6. To recommend to the Planning Committee improvements in procedures and policies related to programming at ALA Annual Conference.

Composition: 12 members appointed by the ALA President-Elect for a three year term. The Committee is to make recommendations to the Planning Committee at the 1996 Annual Conference.

Item 4: Multiple Committee Appointments.

The Executive Board referred to both COO and the Membership Committee the issue of multiple committee appointments. The Membership Committee reviewed this issue and made its recommendations to COO. COO redrafted the language and recommends approval of the following policy changes:

4.4 Member Service Policy

No person shall concurrently serve in more than three separate positions. Governing board, committee, liaison, subcommittee, and other responsibilities which require service in another position (e.g., service on a committee which entails assembly representation) are not in conflict with this policy. The Executive Director shall notify members when they exceed this limitation.

4.5 delete; no longer needed

5.1 delete; no longer needed

Item 5: Policy 54.14 Revision.

At the 1993 Midwinter meeting, COO recommended and Council approved the discontinuance of SCRIM and the deletion of Policy 54.14. COO stated that it would return to Council at this Annual Conference with a charge and composition statement for a task force to examine and make recommendations on the void created by the deletion of Policy 54.14.

When we began to prepare for our work at Annual, COO’s staff liaison, Charles Harmon, solicited input from OLPR, OIF, and ACRL to determine current practice in providing support to members in the areas previously covered by 54.14 (tenure, status, fair employment practices, including discrimination and sexual harassment, due process, ethical practices, and the principles of intellectual freedom as set forth in policies adopted by Council) are currently handled. These reports are attached for your information.
Based on COO’s review of these reports, we concluded that ALA currently does, in fact, offer considerable support to ALA members in these areas. These reports show, for instance, that staff in OLPR use their considerable expertise and experience to describe various state and federal agencies that investigate discrimination complaints when members contact them with such complaints. ACRL, upon request, prepares written responses to appropriate college and university administrators outlining the Association’s concerns when institutions deny librarians faculty status. Additionally, OIF frequently receives complaints from librarians or library users regarding a failure to uphold professional standards related to intellectual freedom. The Office’s procedures for handling such complaints are detailed in the attachments. Support is further offered to our members who have been discriminated against, denied employment rights, or discharged because of their stand for the cause of intellectual freedom through the Merritt Humanitarian Fund. Finally, the Committee on Professional Ethics is charged with augmenting the Statement on Professional Ethics by explanatory interpretations and statements. These interpretations and statements, when developed, will assist members in promoting this very important professional standard.

Because ALA already transmits copies of our policies, interprets them for both employers and employees who request assistance, and in many instances encourages parties to work with each other, we are not recommending the establishment of a task force. We are instead recommending to you replacement language for policy 54.14 which articulates the current practice as outlined above.

COO recommends the following replacement language for Policy 54.14:

ALA provides, through its offices, divisions, round tables, and committees, information and referral services regarding tenure, status, fair employment practices (including discrimination and sexual harassment), due process, ethical practices, and the principles of intellectual freedom as set forth in policies adopted by Council.

ITEM 6: International Relations Committee Charge.

Based on a recommendation from the International Relations Committee, COO reviewed a revised charge statement for the Committee. COO slightly modified the language. The International Relations Committee reviewed the revisions and concurred with them. Therefore, COO recommends the approval of the attached charge for the International Relations Committee.
SCRIM asks that Council adopt Attachment A as policy governing SCRIM's actions. SCRIM was created by Council on the recommendation of the Review Committee on the Staff Committee on Mediation, Arbitration and Inquiry (SCMAI) of the American Library Association. The Review Committee Report, 1987-88, CD #47, was approved by Council at the 1988 Annual Conference.

In drafting the proposed policy, SCRIM relied on several sources:

- opinion and advice from ALA's legal counsel - Jenner and Block, who have reviewed and advised ALA on this policy
- research into contemporary dispute resolution systems including those used by other associations such as the American Chemical Society and the American Arbitration Association
- consultation with consultants in the fields of dispute resolution and human resources management
- consultation with agencies that provide dispute resolution services, particularly mediation and arbitration
- information on resolving grievances was obtained from seminars sponsored by the American Arbitration Association and on grievance mediation sponsored by the United States Department of Labor.

