



Navigator

Winter 2018

SAVE THE DATE!

NAUIAP TRAINING CONFERENCE IN ANNAPOLIS, MARYLAND June 17, 2018 through June 21, 2018

Dan Doherty, NAUIAP Board Treasurer

Senior Hearing Examiner with the Lower Appeals Division of the Maryland Department of Labor, Licensing and Regulation

With the turn of the calendar, I am sure many of you are thinking ahead to shorter nights, longer days, and warmer months. The upcoming 2018 NAUIAP Training Conference will hopefully be one of the events you plan to attend after the winter thaw. The Training Conference will be held from June 17 – June 21, 2018, at the Loews Annapolis Hotel, located at 126 West Street, Annapolis, Maryland.



The NAUIAP Conference Agenda Committee is hard at work planning an informative and substantive agenda. The NAUIAP Board of Governors received tremendous feedback following the Training Conference in Seattle, Washington, last summer (talk about “raising the bar”) and is working diligently to integrate those ideas into the agenda. As at previous Training Conferences, Continuing Legal Education credit will be available for those attendees whose states require CLE.

Along with an exciting and educational agenda, Annapolis offers much to see and to do. The Tuesday Night Outing will be on June 19th. We will start with a walking tour of the United States Naval Academy, followed by dinner and refreshments at the Naval Academy Officers’ Club, located within the Yard. The Naval Academy is located just blocks

from the Annapolis City Dock area, so an after dinner stroll along “Ego Alley” to gaze at the yachts moored in Annapolis Harbor or a stop at the Kunta Kinte Plaque and life-size statue of author Alex Haley are easy ways to round out your night.

The Annapolis 2018 Committee specifically chose the Loews Annapolis Hotel as the center for our Training Conference for a variety of reasons. The hotel itself has been recently renovated and has all the amenities one would expect at one of our Training Conference sites. Check out their website for pictures of the hotel. (www.loewshotels.com/annapolis.) The Loews Annapolis Hotel is also located within easy walking distance of downtown Annapolis. Main Street Annapolis has a wide variety of shops, pubs, coffee and tea shops, as well as an excellent selection of restaurants. Please plan to visit Church Circle and State Circle, the home of the Governor; visit The Maryland State House, the oldest state house in continuous legislative use; or stop into the Banneker-Douglass Museum, the state’s official museum of African American heritage; or catch the “Johnnies” practicing croquet at St. John’s College, the “other” college in Annapolis. For more information and to see some excellent pictures of Annapolis, check out www.visitannapolis.org.

We look forward to seeing you in Annapolis in June! “Fair winds and following seas!”

REGISTER NOW:

<https://nauiap.org/member-event/2018-conference-annapolis-maryland/>

Pricing includes One-Year Individual Membership.

Piloting the UI Benefit Operations Self-Assessment Tool

Laurel Klein Searles, Chief of Appeals, Kansas Department of Labor

Employment and Training Administration (ETA) released Unemployment Insurance Program Letter (UIPL) Number 18-17 in order to announce a new Unemployment Insurance Benefits Operations Self-Assessment Tool (UIBOSAT). The tool is designed to aid state unemployment insurance agencies in evaluating their unemployment insurance operations. Additionally, it provides USDOL with a means to monitor each state's UI benefits operations and to better ascertain areas in which states need technical assistance.

Each state must designate an individual to conduct the self-assessment, who will then utilize the UIBOSAT created by USDOL. The tool contains detailed questions about different program areas within unemployment insurance benefits operations including both lower and higher authority appeals. The individual state reviewer then has leeway to schedule and conduct meetings, compile and review materials, interview necessary staff, observe different processes and operations, conduct the self-assessment, and to prepare reports. The reviewer will then have until March 31, 2019 to submit results for all 15 functional and program areas to ETA.

