional judges to this department that took place in the fall of 2008 of Phase I hiring that has been completed and then the Phase II hiring that was authorized by the Board in the fall of 2009. Phase II hiring has been completed and those judges have been trained and they are online and they are getting past the point of meeting, mentoring and taking the administrative law judges off line for mentoring purposes and being productive on their own. The Chair mentioned a few moments ago that this is forward task Board. This Board responded back in the fall of 2008 and recognizes the need for additional judges to deal with the record workload that was coming in to this department, and the fruits of their efforts and the authorization of these new judges and the presiding judges and the more senior judges who have trained them and gotten them online is starting to bear fruits at this point in time. The plan that is being set out to reduce the workload we originally planed to try and reduce it to a manageable level of fewer than 30,000 open cases by 2010. That plan is being impacted negatively by the furloughs but we are still on track to reduce the workload to a manageable number with what was been discussed by the Board. He wanted to applaud the work of the administrative law judges and the managers in the field and the support staff for all pulling together and making this possible.

Another important measure is the timeliness of the decisions, because obviously persons who appeal to the Board want to know where they stand one way or the other with their cases. We had a situation where the average case age has been

increasing significantly because of the workload. For the first time in July we actually reversed the trend and reduced the overall average case age by two days, which is significant if you are a person waiting for a word as to whether you get benefits or not. Two days make a huge difference in their lives. Getting those decisions to the public faster is obviously an important goal and we are moving in a good direction as far as that is concerned as well. There was some discussion that suggested that the field judges work at home or they are somehow not engaged with the public. He does not believe that was accurate, he knows the Board already acted to address that but he wants to bring up the fact that offices had already gone to extended hours in many instances. In our Inland Office in fact they are hearing cases on Saturdays to serve the public in a way outside the box. Normally people assume that court hours are going to be between those 9:00 a.m.-5:00 p.m. hours but the different field offices are hearing cases earlier in the morning and later in the day. One of our offices started the pilot project of actually hearing cases on Saturdays to serve the public better. That is an important factor the public should be aware of. One of the challenges in our moving forward had been that pursuant to Executive Order S0909, which was issued by the Governor's Office in June 8, 2009, there is significant limitation on our ability to spend the resources that we have for purchasing goods and services. This Board has authorized a number of projects including adding additional hearing rooms in some of the field offices and other capital improvement projects to serve the public better and the fact that our ability to contract building services is limited made our ability to move forward and the Board action more difficult. He is happy to report that after having submitted three different categories of exceptional request we finally had all of our exemption requests granted by Labor and Workforce Development Agency as of Monday and we now have full authority to spend the resources and go forward with the spending plan at this point. That will help us move forward although some of our projects have been delayed a little bit as a result of limited spending.

Chief ALJ/Acting Executive Director Alberto Roldan thanked the Facilities Unit and particularly Pat Houston and Rita Thompson for doing a good job in renegotiation of the Chico lease which is one of our satellite facilities for the Sacramento Field Office. They were able to negotiate a more favorable lease that actually reduced the cost on a month-to-month basis in that facility and also worked in a capital improvement to that particular project that is going to add an additional hearing room to that facility to better serve the public in the Chico area. We were delayed slightly in the San Jose move back in the Northridge facility as a result of what he just described and the limits and spending for building services. That was freed up and we are now planning on moving back on the new San Jose office on the weekend before Labor Day and that should allow that office to get online and be significantly more productive because the challenge with the temporary facility was that it did not have appropriate security for mass hearing to be conducted at that location once they go back into the main office they will be able to conduct mass hearings and work on additional cases to help with workload.

We have had a number of people step up on the dragon speaking project, which is

our voice recognition program that allows judges to dictate their decisions and render their decisions. This is completely voluntary project but many of the judges seeing that it is a tool that can help their cases out more quickly to the public have stepped up and volunteered for this program have used up just about all the licenses that the Board had authorized and he expects that he will coming back to the Board in the next month as for additional authorization of licenses to get licenses in the hands of the judges who have requested this software to be able to get licenses more quickly. That is a very positive development in relation to that project.

Vice Chair Plescia asked if we've gone through all the training and mentoring, are all the judges back online now. Chief ALJ/Executive Director Roldan replied that the newer judges are online but we tend to give them a smaller workload and have them work their way up to carrying the full 27 cases a week workload. Some of the judges are still restricted in the number of cases that they are taking on. Other judges have come along more quickly and are taking a greater number of cases. He leaves that discretion to the presiding judges who have a sense of the work that they are doing. One of the important measures that do not really get talked about in workload is making sure that we meet the DOL quality review standards that we obligated to meet so we want to be careful in bringing judges online that they are not just correcting our cases but they are actually providing appropriate due process to the public. We wanted to be careful in making sure that they have the appropriate training, they have a full in-house academy for the new judges and they are appropriately mentored and so they demonstrated that they can provide the due process hearing on their own without a more experience administrative law judge having to step in. Until we get to that point we tend not to allow them to take on larger workload or do cases on their own.

Chair Garcia stated that she wanted to paint the picture for the Board members as to what it means to meet some of those challenges and again point back to what facilities and our Chief had been doing and all of you that had been engaged in that. We hired 57 new judges over the last few months and we had some physical limitations with where you put them because not only do we have to house them to do their reports, transcribe their reports, make the corrections but we also have to have a secure hearing room. There has to be a hearing room that allows for safe exit, you are dealing with highly emotional cases, witnesses, claimant, employer, etc. Using our existing resources in Inglewood, Los Angeles and Sacramento, we took on additional real estate within that same building, sometimes they were adjoining suites that have been vacated and another cases we chopped up our offices making it smaller so we can accommodate our staff and create new hearing rooms and doubled up the judges in some of the spaces. They are sharing office spaces as well. In Oxnard that was a facility where the County owned that space, they wanted their space back and it was going to throw our whole operation out of whack, we would need a new site, etc. but we were able to buy some time, the County delayed moving into our space so it gave us time to prepare and get ready for new site. In San Jose our staff was split, one building had the Administration and the other building was being prepared to create our site, we were able to

negotiate to keep both in that building, the other tenant fell out and so now we have the entire building and we were able to add hearing room to that location. Not only were we able to reduce cost for the state but renegotiated space and accommodated our existing staff, and we were also able to keep everyone together on one location. It has been a tremendous workload for the Facilities Department and for our judges who are living in a box during this time, so we appreciate all their work.

Member Figueroa asked how we are working with the judges when they have to share space, when we are listening to cases. How do we handle the privacy issues and how could two judges possibly share an office.

Chair Garcia replied that she knows that we would be addressing part of that through the telecommuting process in the next report so if Chief ALJ Roldan can pass on that. It is a significant issue and something that we need to address.

Member Montañez clarified that the field resolved over 36,000 cases. Chief ALJ/Acting Executive Roldan replied that it was 36,722 dispositions for the month of July.

Member Montañez congratulated every single person that is working and touching any piece of the cases, that is without our judges taking their furlough days. Most of our judges are not taking their furlough time.

Chief ALJ/Acting Executive Roldan added that on that particular month there were mixed signals being sent out, it was a less aggressive month in terms of the use of furlough. They were more on line than they would otherwise have been had they aggressively used their furlough days.

Member Montañez stated that we're going to see probably a drop in the number of cases resolved because of the furlough situation in the next month. So we probably won't be able to maintain that high level of cases being resolved.

