APPENDIX F

REPORT OF THE SPECIAL COMMITTEE TO REVIEW MEMBERSHIP AND RELATED POLICY QUESTIONS OF THE ACADEMY—OTHERWISE KNOWN AS THE REEXAMINATION COMMITTEE

Background

The committee was established by then-President Eli Rock in mid-1973. Named were Rolf Valtin, chairman, and Gerald A. Barrett, Irving Bernstein, John E. Dunsford, James C. Hill, John Perry Horlacher, John Phillip Linn, Abram H. Stockman, and Robert L. Stutz.

The committee met in an exploratory session in the fall of 1973; decided in that session that, as a proper prelude to policy recommendations concerning prospective members, a survey should be made of the status in various areas of present members; met on two occasions in early and mid-1974 to draw up a questionnaire; used the summer and fall of 1974 to tabulate and study the questionnaire's answers (there was a return rate of about 65 percent); and then met in two-day sessions in January and March 1975 to prepare recommendations for submission at the general membership meeting on April 30, 1975.

A spirited debate ensued at this general membership meeting. The committee expresses its gratification over the fact that troublesome issues together with candid discussion were allowed to surface.

To consider the need for modifications, and to make such modifications as seemed called for, the committee (a four-man subcommittee) met in a three-day session in August 1975. Most of the sections of the report delivered at the general membership meeting were left intact, others were slightly revised, and still others were substantially revised.

In all—travel expenses, charges for conference rooms, clerical wages, duplicating charges, etc.—the committee's undertaking cost the Academy about $7,500.

The committee's charge is contained in a May 1973 letter from Eli Rock. The letter mentions a number of developments which raise implications concerning our membership policy and it asks particular membership-policy questions. The letter can also be construed as calling for recommendations on such features of Academy life as are potentially affected by the direction in which our membership policy might go—*e.g.*, the size and nature of our Annual Meetings, the increased burden of holding the Academy's chief offices and whether or not paid assistance should be provided, the adequacy of our dues structure, etc. Though not without clearing it with Eli and receiving his approval, the committee made the decision that it should confine itself to the membership-policy questions themselves. The decision was based on the belief that there is quite enough magnitude and controversy in the undertaking even when so confined and that to go further would be to try to chew off too much.

The committee delivered a stage-setting report at the business session of the 1974 Annual Meeting. No conclusions of any sort had been reached at that stage, and the purpose of the report was to clarify our assignment and to identify the problems and conflicts which inhere in it. That report cannot here be reviewed in any comprehensive way, but parts of it will be reiterated as the foundation for the present report.

The Current Admissions Standards

The Academy's admissions policy is contained in a document entitled "Statement of Policy Relative to Membership." A reprint of the statement has been in the directory for a number of years, and the statement will not here be quoted in full. The principal elements are these:

Clause (1) requires that: "The applicant should be of good moral character, as demonstrated by adherence to sound ethical standards in professional activities." We concede that we spent no reexamining time on this standard. It would be difficult to justify its abandonment.

Clause (2A) constitutes the fundamental requirement for admission to membership. It states: "The applicant should have substantial and current experience as an impartial arbitrator of labor-management disputes." Here laid down is the policy that our organization be made up of actual arbitrators, not would-be arbitrators and not people merely interested in the process. The

"substantial and current" standard has in recent years been translated to something like 50 cases over approximately a five-year period preceding the application.

Clause (2B) may be said to constitute an exception to the basic policy, but it is a very limited and tightly circumscribed exception. Under Clause (2B), we leave room for admitting persons who, though with little experience as arbitrators, have attained "general recognition through scholarly publication or other activities as an impartial authority on labor-management relations." The clause has been applied as going to scholars of national renown.

Next, our membership policy addresses itself to representational work. The wording is this: "Membership will not be conferred upon applicants primarily identified as advocates or consultants for Labor or Management in labor-management relations." To be noted is that recent years have seen a tighter application than "primarily" would indicate. Rather than go with the literal meaning of that word, we have been barring applicants whose representational work amounted to anything more than what the Membership Committee determined to be insignificant.

Finally, we have openly distinguished between present members and applicants with respect to representational work. Reference is to what has become known as our "grandfather" clause. It is artfully phrased in terms of the "fluid nature of the labor-management relations field and the varied backgrounds and interests of the Academy's members"; in terms of serving in various capacities which might render one or another member "for the time being, unavailable for service as arbitrators"; and in terms of the Academy's belief that the serving in various other capacities is not "necessarily inconsistent with continued membership." The wording is clearly such as to make no iron-clad grant for the performance of any amount of representational work over any period of time. In fact, however, we have not placed present members under any sort of scrutiny. The "grandfather" clause has served as a sweeping protection for present members with respect to representational work.