In Kansas, we elected to begin the self-assessment process with the lower authority appeals unit in order to learn the process with a team that is performing relatively well before moving on to more challenging areas. The Lower Authority Appeals and Higher Authority Appeals section of the UIBOSAT contained a multitude of detailed questions in the following areas: 1) Procedures, Policies, and Confidentiality; 2) Training; 3) Workload Analysis and Management Controls; 4) Performance Management; 5) Information Technology; 6) Claimant and Employer Access and Communication; 7) Operations Efficiency and Resource Allocation; and 8) Staffing. As the Chief of Appeals, I found the process to be enlightening as it helped me to identify and prioritize areas for improvement. For others beginning this process, I encourage you to prepare, allow ample time, be honest, and have an open mind.

1. Prepare

The questions are very detailed. I appreciated our self-assessment reviewer providing me with a copy of the questionnaire well before we started the review process. It allowed me to gather the information necessary to complete the assessment prior to our meeting. In anticipation of our meeting, I pulled data related to the timeliness and quality of appeals during the relevant time period. I also gathered our written policies and procedures, a sample notice, a sample decision, information distributed to parties in anticipation of appeal hearings, training materials, performance reports, and staffing reports from the relevant time periods. These tools were necessary to be able to competently and accurately answer the self-assessment reviewer's questions when we met.

2. Allow ample time

While my preparedness ultimately saved us a great deal of time, it is still essential to block off plenty of time to complete the review. Completing the self-assessment was a very interactive process. I met with my reviewer one week prior to the self-assessment, so he could explain the process and I could ask any necessary questions. After that meeting, I spent several hours gathering necessary materials and resources to have ready for the review. When it was time for the actual self-assessment, we dedicated an entire afternoon to complete the review. Section 1 regarding procedures, policies, and confidentiality, and Section 2 regarding training required the most time and effort to complete, and it was these two sections that I found to be most helpful. By utilizing the tool, I was able to find specific areas in which I wish to make improvements. I fear I would not have found the same advantages if I had not allowed for adequate time for the UIBOSAT.

3. Be honest

There were questions asked in the assessment that I did not like, because I was not happy with the honest answer that I had to give. As a small state with a relatively low number of hearing officers, our training is not the most formalized process. Fortunately, we have been spared a great deal of turnover in recent years, so it has not been necessary to update or formalize training materials. By reviewing our training materials and processes, I discovered that we needed updates and more formalization. It pained me to acknowledge the deficiencies in this area. However, by having an honest and complete discussion with the reviewer about our training process, we were able to identify key areas for improvement. In fact, I have already implemented many of the strategies that I developed to enhance our training for the first quarter of 2018. It is absolutely necessary to be honest with the reviewer and yourself in order to identify the strengths and deficiencies of your appeals units. If you are uncomfortable with an answer you honestly have to give, it is probably an area in which you need improvement.

4. Have an open mind

I think it would be easy to approach this task with a negative attitude and complain about how USDOL, your boss, or your reviewer are all making your job even more difficult. However, as with most things in life, a positive attitude will serve you well. By keeping an open mind, I was able to truly assess the functioning of our team and identify priority areas for improvement. While I generally recognize strengths and weaknesses within the unit, it was helpful to devote my time to formally reviewing our work. I also appreciated having a third party identify his concerns for my team. I learned that our team is doing very well in spite of the many obstacles that we face, but we still have areas for improvement such as training and ensuring consistency throughout the unit. If I had been closed off to the process, I would have never gained the insight that I did. I encourage you to approach the UIBOSAT with the same outlook.

The UIBOSAT and complete instructions can be found at: <https://oui.doleta.gov/unemploy/satool.asp>.



PRESIDENT'S COLUMN

Jayson Myers, Chief Administrative Law Judge
U.I. Appeals Board, New York

Why does the subject matter of Unemployment Insurance call to us? With all the options that are available in public service, why did we choose the niche that is Unemployment Insurance? I can provide one person's answer and perhaps stir your own recollection and introspection.

Way back in the day, in the autumn, a recent law school grad had just been notified of his success in the New York bar exam. I was never the type who desired to spend my life focusing on ways make rich people richer. I thought hard about sports law, but who were the people in the sports world who needed lawyers? They were rich people of course so I figured I could continue to be a sports fan and participant and not devote my working life to line someone's pockets. No, it would be a lower ticket kind of law for me.

Many interviews with federal, state and local agencies and several months later, and not having been especially attracted to regulating insurers or housing contractors, or to taking children away from neglectful parents, I was in one more public sector interview--this time with the New York Unemployment Insurance Appeal Board whose positions were appointed through the New York State Department of Labor.

