

KAISER ARBITRATION OVERSIGHT BOARD

Board Comments on the Annual Report For 2016

INTRODUCTION:

The Arbitration Oversight Board has the responsibility of reviewing and commenting on the Annual Report of the Independent Administrator with a view to assuring its clarity and completeness. For this purpose, a draft of the 2016 Annual Report was distributed to the Board in February 2017 and discussed at length during the Board's March 16th meeting. The Board offered comments, suggested edits, and made recommendations regarding the draft that the Independent Administrator took under consideration and, according to her best judgment, subsequently incorporated into this final report.

The Annual Report is a key document that is published on the Office of the Independent Administrator's (OIA) website (www.oia-kaiserarb.com) and provides, for all interested parties and the public –at –large, current quantitative and qualitative information about the functioning of the Kaiser arbitration system during the previous calendar year, with comparisons to previous years and commentary about significant trends. The Report provides insight into the continuing evolution of the system and an opportunity for the Independent Administrator, Kaiser Administration, the Oversight Board and, by extension, interested members of the public, to assess how well the Kaiser Arbitration system is meeting its goal for fair, timely, and cost-effective operation.

Overall, the Board considers the Annual Report a thorough and accurate presentation of the performance of the Kaiser Arbitration system for the 2016 year. Even though familiar with the key performance measures that are regularly monitored at quarterly meetings, Board members found it valuable to “take a step back” and survey the aggregated data for the full year, with related analyses and comparisons to prior years and, in doing so, gained a comprehensive picture of how the arbitration system is functioning.

In its review, the Board paid special attention to the Report Summary, since it compresses the most salient information about the function of the arbitration system during the year, and also serves as a helpful guide to the detailed narrative text of the report and its exhibits.

MEASURES OF PERFORMANCE

The Board receives reports on the performance of the arbitration system at its quarterly meetings. The accumulated performance metrics for the entire year are detailed in the Annual Report. Close attention is paid to the time it takes to resolve cases, since that had been a cause for criticism in the past, prior to the independent administration of the system. Even when accommodating allowable delays owing to postponements and disqualifications, or both, the reported data shows that the Office does an admirable job of keeping the arbitration process on track and on time.

The 2016 Report is of special note in that it contains a unique section (section XII, pages 44- 52) that analyzes selected key data and important trends of the Kaiser Arbitration system since the introduction in 2001 of the Arbitration Oversight Board. Among the notable trends:

- A progressive decrease in the number of claims for arbitration submitted (the number of submissions in 2016 was only 56% of the total in 2002);
- despite an unusual decrease in 2016, a relatively stable number of arbitrators in the OIA Pool over time, with over a third being retired judges;
- trending numbers and significant issues presented by (*pro-per*) claimants without an attorney;
- relatively stable percentages of neutral arbitrators selected by strike and rank;
- continued timeliness of neutral arbitrator selection despite increasing use of postponements and disqualifications;
- consistency overtime in how cases closed; and

- positive evaluations of the OIA and Neutral Arbitrators by the arbitration parties.

Concluding Comments

In the Board's view, the Annual Report provides a thorough account of the operation of the Kaiser Arbitration system during 2016, with useful comparisons to data from previous years. Excellent ratings in measures of performance – as detailed in the Report – give good evidence that the independently administered Kaiser Arbitration system is striving successfully, on a model of continuous improvement, to meet goals of fair, timely, and cost effective arbitration.

The Board takes this opportunity to express appreciation for the fine work of the OIA staff.

Addendum

Essential Elements of a Model Arbitration System

At an earlier time, the Oversight Board sought to identify the hallmarks of an exemplary arbitration system. What were the essential elements or attributes of a model system? The following were thought to be the essential elements, and it is useful to have these features of a model system in mind when reading the Annual Report and reviewing the Kaiser Arbitration system.

INDEPENDENT ADMINISTRATION: The system is administered by a neutral entity, independent of the parties involved, and empowered to achieve desired goals for fair, timely and cost-effective arbitration.

RULES: An explicit, written set of rules governs the system, to assure that it is fair. All parties must abide by the rules. The rules are periodically reviewed and modified, as necessary, based on experience, to improve the system.

OVERSIGHT: the system has oversight and governance by a body that reflects the diverse perspectives of interested parties, and the public interest.

ACCESSIBILITY: The system is readily accessed by claimants and their claims are entered into the system promptly.

QUALIFIED ARBITRATORS, FAIRLY SELECTED: The system provides well-qualified and experienced arbitrators who are selected through a process consciously designed to avoid bias. Parties evaluate the arbitrators, anonymously, in questionnaire surveys.

TIMELINESS: Deadlines are established to move the arbitration process along as expeditiously as possible, with appropriate safeguards for extenuating circumstances. They must be respected. The meeting of deadlines is monitored and enforced.

PERFORMANCE MEASURES: Accurate and verifiable data are collected systematically to permit objective review of the processes and outcomes of the arbitration system.

EVALUATION: The performance of the system is routinely evaluated by surveys of the participants conducted with appropriate anonymity. Arbitrators are routinely evaluated by the parties.

COST EFFECTIVENESS: The costs of arbitrations are tracked whenever possible. Costs to claimants are kept reasonably low.

CONVENIENCE: Arbitration meetings and hearings are scheduled at times, and in locations, that are convenient for the parties.

CLARITY: Basic information about the arbitration system and its procedures is provided in easily understood, non- technical language.

AUDIT: The data recorded and reported by the administrator of the system are periodically checked by an independent auditor.

TRANSPARENCY: Detailed information about the operation and performance of the arbitration system is published and readily available to interested parties and the public-at-large.

CULTURAL SENSITIVITY: The system seeks diversity in its arbitrator pool. Information to claimants is provided in multiple languages and in non-technical vocabulary. Interpreters are provided without charge if needed.

CONTINUOUS IMPROVEMENT: Administration of the arbitration system strives for continuous improvement, guided by the evaluation conducted, the performance measures conducted, and constructive oversight.