

KAISER ARBITRATION OVERSIGHT BOARD

Board Comments on the Annual Report for 2017

INTRODUCTION:

The Kaiser Arbitration Oversight Board (AOB) has the responsibility to review the Annual Report from the Office of the Independent Administrator, for clarity and completeness, as well as offer commentary in areas deemed appropriate. Accordingly, during the AOB's March 22, 2018 meeting, the board members offered various comments, constructive critiques, edits and suggestions which the Independent Administrator took into consideration and, according to her best judgment, 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) detailing both quantitative and qualitative information concerning the functioning of Kaiser's arbitration system during calendar year 2017. In general, the AOB considers the Annual Report to be a thorough and accurate representation of Kaiser's arbitration system enabling us to conclude that the system is meeting its goal of a fair, timely and cost-effective operation.

SELECTED MEASURES OF PERFORMANCE:

On a quarterly basis, the AOB receives reports on the performance metrics of the arbitration system. It should be noted that the accumulated performance metrics for calendar year 2017 are detailed in this Annual Report. Such areas include:

- The number of demands for arbitration increased by 71 in 2017, which is the largest increase ever since 2001/2002 when the demands increased by 23.
- Cases closed on average in 368 days, which is 5 days longer to close than in 2016. Every category of closure, other than withdrawn increased from 2016-2017, even though time to select the neutral arbitrator was same for cases with no delay as 2016, and 2 days less for all cases than 2016.
- OIA Rules allow parties to delay the selection process and extend the completion date. Despite such extensions, the process is found to be expeditious. More than half of neutral arbitrator selections proceeded without delay.

- The pool of neutrals arbitrators has decreased – There are 228 neutral arbitrators are in the pool, 21 fewer than in 2016.
- Evaluations - Responding parties gave the neutral arbitrators, the OIA and the arbitration system positive evaluations – 4.4 on a 5.0-point scale.

PERSONNEL CHANGES:

The Board would like to acknowledge and thank two esteemed AOB members who retired in 2017, Al Ybarra and Rosemary Manchester, both having served 13 and 15 years respectively. Finally, the AOB would also like to recognize and thank Dr. Cornelius Hopper, a founding member who served as the AOB Chair from 2016-2017, for his many significant contributions over the years of his dedicated service.

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.