The position that was open was at the Higher Authority--serving as counsel to the Appeal Board members, reviewing transcripts to see if substantial evidence and case law supported the Lower Authority decision that had been appealed.

Not having the parties in front of me and working in a quiet environment alone with transcripts and law books, the stories nevertheless seemed to jump off the pages and connect with me. Finding facts, even if it really was only to see if the hearing officer correctly found facts, was a challenge. And the issues were momentous. There were a claimant and an employer both convinced of how it happened and why and both absolutely certain that there was a righteousness to a verdict in their favor. And there was an urgency to all of it because the claimant was usually still unemployed or had been so for a significant period.

That was the clincher. The parties were epitomes of those who government is meant to serve. Did this claimant lose employment through no fault of her own? These were issues whose impact was here and now, so my work had immediate effect. Real life as played out by ordinary people? Check. Present need for a quick and correct decision? Check. I had found my public service calling. Forty-two years later, having held about every position in the New York appeals organization that there

is, I get the same kick today about talking about cases and fact patterns and potential outcomes. It represents public service in its worthiest sense. Do you agree?

Jumping off from that, if you are as, or even almost as, stimulated by our favorite public service subject as I am, then you must start thinking about the 2018 NAUIAP annual conference in Annapolis.

Annapolis is cuter than a button. It is old and quaint, a seafaring town and, above all, home to the U.S. Naval Academy. I would not rate my sense of patriotism as extreme, or any greater than the next person's. Nevertheless, when I had the pleasure of visiting the Academy for the first time in my life at the Fall Board of Governors meeting in October, I was deeply touched. I have a strong sense that you will be, too. The very good news is that the 2018 conference's evening event will take place at the Academy.

The conference agenda itself will be chock full of engaging topics. As of now, I can mention several but not nearly all the programs:

- United States Department of Labor program update and legislative update
- Training New Higher Authority members
- Trends and Development in Cases involving Social Media
- Disaster Unemployment Assistance
- Regional Breakout session
- Best practices in cases involving Identity Theft
- Trends and Developments in Drug Testing Cases
- Sessions designed to address Federal Quality Review criteria that were the top 10 criteria with unsatisfactory ratings at last year's national appeal review

So, get ready to set sail for Annapolis. Anchors aweigh!

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Minnesota's Request for Reconsideration Process: Collapse of Higher Authority

Sasha Mackin, Supervising Unemployment Law Judge,
Minnesota Department of Employment and Economic Development

Decisions from Minnesota's unemployment law judges are appealable directly to the Minnesota Court of Appeals. Appellants must exhaust their administrative remedies before appealing to a three-judge Appeals Court panel, however, in Minnesota, that no longer means consideration by a higher authority.

Before 2005, Minnesota had a more traditional structure of lower and higher authority. Hearing officers, called unemployment law judges, held evidentiary hearings and wrote first-level appeal decisions. Most hearings at that time were in-person hearings, and judges traveled around the state to conduct these hearings in area WorkForce Centers, with central operations out of the capital, Saint Paul. An aggrieved party could seek redress with the then-higher authority; senior unemployment law judges called "Commissioner's Representative," or "Commissioner's Rep" for short. That body was comprised of Commissioner's Reps who reviewed the lower authority judges' work, and either issued new decisions based upon that Commissioner's Rep's assessment of the evidence in the case, or remanded it back to the judge to hold an additional hearing to seek more evidence. Sometimes law clerks assigned to Commissioner's Reps listened to recorded hearings and prepared a report for the Commissioner's Rep to consider with the record of exhibits, and sometimes the Commissioner's Reps listened to recordings themselves. Parties could appeal Commissioner's Rep decisions to the Minnesota Court of Appeals, and then the Minnesota Supreme Court.

