

ALTERNATIVE DISPUTE RESOLUTION/CARVE-OUT PROGRAM
Labor Code sections 3201.5 and 3201.7

**REPORT ON ACTIVITIES
FOR THE CALENDAR YEAR 2010**

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Labor Code sections 3201.5 and 3201.7 require the Administrative Director of the Division of Workers' Compensation (DWC) to report to the Legislature the activities of Alternative Dispute Resolution (ADR) programs for the previous calendar year.

In 2010, 25 ADR programs were operating in California.

Overall, 2010 reported activities for ADR programs included:

- 24 reporting ADR programs and one non-reporting program
 - 20 construction programs, Labor Code section 3201.5
 - 4 non-construction programs, Labor Code section 3201.7

- 1,177 employers
 - \$1.98 billion in payroll
 - 32,350 full-time equivalent (FTE)¹ employees

- 2,723 claims
 - 2,409 resolved claims (including 195 denied claims)
 - 314 unresolved claims
 - 1,602 medical-only claims
 - 1,121 indemnity claims

- \$13,122,562 in paid costs
- \$29,349,127 in incurred costs

I. Brief Overview of ADR Programs

With Senate Bill (SB) 983 (Chapter 117, Statutes of 1993), the California Legislature established under Labor Code section 3201.5 the "Construction Carve-Out Program." In doing so, it permitted employers, groups of employers, and employee organizations involved in the construction industry to create ADR programs as an alternative to the traditional workers' compensation dispute resolution process.

¹ One full-time employee is equivalent to 2,000 person hours worked.

The passage of SB 228 (Chapter 639, Statutes of 2003) amended Labor Code section 3201.7 to allow non-construction employers, groups of employers, and employee organizations to create their own ADR programs.

II. ADR Reporting Requirements under Labor Code sections 3201.5 and 3201.7 and California Code of Regulations, title 8, section 10203 (8 C.C.R. section 10203).

Requirements of the DWC report to the Legislature under Labor Code sections 3201.5 and 3201.7.

Labor Code section 3201.5 requires the Administrative Director of DWC to prepare a report to the Legislature by June 30 of each year based upon aggregate data that shall include the following:

- (1) Person-hours worked and payroll covered by agreements filed.
- (2) The number of claims filed.
- (3) The average cost per claim reported by cost components whenever practical.
- (4) The number of litigated claims, including the number of claims submitted to mediation, the Workers' Compensation Appeals Board (WCAB), or the Court of Appeal.
- (5) The number of contested claims resolved prior to arbitration.
- (6) The projected incurred and actual costs of claims.
- (7) Safety history.
- (8) The number of workers participating in vocational rehabilitation programs.
- (9) The number of workers participating in light-duty programs.

Labor Code section 3201.7 requires that the report on non-construction ADR programs also include a measure of overall worker satisfaction.

Requirements of ADR program reports to DWC under 8 C.C.R. section 10203.

The ADR data reporting requirements, initially adopted by DWC in 1996, can be found in California Code of Regulations, title 8, section 10203. Section 10203 requires that every employer subject to either Labor Code section 3201.5 or 3201.7 shall provide the DWC with the required information for the previous calendar year on or before March 31 of each year. For each claim with a date of injury on or after January 1, 2004, the information shall be updated annually for the previous four calendar years, thereby allowing longer-term claims trajectories and costs to be determined. In order to fulfill the reporting requirement, groups of employers must, on behalf of their members, either submit data directly to the DWC, or "(a)(2)(B) provide the Administrative Director with written authorization to collect the information from the appropriate claims administrator. [However], [i]f the Administrative Director is unable to obtain the information with the written authorization, the employer shall remain responsible for obtaining and submitting the information." Employers are required to submit data using the Aggregate Employer Annual Report (DWC Form GV-1) (8 C.C.R. section 10103.1) and the Individual Employer Annual Report (DWC Form GV-2) (8 C.C.R. section 10103.2).