Reexamination and Recommendations

Preliminary Comments

We organized our task as presenting six basic questions. They involve subquestions and they are, of course, interrelated. But,

both as a matter of concrete tackling and as a matter of reasonably intelligible reporting, some topical division of our undertaking was necessary.

We want it understood that we are entirely appreciative of the controversial nature of the questions before us and of our recommendations upon them. Most of the questions present forceful arguments on each side of the coin, and we know that there is division of opinion on them both within the Academy as a whole and among our most prominent members. We neither expect acceptance of our recommendations by cheering acclamation nor submit that any committee, irrespective of its composition, would have come up with the same set of recommendations. Further, it was not without pain and reluctance that we arrived at resolution on the more troublesome issues. But, on the one hand, it *was* the particular nine persons whom Eli chose to put on the committee; and, on the other hand, we think it simply has to be granted that controversy and conflict inhere in our assignment—unless, of course, we could have legitimately come to you with the conclusion that "all is well, let us keep the status quo." We think that this, rather than constitute a legitimate conclusion, would have amounted to abdication.

Having said these things, we want also to say that we are without apology. We battled in our sessions, but we come before you with a series of recommendations which have our unanimous endorsement in all areas except one. And in the one area in which we did not achieve unanimity, our recommendation is backed by a substantial consensus.

Here, then, are the six topical areas with our recommendations and explanatory comments.

SPIDR

We considered two questions: (1) whether the Academy should merge with SPIDR; (2) whether SPIDR's existence should affect our membership policy in any way. Our recommendation on both questions is in the negative.

The case for merger is effectively stated by Robert Howlett in the first issue of the *Chronicle*. We think it is overridden by the facts that the Academy is a viable organization, with its own intrinsic and institutional strength, and that the Academy has its own—and, by now, rather long—history and tradition. We do

not think it is reactionary to express the preference that we keep our own bag and thus decline to merge into an organization encompassing all neutrals.

It in no way follows that the existence of SPIDR is to be viewed with alarm or hostility. We urge a relationship of mutual respect and cooperation, quite as has long been true of the Academy and the IRRA.

Similarly, we think that the formation and existence of SPIDR should be without influence on our membership policy. To have a membership policy with an eye toward SPIDR, be it in the direction of becoming more exclusive than we are or in the direction of swelling our ranks, would turn ours into a competitively geared membership policy. We are convinced that this would be a self-destructive mistake.

Size

One of the concerns which brought this committee into being was that the Academy has experienced substantial growth in recent years and that, with the volume of the national arbitration load continuing on the incline, the Academy's size is likely to continue to increase. The implications go primarily to the administration of the Academy and to the character of the Annual Meetings.

We view size as extraneous and as something which should have no bearing on the Academy's admissions standards. Those standards should stand on their own merits and should not be changed in an effort to make the Academy either a smaller or a larger organization. We of course grant that an Academy of much greater size, should this materialize, has implications which will need to be looked at and dealt with. But, in terms of the Academy's membership policy, we say, "let size go where it will."

The "Substantial and Current" Standard, Underlying Considerations

Preliminary to confronting the specifics of our membership policy, we gave long thought to its broad and direction-going aspects. Some of our conclusions should be briefly reviewed here, for they underlie our recommendations respecting the Academy's "substantial and current" admissions standard.

There are those who believe that the Academy has been too restrictive in its admissions policy and who, particularly in the light

of the emergence of public-sector bargaining and its mediation and fact-finding roles, want to open things up. They would make our admissions policy akin to that of SPIDR and perhaps even use a more encompassing term than "arbitrator" for both our experience requirement and the name of our organization. We oppose this direction. We think we should remain an Academy of Arbitrators and should continue to enlist in our ranks those who have shown that they are qualified to arbitrate.

We agree that, for those who are breaking in, the "substantial and current" requirement constitutes a rather stiff admissions standard. We have kept in mind, also, that membership in the Academy is unquestionably an important factor in obtaining cases and that, as a matter of enhancing new arbitrators' chances to get established, it would be good policy to liberalize the "substantial and current" requirement. Still, we first make the observation that the Academy by no means requires that applicants, to be admitted, show a caseload comparable to the average caseload of its members. Whereas the Academy's admissions requirement, as already stated, is something like 50 cases over a five-year period, the per-year average in the 1969–1973 period was 38 cases for part-time member-arbitrators and 77 cases for full-time member-arbitrators (for a combined per-year average of 52 cases). The Academy is not as exclusive as many consider it to be. The "closed shop" charge sometimes heard is nonsense.