I. Policies:

Three recommendations of the Review Committee were policy issues. SCRIM addressed those issues as follows: (Material in quotes is taken from the Review Committee Report - 1987-88 CD #47).
A. **Recommendation #4:** "The Committee should consider acting on cases in litigation and recognize opportunities for ALA to provide "expert witness" or file *amicus curiae* in instances where it is clear that Association policies or professional principles are at stake."

- The proposed policy clarifies how SCRIM would handle a request for expert witness and under what circumstances it would recommend an amicus curiae brief.

B. **Recommendation #5:** "Arbitration should not be a function of the Committee itself, except that it could refer parties to official arbitrators. Concentration [of the SCRIM Committee] should be on the inquiry and mediation aspects."

- The proposed policy deletes arbitration and emphasizes mediation and Inquiry.

C. **Recommendation #6:** "The Committee should consider whether the procedure of strict confidentiality should continue, or whether other models should be explored. A report, with alternatives might prove helpful in making a decision and it is recommended that the Committee prepare such a report."

- SCRIM has defined a confidentiality policy more explicitly and has clarified when and how information would be disclosed.

II. **Committee Charge:**

SCRIM requests two changes in the charge statement approved by Council.

- SCRIM recommends that the size of the Committee be increased from five members to seven to help with the anticipated increase in cases.

- SCRIM requests that the staff liaison be appointed by the Executive Director as is the case with other ALA committees and activities that require a staff liaison, rather than being designated in the Charge to the Committee.
III. Changes between 1979 Program of Action and revised SCRIM policy:

In drafting this policy, the Committee used the 1980 "Program of Action," as a model. It was the policy of the predecessor committee Standing Committee on Mediation, Arbitration and Inquiry (SCMAI) (see attachment B). The following differences are significant:

- Procedures have not been included. SCRIM will develop a separate procedure manual.
- SCRIM sections: Section IV, "Conduct of SCRIM" and Section VI, "Cases That Are In Other Proceedings;" have been added.
- SCRIM Sections I, "Purpose" and Section II, "Charge To The Committee" replace Program of Action Section I, "Establishment of Committee," and Section II, "Name Of Committee."
- SCRIM Section VII, "Program Components" includes definitions of Review, and Mediation and Inquiry and replaces Program of Action Section V, "Inquiries."
- SCRIM Section IX, "Program Assessment" replaces Program of Action Section XI, "Program Review."

IV. Other non-policy recommendations:

The Review committee made several other suggestions that are not policy.

A. Recommendation #2: "The ALA policies, which support the work of the Committee, should be gathered into one document for easy reference and information for staff and membership. Areas not specifically covered by policies should be reviewed for possible policy statement. Further, it is recommended that ALA Committees which review and recommend policies relating to the Committee's charge - i.e. OIF, OLOS, and OLPR - review existing policies with the thought that policy gaps would be recommended to Council for action."
SCRIM has collected the applicable ALA policies and makes appropriate policies available to complainants. A joint task force with representatives from LAMA, OLPR, and ASCLA is reviewing existing employment related policies for policy gaps and currency and will make recommendations on whether new policies are needed and whether existing policies should be revised.

B. Recommendation #3: "Members of the Committee should annually receive briefings from ALA counsel regarding employment and labor laws. Further there should be a training manual with other background information, including definition of mediation and inquiry."

SCRIM will implement a training program and manual for committee members including briefings from legal counsel.

C. Recommendation #7: "An effective publicity and public relations program should be undertaken as an emphasis on membership services to the association."

After the policy is adopted, SCRIM will develop publicity materials to make the work of the committee known to ALA members.

D. Recommendation #9: "A budget category should be established to begin a publicity program as part of membership services. At the same time, it should be recognized that a larger amount may be needed to be budgeted in the future to accommodate staff and material costs."

SCRIM has submitted a budget request for FY91 as part of the regular budget review process. This will cover costs of mediation and Inquiry cases, committee expenses, publicity, legal counsel and staffing.

Submitted by:
Monteria Hightower, Chair
Lorene B. Brown
Anna Curry
Donna Dziedzic
Jeanne Isacco
Policy Statement: Program of Review, Inquiry and Mediation

Standing Committee on Review, Inquiry and Mediation (SCRIM)

I. Purpose

The purpose of the program is to support professional standards and ethics as defined in ALA policies. The program provides for review, inquiry or mediation when the American Library Association receives a formal complaint of an alleged violation of ALA policies in the areas assigned to SCRIM in its charge.