The required elements for data reporting under section 10203 are:

- The name of the individual employer and the union.
- The principal business of the employer.
- The dates that the 3201.5 or 3201.7 provision were in effect during the previous calendar year.

- The name of all insurers, if any, and the insurance policy number of all policies. If self-insured, the name and certificate number of the self-insured employer.
- The name, address and telephone number of any administrator, ombudsperson, mediator or arbitrator employed in an alternative dispute resolution system.
- Payroll reported in accordance with the rules of the Workers' Compensation Insurance Rating Bureau (WCIRB), reported by WCIRB class code.
- Hours worked by covered employees, reported by WCIRB class code.
- The number of claims filed in the previous calendar year pursuant to Labor Code section 5401. The claims shall be reported in the following categories:
 - The number of claims that were medical only, and the total amounts of paid and incurred costs on those claims.
 - The number of claims that included indemnity payments, and the total amounts of paid and incurred costs in each of the following categories: temporary disability, permanent disability, life pension, death benefits, vocational rehabilitation, medical services, and medical-legal expenses.
- The number of claims filed pursuant to Labor Code section 5401 in the previous calendar year that were resolved and the number that remained unresolved on December 31 of the previous calendar year. These numbers together should equal the total number reported in subdivision (b)(8). For the purpose of this section, “resolved” means a claim in which ultimate liability has been determined, even though payments may continue beyond the reporting period.
- Of the claims filed and/or resolved in the previous calendar year, the number resolved with a denial of compensability.
- Of the claims filed and/or resolved in the previous calendar year, the number resolved at each of the following stages: before mediation, at or after mediation, at or after arbitration, at or after the Workers’ Compensation Appeals Board (WCAB), or at or after the Court of Appeal. If the 3201.5 or 3201.7 provision contains another dispute resolution procedure, whether instead of or in addition to arbitration or mediation, the report must identify the type of procedure, its stage in the overall alternate dispute resolution process, and the same information regarding the resolution of claims.
- The title and case number of every application filed with the WCAB in the previous calendar year concerning a claim alleged by any party to fall within the 3201.5 or 3201.7 provisions, regardless of whether the employee had the right to file such an application.
- The title and court number of every civil action, including petitions for writs and injunctions in any court, state or federal, filed in the previous calendar year that concerned a claim alleged by any party to fall within the 3201.5 or 3201.7 provision.
- The number of injuries and illnesses reported on the United States Department of Labor OSHA form no. 300 for those employees covered by the 3201.5 or 3201.7 provision.
- The number of employees covered by the 3201.5 or 3201.7 provision who participated in vocational rehabilitation programs.
- If the 3201.5 or 3201.7 provision established a light-duty or return-to-work program, the number of employees who participated in that program.
- For employers covered by a 3201.7 provision, an employee survey that measures worker satisfaction with the 3201.7 alternative dispute resolution procedures. The survey shall be designed and administered by agreement between the employer and the union.
- In addition to the data above, the employer may include in its report any explanatory material, narrative account, or comment that the employer considers necessary to understand the data.

III. Data Collection and Presentation

The DWC's data collection for Labor Code sections 3201.5 and 3201.7 began February 1, 2011, with an initial mailing to all participating 3201.5 and 3201.7 programs. This mailing included a letter highlighting the March 31, 2011 reporting deadline, a 2011 Regulation 10203 Excel spreadsheet version of the reporting forms GV-1 and GV-2, and a guide for using the Regulation 10203 Excel spreadsheet.

As of the March 31, 2011 reporting deadline, four out of the 25 programs (16 percent) required to report on activities performed in 2010 had done so accurately and on time. All 21 programs that failed to report on time blamed their inability to get timely and/or accurate information from their insurance carriers as the primary reason for missing the March 31, 2011 deadline.

After the reporting deadline, the DWC worked individually with the 21 non-reporting ADR programs and their insurance carriers to obtain the data required by 8 C.C.R. section 10203. This effort resulted in obtaining data on 20 out of the 21 non-reporting programs (95 percent). One program failed to report. Efforts to collect the data from the one non-reporting program continued until June 15, 2011, when the program cited a failure to report based upon its inability to coordinate the reporting of multiple employers and insurance carriers. The resulting dataset for the 2010 ADR report contains data from 24 out of the 25 ADR programs.