But, accepting now that the Academy has had high admissions standards, we essentially urge the policy's continuation. We are proud of what we think is plainly true: that the Academy has stood for quality—"for quality," as we said in our stage-setting report, "be it in the realm of arbitral workmanship, of scholarly contributions by individual members, or of the significance of our Annual Meetings." All else we recommend is dwarfed by our recommendation—on which we were wholly united from the start—that the Academy should strive to perpetuate its good name. And it is surely an axiomatic proposition that there is a close tie-in between the Academy's membership policy and its association with quality.

A word about elitism: There are those who equate what we have just said with elitism. At the risk of sounding insensitive, we say "so be it." We cling to our belief in standards of excellence, and we dismiss the "elitism" charge as merely giving a derogatory connotation to it.

We recognize, of course, that the perpetuation of the Academy's membership policy does not guarantee the perpetuation of the Academy's high reputation. Indeed, we deem it appropriate to tip our hats to some of the Academy's founders and to make the observation that the primary explanation for the prestige of the Academy may lie in the fact that a new and exciting field was opening up at a time when they, as young men, were making career choices and that now, a generation later, young people of the same truly high calibre may not be attracted to the field. The quality-associated origin of the Academy, in other words, may have been the luck of the times. But we can and must try to go on in the tradition we have inherited. And a membership policy geared to quality is a requisite condition.

With these things in mind, we turn to our recommendations respecting the "substantial and current" standard.

First, we recommend that the standard be retained—substantially both in language and in application.

As to the language, we think it correct and essential that general phraseology be used. Four members of the committee have served or are serving on the Membership Committee, two of them as chairman. We are convinced that the Membership Committee cannot effectively function if left without discretionary latitude—if left to a mechanical counting of cases and without adequate authority to assess the membership application in all its aspects. In urging the use of discretion, we are not ignoring John Gorsuch's concern for uniformity in standards and consistency in application. We are giving recognition, rather, to the wide range of factors which inevitably distinguish one membership application from another.

As to the application of the "substantial and current" standard, we think—and we note that the vast majority of the membership recorded the same sentiment on the questionnaire—that the translation to about 50 cases over the past five years is sound. We emphasize, as a matter of the just-mentioned need for discretion by the Membership Committee, that this—50 cases over the past five years—must be regarded as a rough guide and as something which simply cannot be rigidly applied. Compelling considerations coming out of one application or another require latitude, and latitude is needed in both directions.

An example of the direction adverse to the applicant is posed by an application showing a raw caseload which easily meets the

"50 and 5" standard but which also shows that all, or nearly all, the cases received by the applicant were in one and the same industry. Such an application may have to be assessed as falling short of demonstrating general acceptability.

We give three examples of the direction favorable to the applicant. One is presented by an application of a person who broke into arbitration four years ago, who had six to seven cases in each of his/her first two years, who went from there to 12 cases in his/her third year, and who then progressed to 20 cases in his/her fourth year. Considering the rise in the per-year caseload, and assuming other features of the application to be positive, the Membership Committee would likely want to urge the applicant's admission. For another example, there may be an application from someone who broke into arbitration a mere three years ago but who exploded with cases from the outset—say with 80 cases in that three-year period. And for still another example, there may be an application from someone who is shy at both ends of the "50 and 5" standard but about whom truly glowing accounts are received from a number of prominent Academy members, from persons involving the applicant's past employment, and from labor and management representatives for whom he or she has arbitrated.

Along the same lines, we urge the recognition of certain application features as factors to be given crediting weight. We do not think that either the just-cited examples or the factors about to be identified should appear in the Academy's public Statement of Policy Relative to Membership, for we think it is wise to avoid being overly specific and detailed in the public statement. But we do want to go on record with them in our report. We do so as a matter of providing what amounts to legislative intent, so as to maintain consistency among the Membership Committee's changing compositions.

The factors which we think should carry crediting weight are as follows. We append brief explanatory comments to each of them:

- "The applicant has experience as a fact-finder either in the public sector or in the private sector where his or her appointments are owed to selection by the parties or otherwise reflect acceptability."

