

Closing the Arbitration: Closing Statements and Final Orders

Introduction

Closing an arbitration proceeding is a critical phase where the arbitrator consolidates the record, considers final arguments, and issues a binding or non-binding decision. This document outlines the structure, purpose, and best practices for arbitrators when delivering closing statements and issuing final orders.

1. Purpose of Closing Statements

Closing statements provide the arbitrator with a final opportunity to:

- Summarize key facts and evidence
- Highlight applicable legal principles
- Address weaknesses in the opposing party's case
- Clarify requested remedies or relief

Key Characteristics

- Concise and focused
 - Evidence-based
 - Legally grounded
 - Persuasive but professional
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2. Arbitrator's Role at the Close of Proceedings

At the conclusion of hearings and submissions, the arbitrator must:

- Confirm that the evidentiary record is complete
 - Ensure both parties have had a fair opportunity to present their case
 - Address any outstanding procedural issues
 - Declare the proceedings formally closed
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3. Structure of an Effective Closing Statement (For Reference)

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Although delivered by parties, understanding structure helps arbitrators evaluate them:

a. Introduction

- Brief overview of the case
- Statement of the party's position

b. Summary of Facts

- Key facts supported by evidence

c. Legal Analysis

- Application of relevant laws, rules, or contract terms

d. Rebuttal

- Address opposing arguments

e. Requested Relief

- Clear statement of desired outcome
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4. Deliberation Process

After closing statements, the arbitrator begins deliberation:

Considerations

- Credibility of witnesses
- Weight of documentary evidence
- Consistency of arguments
- Applicable law or arbitration rules

Best Practices

- Maintain impartiality
 - Take structured notes
 - Review transcripts and exhibits thoroughly
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5. Drafting the Final Award or Order

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The arbitrator's final decision (award/order) must be clear, reasoned, and enforceable.

Essential Components

a. Title and Identification

- Case name
- Parties involved
- Arbitrator(s)
- Date and place of arbitration

b. Procedural History

- Summary of proceedings
- Key dates and submissions

c. Issues for Determination

- Clearly defined questions the arbitrator must decide

d. Findings of Fact

- Determinations based on evidence

e. Conclusions of Law

- Application of legal principles to the facts

f. Decision / Award

- Final rulings on each issue

g. Remedies

- Damages, injunctions, specific performance, or other relief

h. Costs and Fees

- Allocation of arbitration costs and legal fees

6. Types of Orders and Awards

- **Final Award:** Resolves all issues
- **Partial Award:** Decides specific issues while others remain

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- **Interim Order:** Temporary relief pending final decision
 - **Consent Award:** Based on settlement agreement between parties
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7. Clarity and Enforceability

To ensure enforceability:

- Use precise language
 - Avoid ambiguity
 - Clearly define obligations and timelines
 - Reference governing arbitration rules or laws
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8. Communication of the Decision

The arbitrator should:

- Deliver the award in writing
 - Ensure proper service to all parties
 - Maintain confidentiality as required
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9. Post-Award Considerations

Possible Actions

- Correction of clerical errors
- Interpretation of the award
- Additional awards (if issues were omitted)

Limitations

- Arbitrators generally cannot revisit the merits once the award is final
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10. Ethical Considerations

- Maintain neutrality and independence
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- Avoid conflicts of interest
 - Ensure procedural fairness
 - Uphold confidentiality
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Conclusion

Closing statements and final orders are the culmination of the arbitration process. A well-managed closing phase ensures that the final award is fair, reasoned, and enforceable. Arbitrators must balance procedural rigor with clarity and efficiency to deliver a decision that withstands scrutiny and fulfills the objectives of arbitration.

Appendix (Optional Template for Final Award)

1. Introduction
2. Parties
3. Jurisdiction
4. Procedural History
5. Issues
6. Findings of Fact
7. Legal Analysis
8. Award
9. Costs
10. Signature and Date