Chief ALJ/Acting Executive Roldan responded that from what he understands more flexibility is then delivered to the judges in terms of when they use their furlough days. We are not pursuing a policy of having the judges aggressively or any of the employees work down their furlough hours. We may have a very productive month next month but at some point in time this is going to change because these are hours that they are entitled to take off in exchange for reduction of 14.2% of their salary. Somewhere it is going to hit us, maybe the judges will hold off and look for a month where the verifications are a little bit lower so the pain would be spread a little bit but he agrees with her point that we will have some reductions as a result of this furlough. He is not sure if it will be concretely in the month of August, it really remains to be seen.

Member Figueroa asked who the right person is to ask this question. People have asked her since our money does not come from the state, it comes from the federal

government as payment for our cases for the work we do and we are participating in the furlough is it cost savings to the state. Does that money go back to the state, do they return it back to the feds, how does that work, where does it go, is it cost saving to the federal government.

Assistant Secretary Egan responded it returns to EDD and they have 90 days to spend it or goes back to the DOL. However, he thinks you have to understand and appreciate the cash flow situation in that our reimbursement comes at the end of the year and the state monies that are needed to finance the first 9-12 months is being used to replace that money. The state as he understands was in a cash flow situation and they did not have the money.

Member Figueroa stated that they are using our money.

Chair Garcia commented that the simple answer is the state advances all the expenses related to UI and then we get reimbursed by the feds almost 9 months after the fact. When the state was in a cash flow situation even if they were waiting for reimbursement on the other side they can't spend the money today so the furlough impacted every state agency regardless of what their ultimate reimbursement source was. The other issue is that state employees are represented by negotiating units within various agencies again regardless of funding source. It was intended to be a cash flow savings for the state without connection at all to reimbursement. If we lose the ability to reimburse then we simply are not able to do the work. We can't bill for what we can't reimburse, whether it is a cash flow issue and that's how we fell into it. What Chief ALJ Roldan said however is we as a Board took action at that very first meeting of July because we recognized that our employees have not been using their furlough time, the furlough kicked in for the two days in February and when we looked at the numbers ending July of our 700 employees, 593 had not used one day of furlough. In addition to their regular leave time, in addition to the time that they had already accrued on the books we were adding an additional 16 hours a month to that time. When eventually we get to the point where we have to give employees time off today we have employees that have 3 months of leave time already accrued that would be accruing additional time. It is going to create a situation where we are going to be forced to in essence give almost everybody some time off and we are going to have nobody here within the building.

Member Figueroa commented we might have to close down. Chair Garcia added that is an issue that we have to deal with.

Member Richardson asked if we got a letter from DPA that confirmed that we could extend the leave time.

Chair Garcia replied that DPA made it clear that there would be some extensions of time and some flexibility in how they allow us to use that time but let's leave no doubt that we are going to have several significant issues. First one third of our workforce is of retirement age and they can leave at any time and second, we have

hundreds of employees with hundreds of hours that are already accrued that somewhere down the road we are going to give them time off. That flexibility is going to be absolutely needed and we are going to have a plan in place when all of these employees eventually use their leave time or they retire.

Member Richardson asked one specific question. Chief ALJ Roldan said 14.2% reduction, I have read 13.85% and I am also seeing 14.35%, do we have an actual percentage that we attribute to the 3 furlough days.

Deputy Director Pam Boston responded 13.86%.

Member Richardson stated that is the number for everyone that is affected by the third furlough.

Chair Garcia added it includes the Board members. Every Board member participated in giving up their salary as well.

Member Figueroa commented that for a husband and wife state workers it is a double whammy. There should have been an exemption especially for a 2-family member-that is a huge chunk; a lot of the private schools are being affected; day care centers. It is a huge problem for a lot of people.

Member Montañez added that when Member Figueroa that it is a big savings to the federal government, when the feds is being able to save money that ultimately because we are not going to get that reimbursement, again it is absolutely ridiculous because they don't want that savings. Here they are a week ago telling us do more cases, we don't like the furlough situation, we want you to keep working, we want the cases resolved, the Governor himself said resolve these cases and maybe Steve, I'm not sure what you can do maybe DOL somebody has got to help us out. One person that is saying keep us on a furlough situation and everybody else is saying from the DOL the furlough situation does not help us out. We have money here, we have millions of dollars that we want to give you and we ultimately want to go to claimants and take it and somehow we are in a bad economic situation in California we already don't adequate reimbursement from all the money we get from the federal government and we are saying we don't want your money even though every year we complain about how much we don't get reimburse for every dollar we send to the federal government. She thinks is there something that we can do in our own Labor Agency. We are willing as Board members to have conversation with the administration on behalf of claimants. Chief ALJ Roldan has told us our folks here are doing the job but at some point it is like our Chair said people are going to have by law their furlough days and we can potentially shut down because there is nothing we can prevent our employees from taking their furlough time because almost 14% cut from their paycheck have been taken. What else can we do, our letters do we have sent on a weekly basis are not being listened to. We have to be able to do something so what else can we do.

Asst. Secretary Egan responded that both the Chair and he have gone up to the Governor's Office and had a discussion but it does seem like we are not getting exempted.

Member Figueroa asked but what answer do we get. What is his response? Is it because they just don't want to exempt us for what reason, no feedback? They just ignore us and very disrespectful. Here we are trying to do the work of the people and they are constantly criticizing board, we work on cases on a daily basis, we do everything we can, we're meeting our deadlines, we get reviewed by DOL, we get stellar report on the quality of our work, we are hiring and training judges and we have the best judges in the country and yet we are getting jeopardize and we don't know why, totally ignored. It is disrespectful to the people of California because we represent the unemployed people of the State of California. We have been sending 2-3 letters asking, give us the reason.

Chair Garcia responded that the reason behind the furlough obviously was to do some cost saving. At this point DOL has come in and evaluated everything that we are doing right and everything that we are doing going forward and everything that we are doing to address the unprecedented number of cases that have come in. Because there is no doubt there is always room for improvement, they pointed that out when they come in past years, but this time it is different. This time we did not wait for the tsunami, we actually got prepared for it and so she hope and pray that when the report comes out from DOL that there is language in it that helps our administration on some of the challenges we face and what we need to do and what we need to rethink in order to address that workload. Without going back and forth too much we are move forward on the agenda.

8. Report by Jorge Carrillo, Presiding Judge, Appellate Operations Branch

Presiding Judge Jorge Carrillo reported that we had 10 senior high in 3 major areas: registration, disposition and open balance of cases. We registered 2368 cases which is 500 above the average that we normally do through this calendar year. That is because we are beginning to see all the increased production from the field to the Phase I and II hiring that the field judges have done and it was felt this month. Our dispositions were 1827 that is 150 above our calendar year average. We wrapped up our production as well in anticipation of these cases coming through. But because our dispositions were above 500 what was left in our registration are open balance is 3446 cases. The good news is that we are beginning to see the fruits of our efforts to at capacity. If you recall back in June we did an aggressive measure by hiring 5 judges so we could train them and they could be in production by September of this year. In fact, we have hired 8 new judges since April and an equivalent number of support staff as well. 3 of the judges are now in full production, the 2 that were hired in April plus 1 who transferred in June and 5 who were hired last month 1 has not yet started because there was complication she had retired from PERS and has to reinstate into PERS and that is process that takes 60-90 days so her appointment is on hold but the other 4 that were hired have taken through a 2 weeks training and they are now

taking cases at least half the caseload some of them have progressed to three fourths of the caseload so they should be fully productive sometime next month. We are beginning to see that our capacity to complete cases we should be able average about 2300-2400 cases a month starting in September or October and that is exactly in line with we projected back in June when we made these hires.