By way of explanatory comments, we say that fact-finding experience cannot help but bring knowledge of collective bargaining

issues; that, though not the same, fact-finding work is closely akin in function and nature to arbitration work; and that—though the information on this score will sometimes be difficult for the Membership Committee to ferret out—we seek to insist that the fact-finding assignments are owed to selection on merit rather than political pull.

We also note that this—express mention in this report as one of the crediting factors under the "substantial and current" standard—is as far as we are prepared to go with respect to other-than-arbitration dispute-settling functions. We are not convinced that there is such a thing as a wave of new neutrals coming out of public-sector bargaining. So far as we can tell, indeed, most of the new public-sector work has been and is being performed by established arbitrators.

• "The applicant has attained stature or unusual competence in the field of labor-management relations."

Here we have in mind persons who have turned to arbitration upon a distinguished career in the collective bargaining field, often as an advocate for one side or the other, but whose scholarly credentials are not such as to qualify them under our present Clause (2B).

• "The applicant is from a geographical area which has relatively little industry."

Here we want to make some allowance for the applicant whose home territory is, say, Montana or Arizona or New Mexico. We are saying that it is properly assumed there is a relative dearth of available arbitration work in the particular geographical area and it follows that a correction element must fairly and reasonably be introduced.

• "The applicant is of relatively young age and shows unusual promise by such indicators as selection for 'mini' or 'expedited' arbitration work, special training under an established arbitrator or arbitrators, or extensive formal and relevant education."

This represents, in part, our effort to counteract the clear fact that our membership is too old—an average age of over 60 at the moment; in part, our effort to give a nod in the direction of the "mini" and "expedited" experiments in the steel industry and by the AAA; in part, our effort to give recognition to the value of specialized training under the auspices of established arbitrators or an apprenticeship under one such arbitrator; and in part, our

effort to give standing to long, formal, and relevant education as a positive factor.

We are convinced that the application of these factors as crediting factors does not represent the downgrading of the Academy's quality objective. We note, to the contrary, that our recommendation on this score is in tune with approaches—and what we regard as intelligent and sensitive approaches—which the Membership Committee has for some time been taking. In essence, we are codifying existing practices rather than plowing new grounds.

We thus return to our endorsement of the "50 and 5" standard. So long as reasonably and intelligently applied, we think the standard constitutes the right balance between the Academy's legitimate demand that applicants make a showing that they are qualified to arbitrate and proper regard for the fact that membership in the Academy aids the process of becoming fully established as an arbitrator—from which it follows, we believe, that a public-spirited organization confers membership at a stage appreciably below full establishment.

We touch on two more things before closing the discussion on the "substantial and current" standard:

First, though we appreciate the concern of those who argue that acceptability by the parties is not necessarily the equivalent of doing quality work, and though it should be clear by now that we seek an Academy synonymous with quality, we think we have to reject a particular suggestion for the assessment of applicants. The suggestion is that the Membership Committee should require the submission of applicants' Opinions for its determination of the quality of style, organization, clarity, analysis, etc. We think that to do this would impose too great a burden on the Membership Committee and would require it to make hazardous subjective judgments.

Second, it is to be understood that we gave long consideration to the underrepresentation of minority groups and women in the Academy's membership. Out of a total of about 450 persons, the Academy has seven blacks and five women. These are plainly distressing statistics. But the Academy cannot itself rectify them without abandoning general acceptability by the parties as the central measure of qualification for membership. Nevertheless, the reiteration of the Academy's long and firm policy against discrimination on the basis of race or sex should be part of this re-

port. And we additionally make these observations: that it is silly to deny that blacks and women have often been denied a fair opportunity to demonstrate their capabilities, and thus establish the degree of acceptability needed for Academy membership; that it is incumbent on the Academy to cooperate in every appropriate way with programs designed to encourage the continued development of competent, qualified arbitrators among women and minority groups; and that we would be less than proud of an Academy which failed to be sensitive to the barriers facing these potential members.

Clause (2B)

The membership at large overwhelmingly voted for the retention of this provision and the committee, in quite the same wholehearted fashion, is of the same opinion. We think the Academy has greatly gained from the policy which has put outstanding thinkers into the midst of the working stiffs. Additionally, we recommend that the language of the provision be kept intact. No serious difficulties have been encountered over the years in the application of the provision.