Number of ADR Programs Reporting, 2010

Program Types	#
3201.5 Construction	20
3201.7 Non-Construction	4
Total Programs Reporting	24

IV. Data Findings Section 3201.5 and Section 3201.7

(1) Person-hours worked and payroll covered by agreements filed

8 C.C.R. sections 10203(b)(6) and 10203(b)(7) require ADR programs to report employees' hours worked and payroll in accordance with WCIRB class codes (Table 1). However, because insurance carriers do not perform annual audits on the number covered work hours or the payroll, the totals for Table 1 are estimates.

Table 1: Estimated Person-hours Worked and Payroll, 2010

Program Types	Number of Programs Reporting	Person-hours worked	Payroll	Hourly Wage
3201.5 Construction	16	50,210,844	\$1,712,426,718	\$34.10
3201.7 Non-Construction	3	17,038,165	\$264,220,800	\$15.51
3201.5 and 3201.7 Total Programs	19	67,249,009	\$1,976,647,518	\$29.39

In 2010, ADR programs reported \$1.98 billion in payroll and 67.2 million in person-hours worked. Nineteen of the 24 reporting programs reported person-hours and payroll for 2010. Four construction programs failed to provide payroll and person-hours due to a lack of data collection on the part of its insurance carrier. One non-construction program failed to provide person-hours and payroll, citing budget restrictions for not reporting.

In 2010, the average hourly wage for all carve-out employees covered by the 19 programs that reported both payroll and person-hours was \$29. The hourly wage was \$34 for construction programs and \$16 for non-construction programs.

In 2010, there were 32,350 full-time equivalent (FTE)² employees reported covered by the 19 programs that reported person-hours. Construction programs covered 25,105 FTE employees, and non-construction programs covered 7,245 FTE employees.

(2) Number of Claims Filed

8 C.C.R. section 10203(b)(8) requires that ADR programs report the number of medical-only claims and indemnity claims filed in the previous calendar year (Table 2).³

Table 2: Number of Claims Filed, 2010

	3201.5 Construction Programs		3201.7 Non-Construction Programs		Total Programs (24)	
	#	%	#	%	#	%
Medical-Only Claims	527	50%	1,075	64%	1,602	59%
Indemnity Claims	518	50%	603	36%	1,121	41%
Total Claims	1,045	100%	1,678	100%	2,723	100%

In 2010, ADR programs filed 2,723 claims, of which 1,602 (59 percent) were medical-only and 1,121 (41 percent) were indemnity. Construction programs had a higher percentage of indemnity claims than non-construction programs. Twenty construction programs filed 1,045 claims, of which 527 (50 percent) were medical-only and 518 (50 percent) were indemnity. Non-construction programs filed more claims than construction programs in 2010. The four non-construction programs filed 1,678 claims, of which 1,075 (64 percent) were medical-only and 603 (36 percent) were indemnity. The high number of non-construction claims is attributable to one large ADR program that accounted for 1,561 (93 percent) of all non-construction claims.

(3) Average cost per claim by cost component

8 C.C.R. section 10203(b)(8)(B) requires that programs report the total amounts of paid and incurred costs for claims filed in each of the following categories (Table 3).⁴

- Medical Services
- Temporary Disability

² One full-time employee is equivalent to 2,000 person hours worked.

³ The number of claims filed is counted by calendar year, based upon the date of injury.

⁴ Average paid and incurred costs per program for this section are calculated using the total number of claims filed (medical only + indemnity). For calculations of average paid and incurred costs calculated using either the number of medical-only claims, or the number of indemnity claims see Appendix B.