II. Charge to Committee

The Committee is titled the Standing Committee on Review, Inquiry, and Mediation. It is assigned responsibility for review, inquiry and mediation regarding tenure, status, fair employment practices (including discrimination and sexual harassment), due process, ethical practices, and the principles of intellectual freedom as set forth in policies adopted by the Council of ALA.

A. Membership: This standing committee is comprised of seven (7) individuals from the membership appointed by the ALA president for two year terms. There shall be two (2) ex-officio members, the directors of the Office for Library Personnel Resources and the Office for Intellectual Freedom.

B. A staff liaison to the Committee shall be appointed by the ALA Executive Director.

III. Scope of Responsibility

SCRIM provides access to and oversees the process of review, mediation and inquiry. In its work, SCRIM utilizes policies approved by the ALA Council in the areas set forth in the charge. SCRIM has the authority to interpret ALA policies but does not have the authority to make policy for ALA or for ALA units. SCRIM has authority to recommend development or revision of policies to the appropriate units as needed.

SCRIM recognizes that there are complaint resolution processes available outside ALA; therefore, at an early stage in the complaint process, SCRIM will advise
complainants to seek information on their legal rights from an attorney. As appropriate, SCRIM will recommend other possible avenues for a redress of the complaint.

IV. Conduct of SCRIM

A. Impartiality

Review, mediation and inquiry are impartial and neutral processes. SCRIM members must act as impartial and neutral parties in any action taken regarding a complaint. SCRIM members do not serve as advocates for a complainant or respondent. A SCRIM member must disqualify him or herself immediately if there is an appearance of conflict of interest or of a lack of impartiality or neutrality.

B. Confidentiality

SCRIM and the Inquiry team will maintain confidentiality in all activities relating to complaints, except as disclosure is required by or useful to the fact-finding process, or with respect to action taken by SCRIM or ALA as a result of the complaint. The submission of a formal complaint constitutes an agreement by the complainant that ALA, SCRIM or its inquiry teams may make disclosures for such purposes, and an acknowledgement by the complainant that neither ALA nor SCRIM can guarantee the further confidentiality of disclosures made to third parties.

V. Complaints

SCRIM will consider only formal complaints. A formal complaint is filed in writing on the SCRIM complaint form. SCRIM is the sole dispute resolution body within ALA that handles formal complaints received at ALA regarding tenure, status, fair employment practices (including discrimination and sexual harassment), due process, ethical practices, and the principles of intellectual freedom as set forth in policies adopted by the Council of ALA. Complaints must be submitted by individuals or groups who are direct parties to the case. Complaints must concern actions that fall within SCRIM's charge. Complainants may withdraw a complaint at any time. SCRIM will accept a complaint up to a year from the date the incident occurred.

SCRIM may decline to undertake review, inquiry or mediation with respect to any formal complaint for any reason. Upon
appeal by a complainant, the ALA Executive Board may direct
SCRIM to undertake a review, inquiry or mediation with
respect to a formal complaint as to which SCRIM has declined
review, inquiry or mediation. A decision to reject a
complaint is not a judgment on the merits of the case.

VI. Cases that are in other proceedings

A. Complaints in litigation, administrative law or local
grievance hearings

SCRIM will not conduct mediation or inquiry if a
complainant and respondent are involved in any other
proceedings, such as litigation, administrative law, or
local grievance hearings over the matter brought before
SCRIM. SCRIM may offer mediation to a complainant and
respondent as an alternative to those other
proceedings. SCRIM will also not accept cases if a
decision has already been reached through litigation,
administrative law or local grievance hearings.

B. Cases in Litigation

Expert witness

When a case is in litigation and upon receiving a
written request SCRIM may suggest names of individuals
who may be willing to serve as expert witnesses. SCRIM
may identify two types of expert witnesses, those who
speak to ALA policy and those who speak about their own
expertise. Expert witnesses speak on behalf of the
Association only when ALA has relevant policy.

Amicus brief

Only the ALA Executive Board has authority to
decide when ALA files an amicus brief. SCRIM may
recommend to the ALA Executive Board that ALA file an
amicus brief. SCRIM will outline the issues and the
reasons for its recommendations. An amicus brief is
filed when the court is willing to accept the brief and
is in an area where the association has expertise. An
amicus brief is filed only in relation to a principle
of importance to the profession as defined in ALA
policies.
VII. Program Components

A. Review

A review is the examination of a formal complaint to ascertain the relationship to ALA policies within SCRIM's purview and to determine the appropriate action for the association to take. During a preliminary review, SCRIM may contact other direct parties to the complaint.