Representational Work

The area involving representational work is perhaps the most controversial one with which we had to deal. We think we correctly stated in our stage-setting report that the Academy has been ambivalent on this score. This has been reflected, over and over again, in the reactions by one Board of Governors or another to recommendations by the Membership Committee, either up or down, involving membership applications of a twilight nature with respect to representational work. The ambivalence is also manifested in the compromise language we have been operating under in the last decade. And the ambivalence once more expressed itself in the answers to the questionnaire.

We stated the case on representational work, pro and con, in our stage-setting report, and we will not here attempt to restate it. The clear fact is that persuasive arguments arise on both sides of the coin. The question is whether to continue in our compromise ways or to go firmly in one direction or the other.

Before stating where we have come out, we want to note that we gave every consideration both to Robert Howlett's urgings

that a distinction between a partisan and a (truly professional) advocate be recognized and to William Simkin's plea that a qualitative rather than a quantitative approach be taken. We are more than sympathetic to what Howlett and Simkin seek to achieve, but, essentially on the grounds that the Academy would continue to proceed in muddied waters, we voted against adoption of either approach.

It is our recommendation that the Academy adopt an unequivocal policy under which representational work, defined in all-encompassing fashion, is made a disqualifier for persons seeking to be admitted to membership. We will not seek to defend the recommendation as one clearly constituting the right answer on balancing the arguments on both sides of the question. But we do wish to advance three points in support of our recommendation. First, we think that a policy wholly in the other direction would be inconsistent with the times and with the current majority sentiment of the Academy's membership. Second, we note that considerable difficulties inhere in the administration of our present policy. It is a policy which over and over again presents puzzling borderline cases—a policy which raises as many questions as it solves. Third, we think that an outright proscription against representational work is the right policy in the light of the nation's reliance, as a matter of established national labor policy, on arbitration as the appropriate vehicle for resolving labor-management controversies.

For the purpose of the disqualifying policy which we are recommending, we are referring generally to persons who act as advocates or consultants for labor or management in labor-management relations. But we mean to define "representational work" as including all of the following: acting as a spokesman in negotiations and/or arbitration; acting as a behind-the-scenes advisor for either purpose; acting as an expert witness on behalf of one of the adversaries in any labor-relations forum; performing litigation functions before the NLRB or on labor-relations matters before the courts; representing labor or management, whether openly as a spokesman or behind the scenes as an advisor, in EEO or OSHA or Workmen's Compensation matters (though we are ready to draw a distinction to a lawyer who may occasionally handle a particular case or two in these areas on an ad hoc basis); acting as a partisan arbitrator on either grievance or interest arbitration boards; making specialized studies for one side or the other—*e.g.*, critiques or recommendations for job eval-

uation or incentive programs, economic-development reports to be used in negotiations or interest arbitrations. We additionally mean to disqualify persons who, though they spend all their own working time as an impartial arbitrator, are profit-participating members of a firm which does representational work to any appreciable extent.

We are aware that, even with this all-encompassing definition, applications will be received which will raise peculiar questions with respect to representational work. For example, there may be an application from a university professor who wholly meets our various admissions requirements but who represents the university's president, without fee or extra salary, in the first step of the grievance procedure covering the university's faculty. In awareness of problems of this sort, we have drafted a de minimis proviso. We urge its observance, but submit it only by way of legislative intent: "except such minimal, incidental or isolated situations which, in the judgment of the Membership Committee, cannot reasonably be construed as falling within the proscription."

Our "Grandfather" Policy

With one exception, which we fully appreciate to be quite onerous to those affected by it, we recommend the retention of the "grandfather" policy. It is true that the performance of representational work by members side by side with the disqualification of applicants on grounds of representational work may be said to constitute a double standard. But, in the first place, it is not truly that—for the fact is that those of our members who do representational work were admitted at a time when the Academy's membership policy permitted the admission of applicants who combined arbitration work with representational work. To impose on them the proscription which we are here recommending would amount to an ex post facto application. In the second place, we are simply not offended by a "grandfather" approach. It represents a time-honored and reasonable phasing-out means. And in the third place, whether this is granting too much or not, we gladly admit that our recommendation for the retention of the "grandfather" policy is not without sentimental overtones. We decline to recommend that a considerable number of long-time and esteemed members leave our ranks.

Our recommendation for the retention of the "grandfather" policy incorporates the rejection of any sort of associate-member

status. The suggestion for such status has been advanced to cover both persons who have become advocates or consultants for one side or the other and persons who for other reasons have become inactive as arbitrators and are not likely ever again to arbitrate. We are opposed to associate-member status, in part because the line between full and associate membership would in some instances be difficult to draw, in part because associate membership smacks of second-class citizenship, and in part because we do not think it makes good sense to have gradations of membership in a relatively small organization like ours.