On our time lapse standards we met one of the standards which is 150 case standards by closing 99% of our disposition within 150 days. We narrow the 75 days standard and close 76% of our dispositions within 75 days, the requirement is 80 so we are a little short there and close 29% of our dispositions within 45 days. He thinks what is happening is that because larger growing number of open cases is sitting longer before they can be assigned to the judges. As they sit longer it is harder to meet the time lapse. The good news is that our case aging that is the average age of an open case has been going down steadily; it was 39 days last month and that is under what DOL expects us to have our open cases in 40 days or less. When he met with DOL about 10 days ago they emphasized that they want AO to meet both case aging and time lapse standards but they said of the two the case aging was the one that they wanted us to meet that was substandard that they're going to hold AO accountable. If we miss that we have to do a corrective action report. To meet the case aging standard we have basically work on the oldest cases first and that has been the focus of AO for assigning cases that are older so that those people who have been waiting longer get their cases down as quickly as possible. We get those out the door and we meet the case aging standard. He thinks that as new ALJs are trained and they become fully productive we are going to make a dent into the backlog and as we cut that backlog down cases will set less and we feel we would be able to improve the time lapse standard at that point. We are on our way to meeting our goal. He sent an email a report on how much time it takes the field get its cases to AO and July was very good; the average date is 7.64 that was improvement of almost 2 days and he thinks that is a very good sign for us.

One thing that he wants to report is Juanita McKelvey's, his secretary, husband passed away last week and she's been out and funeral services will be tomorrow morning. She is obviously upset at this point in time.

Chair Garcia extended her deepest condolences to her and her family.

Deputy Chief Carrillo reported that what he like to say about telecommuting policy is that it is actually a state statute Government Code 14200 which was established in 1990 to authorize state agencies to telecommute or what they call Telework Program. The statute specifically says that it is the policy of the State of California to encourage telecommuting as a management tool. Prior to enacting that statute they have a 2-year pilot that involve a number of agencies, Franchise Tax Board, Department of General Services, Department of Justice, Department of Social Services, Department of Personnel Administration and the CUIAB all participated. The result of that 2-year pilot was that they found that telecommuting program to be very effective in terms of increasing productivity of employees and also

reducing the adverse effects of commuting. It is important to know that many of these agencies still have telecommuting program so that it is not unique to CUIAB accorded by the state as a policy and it is actually in practice in a number of agencies. The Agency itself has had telecommuting since 1991, the Board formally adopted Policy No. 17 in mid 1990s to formally recognize and support the program. Currently we have 14 appellate judges who telecommute all have been with the Agency between 16 and 21 years and most of them have been on the telecommuting program since the early 1990s. There are certain requirements that are required in order to participate. First of all, a judge has to be in AO for one year in order to fully learn the requirements of the job; they are not eligible to participate in the telecommuting program until they completed that one year. They have to keep up the caseload assignments and meet the timeliness standard for all of the cases that they are assigned. They have to phone on their telework days and most of them are acceptable not only by phone but also by e-mail because they have connection to the Internet and also to e-mails. It is also important to know that the telecommuting program is part of the collective bargaining that the state has with the Unit 2, which is the unit that represents the administrative law judges. In that agreement it specifically states that both the state and CASE, which is the representative, formally recognize the benefits of the telecommuting program and if a request made by a judge has to be granted unless the Agency can demonstrate that it can deny it for operational needs. Even if the Agency does deny it the employee can bring it through the formal grievance procedure established by the state and CASE. It is not an automatic thing that the Board can do; they cannot just eliminate the program and be done with it. There is a process of law before that to challenge if there are no grounds for denying it is not fully supported. To answer Member Figueroa the collective bargaining agreement with the attorneys and the judges requires state to provide each employee as represented by CASE with a private enclosed office and in our case we do have private enclosed offices when they are doing their work because they are listening to audio recordings and to have two persons in a room at the same time is very difficult. A lot of judges consult with each other on their cases whether it is the law or facts and so there is a lot of discussion that goes on; if there are two judges in an office at the same time two judges could be having a conversation while a third is trying to listen to a case while preparing a decision. It is just not feasible to have judges sharing offices at the same time.

Member Figueroa asked if we have judges that for ADA purposes are also working out of their home that may need amenities with special accommodations so they can work out of their home. She understands there are two judges.

Chief ALJ/Acting Executive Roldan responded that there are two judges in the Field Operations that because of ADA special accommodations they do phone hearing workload and work from home.

Deputy Chief Carrillo added that in AO we don't have anyone that is formally on a reasonable accommodation but the 14 judges there are 7 who right now they haven't had to apply for because they have the telecommuting program for close to

15-18 years in most cases. There hasn't been a need for them to apply but he would think that 7 of the 14 judges may be legally entitled to have reasonable accommodation based on their own health issues or health issues related to the family. If we have to he thinks those 7 judges will have ground to have some accommodations made. We currently don't have enough office space to have everybody in the office every day. The 14 telecommuting judges all of them are sharing 6 offices. If we have to eliminate the program or do away with the program and bring them all in we would not have space to house them. We are also planning to hire 5 additional judges in the fall and we are having plans to remodel the third floor to have more office space and even with those additions after the completion we would not have enough office space to house all the judges if were required to be in everyday.

Member Figueroa stated that it would cost us more if we had to get some additional housing – immediate, probably triple that cost.

Deputy Chief Carrillo responded yes and part of the benefits that were identified in the pilot and he thinks also it is demonstrated by the fact that we have 12 judges who are sharing offices and the cost of having additional offices. What happens with the telecommuting program is that the judges are in every other day and so 2 judges can be sharing an office but they are not in the office at the same time. They are in the office on different days. There is savings to the state by being able to reduce the number of offices that are needed.

Member Figueroa commented that just as a Board member she knows that with the sophisticated technology in setting up our board meetings for instance, the emergency board meetings where we only have an hour notice that we were able to work out of our various offices and save the state the travel reimbursements and yet be very productive and do our work. For someone who represents Silicon Valley now with the new technology, the technology is in the Bay Area and everybody is encouraging people work more out of their home. As a matter of fact contrary to what people might think every study shows that productivity is increased because people have worked longer hours. People have the assumption that you are constantly going to the refrigerator but you are not. She starts her morning and our caseload will reflect all of us. We are putting in our time, she starts in the morning and forgets that its 5:00 p.m. because we are depending on that e-mail or cell phone to ring any moment to tell us we have a case that is due today and we have been working in a cooperative manner. It's been great to be able to log in immediately and do the case and get it out. She does not think that they would be as productive actually if we were in the office having to worry about the traffic, getting out and meet the traffic rush, etc. She really supports our judges and whatever they need to have the tools to assure that they have the accommodations and also issue privacy. When you have 3 judges sharing an office with confidential issues, social security, work-related issues is a big concern for everybody. We need to be careful about privacy issues and working out of your home. When we take our lap top all the precautions we make sure that everything is safe and private. She commends everything you've been

doing in that area.