MINNESOTA'S INNOVATION

The then-Director of Legal Affairs and Head of Higher Authority, Lee Nelson, started analyzing the data. The average applicant at that time collected 12 weeks of unemployment benefits. The average weekly benefit amount was about \$300. This meant the average case was contesting \$3,600 in benefits. "It isn't required to have a higher authority," explains Nelson, "Nebraska has gotten along [without one] since the early '40s. Hawaii never had one." Nelson determined that the resources dedicated to the higher authority could be reallocated to improve the hearing level. Court of Appeal reversal rates of Higher Authority were at about eight percent. "Why do we pour in so many resources?" asked Nelson, "Where else will you get two due process proceedings for a \$3,600 issue?"

Rather than getting rid of an intermediate review process altogether, Nelson proposed a new process, known as the "Request for Reconsideration." There were three reasons for seeking to adopt this process: first, if an appellant missed a hearing, the appellant shouldn't have to go to the Minnesota Court of Appeals to request a new hearing. Second, mirroring District Court Civil Procedure, there should be a process to fix pure error in a decision, such as transposed numbers. And third, to correct errors of law, such as when a hearing officer overlooked a provision of law that could provide relief.

To promote his plan, Nelson took his data to the Minnesota Unemployment Insurance Advisory Council. The Advisory Council is

a body that meets every legislative year, and brings together the Chamber of Commerce, labor right representatives, Legal Aid, and legislators from both parties to consider pending legislation that affects the Unemployment Insurance Program. Through the Advisory Council, Minnesota has been fairly successful in guiding legislation, which has to gain the approval of the Advisory Council to have any hope of passage.

Nelson's presentation to the Council was successful. "I got no pushback from the Advisory Council," recalled Nelson. "I showed them the statistics and explained what I wanted to do. Legal Aid even liked it—they gave me no push back." Nelson recalled that Legal Aid frequently objected to Commissioner's Rep's power to overturn credibility findings.

THE NEW STATUTORY SCHEME: REQUEST FOR RECONSIDERATION

In 2005, de novo review by senior unemployment review judges (Commissioner's Reps) was repealed, and the new statutory scheme, Request for Reconsideration, was adopted. Back in the office, the change was not easy, especially on Commissioner's Reps who had been paid a higher salary for this work. "We formally found out by a letter from human resources that our position was being abolished. We had the opportunity to remain employed as an unemployment law judge," remembers unemployment law judge Dick Croft. Croft started employment in 1978, and was promoted from Unemployment Law Judge ("ULJ") to Commissioner's Rep a few years before the change took place. He was one of six Commissioner's Reps at that time. But Croft was not resistant to change. "I personally felt that it was a good idea. I thought it made a lot of sense, because prior to the change, each applicant and employer had three bites of the apple before going to the Court of Appeals." As it turned out, all of the Commissioner's Reps accepted positions as hearing officers rather than leave the Department.

The new statutory scheme created an appeal level called Request for Reconsideration ("RFR"), in which appellants had 20 days from the decision to ask the original judge to reconsider the original decision. The judge has the power to affirm, modify, or reverse the decision outright, or remand the case back to a hearing to consider new evidence under strict statutory circumstances. Also in statute, the Chief Unemployment Law Judge may transfer a case to a different ULJ in the case of the extended absence or unemployment of the judge, or because the Chief ULJ has removed a judge from the proceedings. The decision may be transferred to a new judge in response to a valid allegation of bias or due process violation by an appellant, or to preserve the appearance of fairness. The statutory language can be found at Minnesota Statutes, section 268.105, subdivision 2. "Sometimes we take other things

into consideration, looking into the hearing itself, and whether it followed the federal guidelines. The best choice may be to move [the case] to give the parties a full and fair opportunity to be heard," explains Chief Unemployment Law Judge and current Director of Legal Affairs, Katrina Gulstad. In her role as Chief Unemployment Law Judge, Gulstad reviews all complaints by parties, which can number from one to 10 requests a month. "I like that it gives the parties the opportunity to express concerns about the judge and the hearing experience itself. Sometimes we use it as a learning opportunity and for performance management," says Gulstad. Gulstad estimates that she reassigns fewer than 10 percent of complaint cases.

Most ULJs experience a roughly 10 percent rate of reconsideration. They are instructed to review these second appeals in addition to holding first level hearings and writing first-level decisions. First-level hearings were not reduced to provide extra time for ULJs to also decide their RFRs. During the height of the Great Recession, the department was able to secure permission for some overtime for RFRs. Minnesota considers its ideal caseload to be about 20 hearings per week. At the height of the Recession, ULJs routinely held 25 hearings per week.