We do believe, as already indicated, that one departure from the past application of the "grandfather" policy ought to be instituted. It concerns the appearance by an Academy member in an advocacy or other representational role before another Academy member sitting as a neutral. We appreciate that this is not a problem of great magnitude—something like 10 occasions per year appears to be the incidence. And we obviously do not suspect any sort of underhandedness in connection with such appearances before a fellow Academy member. But we do think, given the relatively small size of our organization and the known close-knit relationships among its members, that there is a real problem in terms of card-stacking impressions, of beliefs of disadvantage by the party not so represented, and of feelings of discomfiture by the neutral. And, again with an eye to the national policy stature which arbitration has assumed, we think that the problem ought not to be ignored—or in effect sanctioned—by the Academy. Nor do we think that the new Code's disclosure requirement on the matter suffices. We believe that, as a matter of its own proper policy, the Academy should make it impossible for one of its members to appear in any sort of advocacy role in a labor-relations dispute-settling forum before another of its members sitting as a neutral. We mean to include fact-finding forums as well as wage-determination forums under the Fair Labor Standards Act; and we mean to include expert-witness roles (on behalf of one of the adversaries) as well as partisan-member roles on arbitration or fact-finding boards. We know of no way for the Academy to adopt and enforce the policy except to make the loss of Academy membership the price of functioning in such roles. We so recommend—except that we think that a one-year grace period ought to be granted to allow for completion of already-commenced assignments or other prior commitments.

Last, we address ourselves to a matter which is of no great moment in terms of its potential frequency, to which the answer seems to us to be inescapable if all else we are recommending is accepted, but which ought to be covered as a matter of completeness. It concerns the possibility that a person, admitted to membership under the standards we are recommending, might commence doing representational work after attaining membership. Irrespective of the amount of representational work such a person might take on and irrespective of how soon or far away after attaining membership he or she might turn to representational work, we think it is clear that such a person could do so only at the price of resigning from Academy membership. He or she would not be someone covered by the "grandfather" policy. And the Academy, in insisting that the person make a choice between representational work and continued Academy membership, would merely be asking for adherence to an implied good-faith commitment.

The membership policy we are recommending would require resignation from Academy membership in two situations. Hence, if accepted, our recommendations involve questions of enforcement. We are refraining from addressing ourselves to what the proper enforcement mechanics might be. No great difficulties should be posed in devising the best and simplest enforcement means, and we think it is correct for us to confine ourselves to policy recommendations.

Similarly, we recognize that special cases might arise as to which it is not clear whether they fall into one of the situations requiring resignation from Academy membership. This would be a matter of determining the proper application of certain portions of our report, the procedures for which need not here be specified.

The Academy's "Statement of Policy Relative to Membership" would obviously have to be changed if our recommendations were accepted. We have undertaken the redrafting chore. With respect to what are now Clauses (1), (2A), and (2B), we are proposing no more than slight reorganization and tidying-up. With respect to the "representational" and "grandfather" areas, substantial revision is, of course, necessary. We suggest the following language:

> "Membership in the National Academy of Arbitrators is conferred by vote of the Board of Governors upon recommendation of the Membership Committee.

"In considering applications for membership, the Academy will apply the following standards: (1) The applicant should be of good moral character, as demonstrated by adherence to sound ethical standards in professional activities. (2) The applicant should have substantial and current experience as an impartial arbitrator of labor-management disputes, so as to reflect general acceptability by the parties. (3) As an alternative to (2), the applicant with limited but current experience in arbitration should have attained general recognition through scholarly publication or other activities as an impartial authority on labor-management relations.

"Membership will not be conferred upon applicants who serve partisan interests as advocates or consultants for Labor or Management in labor-management relations or who are associated with or are members of a firm which performs such advocate or consultant work.

"The Academy deems it inconsistent with continued membership in the Academy for any member who has been admitted to membership since the adoption of the foregoing restriction to undertake thereafter to serve partisan interests as advocate or consultant for Labor or Management in labor-management relations or to become associated with or to become a member of a firm which performs such advocate or consultant work.

"Because the foregoing restriction was not a condition for continued membership prior to April 21, 1976, it is the Academy's policy to exempt from the restriction members who were admitted prior thereto. However, the appearance of any Academy member in any partisan role before another Academy member serving as a neutral in a labor-relations arbitration or fact-finding proceeding shall, from and after April 21, 1977, be deemed inconsistent with continued membership."