- Permanent Disability
- Life Pension
- Death Benefits
- Vocational Rehabilitation
- Medical-Legal Expenses

Table 3: Average Paid and Incurred Cost per Claim by Cost Component, 2010

	Average Paid per Claim			Average Incurred per Claim		
	3201.5 Construction Programs	3201.7 Non-Construction Programs	Total Programs (24)	3201.5 Construction Programs	3201.7 Non-Construction Programs	Total Programs (24)
Average Total Cost	\$6,750	\$3,617	\$4,819	\$13,558	\$9,047	\$10,778
Medical Services	\$2,571	\$1,537	\$1,934	\$5,902	\$6,371	\$6,191
Temporary Disability	\$3,724	\$1,936	\$2,623	\$5,840	\$2,393	\$3,716
Permanent Disability	\$236	\$71	\$134	\$1,336	\$164	\$614
Life Pensions	\$0	\$0	\$0	\$0	\$0	\$0
Death Benefits	\$0	\$0	\$0	\$0	\$0	\$0
Vocational Rehab	\$149	\$0	\$57	\$316	\$0	\$121
Medical-Legal	\$69	\$73	\$72	\$165	\$118	\$136
Reporting Programs (#)	20	4	24	20	4	24
Total Claims (#)	1,045	1,678	2,723	1,045	1,678	2,723

Average Paid Cost per Claim

For all programs, the average paid cost per claim filed in 2010 was \$4,819 (Table 3). The average paid cost for medical services was \$1,934 per claim. For disability, paid costs were \$2,623 for temporary disability and \$134 for permanent disability. An average of \$57 per claim was paid for vocational rehabilitation and \$72 for medical-legal expenses.

In 2010, for most benefits, the average amounts paid by construction programs were greater than the amounts paid for benefits by non-construction programs; only medical-legal expenses were paid at a lower amount. Construction programs reported paying on average \$6,750 per claim filed, which was 87 percent greater than the \$3,617 paid by non-construction programs. The average cost for medical services for construction programs was \$2,571 per claim, which was 67 percent greater than the \$1,537 paid by non-construction programs.

In 2010, disability payments for construction programs averaged \$3,724 for temporary disability and \$236 for permanent disability. Temporary disability payments for construction programs were 92 percent greater than the \$1,936 paid by non-construction programs and permanent disability payments for construction programs were 232 percent greater than the \$71 paid by non-construction programs. Construction and non-construction programs did not make any payments for life pension or death benefits. Construction programs paid \$149 per claim for vocational rehabilitation; non-construction did not make any payments. Lastly, construction programs paid \$69 per claim in medical-legal expenses; non-construction paid \$73.

Average Incurred Cost per Claim

The average incurred cost per claim in 2010 was \$10,778 (Table 3). The average incurred cost for medical services was \$6,191. For disability, incurred costs were \$3,716 for temporary

disability and \$614 for permanent disability. ADR programs incurred \$121 per claim in vocational rehabilitation costs and \$136 per claim in medical-legal expenses.

In 2010, construction programs incurred on average \$13,558 per claim, which was 50 percent greater than the \$9,047 incurred by non-construction programs. Construction programs incurred \$5,902 for medical services, which was eight percent less than the \$6,371 incurred for medical services for non-construction claims. Construction programs' average incurred costs of \$5,840 per claim for temporary disability were 2.4 times greater than the \$2,393 for non-construction programs. Construction programs' average incurred costs of \$1,336 per claim for permanent disability were 8.1 times greater than the \$164 for non-construction programs.

In 2010, construction programs incurred no life pension or death benefits costs, but they did incur \$316 per claim in vocational rehabilitation costs. Non-construction programs incurred no life pension, death benefit or vocational rehabilitation costs.

Construction programs incurred \$165 per claim in medical-legal services. Construction programs incurred 40 percent more in medical-legal service costs per claim than non-construction programs (\$118).

(4) Number of Litigated Claims, Including the Number of Claims Submitted to Mediation, to Arbitration, to the Workers' Compensation Appeals Board (WCAB), or to the Court of Appeal

8 C.C.R. section 10203(b)(11) requires ADR programs to submit data on the number of claims resolved⁵ before mediation, at or after mediation, at or after arbitration, at or after the Workers' Compensation Appeals Board, and at the Court of Appeal (Table 4).