Deputy Chief Carrillo thanked and appreciated Member Figueroa's support. A couple of other points that he would like to make is that the telecommuting program really benefits the safety because the judges end up not using that much sick leave or time off in order manage both their work and their private lives. He went back and assessed the number of sick leave or annual leave used in 2008 and the first 6 months of 2009 and the average for 2008 was 3.7 days of sick or annual leave due to illness for the entire year, that is less than one week and at that time half of the judges took 2 days or less. What that shows is that you are able to get your cases done, you may be ill but you may be able to do that work at a time other than what you would normally do and you end up producing more as opposed to taking time off to be away from the office and not being productive. The first 6 months of 2009 the average was 2.5 days and of those 10 of the judges took 1 day or less. That shows you that the judges are keeping up with their caseload without taking time off. As he mentioned we need to survey our judges because he thinks that at least half of them do have medical conditions or family health issues that could justify them being entitled to reasonable accommodations regardless of whether there is a policy or not. It is also important for employee retention or recruitment and don't think that it is coincidental that the judges have been with AO from 16 to 21 years. When he first came on board most of the judges were here for a short period of time; the fact that they've been with AO for 16 years is a tribute to the fact that they have been able to be productive and enjoy the benefits that the telecommuting program offers. The new judges that we hired have all express an interest or not eligible to participate for a year but 4 of them lives 60 miles or more away and they are commuting because they are interested in eventually participating in the telecommute program. We were able to expand the geographical area outside of Sacramento; we were able to expand that by having a telecommute program. We have also been able to increase our productivity even with the telecommuting program. In 2007-08 fiscal year we had 16,300 dispositions with 16 judges. In fiscal year 2008-09 we had 18, 700 dispositions with 14 judges and that was because we took measures to increase the productivity but the telecommuting program did not interfere with our ability to do that. And the same with time lapse and case aging, we have been able to improve those numbers even with the telecommuting program. The point is that where the work is located is not a barrier to doing the work, you can do the work with all of the judges have the tools to be able to do the work whether they are in the office or at home and they have been able to do that and improve productivity as well as the time lapse standards with the telecommute program. Another point that he wants to make is that we calculated how many miles the ALJs have been able to save by telecommuting by taking how far away they live from the office and calculating that on an annual basis and it is between 53,000 and 60,000 miles a year that they were able to save on driving and that saves traffic congestion, air pollution, all the adverse effect of commuting all of those are alleviated by the fact that the telecommuting program exist. As far as recommendation he thinks that we should continue to maintain the telecommuting program because it saves state money by not having to require so many office space and survey the

telecommuting judges who may have medical needs that may be entitled to reasonable accommodations and adopt new technology as a tool to help our judges with efficiency. We are piloting the dragon voice software and interested in acquiring more software licenses so that our judges can use that as one of many tools that they have in order to get the work done in an efficient manner regardless of whether they are in the office or at home.

Member Montañez asked whether the Department of Personnel Administration or the Governor's Office has read the memo or did they or should they notice.

Deputy Chief Carrillo replied that they do because they have their own telecommuting program. If you go on their Website they have a comprehensive policy that delineates who is eligible and how it is to be implemented. They are one of the leaders in terms of the telecommuting program. One of the main thing that he wants to say is that this is not a program that we devise on our own to accommodate our own employee, this is a program that fully supported by the state and encouraged by the state and produce positive results that have been identified both in the pilot and also in the implementation of this program. To be singled out and to be told to eliminate it does not make sense when you look at the reality of what the state is doing throughout the state and encouraging and promoting the issues.

Member Montañez commented that now you're saying that we could originally with the 14 appellate and 2 in the field, 16 judges or was it 12 and 2, so now we're saying that potentially the 2 in the field are legally entitled to telecommute and now you're saying 7 so at least half of our judges at AO would also be legally entitled to telecommute because of ADA issues. Now we are talking about 7 individuals and the Governor knows this. When our state encourages it and it is part of our collective bargaining agreement even if somehow we force the 7 individuals were legally entitled to challenge it so we get ourselves into legal issues there and we have a board policy that encourage it too and how much it would cost, how many miles, 60,000 miles that we are saving right now. If you start at looking into how much it would actually cost us to find additional spaces for judges that would be forced to come in. We have never been told don't accept money from the federal government, take furlough, take a pay cut. It does not make sense to me. The Governor is so forward thinking and so in many different ways it just surprises her that they want to go back to some outdated backward bureaucratic style of doing business where people cannot technology. Here we have Rafael and his whole team like getting us to do things faster and like telecommuting and let's get with the times and he is pushing us to go back to something that does not work. We already have the study like you said and this is just unbelievable to her.

Deputy Chief Carrillo added that the thing to remember to is that if there was problem with the telecommuting program where it was interfering with our ability to produce cases or meet time lapse then we have to consider it but the reality is that we fashion everything so the judges are able to be as fully productive working in the office or at home and what we would gain by doing away with it is nothing

really.

Chair Garcia stated that she wanted to remind the Board that we had an urgent meeting on July 29th as a result of the concerns raised by the Governor. One of those items was the telecommuting policy. The policy that was adopted by the Board; Member Richardson provided all of us a copies of Policy No. 17 adopted March 22, 1994 (Attachment A) outlines some specific parameters for those employees that were participating in the telecommuting program. What is clear after asking Chief Carrillo to do the annual study that we are required to do under that is that the concerns raised are really focused on 14 employees out of 205 administrative law judges. After doing some analysis of it, it is clear that 50% of those employees were probably now fall under the ADA classification and we are now specifically focused on about 7 employees that may still want to participate in that program but even then there are some barriers that we would have to make an immediate change to the policy. The first is that although this is a policy that is been adopted by the Board there is some contractual language that requires us to meet and consult with the Union. The second is that there are some physical limitations that we have within this specific building we have 3 separate functions: one of our field offices, one of the 12 offices is located in this bottom floors, the second operation that we have here is the Executive which is the Board and their support staff, and the third function that we have in this building is Appellate Operations. All of the appellate judges for the State of California that deal CUIAB operations are housed within this building and none of those appellate judges meet with the general public; they are dealing specifically with documents and exhibits under the contract they are required to have private and enclosed space. We have already seen that this building is under construction and that we are double bunking our judges in order to accommodate the workload. We have hired 57 judges, we have 5 more coming to AO and we've not yet started the hiring for Phase III so if we were to dispend it today we would need 6 additional spaces to separate those 12 judges that are currently housing within a double office. We would need an additional 5 offices for those new judges and if they were in the building we would then need support staff to support their phone calls, etc. because they are no longer will be operating at home. The first challenge would be how much cost would that add to our operations to add 12 offices at minimum and some support staff and do we have that in our budget and how quickly can we turn that around so she would ask that one of the items that we move on a list of recommendations for motion. The second would be what actions that the Board needs to take to evaluate a policy that was written in 1994 and can we make some changes to meet the same goals without having to eliminate the Program.

Member Figueroa asked that based on the report that was given to us why do we need to revisit it.