ATTACHMENT: TABULATIONS AND COMPUTATIONS MADE FROM THE COMMITTEE'S QUESTIONNAIRE*

Explanatory Comments

The questionnaire survey of Academy members was conducted in mid-1974. The committee received 276 completed question-

* The tabulations and computations were made by Jane and Carol Valtin. One is a 23-year-old graduate student; the other is a 21-year old college student. Both are of good intelligence and diligence, but they are without statistical training. They used an old-fashioned manual adding machine; they worked in an office where there were telephonic and other interruptions; and they do not lay claim to super powers of concentration. Their tabulations and computations were made but once and have not been checked. The tables were prepared by Jane A. Dennis.

naires, which represent 65 percent of the Academy membership. Nine of the questionnaires had to be thrown out because they were incomplete in too many areas. Thus, the real sample on which the following summary is based is 267, which represents 63 percent of the membership. A few of the questionnaires (about 10) required a bit of interpolation with respect to certain answers or nonanswers to various questions. The committee is reasonably confident that the interpolations square with what the particular person would have responded had he or she worked more carefully and grasped our intent in asking the question.

Within the sample, there are 190 part-time neutrals and 77 full-time neutrals. A full-time neutral is, in practically all instances, a full-time arbitrator. The three or four exceptions are persons who are full-time public servants in labor-relations agencies and who do little or no arbitration.

A number of persons come very close to being, but are not literally, full-time arbitrators. Via an admittedly arbitrary decision, the committee applied 95 percent as the cut-off point; those persons who devote 95 percent or more of their working time to arbitration are herein considered full-time arbitrators.

The questionnaire included both essay and statistical questions. Summarized here are only those questions, in the order that they appeared in Part 1 of the questionnaire, whose answers lend themselves to quantification. National totals include responses from both the United States and Canada.

1. Age

The average is 58.4 years; 82 percent (218 persons) are 50 years old or older. Only 41 percent (90 persons) of those age 50 and over are in the 50-59 age bracket. Thus, nearly half (124 persons or 47.3 percent) are 60 years of age or older. All age figures apply to the time that the questionnaire was issued and filled out: mid-1974.

	Number	Percent
Under 30	0	0
30-39 years of age	7	2.9
40-49 years of age	41	15.4
50-59 years of age	90	34.5
60-69 years of age	88	32.9
70 and over	36	13.5
Total	262	99.2

2. Geographic Location

	Part-Time	Total	Full-Time
Northeast	57	42	99
Midwest	49	23	72
Colorado and Arizona	4	1	5
South	22	10	32
West	33	8	41
Canada	6	2	8
Total	171	86	257

These figures are in relation to an overall sample of 257, as some respondents whose questionnaires were otherwise usable did not give their location.

3. Dues-Paying Membership in Other Organizations

	Number	Percent
AAA	195	73.0
IRRA	177	66.3
SPIDR	102	38.2

4. Academic Degrees

	Part-Time	Full-Time	Total
None	4	2	6
B.A.	106	57	163
B.S.	53	20	73
M.A.	71	23	94
M.S.	9	2	11
M.E.	1		1
L.L.B.	48	37	85
L.L.M.	18	4	22
J.D.	56	22	78
S.J.D.	8	2	10
Ph.D.	63	9	72
Other (all graduate-level degrees)	4	5	9

Sixteen persons (10 full-time, 6 part-time) hold no academic degree beyond a BA or BS. An additional 6 members hold no college degree. Twenty-four persons (12 full-time, 12 part-time) hold an MA, MS, or ME but no higher degree. The 267 members responding to the questionnaire hold a total of 624 university degrees of various sorts.

5. Number of Cases by Source

Source	Cases	Sample	Average per the Particular Sample	Average per all Questionnaire Respondents
Parties	7,750	252	31	29
AAA	2,994	207	14	12
FMCS	2,875	202	14	11
NMB and NRAB	786	34	23	3
State mediation agency	496	77	6	2
State or local PERB	251	50	5	1

Thirteen percent of the respondents reported doing NMB and NRAB cases, 19 percent had state or local PERB cases, and 29 percent had state mediation agency cases. No effort was made to obtain full-time vs. part-time breakdown on this question.

