

DEPARTMENT OF LABOR RELATIONS ADVISORY COUNCIL

MEETING MINUTES

MEETING DATE: SEPTEMBER 5, 2019
TIME: 10:00 A.M.
LOCATION: DEPARTMENT OF LABOR RELATIONS, 19 STANIFORD STREET, 1ST FLOOR
BOSTON, MASS. 02114

Advisory Council Members Present: Nicholas Anastasopoulos, Jodi Ross, Bryan McMahon, Sheryl Pace-Webb, Michelle Heffernan, Jay Siegel, Katherine Shea. Philip T. Roberts, Director and Marjorie Wittner, CERB Chair, ex-officio. Department of Labor Relations Staff Present: Kendrah Davis, Hearing Officer.

Advisory Council Members Absent: Denise Casey, David Lucchino, John Mann.

1. CALL TO ORDER – Meeting was called to order at 10:09 a.m. Quorum did not occur until 10:52 a.m.¹
2. APPROVAL OF MINUTES FROM 6-6-2019 MEETING (PENDING) – Jay Siegel asked about paragraph 3, line 5, “Nicholas Anastasopoulos allowed.” Nicholas Anastasopoulos suggested changing that sentence to read, “Nicholas Anastasopoulos indicated this would be permissible.”
3. STAFF UPDATING – Director Philip T. Roberts updated the Advisory Council on staffing. DLR Hearing Officer Kerry Bonner resigned on 9-5-2019. DLR posted hearing officer vacancy on 8-30-2019. DLR seeking additional funds in Governor’s budget for two hearing officers’ positions in addition to vacancy left by Bonner. Jay Siegel asked who will make final decision. Director Roberts said himself. CERB Member Katie Lev’s term expires on 11-30-19. Director Roberts asked about forming a screening committee that would review applications and recommend a list of candidates for the Advisory Council to interview, after which the Advisory Council would provide their recommendations to the Governor. Also, Director Roberts asked for screening subcommittee volunteers. Jay Siegel volunteered as the neutral, Michelle Heffernan volunteered as management, and Katherine Shea volunteered as labor. Nicholas Anastasopoulos made a motion to leave the details of the process for filling CERB Member position to the discretion of Director Roberts. Sheryl Pace Webb seconded. Vote unanimous in favor of motion.
4. UPDATE ON DLR AUDIT - Director Roberts provided information concerning how the DLR processes cases and time data. Katherine Shea asked how administrative closure periods count toward time targets. Director Roberts explained if a case was opened for 200 days but spent 100 days in administrative closure, data still reflects 200 days. Also, Director Roberts discussed

¹ All meeting minutes reflect discussion beginning at 10:52 a.m.

possible time targets based on case percentages. CERB Chair Marjorie Wittner liked the possibility of percentage-based time targets. Jay Siegel said that the DLR needs realistic time targets and that hearing officers and CERB members don't have much control over case time targets until they receive the briefs. Jodi Ross said it is important that the DLR have time targets. Nicholas Anastasopoulos asked if DLR could insert a footnote or add new language to the Green Book explaining the DLR's aspirations to reach percentage-based targets. Chair Wittner said it was possible. Michelle Heffernan described how the audit affected her agency which focused on compliance. Director Roberts said time targets for the scheduling/conducting the first mediation session was appropriate. Jodi Ross asked about staffing and time target goals. Director Roberts said he was discussing that issue with DLR management, he wanted to form a working group to explore time targets, and that target numbers would be reviewed annually.

5. DLR REGULATIONS REVIEW - Director Roberts said that regulatory review occurs on a three-year cycle. He also said that regulations concerning written majority authorization (WMA) cases contain time targets and that the auditors addressed this point. Katherine Shea said that she has a thick binder containing information from the DLR's initial rollout of WMA process. Nicholas Anastasopoulos said Edward Srednicki was helpful when he said the DLR had authority to convert showing of interest/authorization cards from a WMA case to a representation case.
6. UPDATE: BRANCH v. CERB - Director Roberts announced that the National Right to Work Foundation filed a petition for certiorari with the U.S. Supreme Court (SCOTUS), and that SCOTUS asked the DLR for a response. DLR Chief Counsel T. Jane Gabriel is working with Assistant Attorney General Time Casey to file the response which is due at the end of September 2019—possible Gabriel/Casey will seek extension to file. Jay Siegel asked if a revised version of H. 3854 is passed by legislature and signed by Governor would affect the Branch case. Chair Wittner said more litigation would likely occur if that bill becomes law.
7. MISCELLANEOUS - Director Roberts announced DLR satellite office will soon be operational in Worcester, Mass. at 100 Front Street. Nicholas Anastasopoulos suggested that his law firm may have conference space available in that building for DLR mediation. Director Roberts also raised the possibility of having all DLR hearings transcribed, budget permitting. Nicholas Anastasopoulos suggested finding a court reporter that would consider a flat rate and then have a three-way split for costs between DLR, charging party, and respondent. Michelle Heffernan said that may be difficult for her office due to procurement and lowest bid issues. Chair Wittner informed the Council about Murphy v. CERB, which is scheduled for oral arguments before the Appeals Court on October 11, 2019.
8. 11:52 a.m. Meeting is adjourned. Next Meeting, Thursday, December 5, 2019 at 10:00 a.m.