Chair Garcia responded that because the action today is not to revoke the Program immediately; we cannot legally revoke. She thinks the action on July 29th was to ask for us to do an evaluation which he did and that's going to require additional supporting information because this Board cannot on its own act to

cancel the Program. For that work we have a Facilities Department and they were instrumental in finding other space. We know that this Board has been very diligent about securing space, saving money and so right now we're being asked by the Governor's Office to go out and find additional space. We need to show them exactly how much of the cost to cancel a policy that impacts 7 employees. It makes sense to provide solid information and she would ask that Chief Carrillo do a couple of things. First of all we know that these are all long-term employees and aging everybody is doing it and she is doing it herself this very minute is gone and this second and this second. She knows that her needs 20 years ago are certainly different than they are today. She knows that some of our long-term employees originally started with telecommuting; they might have cared about the environment, they may have how to desire to do some cost savings but today they are health issues and if we need ADA accommodations we need to move quickly to accommodate those employees because now they have highlighted it our employees have been not moving in that direction; they did not have to, we are certainly are aware of it now, so we need to protect those employees. The second thing that we need to do is we need to look at what DPA's responsibilities is in terms of looking at the contract because again this is not an issue that's negotiated with us. She is not support of taking on a legal challenge by revoking something that may result in liability to us individually as Board members or to this Board especially not when we are talking about employees that have faithfully served in this organization 16-21 years and a policy that is unique to this organization but is in fact in place across the State of California. She thinks it would foolish on our part to not think of every impact in this process so she would ask that we move on a Motion that would look at the cost of creating additional space, accommodate all employees that need ADA accommodations today that we also look at ramifications and what actions are necessary that DPA needs to do in order to negotiate changes to any telecommuting policy and would also ask our Legal Counsel to take a look at the telecommuting policy itself to see what elements within it need updating, for example, there are elements within in it where we can contact our staff at certain hours. Because of tools we no longer have to physically call, we could probably send an e-mail. There are probably changes within this policy document itself that we can make changes to that will reach the same goal. She thinks we certainly want to preserve the employees behalf, we absolutely do not want to do anything that is going to increase our workload that will force our employees to come in to the office and then on days that they are sick or are recovering from an illness then do not make themselves available. It is already been demonstrated that it is an effective program, it reduced our absenteeism and it certainly brought employees back sooner than what they normally would do on the normal recovery period. She want to make sure that we carefully thinking this out and that we are not reacting to press stories and that we are not jeopardizing long-term employment by no doing all of the work that is necessary. With that she would ask that somebody move on the Motion.

The Motion passed unanimously.

Chair Garcia wants to start the process now and report back to the Board at its

September meeting. She thanked all his staff that helped us gather this information quickly as she said this was something that the Board requested at the urgent meeting of July 29th, she knows you were on vacation, thank God for telecommuting because you were able to still chat with your staff and gather the information that you needed in time for this Board meeting.

Member Montañez said thank you and stated that the first time that it came up in our emergency Board meeting her first reaction when she got the request from the Governor's Office was like it is not such a bad or difficult but you started getting into the reality of how legally, benefits and everything else and everything that you gave us and it just makes her feel more confident that we are doing the right thing and saying that we are not going to cancel this policy that we have.

Deputy Chief Carrillo stated that in doing the research that was his discovery too was that this is so widely supported and recognized as a tool that it was enlightening to see how positive people regard it when it is not in the context of some emotionally charged issue. People support it because it is a good program.

Vice Chair Plescia asked for his own curiosity since it was brought up how many people roughly in the DPA use it.

Deputy Chief Carrillo replied he does not know, there is a Department of General Services has a telecommuting program and he called the Administrator but did not returned the call but the Department of Administrative Hearing and the Department of Social Services have ALJs who telecommute and want to get information as to how they are doing it because it is clear they are comfortable and utilize it but the Department of Personnel Administration I would like to know more about their program too. He can report that back to you.

Chair Garcia stated that there is no doubt that we have new tools that would help us do things better and we can polish up on outdated policy perhaps but let me just ask the question. Prior to hiring all of our new judges on the Phase I and Phase II how many judges did we have, 20, 18?

Deputy Chief Carrillo responded 15.

Chair Garcia added that of the 15, 14 are long-term employees; we are talking 15 including you.

Deputy Chief Carrillo replied no, one judge who does not telecommute, Joel Contreras, he is here 5 days because he works on the late appeals and problem cases that we have in the registration. He prefers to be here every day.

Chair Garcia stated that in essence every senior judge that we have in this Agency has been here between 16-21 years and every single one of them has demonstrated through their use of sick and leave time but it's been an effective policy since the Board adopted it in 1991.

Deputy Chief Carrillo stated that he had ALJ Marti Geiger prepare a presentation on certain board issues that you requested. Do you want to do that at this meeting?

Chair Garcia replied that if it is okay with Marti, yes and if we can move it to the end of public comments so we can get everybody else out of here.

9. Report by Rafael Placencia, Chief Information Officer

Chief Information Officer Rafael Placencia reported on the four items: The new process for purchasing IT goods and services, IT Division workload, Phase III hires and IT project status.

The new process for purchasing IT goods and services requires submission of an IT acquisition plan to the Office of Chief Information Officer, also known as OCIO. The OCIO is requesting all agencies to report all IT expenditures with a value of \$5,000 or greater, that is rather a low dollar amount for higher cost IT goods and services. We are required to have an OCIO approve an IT acquisition plan. We submitted the plan for the first quarter of 2009/10 on July 31st. The plan details two items and pursues the purchase of a support contract for digital recording system and a service contract for installing the permanent phone system in San Jose Office. He is anticipating approval of the plan later this month. It will be an ongoing process that will be done on a quarterly basis. We are looking at submitting one plan for the entire year so we don't have to do it every quarter. What he wanted to do is going on a quarterly basis to see how this new system will work because one of the key components of this process is that Agency can potentially lose funding for IT projects. For our particular department we would not lose the funding, the project just won't be approved for implementation, and for other departments it is critical.

The Phase III hires – the IT Division is in the process of hiring 5 additional positions. As of today we have posted and announced 2 positions and should have the 3 remaining positions posted later this week. We are targeting interviews for early September.

IT Workload – the IT Division workload continues at high rate. We have approximately 50 IT projects in various stages of completion. Some of these projects have seen very little movement since the last report. Furlough days have significantly impacted project schedules. The reason changed when a lot of staff bank the furlough hours will have the work done and that will help. Approximately one third of staff has chosen to use the Friday work schedule.

Project Status – now we are touching on a few projects that are included in the Special Projects Matrix, the ones that are basically more important than others. The first one is the field office phone tree system, a system that we are installing statewide. We are targeting Inland Office for the first site implementation. What

we are doing right now is the project is on hold until we have budget through for this budget year. Once we get approval we will enter into service agreement into 3rd party vendor for program in the field office phone system. The Dragon software is a new project and the completion of the pilot is targeted for September for completion. Once that's done, the final evaluation is if we are going to implement this as a normal tool.

Auto Dialer system – At the July 14th board meeting it was reported IT was in the process of implementing the auto dialer system. He is pleased to report the system was moving production on July 22nd. The system is actually placing calls Monday to Friday between the hours of 1:00 p.m. and 5:00 p.m. They are targeting schedules in person here 3 days prior to the hearing date. The average weekly call rate is approximately 6000 calls per week. The project is now in the monitoring and acceptance phase. On this particular project he would like to thank IT staff members Mary Mitchell and Ana Chen for bringing system in production.

Expansion of the information technology structure – this project is in the design phase and still working on project cost.

WAN Acceleration Project – this would directly affect the Board members. We are training the configuration and testing phase project. The end result of the testing has been very promising in speeding up the opening and closing of documents over WAN. That's what you do on normal and daily basis.

