

APPENDIX D

1979 REPORT OF THE COMMITTEE ON  
THE DEVELOPMENT OF ARBITRATORS\*

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Reports received by the committee indicate that the tempo of programs for the training of labor arbitrators is running apace. Interest is picking up in the kind of continuing program that the committee has endorsed, and regional programs of this type are under way. Several programs following the traditional format also are presently in progress.

**Ohio**

Eleven candidates have been tentatively approved by the American Arbitration Association and the Federal Mediation and Conciliation Service for internships in the Ohio region. Five of this number are in the Cleveland area and will be assisted by Earle Brown's staff in the Cleveland regional office of the AAA. The other six are in the Cincinnati area and will be assisted by Philip Thompson's staff. Several of the candidates are already on the AAA list of labor arbitrators and have a limited number of cases, while two in the Cleveland area are working as interns with a member of the Academy.

Eight of the initial Ohio training group attended an indoctrination meeting February 16, 1979, in Columbus. Ten additional potential candidates also attended this all-day session—six from the Cleveland area and four from the southern part of the state. The group heard talks by Edwin R. Teplé and Charles F. Ipavec,

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members of this committee, by Earle Brown and Philip Thompson of the AAA, and by L. Lawrence Schultz, director of arbitration services of the FMCS. Kenneth W. Evans of the FMCS regional office in Cleveland assisted Charles Ipavec with the arrangements. The cost of the meeting room in Columbus was underwritten by the Academy members in the Ohio region who, after a report by Charles Ipavec, formally voted their full support of the program during their annual meeting on February 3.

Most of the Ohio candidates have already attended hearings with members of the Academy and are drafting practice opinions for review with the arbitrator of record in each case. Attendance at additional hearings will be arranged during the next year or two, until each candidate has observed at least six hearings and prepared six practice opinions. More than six hearings will be scheduled for some of the candidates taking part, depending on the individual's background. Contemporaneously, all participants will be advised of seminars, meetings, and other programs with some labor arbitration content scheduled in their geographic area. In some instances, it is expected that the candidates will take appropriate university courses, as they may become available locally, to supplement their background.

The committee chairman offered a full-semester course for labor arbitrators at the Law School of Case Western Reserve University this spring, assisted by Peter DiLeone, Dallas Young, Harry Dworkin, John Drotning, Charles Ipavec, and Samuel Kates. A number of graduate students in the course attended the indoctrination session in Columbus and are potential candidates for the training program—following those in the initial group.

The Ohio program will continue indefinitely, with each candidate finishing at his or her own pace and new candidates joining individually from time to time. Six women and one black man are present or potential candidates. Some kind of certification is planned, which will outline what the candidate has accomplished. Exposure to the parties will continue beyond certification.

### **New England**

Members of the Academy in the Boston area, including committee member Charles A. Myers and Academy member Arnold Zack, are also engaged in the training of labor arbitrators on a continuing basis. Rick Reilly, the AAA regional manager in Bos-

ton, is involved in helping to arrange attendance at hearings, scheduling meetings with party representatives to aid the new arbitrators in gaining exposure, giving advance notice of seminars and meetings of interest, and otherwise assisting in the kind of program the committee is encouraging.

Robert M. O'Brien, New England regional chairman, is handling arrangements for interns already working with Academy members in that area as well as other candidates generally to attend the monthly programs for Academy members in the New England region.

### **Kentucky**

Committee member Marlin Volz reports that members of the Academy in the Louisville area have been cooperating with the Louisville Labor-Management Committee in locating and assisting promising candidates. These prospects have accompanied Academy members to hearings and have attended periodic programs arranged for their benefit. A number of new arbitrators have already completed this program and benefited from the joint efforts to introduce them to party representatives, obtain case appointments for them, and otherwise assist them in gaining acceptability. This ongoing program follows the pattern recommended by this committee.