Table 4: Number of Claims Resolved Before or at Litigation by Type, 2010

	3201.5 Construction Programs	3201.7 Non- Construction Programs	Total Programs (24)
Total Resolved	798	1,611	2,409
Before Mediation	746	1,602	2,348
Total Litigated	52	9	61
At Mediation	45	9	54
At Arbitration	3	0	3
At WCAB	4	0	4
At Court of Appeal	0	0	0

In 2010, ADR programs reported resolving 54 litigated claims at mediation, three at arbitration, four at the WCAB, and none at the Court of Appeal. Non-construction programs litigated only nine claims and all of these were resolved at mediation.

⁵ A resolved claim for the purpose of this report is defined in section 10203(b)(9) as one in which ultimate liability has been determined, even though payments may be made beyond the reporting period. In 2010, there were 2,409 resolved claims and 314 unresolved claims. Of the 2,409 resolved claims, 195 were denials.

(5) The number of claims resolved prior to arbitration

8 C.C.R. section 10203(b)(11) requires ADR programs to report the number of claims resolved at different stages of litigation. The two stages that can be considered prior to arbitration are (1) the number of claims resolved before mediation, and (2) the number resolved at or after mediation. Under this reporting requirement, claims resolved prior to arbitration do not include those resolved at or after arbitration, at or after the WCAB, or at the Court of Appeal (Table 5).

Table 5: Number and Percentage of Claims Resolved Prior to Arbitration, 2010

	3201.5 Construction Programs	3201.7 Non- Construction Programs	Total Programs (24)
Claims Resolved Prior to Arbitration	791	1,611	2,402
Total Claims Resolved	798	1,611	2,409
Percentage of Claims Resolved Prior to Arbitration (%)	99.1%	100%	99.7%

In 2010, ADR programs resolved 2,402 claims prior to arbitration, which was 99.7 percent of all claims filed. Construction programs resolved 791 claims (99.1 percent) and non-construction programs resolved 1,611 claims (100 percent).

(6) Projected incurred and actual claim costs⁶

8 C.C.R. section 10203(b)(8) requires that ADR programs report the total amount of paid costs and incurred costs for claims filed in each of the following categories (Table 6):

- Medical Services
- Temporary Disability
- Permanent Disability
- Life Pension
- Death Benefits
- Vocational Rehabilitation
- Medical-Legal Expenses

Table 6: Total Paid and Incurred Cost by Cost Component, 2010

	Total Paid Costs			Total Incurred Costs		
	3201.5 Construction Programs	3201.7 Non- Construction Programs	Total Programs (24)	3201.5 Construction Programs	3201.7 Non- Construction Programs	Total Programs (24)
Total Cost	\$7,053,594	\$6,068,968	\$13,122,562	\$14,168,537	\$15,180,590	\$29,349,127
Medical Services	\$2,686,991	\$2,578,586	\$5,265,577	\$6,167,489	\$10,691,144	\$16,858,633
Temporary Disability	\$3,891,737	\$3,249,426	\$7,141,163	\$6,102,349	\$4,015,568	\$10,117,917
Permanent Disability	\$246,317	\$118,466	\$364,783	\$1,396,582	\$275,553	\$1,672,135
Life Pensions	\$0	\$0	\$0	\$0	\$0	\$0
Death Benefits	\$0	\$0	\$0	\$0	\$0	\$0
Vocational Rehab	\$156,177	\$0	\$156,177	\$330,177	\$0	\$330,177
Medical-Legal	\$72,373	\$122,489	\$194,862	\$171,940	\$198,325	\$370,265
Reporting Programs (#)	20	4	24	20	4	24
Total Claims (#)	1,045	1,678	2,723	1,045	1,678	2,723

⁶ Actual cost is reported under California Code of Regulations, title 8, section 10203 as paid cost.