Member Richardson asked if we have an ISO at this time. Chief Information Officer Placencia responded that we do and it is Paul Prestwich who is acting ISO.

Member Richardson stated that she heard some discussion a little while ago about that hearing introduction tape and asked if that is included and sort of in advance at this time.

Chief Information Officer Placencia stated that when we get the final approval and then we are ready to post it in our Website and the next phase will be to have it displayed in our Sacramento Office lobby.

Member Richardson asked who we are waiting for final approval from. Chief Information Officer Placencia responded Chair Garcia.

Chair Garcia added that what he did not tell you is that IT and his support staff took it over and above what we requested. We simply wanted to call the claimants and the employers, they took a step above that; they are calling and making attempts at least 3 times. They get a busy signal, they are re-calling; In addition to that Lori is working with Raphael and his team with EDD so that we can renegotiate or look at negotiating the cost of the phone calls themselves so we make them cost effective, because at 6000 phone calls it is a significant cost to our budget, so that again is forward thinking. In our discussions with DOL one of the areas that we identified is that EDD's computer system is so antiquated that there is no way to

build on it and we are in the building mode in terms of technology. They have one field that they use for notes; we are trying to capture that field for our use so when the claimants initially come into the EDD system whether they go online or whether they do it by phone we will be able to capture right at the very beginning of the process their e-mail address. Eventually we can send them e-mails in addition to making these phone calls. Along the way we want to be able to contact them so if there are any changes, they become homeless, they move, their paperwork got lost, there are some delays, we can create computer contact with them. Finally, their fields only capture only one phone number and we need to identify whether that is cell phone or a home phone because if it is a cell phone we can text them and that would be a free cost to the state or lower cost. Thinking outside of the box again what they are doing and what our sub-committees are doing we have taken one thing that we have identified and we are able to see immediate results and then build them.

Member Richardson wants to commend Nakesha Robinson; she does a lot of that work for us and she's been working on all of these projects for the last 6 months and she does a fantastic job.

Chair Garcia commented that it is good to see computer geeks that are girls. We just want to thank you because she knows you go upstairs and you look at that equipment, she swears she has computer viruses in her computer and she knows how to start up word and that is about it. The work that you do and we ask you to take on a project and you can get outside the box with that we really appreciate it. In this case when you are looking at what it really does 25% of our workload could be driven down just by a simple phone call. That work that you do up there is so critical and thanked them.

10. Report by Pam Boston, Deputy Director, Administrative Services Division

Deputy Director Pam Boston reported that we have completed Phase I. On Phase II we allocated 40 ALJs and 40 support staff; we have pending 9 ALJs hires and 18 support staff and that completes our Phase II hiring. We are just gearing up for Phase III; applications have been sent out to the field offices for both ALJs and support staff. She is pleased to announce that Personnel did develop some internal efficiencies thinking outside the box. We are now scanning applications and sending them to the PJs, putting them in shared folders and the PJs can access them via their computer as opposed to sending them paper applications. That was definitely a step in the right direction. It is really the first step in working towards an online application filing. At the very end what we would like to do have an online application filing ability, and we are working with IT to move in that direction.

Personnel did attend a second job fair in Southern California sponsored by the Department of Mental Health and was held at the Fairview Developmental Center. Not as many people attended this one; we only ended up getting 16 applications, mainly an interest in our Inland Office. She believes our Inland Office has about 5

vacancies so they should be able to hire some talented people. This job fair like the one in Northern California was geared towards individuals who are being laid off and on SROA.

Last week we sent out a memo to all field offices offering reception training. Ralyne Long, one of our Southern California staff, has developed a 4-hour training for receptionist. Typically, in the field the new staff starts out in the reception area. These are people who could be brand new in state service, could be transfers from other departments but have no information or knowledge about CUIAB. The response has been overwhelming; so far we scheduled 7 trainings session to include about 60 people so it is a good service that Ralyne is offering down in Southern California.

The small business, micro business and disabled veterans business enterprise annual reports review of August 1st, the participation goal is 25% of our purchases need to be made from small business, micro businesses and we exceeded that goal by 25.35%. The goal for disabled veteran's business enterprises is 3% and we exceeded that goal by 13.23%. This is the 5th year in a row that we have exceeded that required goal. She would like to thank our business services staff for doing their part in reaching for small business and disabled veterans businesses.

She would also take the opportunity to thank our Procurement staff for all their hard work in our year-end purchasing. It is just frenzy over in Business Services during this time of the year and we were down to 2 staff at the end of the year so they worked very hard and diligently after hours on weekends to get everything done. She is pleased to report that they succeeded.

She would also like to announce they hired Elbia Jue as our new Personnel Officer. Elbia started with CUIAB as our Labor Relations Officer in April and she is a tremendous addition to Personnel. She fits in really well and is currently wearing 3 hats and we are moving quickly to fill behind her position Labor Relations Officer.

Member Richardson stated that in our July 6th Board meeting Chair Garcia asked Ms. Boston to draft a letter to all employees about the Executive Order and use of furlough hours, and asked if that was done.

Deputy Director Boston replied that there were several that were sent out on the furlough.

Chair Garcia added that in addition to that there was actually also a posting that's been put on the Bench.

Member Richardson asked where we direct employees.

Deputy Director Pam Boston replied that there is the Frequently Asked Questions on the Bench to the furlough and if they have any questions that are not covered in

they could send the e-mail to us so we can make sure that it is included. If they have specific questions concerning their operations they should first speak with their supervisors, then Personnel.

Member Richardson stated that there was a discussion in one of the Board meetings about an Exit Interview.

Deputy Director Pam Boston stated that it is ready, and would be on the agenda next month.

Chair Garcia added that in addition to posting that information we had our Furlough Committee meeting and one of the things that came out of that was that as a follow up we wanted to make sure that the LSSIs, LSSIIIs or supervisors had a statewide teleconference call with Personnel advising them on how they need to document and keep track of those hours, and those calls are ongoing. As these questions come up in addition to posting them on the Bench there are suggestions directly with the staff that is responsible for it. We have in essence dissolved the need to figure out how to deal with the furlough and now with the operational needs.

11. Chief Counsel's Report, Ralph Hilton:

Chief Counsel Ralph Hilton reported that we are currently carrying 203 cases. We received 5 new cases for the month of July, just one of them of particular note, and that is the action filed by SEIU against the Governor and specially-funded agencies with regard to the furlough. We closed 3 cases in July, and the Board's decisions were affirmed by the Superior Court in each of those cases.

12. Unfinished & New Business

Appeals Board Policy No. 17

Chief Counsel Hilton stated we already covered the first listed item, Board Policy No. 17, and he does not know if it needs to be addressed again at this point.

Chair Garcia stated that the only action that we need to address is that the Board took action to notify DPA that we wanted a study conducted to address the concerns raised. A letter was sent out August 6th and DPA has it in their possession and her understanding is that they are working on that. On the Appeals Board Policy No. 17, which you have a copy of, Members Figueroa and Plescia are members the Sub-Committee on Legal and Legislative issues so they will be working with Chief Counsel Hilton to address some areas that perhaps could help us reach the same goals.