### **Other Regions**

India Johnson, manager of the AAA regional office in Atlanta, has an interest in a continuing training program for qualified candidates in Georgia. Committee member J. Thomas Rimer will be cooperating with her in the future. It is expected that other regions will be picking up the committee's ideas and individual committee members will be in touch with AAA regional offices and the FMCS as soon as it becomes apparent that more labor arbitrators are needed in particular areas.

### **Interns with Academy Members**

During the past year or two, a growing number of Academy members have spoken to the committee chairman about interns already working with them on their ad hoc or panel cases. There are questions about the best utilization of these people and how

to give them wider exposure. A special invitation was issued to interns already working with members of the Academy to meet with us during the annual meeting in Dearborn; the purpose of the meeting was to learn how extensive these arrangements may be and how best to help this type of intern. Tom Colosi of the AAA and Larry Schultz of the FMCS also met with the interns to answer their questions and discuss matters of mutual interest. We hoped to get ideas from this exchange to help us in planning future emphasis on additional training and assistance in gaining wider acceptability as well as finding ways to encourage more Academy members to use interns.

### **Arbitrator Development Program for Women**

Committee member Jean T. McKelvey reports that the training program for female arbitrators, which started in the spring of 1978 with a two-day seminar in New York City, was completed in June 1979 with a weekend seminar on the Cornell University campus in Ithaca.

The program had 23 candidates who were recruited on a national basis and screened with the assistance of the AAA and the FMCS. A second two-day seminar was held for this group last fall on the Cornell campus in Ithaca. It is reported that, in addition to the seminars, many of the participants have met regionally on their own initiative to exchange practice awards and to discuss mutual problems. The practice awards, from hearings that the candidates have attended pursuant to arrangements handled largely by AAA regional offices, have been evaluated and returned to the candidates. A minimum of six practice awards is required for completion of the program.

The faculty for this program consisted of Jean McKelvey, Eva Robins, James Gross, Alice Grant, Matthew Kelly, Marcia Greenbaum, all members of the Academy, and L. Lawrence Schultz, director of arbitration services for the FMCS. The majority of the participants in this program have completed graduate courses in arbitration, collective bargaining, and labor law, so the instruction has concentrated more on procedural and evidentiary problems, relying on each candidate to do her own research. It is expected that all candidates who complete this program will be accepted on the labor arbitrator panels of both the AAA and the FMCS.

### **Los Angeles Program**

A labor arbitrator development program for Southern California was developed last fall, a joint effort co-sponsored by the Industrial Relations Research Association, the FMCS, the AAA, the Labor Law Sections of the Los Angeles County and Beverly Hills Bar Associations, and the UCLA Institute of Industrial Relations. No less than 900 applications were received and processed. After they had been screened and narrowed down to 30, a final group of 20 candidates were selected after interviews and a written test based on a hypothetical grievance.

The academic portion of this program began on January 27, 1979, with orientation and a brief discussion of the historical background and legal basis of grievance arbitration. Monthly class sessions during the spring and fall were conducted at the UCLA Institute of Industrial Relations, under the guidance of Associate Director Reginald Alleyne; they will conclude on December 15, 1979. The faculty consists of Benjamin Aaron, Reginald Alleyne, Howard S. Block, Irving Bernstein, Harry T. Edwards, Edgar A. Jones, Jr., Jean T. McKelvey, Robert G. Meiners, Frederick Meyers, Paul Prasow, and Arnold M. Zack, all present or past members of the Academy.

So-called on-the-job training, in three phases, was planned as part of the program. Phase 1 involved observation of only three arbitration hearings during the first six months of academic training. Between June and October, each candidate was assigned to attend two hearings and write two practice awards, designated as Phase 2. In Phase 3, following completion of the academic portion of the program, the candidates are scheduled to attend three additional hearings with assigned arbitrators and to write practice awards for these cases. The third phase is to be completed by June 15, 1980.

The Southern California chapter of the IRRA assumed financial responsibility for the academic portion of this program, the estimated cost being \$7,630, including texts and related materials. Apparently, it was planned that these expenses would be covered by the tuition paid by the 20 successful candidates.