In many cases, since judges are reviewing requests close in proximity to the original hearing, they don't need to re-listen to the recording and can address arguments quickly. Other matters take more time and attention. But ULJs consider each request carefully and can modify decisions as a result, and occasionally reverse themselves outright. Gulstad stated, "I've seen enough reversals and modifications of decisions to know that they don't have a problem with changing their decisions." Even so, the overpayment rate has decreased as a result of this change because fewer ULJs reverse themselves as compared to the rate of reversal by Commissioner's Reps.

As Nelson originally intended, resources were redirected into improving the quality of the first level hearings. "The RFR process is proven to be more successful than I personally anticipated," states Gulstad. Employed as a ULJ at the time of the change, she remembers being skeptical of the change. "Numbers now indicate fewer cases going to the Court of Appeals than when we had Commissioner's Representatives. I think a large part of what accounts for that is focusing on providing the best hearing experience possible and highest quality possible. We decided we would provide an outstanding hearing experience to reduce or eliminate the need for that second level of review."

The RFR Process has not been without challenge. In 2014, an applicant challenged as unconstitutional the statutory requirement that a request for reconsideration must be decided by the judge who issued the original decision because it violated her due process rights. The Court of Appeals rejected that argument in an unpublished decision, finding that the reconsideration process does not amount to fundamental unfairness, and is not distinguishable from commonplace similar procedures such as filing a petition for post-conviction relief with a district court at sentencing. That decision can be found at *Beidel v. Corporate Com'n of Mille Lacs Band of Ojibwe Indians-Grand Casino Hinckley*, A14-0159, 2014 WL 5419771, (Minn App. October 27, 2014).

The Minnesota experiment has been roundly successful. The Court of Appeals reversal rate under the RFR system is only two to three percent, down from eight percent under Higher Authority. But it might not be successful everywhere. "Certain states have such a high volume, that you probably need a second level of review," explains Nelson, "But not more than 10 to 15 states need a second level." He suggests instead, "Put resources and training into holding hearings. Pay [hearing officers] better." Minnesota's workload was approximately 20,000 cases in FY2017. Gulstad agrees, "Initially a lot of us were nervous about losing that extra layer before that decision goes to the Court of Appeals, so it really changed our perspective on our writing and our quality when it was our decisions going up there. We went from good to great."

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Spotlight

COMMITTEE SPOTLIGHT: THE MEMBERSHIP COMMITTEE

WORKING TO MAINTAIN AND GROW NAUIAP MEMBERSHIP

Melissa Butler, Director of Appeals, Texas

Kathryn Todd, Executive Director, Unemployment Compensation Review Commission, Ohio

Each issue, the *Navigator* will feature a committee spotlight to highlight the hard work of NAUIAP's working committees. The featured committee this edition is the Membership Committee.

STRUCTURE

The Membership Committee is currently comprised of a chairperson and two members. All three members serve on the Board of Governors and were appointed by the President. The Membership Committee would welcome additional members. Anyone wishing to serve on the Membership Committee should contact Chairwoman Kathryn Todd at Kathryn.Todd@ifs.ohio.gov. There will also be a sign-up sheet at the Annual Conference in June in Annapolis, MD.

DUTIES

The primary duty of the Membership Committee is to maintain a current list of active NAUIAP members with current contact information. This membership list is used to ensure that all members receive the fall, winter and spring editions of The Navigator, as well as any other NAUIAP-related communication.

The Membership Committee initiates periodic contact with members through email communications to provide NAUIAP and Unemployment Insurance related updates. In addition, the Membership Committee explores ways to create value for State memberships and additional value added opportunities for members.

Another critical function for the Membership Committee is to assist in the recruitment of new members. We share the important mission of NAUIAP to support and advance the hard work our members perform in deciding unemployment insurance appeals. Growing the organization keeps NAUIAP strong, responsive, and dynamic. We welcome the ideas, experiences, and energy new membership brings. We also welcome the ideas of our committee members to grow membership.

