

To: Karen Persichilli Keogh, Secretary to the Governor  
Elizabeth Fine, Counsel to the Governor  
From: Molly Doherty, Chairperson, Industrial Board of Appeals (IBA)  
Re: Transparency Initiatives  
Date: 10/19/21

### **Steps the IBA has already taken to increase its transparency**

The IBA has already taken several steps to increase its transparency, including:

- launched a new revised website as part of the state-wide WebNY initiative;
- posted detailed guidance on our website about how to file a petition and participate in a proceeding before the Board including a recent plain language revision of that guidance;
- posting summaries of and links to PDFs of all decisions issued by the Board in no more than three months, of when they are issued;
- posting minutes from Board meetings within no more than three months from when the meetings occur;
- having a court reporter present to transcribe Board meetings;
- improved the searchability of the decisions posted on our website;
- obtained a working link for the IBA on our website to the Open FOIL NY fillable FOIL request form;
- responded to all FOIL requests as quickly as possible with final responses sent, on average, within six business days of the request being received in 2021;
- sending most or all FOIL responses electronically, obviating the need to charge for any records provided, and, in 2021, issuing 6,161 pages to requesters at no cost, thereby saving requesters \$1,540.25 in FOIL related fees, as well as costs involved in the production of those records.

We believe these changes have made our work more accessible to the public, particularly those with pending matters before us. We continue to evaluate our work with an eye to how it can be more accessible.

### **Initiatives to Increase the IBA's Transparency**

#### **Electronic Case Management and Filing System**

The IBA seeks to further increase its transparency by using an electronic case management and filing system that will allow parties that appear before the IBA to upload and view documents

filed on a pending matter. In response to the Covid-19 pandemic, the IBA transformed itself from a paper based quasi-judicial agency to a true paperless office technically capable of digitizing existing records and accepting, issuing, and managing all new records electronically. The IBA waived paper filing requirements and established a mechanism for electronic filing of appeals, correspondence, and exhibits. The IBA also developed and implemented a virtual hearing plan using Zoom. While the IBA cannot require litigants to use electronic methods, the IBA has encouraged parties to do so and found that the vast majority of parties utilize those methods.

These successes, however, have significant costs and also carry significant risk. IBA staff now individually manage the receipt, organization, naming and saving of these files to the IBA shared drive. Since beginning this transformation, the IBA has digitized, accepted, or issued almost 5,000 unique records which routinely contain personal identifying information. Maintaining the integrity of these documents for administrative review in an active, fast-paced legal office is a significant challenge given the risk of alteration or loss particularly because the IBA has so few full-time staff. These risks extend beyond operational need as these records are subject to FOIL and may be subject to subsequent court review of any IBA decision.

Additionally, the opportunity for building upon these successes is very limited. The IBA uses various and disparate “systems” to manage its workload. The IBA’s calendaring (Outlook), electronic filing (shared Outlook Mailbox), records management (Shared Drive), and case management (Access Database) systems each exist separately and require significant manual data entry. Because they are not accessible in any way to our litigants, they often require IBA staff to perform data entry that could be performed by the litigants themselves. These disparate systems also require entry of duplicate information across the various technologies. Lastly, these systems provide few, if any, productivity tools to assist the IBA in meeting its mission.

The IBA seeks to identify, secure, and implement a case management and filing system. The project involves the following components:

- (1) Establish an online portal for parties to initiate and file their appeals and electronically upload and file required documents during their case.
- (2) Establish an electronic records management system that will organize uploaded records and maintain their integrity while providing access to these records.
- (3) Integration of the portal and records management system with the Board’s current case management system or a replacement case management system.
- (4) Build/Tailor productivity tools to automate routine IBA activities.
- (5) Improve digitization capabilities to properly and securely store existing records and records received in paper format.

An electronic case management and filing system would create a convenient and contemporary user experience for employers, claimants, unions, other litigants, and witnesses and is what several other existing state agencies and state courts do. It would allow the Board to store its records

electronically providing immediate access to litigants and the public should they wish to make a request. It would also reduce litigant costs in the elimination of travel, multiple paper copy requirements, and mailing. The IBA has requested funding to obtain and implement this project.

#### Decision Search Capabilities on the IBA's website

The IBA, with sufficient technical support, can also increase the accessibility of the decisions that we post on our website so that the searchability is enhanced and more precise. Currently there is a keyword search for all posted decisions. There are also written summaries of each of the 1,000 plus posted decisions. There are, however, few tools to search for specific topics or issues. Creating topic "tags" for these decisions may enable litigants and the public generally to better acquaint themselves with requirements of the Labor Law in New York State. The IBA is exploring ways to better categorize the decisions to increase transparency but with so few staff doing so remains a challenge.