### **American Bar Association Program**

The arbitration committee of the Labor Relations Law Section, American Bar Association, has organized a pilot arbitrator

training program that is being conducted at the Columbia Law School in New York City under the direction of Professor Lewis B. Kaden. The first week of academic training was completed in the fall of 1978, during which the candidates were introduced to the substance and procedural aspects of arbitration. This program was outlined in the committee's report last year. The candidates were scheduled to attend hearings with experienced arbitrators, this aspect being handled by the AAA regional offices in the areas where the candidates reside. Candidates are required to prepare practice awards which will be reviewed by the arbitrator of record as well as section members and others who may be designated by Professor Kaden.

A second week of academic training was to be conducted in July 1979 in New York City. The final phase of the program contemplates the assignment of each candidate as the arbitrator of record in a minimum of two cases arranged by the participating labor organizations and employers who have agreed to utilize these people following their completion of the program. It is reported that members of the section council and the labor arbitration committee have agreed to obtain commitments from their clients for this purpose. The Bureau of National Affairs has agreed to publish the opinions rendered by the candidates in this phase of the program.

The Labor Relations Law Section plans to prepare a manual on how to set up and run a model program of this type in any area of the country. The manual, it is said, will contain information on the methods for selecting and screening potential arbitrators and the criteria utilized. After it is printed, the manual will be made available to others who wish to conduct programs of this type.

### **Michigan Program**

The Young Lawyers' Section of the Michigan State Bar Association conducted a training program in that state during January and February 1979, described as a local pilot for the ABA Labor Law Section program. Classes were held during the day on Saturdays and during the evening on weekdays, as planned by the Institute of Continuing Legal Education, University of Michigan, Ann Arbor. Lecturers included Academy members Richard Kanner, Richard Mittenthal, Richard Bloch, George Bowles, Robert Howlett, and Alan Walt.

Candidates for this program were solicited through the Michigan State Bar Journal and the publication of the Young Lawyers' Section, with the expectation that the course would also be publicized through publications and internal communications of the AFL-CIO, the UAW, and the Employers' Association of Detroit. Applications from 190 candidates were received and were screened by a nine-person committee on which there was equal representation of management, labor, and neutral organizations. Applicants paid a ten dollar fee to defray administration costs; the final 15 candidates selected paid a course fee of \$150 each. Fifteen alternates were chosen to replace any candidates who might drop out.

It has been reported that a "pup system arbitration participation" will follow the academic part of the program. The Detroit regional office of the AAA participated in some of the program arrangements, but it is the committee's understanding that the observation of actual arbitration hearings is being arranged by the Institute of Continuing Legal Education. Mock arbitrations were conducted during two of the class sessions.

The Young Lawyers' Section plans to follow up this program by publicizing widely the course and the graduates, somewhat along the line followed in New Jersey a couple of years ago in conjunction with the program there. The Labor Law Section of the Michigan State Bar Association reportedly has tentatively agreed to commit three thousand dollars to the publicity phase of the program. Plans also have been made to compile a detailed course book describing the organization of the program and the instruction phase; it is said that this book will be made available to educational institutions.

### **Other Information**

From reports the committee has received from time to time, it is apparent that individual members of the Academy have cooperated fully in taking the candidates in these training programs along to their hearings as observers, as well as devoting time to reviewing practice opinions prepared and submitted following the completion of their official awards. As previously reported, this activity has been the backbone of virtually every training program thus far undertaken.

A well-written article by Ann Curran, entitled "Arbitrators: Women Wanted," in the October 1978 issue of Working

Women, pointed out that only 2 percent of the members of the Academy are women, and women make up only 10 percent of the arbitrators listed by the AAA. It was suggested that readers could write to this committee chairman for a list of training programs. To date, the chairman has received 482 inquiries, a handful from male readers, all of which have been answered by a form letter drafted by the chairman and processed through the secretary's office. More recently we have been receiving inquiries from career centers at universities and colleges, apparently resulting from a CAM report published on April 1, 1979.

Once a continuing program has been established, at least there will be a point of reference for inquiries and interest of this kind.