TIME COMMITMENT

The Membership Committee meets through telephone conference calls approximately six times per year with periodic email exchanges between committee members to discuss possible additional opportunities for members, and the topics for upcoming email messages to be sent by the committee. In addition, the committee works to update the membership list and the contact information for each individual and State membership.

Joining the Membership Committee gives members an opportunity to become more familiar with the other members of NAUIAP and to strengthen relationships with their colleagues around the country while helping to promote the valuable mission of NAUIAP! Please consider joining this important work; we would love to have your help and enthusiasm!

SPOTLIGHT ON WASHINGTON

Ed Steinmetz, Assistant Chief Judge for Quality Assurance, Washington, NAUIAP Board of Governors, First Vice President

In the State of Washington, all lower authority appeal hearings are conducted by the independent Office of Administrative Hearings (OAH), a central panel agency. OAH is the second largest central panel agency in the United States, and conducts the administrative hearings for more than 150 Washington State programs. OAH is one of the few central panels that hears and decides UI lower authority appeals. OAH is led by Chief Judge Lorraine Lee, and Deputy Chief Judges Mike Williams and Josh Sundt. OAH presently employs 103 Administrative Law Judges, (ALJs) and 70 administrative and support staff. Regarding OAH's 103 ALJs, 40 full-time and pro tem ALJs are assigned work on the UI caseload. These ALJs must be lawyers admitted to the practice of law before the highest court in any State in the U.S. OAH maintains a physical presence in five offices. Our Headquarters is located in the State capitol of Olympia, with field offices in Seattle, Spokane Valley, Tacoma and Yakima, Washington.

Appeals to OAH are taken from the initial determinations made by Washington State's Employment Security Department (ESD). The ESD determinations and case files are transmitted electronically to OAH, and following the hearing, our Initial Orders are transmitted electronically to ESD. Following the OAH hearing and decision, any interested party may contest OAH's Initial Order by filing a Petition for Review (PFR) with ESD's Commissioner's Review Office (CRO) within 30 days of the issuance of the OAH decision. If no PFR is filed with the CRO within 30 days, the OAH decision becomes final. If a PFR is filed with the CRO within 30 days, that

Office reviews the OAH decision, and then either remands the case to OAH for additional information or a new hearing, or issues the final administrative decision affirming, reversing or modifying the OAH Initial Order. Aggrieved parties may then appeal the matter to the appropriate Washington State Superior Court.

In 2017, OAH closed approximately 20,300 UI cases, including Tax and Training Benefits cases. Because of the complexity of the Tax cases, a pre-hearing conference is normally conducted prior to scheduling the hearing. The vast majority of hearings are conducted by telephone conference, but a few in-person hearings were granted for good cause shown. OAH uses a first-class case management system, PRISM, which was developed in-house by our talented Information Technology Unit. This system has allowed OAH to develop "issue codes" and templates for all of our notices and orders. These issue codes and templates are used to "auto-populate" the issue statements in our notices of hearing and orders, and specific, relevant conclusions of law are also automatically inserted into the Initial Order template shell depending on the issues in the case. This process brings a high degree of efficiency and standardization to the adjudication of UI claims.

Indiana's Annual Appeals Training Conference

By Jamie Ferguson, Team Manager/Administrative Law Judge
Indiana Department of Workforce Development

Since 2009, Indiana has held an annual two-day training conference for their administrative law judges, which is also attended by other attorneys throughout the agency. This training conference has been a great opportunity for the judges to come together and receive regular training. Currently, Indiana has 22 ALJs which includes benefit judges, specialty judges, and team managers. In addition, the Review Board members and the Legal Department attend some of the training conference sessions.

Since judges with the Appeals team work out of various locations, this is a way to bridge the location gap and meet face-to-face. This is often the only chance for more senior judges to interact with newer judges. The conference provides an opportunity to be more interactive in the training of judges. Judges team up to complete training exercises and presenters can see and react to the judges as they are presenting. In-person training also makes it easier for judges to concentrate on presentations and not be interrupted with other work. Time is always set aside to have a meet and greet in order for judges to match the face with the name that they often see in their emails. Clerks have also been included in the meet and greets, and they have utilized the time to conduct a clerk conference as well. A voluntary social outing is planned at the end of the first day of the conference so that everyone can get to know each other on a more personal level.