2008/09 & 2009/10 Budgets

Ms. Renee Erwin reported on the 2009/10 proposed budget for CUIAB. That budget will be impacted by the May revise and the furlough reductions. Initially to

start off, our budget is established by the Governor's line item for the 2009/10 budget, where we have 743.2 positions authorized and a funding total of \$91,199,000. All this information is also on your Handout 1 (Attachment B) which is in your folder. Next we have the May revise that we addressed in previous Board reports. The May revise for the UI Program forecast an increase of 207,000 cases for the next fiscal year, which means an additional 309 positions for CUIAB and an increase in funding of \$33,914,000. The UI workload program based on this number will reach 538,000 cases for the next fiscal year.

Ms. Erwin stated that the DI Program showed a slight decrease of 867 cases, which means a reduction of 2.3 positions and a decrease in funding of \$242,000. The Paid Family Leave Program has not ever developed to the initial estimate, so we have a reduction of earnings of \$1.8 million. The furlough reductions were the General Fund appropriation, with \$48,000 removed from our budget authority. Second to that is the furlough reduced earnings that impact us. Based on the furlough usage from February to date we have seen that staff and judges are using the same number of leave hours that they normally had; we have high months that happened obviously in October, November and December where staff take more time and also in the summer months of July and August. July did not see increase in furlough hours usage, but if all the furlough were utilized within 2009/10 it would mean a reduction of 112,000 cases and \$17.7 million in earnings.

Chair Garcia asked 112,000 is based on the higher amount of 538,000 or is it based on the lower amount of 331,000.

Ms. Erwin replied that the 112,000 cases was calculated based on the number of judges we have on staff and if they took 24 hours per month, they would hear that many less cases, so the 112,000 would be subtracted from the 538,000.

Member Montañez clarified that it is \$17 million for the 2009/10.

Ms. Erwin stated that to clarify, if we do have to remain on the self directed it could potentially be reduced to one third because they can carry those furlough hours until 2012 which is over 3 year period of time. We will be monitoring that closely in keeping the Board apprised of the status of the furlough use and the impact on our earnings. This is just a summary that you have as Handout 1. Bottom line right hand corner shows that we have a budget authority for \$105 million which would fund 883 positions. The impact of the May revise has changed our funding for federal sources, which has increased from 88.86% to 92.86%, so we are almost at 93% federal fund, special fund or the Disability Program is 6.5 and the General Fund has reduced from .67% down to .41%.

Member Richardson asked if the 6.5% is just the DI fund.

Ms. Erwin replied that 6.55% is the DI Program and Contingent Fund.

Ms. Erwin reported on the Branch request and the Branch allocations that are

being proposed for both the Personnel budget and the OE&E budget. She started off with Personnel budget which will cover salaries and wages benefits, temporary help and the number of positions. This next slide refers to Handouts 1 & 2 (Attachment C), and they are broken into pieces which we can better explain them. The first one is our salary and wages benefits by various branches which come to a total of \$52,313,000. Of this we did back out or reduce actual expenditures for positions by 13.86 for the 3-day furlough which means actual expenditures are being reduced by \$8.4 million; those dollars are not being removed from our budget and are being utilized to fund other things, either more hires or more OE&E. The change from 2008-09 fiscal year to 2009/10 due to obviously three phases of workload reduction shows an overall increase of salaries and wages by 18% and was reflected here as the various branches changes in salaries and wages from last year to this year. Then you factor in the benefits side of the personnel budget adding in \$21.5 million for a total of personnel budget of \$73.9 million. Our temporary help budget is basically based on what did we do the last year, what did we spend on overtime, what did we spend on lump sum cash outs, what did we spend on our temporary help employees. This shows the breakout of the temporary help dollars which are interchangeable, in other words if you utilized less money for temp help hires those dollars could be used to increase overtime and vice versa. These are the allotments proposed for temp help budget for various branches and we wanted to point out that for 2008/09 we spent a total of \$729,000 on overtime; we have a slight increase of overtime allowance for this year of \$741,000. The positions for the various branches all have increased with the exception of the Executive; we have a 45% increase at AO; 17% for Administrative Services; 43% for Information Technology; a slight drop for Executive of 7% and Field Operations increase by 43% for a total of 39% change from one fiscal year to the next. In the allocations the branches are proposing 8 new additional positions over and above Phase I, II and III. These are the listings of the positions that are being proposed for AO, Staff Services Analyst, permanent; Administrative Services is requesting 2; Business Services is requesting 2 Business Services Officers, both intermittent and Information Technology is requesting a Staff Information Systems Analyst, Supervisor, permanent and 1 Associate Information Systems Analyst, permanent, and 3 Associate Information Systems Analyst, intermittent, for a total of 8 positions at a cost of just under half a million.

Member Richardson asked under Administration, what the Business Services Officer I do. Deputy Director Boston replied that those are for procurement stuff. Member Richardson asked who is one of our Business Services Officers. Deputy Director Boston responded Madonna, Naomi, and Victor who was just hired.

Chair Garcia asked if they will be based here in Sacramento and will they be cross trained, to which Deputy Director Boston said absolutely.

Member Richardson stated that they are intermittents as opposed to permanents and asked the reason for that. Deputy Director Boston replied that because once the workload level is off and we probably won't need the staff in that area.

Ms. Erwin reported on the Operating Expenses and Equipment Budget (Attachment D), and that we will be looking at those items that we consider or are labeled controllable through Call Letter requests. Those uncontrollable items are like our ongoing expenses, leases, utilities, what our facilities cost are and proposed projects and also new purchases. However, this has been categorized and just to show you the least expensive category is our subscription membership and training where we spend only 1% of our budget. It gradually increases with our top 4, our interpreter expenses and our CHP and security services at one point \$4 million, 6% of our budget. Next is our Attorney General court cost that are at \$1.8 million, 8% of the budget, and then our furniture and equipment purchases are \$2.3 million or 10%, and the most expensive item of our OE&E is our leases, utilities and janitorial where we do our business at, coming in at just under \$14, 56% of our budget. The budget includes the ongoing lease costs for our 12 headquarters and 20 out stations. In addition to that, we have pre-approved active facility projects that are being worked on; 2 at headquarters, those are Oxnard the lease extension and the San Diego lease renewal. We have 6 outstations that we are looking at in addition to 2 tentative improvements that were previously approved by our Acting Executive Director, tenant improvement, lump sum cash for Santa Cruz and also for Roseville. Those pre-approved projects are at \$1.2 million. What is being proposed in the budget is a blanket to support any additional facilities that may be proposed by the Workload Committee for the Board's approval. What we built in is just an average cost based on square footage of needs potential 15 sites based on the Phase III hires in the Field Operations. This comes to a total of \$4 million and will be held in reserve; each project will be reported to the Board for your approval for each individual project. The proposed projects \$4 million; the active projects are \$1.2 million so our proposed project rental was \$5.2 million. In addition to that in our OE&E budget the new project the expenses that are in Call Letters for administrative services we have the statewide recycling project service contract for \$27,000 where we have \$145,000 to fund the FISMA audit that is due every 2 years; Field Operations has monitored for all the field operation headquarter offices played a pre-hearing information and we have an ALJ judicial conference for \$363,000. Our IT projects are Land desk PC inventory backup software for the field servers consulted services to conduct and draft the business needs analysis and develop project requirements and all projects. We have the switch replacements at Venture Oaks maintenance for the expanded storage area network, the Curam project which is on hold, maybe funding left there and the paperless project, so we have \$1.6 million in IT projects and between those 2 slides we have a total of \$2 million in proposed new projects for those expenses. We are under utilizing our permanent positions by 7 but we are over utilizing 10 temp help positions by 2.2 and moving those dollars in the same direction. In addition we are under spending benefit and OE&E so we have left over and above in reserve in 2009/10 budget is \$6.8 million. We have some pending future adjustments that we will stay on top of it as Mr. Roldan reported on the 2009 contract expenditure reduction which have been approved so we retain \$1.8 million that was being hung out there. For our vacant position re-establishment per Government Code Section 12439 we have 25.5 permanent

positions that we will be asking to be re-established that were left vacant more than 6 months that happened during the time we had the hiring freeze, and we also had several cutbacks in budget situations, so we have solid justification to have these positions re-established at one point \$7 million. Lastly we will have the October and May Revise that will adjust our budget accordingly like how the furlough impacts us. We will have adjustments made in our UI budget in the October Revise and also the May Revise.

