

KAISER ARBITRATION OVERSIGHT BOARD

Board Comments on the Annual Report for 2021

INTRODUCTION:

The Annual Report is a key document that is published on the Office of the Independent Administrator's (OIA) website (www.oia-kaiserarb.com). It provides for interested parties and the public at-large, current quantitative and qualitative information about the functioning of the Kaiser arbitration system during the preceding calendar year with comparisons to previous years and commentary about significant trends. This report provides insight into the continuing evolution of the arbitration 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 a cost-effective operation while maintaining the privacy of its members.

The Arbitration Oversight Board (AOB) has the responsibility to review this document for both clarity and completeness. For this purpose, a draft of the 2021 Annual Report was distributed to the Board in March 2022 and discussed at length during the Board's March 17, 2022, meeting. The Board offered comments, suggested edits, as well as made recommendations regarding the draft that the Independent Administrator took under consideration and, according to her best judgment subsequently incorporated into this final report. Thus, it is the conclusion of the Kaiser Oversight Board that this Report is a thorough and accurate presentation of the performance of the Kaiser Arbitration System for the 2021 calendar year.

SELECTED MEASURES OF PERFORMANCE:

On a quarterly basis, the AOB receives reports on performance metrics of the Arbitration System. The accumulated performance metrics for the calendar year 2021 are detailed by the OIA in this Annual Report, such as:

- 2021 saw the number of Demands for Arbitration decrease by seventeen, having received 473 vs. 490 in 2020.
- On average, cases closed in 418 days, 62 days more than the preceding year.
- The pool of Neutrals consists of 164 neutral arbitrators, eighteen fewer than in 2020. Forty-five percent (45%) of them, or seventy-three, are retired Judges.
- Kaiser paid the neutral arbitrators' fees in 91% of the closed cases having fees. The arbitrators' hourly rates ranged from \$150/hrs. to \$1200/hr. The average rate was \$585/hr.
- Evaluations: Responding parties gave their neutral arbitrators an average of 4.2, on a 5.0 scale. The OIA was evaluated by the Neutrals and 99% reported that the OIA experience was the same as or better than the court system and only 1% said it was worse.
- The OIA received positive evaluations by the parties, in that 88% of the responding parties and attorneys reported that the OIA system was the same as or better than the court system and 12% said it was worse.
- Both the OIA and AOB continue their efforts to increase the diversity of the Panel of Neutral Arbitrators.

Concluding Comments

In the Board's view, the Annual Report provides a thorough account of the operation of the of the Kaiser arbitration system during 2021, with useful comparisons to data from previous years. As detailed in the report, the OIA has received excellent performance ratings, providing sound evidence that the independently administered Kaiser arbitration system is successfully thriving on a model of continuous improvement to meet the goals of fair, timely, and cost-effective arbitration.

The AOB 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 Board thought the following 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 OIA and AOB, based on experience, periodically review and modify the rules, as necessary, 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 anonymously evaluate the arbitrators 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 OIA monitors and enforces deadlines.

PERFORMANCE MEASURES: Accurate and verifiable data is 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. The parties routinely evaluate arbitrators.

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

CONVENIENCE: Arbitration meetings and hearings are scheduled at times, and in locations, which 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.

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