Paid Costs of Claims

In 2010, ADR programs paid \$13,122,562 in claim costs (Table 6). ADR programs paid \$5,265,577 in medical-services, \$7,141,163 in temporary disability, \$364,783 in permanent disability, \$156,177 in vocational rehabilitation, and \$194,862 in medical-legal expenses. ADR programs paid \$0 for life pension and death benefits. Medical services accounted for 40 percent of all paid costs and temporary disability accounted for 54 percent. The remaining cost categories accounted for six percent of total paid costs.

In 2010, construction programs paid \$ 7,053,594 in claims. Construction ADR programs paid \$2,686,991 in medical services, \$3,891,737 in temporary disability payments, \$246,317 in permanent disability payments, \$156,177 in vocational rehabilitation, and \$72,373 in medical-legal expenses. Construction programs paid \$0 in life pension or death benefits. For construction programs, 38 percent of payments were for medical services and 55 percent were for temporary disability. Permanent disability, vocational rehabilitation, and medical-legal expenses accounted for seven percent of total payments.

Non-construction ADR programs paid \$6,068,968 for claims filed in 2010. Non-construction programs paid \$2,578,586 for medical services, \$3,249,426 for temporary disability, \$118,466 for permanent disability and \$122,489 in medical-legal expenses, and \$0 for life pension, death benefits, or vocational rehabilitation. Forty-two percent of total payments were for medical services, 54 percent for temporary disability, and two percent each for permanent disability and medical-legal expenses. Non-construction ADR programs did not make payments for life pension, death benefits, or vocational rehabilitation in 2010.

Incurred Costs of Claims

In 2010, ADR programs incurred \$29,349,127 in costs (Table 6). ADR programs incurred \$16,858,633 in medical service costs, \$10,117,917 in temporary disability payments, \$1,672,135 in permanent disability payments, \$330,177 in vocational rehabilitation payments, \$370,265 in medical-legal expenses, and \$0 dollars for life pension and death benefits. In 2010, 57 percent of incurred costs were for medical services, 34 percent for temporary disability costs, and six percent for permanent disability.

Construction programs incurred \$14,168,537 for claims filed in 2010. Component incurred costs were \$6,167,489 in medical services, \$6,102,349 in temporary disability payments, \$1,396,582 in permanent disability payments, \$330,177 in vocational rehabilitation, and \$171,940 in medical-legal expenses. In 2010, 44 percent of total incurred costs were for medical services, 43 percent for temporary disability, and 10 percent for permanent disability. The remaining cost categories accounted for three percent of total incurred costs.

In 2010, non-construction programs incurred \$15,180,590 in claim costs. Non-construction programs incurred \$10,691,144 in medical service costs, \$4,015,568 in temporary disability, \$275, 553 in permanent disability, and \$198,325 in medical-legal expenses. Non-construction programs did not incur costs for life pension, death benefits, or vocational rehabilitation in 2010. Medical services were 70 percent of the total incurred costs; temporary disability payments were 26 percent, while permanent disability payments and medical-legal expenses accounted for the remaining four percent of payments.

(7) Safety History

To determine safety history, 8 C.C.R. section 10203(b)(14) requires that ADR programs report safety ratings (incidence rates) based on the number of injuries and illnesses per 100 full-time employees. For this calculation, multiply the number of injuries and illnesses reported on the United States Department of Labor OSHA form no. 300 by 200,000,⁷ then divide by the number of person-hours worked reported under California Code of Regulations, title 8, section 10203(b)(6). In 2009, the U.S. Bureau of Labor Statistics (BLS) injury and illness incidence rate for all California workers was 4.2; construction workers had an incidence rate of 4.0.⁸

OSHA requires employers to log an injury and/or illness report using form 300 if a work-related incident results in death, loss of consciousness, days away from work, restricted work activity, and/or medical care beyond first aid. In 2010, ADR programs reported 2,243 injuries and illnesses on OSHA form 300. This accounts for 82 percent of the 2,723 claims filed, indicating an under-reporting of injury data on OSHA logs by ADR programs. Due to this discrepancy, two safety ratings are calculated below, one based on the number of incidents reported on OSHA form 300 and a second based on the total number of reported claims. Additionally, because the safety rating calculation uses the variable person-hours worked, adjustments were made to the number of incidents reported and the number of total claims to reflect only the 16 construction programs and the three non-construction programs that reported person-hours (Table 7).