B. Mediation

When it appears that ALA policies are applicable to a complaint, SCRIM may offer the option of mediation through a recognized agency. It is a means of dispute resolution that involves the use of a trained neutral third party as a facilitator. Mediation is a voluntary process to which both parties must agree. The objective is to help the parties reach a solution that is acceptable to both parties.

ALA may support mediation at its sole discretion and on a case by case basis by providing the complainant with some funding for the services of a trained mediator. Funding for this purpose will be approved by the ALA Executive Board annually and included in the SCRIM budget.

The proceedings and outcomes of mediation are confidential between the direct parties and are not reported to SCRIM.

C. Inquiry

An inquiry is a formal non-legal investigation of a complaint. Inquiry is a four step process that is begun after SCRIM receives legal counsel guidance: (1) a fact finding interview conducted by an impartial three member SCRIM inquiry team, plus one staff liaison; (2) an inquiry team report of its findings to SCRIM; (3) a confidential report with recommendations based on the fact finding report submitted by SCRIM to the ALA Executive Board; and (4) the Executive Board determines action.

Both the complainant and the respondent have the right to appear before the inquiry team. The complainant shall have the right to present his or her complaint to the inquiry team. The respondent shall have the right to present a defense.
VIII. Outcomes of Inquiry

Outcomes are based on the specific factual findings of an inquiry. Actions that may be recommended by SCRIM to the Executive Board include corrective actions or sanctions.

Corrective Actions:

Corrective actions may be recommended when an inquiry does not show a violation of ALA policies but does show that the institution could benefit from improvement in practices. Suggestions for such improvements will be sent as confidential recommendations from the ALA Executive Board to the institution for voluntary implementation.

Sanctions:

Sanctions are punitive actions taken by the ALA Executive Board upon the recommendation of SCRIM when a fact finding inquiry shows there has been a serious violation of ALA policies. Proposed sanctions are reviewed by legal counsel before being imposed. Sanctions are always against institutions, not against individuals. There are two types of sanctions: reprimand and censure. When sanctions are imposed, they are based on the seriousness of the violation and the willingness of the institution to comply with the association's recommendations. Before sanctions are made public, institutions always are given an opportunity to appear before the Executive Board in executive session.

(1) Reprimand: a confidential communication expressing ALA's disapproval of the institution's violation of ALA policy and recommendation for correction of the violations. This may be used when the institution has expressed a willingness to correct the violation of ALA policy.

(2) Censure: a published report on the violation of policies adopted by ALA Council. When censured libraries are ALA members, their membership is also suspended. Censure is given when the institution is unwilling to correct the violations of ALA policies.

Upon the Executive Board's acceptance of inquiry reports, the full report, a summary thereof, or a statement shall be published by American Libraries if so determined by the Executive Board.

Removal of Sanctions:

Sanctions may be withdrawn when the conditions causing their original imposition are corrected, and where there is reason
to believe that ALA policies will be observed in the future or when other circumstances warrant their removal.

IX. Program Assessment

In order to assure Council and the membership of full implementation of the program of review, Inquiry and mediation, an assessment of the program will be made at least every five years. The review of the nature and frequency of cases, the conduct of the program, and the effectiveness of the program will be conducted by a special committee, to be known as the Special Committee to Assess the Program of Action for Review, Inquiry and Mediation, appointed by the President of the American Library Association. The special committee will present its report to the Executive Board and to Council.

X. Glossary

Amicus Curiae brief

A brief filed at the appellate court level by an individual or organization who is not a direct party to the action but who has a substantial interest in the action. An amicus brief is filed when the court is willing to accept the brief and is in an area where the party has expertise. ALA would file an amicus brief when there are issues that have implications for libraries and librarians which may not be treated in depth by the parties.

Complainant

Individual (or group) who files the Request for Action.

Complaint

A written statement by a direct party to the case stating the cause of the request for action.

Expert witness

An expert witness is someone with a particularized or specialized body of knowledge who under special rules of evidence and with the permission of the court is allowed to give opinion testimony which for non expert witnesses would not be admissible in court.
Litigation

An action brought in court to enforce a right.