6. Number of Cases in Each Year of Five-Year Period, 1969-1973

The table on pp. 380–81 presents the data by geographical area and by full-time or part-time status of the reporting arbitrator. The figures are rounded to the nearest full case. The samples vary somewhat from year to year because of such circumstances as an individual being out of the country for an entire year. The # columns designate the number of arbitrators reporting cases for that year—totals for each geographic area and for full-time or part-time status. For example, the total sample on which the 1969 average is based is 243 persons.

7. "Expedited" Arbitration

Only 76 respondents (28.5 percent of the sample) reported doing any "expedited" arbitration (as defined in the questionnaire). They reported that such work constituted an average of 8.9 percent of their time devoted to arbitration.

8. Working Status

Responding to the question on their working status, 28.8 percent (77 persons) of the total sample identify themselves as full-time neutrals and 71.2 percent (190 persons) as part-time neutrals. In the latter group, 28.4 percent report devoting more than 50 percent of their time to arbitration, while 42.6 percent say that they spend less than 25 percent of their time in arbitration work.

In the total sample, 47.6 percent of the respondents are affiliated with a university, 19.5 are practicing lawyers, and 7.5 percent do representational work. Slightly over three quarters (77.2 percent) of the university-affiliated people devote more than 50 percent of their time to their university work; 36.5 percent of the practicing lawyers devote more than half their time to their legal practices; and those members who do representational work devote only 13.2 percent of their time to it.

	1969		1970		1971		1972		1973		Years Combined	
	Cases	#	Cases	#	Cases	#	Cases	#	Cases	#	Cases	#
Overall	10,885	243	11,983	250	13,466	255	14,261	258	15,210	260	65,769	1,266
Average	45		48		53		55		59		52	
National												
Full-time	5,867	80	6,254	85	6,838	85	7,246	86	7,716	87	33,921	443
Average	73		74		83		84		89		77	
Part-time	4,973	162	5,719	163	6,526	168	7,001	171	7,387	173	31,609	837
Average	31		35		39		41		43		38	
Northeast												
Full-time	3,064	40	3,182	42	3,541	42	3,883	43	4,124	43	17,794	210
Average	77		76		84		90		96		85	
Part-time	1,951	53	2,174	55	2,454	56	2,700	57	2,852	58	12,131	279
Average	37		39		44		47		49		43	
Midwest												
Full-time	1,537	22	1,594	22	1,625	22	1,602	23	1,848	23	8,206	112
Average	70		72		74		70		80		73	
Part-time	1,331	47	1,535	45	1,789	47	2,052	48	2,230	50	8,937	237
Average	28		34		38		43		45		38	
Colorado & Arizona												
Full-time	58	1	60	1	74	1	80	1	97	1	369	5
Average	58		60		74		80		97		74	
Part-time	87	4	241	4	318	4	240	5	246	5	1,132	22
Average	22		60		80		48		49		51	

South												
Full-time	578	9	649	10	644	10	683	10	711	10	3,265	49
Average	64		65		64		68		71		66	
Part-time	558	21	648	22	719	22	766	22	811	20	3,502	107
Average	27		29		33		35		41		33	
West												
Full-time	400	6	484	8	587	8	699	8	709	8	2,849	38
Average	67		61		73		84		89		75	
Part-time	786	30	865	30	1,004	33	984	33	1,014	32	4,653	158
Average	26		29		30		30		32		29	
Canada												
Full-time	230	2	285	2	332	2	331	2	326	2	1,504	10
Average	115		143		166		166		163		150	
Part-time	223	6	242	6	242	6	259	6	214	6	1,180	30
Average	37		60		40		43		36		39	

9. Activities Within Status as a Neutral

In this question, Academy members were asked to estimate how much (a percent estimate) of their working time was spent in one type or another of third-party work. The summaries in the table are broken down by full-time or part-time status for the four major arbitral activities.

	Grievance Disputes		Interest Disputes	
	Private	Public	Private	Public
Full-time arbitrators				
Number	86	73	29	48
% time	79	14	8	9
Part-time arbitrators				
Number	165	105	30	70
% time	76	17	10	11
Total number	251	178	59	118
Average % time	77	16	9	10

The committee did not have computations made for four of the areas specified under this question: "private sector election and/or unit-determination matters," "public sector election and/or unit determination matters," "EEO, community, or university disputes," and "other." These areas were skipped in part because of the time involved in making the computations and in part because of certain knowledge that work done by arbitrators in these areas is minimal. It is known, for example, that only 15 arbitrators spent an average of 3 percent of their working time in "private sector election and/or unit-determination matters." If this percentage were averaged out over the 267 individuals in the sample, the result would be negligible.