Table 7: Safety History, 2010

	All Reporting Programs			Programs Reporting Person-Hours Worked		
	3201.5 Construction Programs (20)	3201.7 Non-Construction Programs (4)	Total Programs (24)	3201.5 Construction Programs (16)	3201.7 Non-Construction Programs (3)	Total Programs (19)
OSHA Incidents Reported (#)	640	1,603	2,243	571	1,565	2,136
Total Claims (#)	1,045	1,678	2,723	888	1,623	2,511
Percentage of OSHA Incidents to Claims Filed	61%	96%	82%	64%	96%	85%
Person-Hours Worked	-	-	-	50,210,844	17,038,165	67,249,009
Safety Rating Based on OSHA Incidents	-	-	-	2.3	18.4	6.4
Safety Rating Based on Total Claims	-	-	-	3.5	19.1	7.5

In 2010, the safety rating based on reported OSHA incidents for all ADR programs reporting person-hours worked was 6.4; the safety rating based on the total claims reported was 7.5. Safety

⁷ The 200,000 hours in the formula represents the equivalent of 100 employees working 40 hours per week, 50 weeks per year, and provides the standard base for the incidence rates. Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, 2010, “How To Compute a Firm’s Incidence Rate for Safety Management,” <http://www.bls.gov/iif/osheval.htm>.

⁸ Bureau of Labor Statistics, U.S. Department of Labor, “Table 6. Incidence rates1 of nonfatal occupational injuries and illnesses by industry and case types, 2009,” <http://www.bls.gov/iif/oshwc/osh/os/pr096ca.pdf>

ratings calculated for construction programs were 2.3 for OSHA incidents and 3.5 for total claims. Safety ratings calculated for non-construction programs were 18.4 for OSHA incidents and 19.1 for total claims.

The high incidence rates for non-construction programs were attributable to one large program with an incidence rate of 25.0. This outlier reported 1,561 claims and 12.5 million person-hours worked. The 1,561 claims reported by this one program accounted for 57 percent of all reported claims (2,723) and 62 percent of all claims reported by programs that also reported person-hours worked (2,511).

After removing the non-construction outlier from the calculations for the non-construction subset of programs, the incidence rate for non-construction programs decreased to 0.2 for OSHA incidents and to 2.7 for total claims. The incidence rate for total ADR programs decreased to 2.1 for OSHA incidents and to 3.5 for total claims. (Table 7.1)

Table 7.1: Adjusted Safety History, 2010

	Reporting 3201.5 Construction Programs (16)	Adjusted Reporting 3201.7 Non- Construction Programs (2)	Adjusted Reporting 3201.7 Total Programs (18)
OSHA Incidents Reported (#)	571	4	575
Total Claims (#)	888	62	950
Percentage of OSHA Incidents to Claims Filed	64%	6%	61%
Person-Hours Worked	50,210,844	4,543,822	54,754,666
Safety Rating Based on OSHA Incidents	2.3	0.2	2.1
Safety Rating Based on Total Claims	3.5	2.7	3.5

(8) The number of workers participating in vocational rehabilitation programs

Despite the 2009 discontinuation of vocational rehabilitation programs in the California workers' compensation system, 8 C.C.R. section 10203(b)(15) continues to require ADR programs to report the number of workers participating in vocational rehabilitation programs (Table 8).

Table 8: Worker Participation in Vocational Rehabilitation, 2010

	3201.5 Construction Programs	3201.7 Non- Construction Programs	Total Programs (24)
Vocational Rehab Participants (# workers)	15	0	15

In 2010, construction ADR programs covered 15 workers participating in vocational rehabilitation.