Chair Garcia asked with the Indio new lease for the proposed project, do we already have an office in Indio.

Chief ALJ/Acting Executive Director Roldan replied that's the issue in that the lease of that property is expiring and we have to relocate. They do not want to renew the lease for the existing facility.

Chair Garcia asked where the existing facility is. Chief ALJ Roldan responded in Indio.

Chair Garcia wanted to know if it is in the EDD Building. Chief ALJ Roldan replied it is a stand alone satellite and not part of EDD.

Ms. Rita Thompson responded that we are actually in a state building right now and they are trying to negotiate to sell this building for quite some time with EDD. It's been talked about for several years now and we are always on the line of a 30-day notice to leave that space. But EDD gave us a notice within the past year that they are aggressively trying to get a buyer and the County is looking at it and that is why we are looking for a space.

Chair Garcia added that if it is where she thinks it is, which is in the Workforce Development Building, that building is owned by the County, off Monroe, and if this proposed new site is \$4 a square foot that is pretty high when you are looking at real estate that we have in L.A. and that is astronomical for building that is half empty now. She would say that before this Board moves on any site or additional sites that are really not something that we absolutely need to move on but would be part of that whole facility committee that we have because there are certainly advantages at looking existing locations, going back and renegotiating as we did when we did so in Oxnard. When this issue first came before the Board the ALJs had identified certain sites but when we went back and evaluated each site we were able to renegotiate better leases and additional space in the current blueprints so she is not supportive and would ask the rest of the Board not to support to looking forward to new sites without making sure that we have exhausted every possibility to stay in our existing sites or to negotiate better lease or to partner with someone else, because the other thing that we have is in the last month we have also received a lease of hearing facilities that are currently owned by the state or used by our agencies that are not being utilized to full extent that it can be either because of furloughs or other agencies are abandoning those sites. Anytime we move we also need to consider the impact of workload, the disruption

of workload and the tenant improvement that comes with the square footage cost. If it is not a project that is active, moving and approve that we have already signed the contract she would ask to eliminate the proposed project list and move it over to the Facilities Committee and come back to the next Board meeting with some recommendations.

Ms. Thompson asked if it is the whole thing.

Chair Garcia replied the whole thing because she thinks that is what Melanie asked you. What is the one in Hemet's new lease. It says lease expires December 31, 2009 so is that a new lease, are we relocating or is that a renewal or existing lease. She does not need 50 sites but she thinks it's too much to digest and talking about a budget of a couple million dollars without having this information for us Board members especially when we just reported that we went to the max in order to get an exemption under the service and facilities contract in order to continue to move our staff forward and she does not want a blanket approval on something that. Until she feels comfortable with that and you have all the information you need she would ask that we reserve that

Chief ALJ/Acting Executive Director Roldan added that this is just to set aside in terms of budget as opposed to the actual negotiation of any particular leases. A good example of the distinction between the two that earlier he discussed, that Business Services had negotiated a reduced lease that was much more favorable than the set aside that existed in the budget that has been described. There is not necessarily a co-relation between what is set aside in the budget and what is ultimately negotiated and he thinks that there is ample opportunity with the Facilities Committee for us to revisit the details of what we are negotiating. In essence what we are trying to set up is a worst case scenario that this cost may for whatever reason we may decide that the facility needs to be in a place other than Hemet and it may involve greater cost rather than lesser cost depending on delivering resources to the public a large. This is just to establish a budget and there are certainly adjustments that get made during the course of the year when the details of that budget play out. He is not sure if there is a need to hold up on action on overall proposed budget when we can drill into the details of negotiated lease.

Chair Garcia stated that we can act on the budget less proposed project and the cost because she thinks it is not an accurate reflection of what could be the cost, and even though there is a 13. There is cost hit to our budget at approximately 15% immediately that we are going to see in this fiscal year going forward because of the furlough. She wants to be careful on how to plan and the other thing that we also have in place is we have changes to our regulations; we have other factors that come into play and may dictate how much actual physical space we need. There is some authority you have as an Executive Director to contract and we share the responsibility as the Board. Again, I would carefully move forward on proposed parties. That is not the saying we need to stop doing the exploration we need and asking DGS to go out and do the cost estimates for us. Before we pull

the trigger to sign the lease and moving into taking up staff's time with cost factoring and looking for locations we should look at the demographics. We have the process where we have some tools available to us from EDD on a monthly basis; they should give us the demographics of where the unemployed are. We also learned from this process that for example when a facility was requested in Sherman Oaks that it was not helping the residents that lived in the valley that really are the unemployed. We don't want to send them in taxi cabs to the unemployment office but we need to send them within walking distance or bus ramps. She wants to make sure that we are putting offices where they are needed and that our staff are putting their energy into the right project. She as a Board member will not ask to take her responsibility and she would say "I am sorry I understand what we need to do but it is too much of an expensive item to just say let's go".

Ms. Thompson stated that what is going to happen then is from the Facilities Committee it will then be presented to the Board the following month. Her fear is the time that it might take especially with the Indio. We are really close to getting Indio's firm numbers, we might be a little elevated but with the Hemet the owners are aggressively looking at, this particular one at Hemet is actually there in Hemet. The owner is very interested in us staying there and building a hearing room site there. We really had a hard time finding space, 3 years that was ADA and what not.

Chair Garcia stated that it raises the bar immediately because this says new lease, it not a new lease, it is a renewal.

Ms. Thompson added that it was sub-leased to us right now from the County. It is actually a new lease.

Chair Garcia commented that if we have issues in Hemet she would ask the immediate party to finalize those issues that are Hemet and the rest of these projects to come to the Board with some recommendations on the Facilities Committee at the next Board meeting. She would tell you specifically with Hemet and Indio that is an area that she lived in where she represented that area for six years and worked closely with the county and we can have sit down meeting that would resolve many problems that would take a lot of time, she would rather do that and she knows it suits the case for Sharon, Cindy and all of us on this Board will probably be able to come and chase a lot of these things down that would save us all some time and that's where she thinks you need to use us as Board members.

Chair Garcia stated that if it needs the Board's approval a Motion is needed.

Chief Counsel Hilton stated the proposed budget does need the Board's approval.

Chair Garcia added that with the amendments that we the Board authorize you to approve those that are timely and come back on the proposed projects on the next

Board meeting.

Ms. Erwin asked will the dollars stay as a line item for proposed projects that require Board's specific approval.

Chair Garcia replied yes.

The motion passed unanimously.

13. Public Comment:

None

14. Closed Session:

The Board went into closed session. No votes were reported.

Adjournment