There are many recurring topics at each year's training: legislation, policies, procedures, federal criteria, and Indiana's internal protocols/criteria. Additionally, "hot topics" are identified throughout the year, through management conducting quarterly internal evaluations, and through the regular course of business. The annual conferences provide a great opportunity to pass on what is learned from those who attend the NAUIAP conferences!

Each year, management submits a request for continuing legal education (CLE) credits in order to help all in attendance meet their annual CLE requirements. This is a great budgetary savings for the

agency. Not only does the agency not have to pay for CLEs that are completely unrelated to Unemployment Insurance, but satisfying some CLE requirements means the agency keeps judges in the office doing hearings, instead of sending them to irrelevant CLEs.

We have learned a few things over the years. First, plan ahead! The sooner the conference room is booked, speakers are lined up, and presentations put together/approved/distributed, the better. Along with planning ahead for logistics of the conference, it is necessary to plan ahead for the fact that minimal hearings will be conducted for two days. Depending upon case volume, it may be necessary to ramp up caseloads right before the conference and immediately after.

Second, while outside speakers can offer specialized knowledge and a different perspective, scheduling one comes with challenges. For example, you have to find someone who is willing to speak, is availability in their schedule, hope they get their materials to you prior to the presentation, and orchestrate their attendance by providing directions to the training room, arranging parking, etc. Therefore, a majority of the speakers for the training conferences are typically in-house, which allows us to capitalize on the wealth of knowledge from Team Managers, Chiefs, Directors, and other attorneys within the agency.

Third, you need to account for travel time for the judges attending the training conference. It has worked best for us to start the first day of the conference in the afternoon, which allows Indianapolis judges to continue to hold hearings in the morning, and then end early in the afternoon on the second day.

Indiana's annual training conference provides judges with an opportunity to learn and improve the quality of their hearings and decisions. Overall, the annual training conference provides a great benefit to Indiana judges, and the agency, while also hopefully providing a little bit of fun!

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TELEWORKING in UI APPEALS

Stefanie Price, Assistant Chief, Lower Authority Appeals
Indiana Department of Workforce Development

Teleworking is an alternative work setting that allows employees to work outside the traditional office setting, often from home. Teleworking is a great way to provide employees with a wonderful work and life balance while improving retention rates and productivity. While there are potential challenges, teleworking can have great advantages if designed to meet the business requirements and employee needs.

BENEFITS TO TELEWORKING

Teleworking increases productivity. Teleworking can mean fewer distractions than working from a traditional office setting. It may also reduce the number of employee absences resulting from family issues or personal needs. Additionally, employees may take fewer sick days as there are days where employees are healthy enough to work from home but not well enough to go into the office. Both employer and employees reap benefits; the employee receives needed rest to recover quickly and it avoids the employee coming into the office infecting other employees. Continuances are reduced, preventing a delay to all parties involved. Fewer continuances means better customer service and improved USDOL metrics. In inclement weather, employees can safely work from home and avoid the possible dangerous commute and still complete their job duties. If certain offices are closed due to inclement weather, teleworkers can stay at home and complete their job tasks.

Teleworking also reduces attrition because today's employees seek flexible work options. States need to find ways to become more competitive employers; teleworking is an inexpensive benefit that can help offset the sometimes lower rate of pay. Less turnover means lower recruiting and training costs.

Lastly, teleworking is cost-effective. It saves the employer money on office space and reduces cost of overhead in both full time teleworking or through office sharing options.

POTENTIAL CHALLENGES TO TELEWORKING

Teleworking provides many benefits to both employers and employees, but there are some challenges to be aware of when establishing a teleworking system. Managers should provide clear performance measures and ensure employees meet those measures. Employers must ensure that they have the correct security software in place and train teleworkers on how to maintain security.

Teleworking may not be suitable or enjoyable for everyone. Some employees may lack the motivation and may experience distractions from working from home or feel isolated from colleagues. To help combat this, managers can establish

telephone team meetings and occasional face-to-face sessions. Managers can also establish production and quality bars to motivate them. Employees may feel teleworking could damage their career by not being sufficiently exposed for promotional opportunities. To overcome this "out of sight, out of mind" mentality, employers must keep lines of communication open and provide employees opportunities to prove themselves.