(9) The number of workers participating in light-duty or modified return-to-work programs

8 C.C.R. section 10203(b)(16) requires ADR programs to report the number of injured workers participating in light-duty or modified return-to-work programs (Table 9).

Table 9: Worker Participation in Light-Duty or Modified Return-to-Work, 2010

	3201.5 Construction Programs	3201.7 Non- Construction Programs	Total Programs (24)
Total Claims Filed (#)	1,045	1,678	2,723
Light-Duty and Modified Work Participants (# workers)	162	568	730
Ratio Claims Filed to the Number of Light-Duty or Modified Work Participant	6.45	2.95	3.73

In 2010, 730 ADR workers participated in light-duty or modified work programs. For 2010, 3.7 claims were filed for every one worker participating in light-duty or modified work. One hundred sixty-two construction program workers participated in light-duty or modified work programs, a ratio of 6.5 to one for the number of claims filed per each light-duty or modified work participant. Five hundred sixty-eight workers participated in light-duty or modified work programs offered by non-construction programs, a ratio of less than three to one for the number of claims filed.

(10) Overall Worker Satisfaction (3201.7 Programs only)

In order to fulfill the reporting requirements of 8 C.C.R. section 10203, non-construction ADR programs are required to submit the results of a self-administered worker satisfaction survey. For 2010, of the four reporting 3201.7 programs, only two programs submitted results. One 3201.7 programs failed to report the results of a workers satisfaction survey due to staffing shortages. A second program failed to report results because they had not yet developed and implemented a worker satisfaction survey.

One ADR programs that reported results for 2010 found that 43 percent of its respondents would rate their ADR program as good or excellent, while 20 percent rated it fair and 37 percent rated it poor. The other ADR program reporting results found that 49 percent of its respondents were satisfied or very satisfied with the services provided by their ADR program, 16 percent were dissatisfied or very dissatisfied and 35 percent were neutral about the services their ADR program provided.

**Appendix I:
Validity of Data Received**

The validity of claims data received during the reporting process is determined by comparing claims data from the ADR reports submitted by individual programs under the following three 8 C.C.R. sections:

- 1) 10203(b)(8): Total claims filed (medical-only + indemnity claims)
- 2) 10203(b)(9): Claims resolved and unresolved
- 3) 10203(b)(11): Claims resolved before mediation, at or after mediation, at or after arbitration, at or after the WCAB, at or after the Court of Appeals

According to the reporting regulations, the total claims filed per year under 8 C.C.R. section 10203(b)(8) should equal the number of claims resolved and unresolved under 8 C.C.R. section 10203(b)(9). In 2010, the number of claims reported as resolved or unresolved (2,723) equaled the total claims filed (2,723) (Table A).

Table A: Total Claims Filed versus Claims Resolved and Unresolved, 2010

Total Claims Resolved and Unresolved 8 C.C.R. section 10203 (b)(9)	2,723
Total Claims Filed 8 C.C.R. section 10203 (b)(8)	2,723
Ratio of Total Claims Resolved/Unresolved versus Claims Filed	1.0

The sum of the number of claims resolved at each stage of litigation under 8 C.C.R. section 10203(b)(11) should equal or exceed the number of claims in the previous calendar year that were resolved under 8 C.C.R. section 10203(b)(9). In 2010, the number of claims reported as being resolved before or after litigation under 8 C.C.R. section 10203(b)(11) equaled the number of claims reported as resolved under 8 C.C.R. section 10203(b)(9).

Table B: Number of Claims Resolved Before, At, and After Litigation to 8 C.C.R. versus Resolved Claims, 2010

Claims resolved before, at, and after litigation stages 8 C.C.R. section 10203 (b)(11)	2,409
Claims resolved 8 C.C.R. section 10203 (b) (9)	2409
Ratio of claims resolved 8 C.C.R. section 10203 (b)(11) versus claims resolved 8 C.C.R. section 10203 (b)(9)	1.0