TOOLS IN ESTABLISHING A SUCCESSFUL TELEWORKING SYSTEM

Employers should gather input from managers and other supervisors on establishing clear teleworking guidelines for their employees. Once guidelines are established, it is vital to stick with the policies. It is important to apply them uniformly, but also remember to be flexible. In Indiana, Texas, and Washington, all judges have the same work caseload whether they are working remotely or in the office. It is communicated that teleworking is a privilege, not a right, and it should be earned, not given.

Employers should determine if all employees will be allowed to telework and if it is allowed full time or on just certain days. If only certain employees are allowed, employees must understand why some are chosen and some are not. The standards for selection should be uniform and communicated. Management should stay connected with their employees to monitor productivity and establish relationships. This can be accomplished through skype, teleconferences, or emails.

Judges must have a defined home space that ensures they can produce quality work. There can be no background noise that will impede a professional recording of the hearing. Teleworking is not a replacement for daycare and young children should not be present at home during work hours. Employees must effectively complete their job responsibilities.

INDIANA

In Indiana, teleworking is optional. All judges are offered the option to telework once they have successfully completed their six month training period and demonstrated their ability to effectively complete their job responsibilities. Once a judge is selected to work from home, the judge does so once a week for a period of time. This assists the judge in becoming comfortable with teleworking. Once the judge and supervisor feels comfortable, the judge is allowed to work from home two days a week. Judges must select two consistent telework days and are expected in the office other days. Indiana will allow a judge to switch telework days based on circumstances that arise, however, changes must be preapproved by management. Judges can opt to return to the office. Indiana holds monthly team meetings to keep the judges updated on any new issues or concerns, and gives the judges a chance to interact with their colleagues. Additionally, Indiana provides an annual mandatory training conference where all judges attend and have the opportunity to interact with their colleagues and supervisors.

Judges who telework are required to send an email to their supervisors when they log in that communicates a list of tasks they plan on completing that day, such as hearings that are to be held or decisions to work on. At the end of the day,

judges send another email when they are ending their work day. In the "log off" email, judges communicate what work they accomplished, such as what hearings were conducted, dismissed, or withdrawn. Managers can also log in to the phone system to ensure the judges are timely conducting their telephone hearings.

TEXAS

In Texas, to be considered for teleworking, a judge must have at least two years of experience and have received an exceptional performance rating. In Texas, seven of the top ten most experienced judges telework. On average, those who telework have 15.6 years of experience, compared to 5.8 years for those who work in the office. Once a judge is selected to telework, he or she may do it full time and are not expected to come into the office. In Texas, teleworking is designed to be a benefit for employees to earn.

Management can log into their phone systems to see if a telephone hearing is in progress or to see how long it lasted. In Texas, decisions are issued using a software where the date and time of the decision are tracked. In both Indiana and Texas, all employees are expected to be readily available by phone and email during the business day.

Management must ensure the employees are comfortable with technology. If judges are having issues with their computer, they must be provided the tools to identify the technical prob-

lem and be able to resolve it if it is within their control. If the issue is not able to be fixed, protocols should be established on what is expected of the employee. Texas has designated computers and phones for teleworkers to use if they have any issues with their equipment at home. If the issues are not able to be resolved, they are expected to report to the designated office location with their files and hold their scheduled hearings. All telecommuters have a designated office where they would report to if necessary for equipment issues or for periodic computer refreshers.

WASHINGTON

Washington also allows all judges to telework, but requires all new judges to initially work in the office. This allows management to train their judges properly with face-to-face mentoring. Judges can telework when they demonstrate proficiency in the position. Washington transitions their teleworking judges from one day a week to two days a week. Washington exercises flexibility and allows their judges to work more than two days a week in specific situations such as inclement weather and for personal reasons.

Teleworking provides numerous benefits to all parties. Although employers may find challenges in a teleworking system, as long as each challenge is identified and addressed, teleworking is a net benefit to the workplace.

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