Respondent

Organization against whom charge is brought and who is so named in the Request for Action.
Litigation

An action brought in court to enforce a right.

Respondent

Organization against whom charge is brought and who is so named in the Request for Action.
PROGRAM OF ACTION FOR MEDIATION, ARBITRATION, AND INQUIRY


I. ESTABLISHMENT OF COMMITTEE

In order to carry out the intent and purposes of this policy, as hereinafter set forth, a Committee, composed of staff members of the American Library Association, is hereby established. The Committee shall be appointed by the Executive Director, and shall be composed of five members, three of whom must be employed at a grade level of program director or its equivalent.

Nothing herein shall preclude the Committee, or its chairperson from drawing into the Committee, on a temporary basis, and as may be necessary or desirable, members of the Association, or staff members of ALA, who are also personal members of the Association, who can supply needed expertise.

II. NAME OF THE COMMITTEE

The Committee shall be known as the Staff Committee on Mediation, Arbitration, and Inquiry, hereinafter referred to as the Committee.

III. SCOPE OF RESPONSIBILITY

The Committee is hereby assigned responsibility for mediation, arbitration, and inquiry, relating to tenure, status, fair employment practices (including discrimination and sexual harassment, due process, ethical practices, and the principles of intellectual freedom as set forth in policies adopted by the Council of the American Library Association.

The Committee shall have full authority to interpret all pertinent ALA approved policies in implementing this PROGRAM OF ACTION FOR MEDIATION, ARBITRATION, AND INQUIRY and conducting activities to meet its committee responsibilities.

Nothing in the PROGRAM OF ACTION FOR MEDIATION, ARBITRATION, AND INQUIRY nor in the authority assigned to the Committee shall be understood, implied or interpreted as granting or vesting in the Committee any policy-making function for any unit of the American Library Association. Nothing in this limitation, however, shall preclude the Committee from referring to any appropriate unit the need for ALA policy.
IV. COMPLAINTS

A. All complaints of alleged violations received at ALA Headquarters, regardless of the unit or individual receiving such, shall be forthwith transmitted to the Committee. No complaint of any alleged violation shall be considered unless it is made by a party directly involved in the alleged violation. Upon receipt, all complaints shall be acted upon in an objective manner in order to provide fair and just treatment of all. The decision by SCMAI to accept or reject a complaint, implies no supposition as to the rightness or wrongness of the complainant or the validity of the complaint.

1. When a complaint is received, whether oral or written, the Committee shall supply a standard form, to be called a Request for Action. The form is to be completed and signed, and returned to the Committee by the complainant.

2. Until a completed and signed Request for Action is received by the Committee, no formal action will be taken.

3. That a completed and signed form is necessary for formal action in no way precludes the Committee from taking informal action, such as, but in no way limited to telephoning the complainant to offer reassurance or to gather additional information, helping the complainant find a position, if he or she is unemployed, advising the complainant of local channels for the redress of the grievance, or notifying alternative sources of potential and financial support as appropriate. In some instances, "informal" action may include an actual visit to the complainant, whether by a member of the Committee, or by another person or persons the Committee so designates. Such visits, however, will be undertaken only on the approval of the chairperson of the Committee, or his or her designate. "Informal" action may include such emergency action as the Committee agrees is necessary and appropriate.

B. After receiving a completed and signed form, it shall be the responsibility of the Committee to determine whether the matter is one which comes under its jurisdiction.

C. If the Committee determines that it has jurisdiction, it shall then determine the most appropriate course of action. Prior to undertaking any action the Committee shall determine whether or not an adequate remedy is available from another

*Formal action means mediation, arbitration, filing of a brief, or inquiry.
source. Such an alternative remedy should be pointed out to
the complainant, and the Committee may offer its assistance
in the complainant's pursuit of that alternative. If no
remedy is available from an alternative source, the Committee
shall proceed to act.

1. Among, but not limited to, the possible courses of
action are formal mediation and/or arbitration, an
inquiry or referral of the matter to a more appropriate
agency or organization.

2. If at any time after filing of the Request for Action,
the case involves a law suit, the Committee may determine
to file, and may file, an amicus curiae brief, or take
other appropriate action. The filing of an amicus curiae
brief, however, should be limited to cases involving
issues of primary importance to the American Library
Association which have not yet been determined by the
courts.

D. Except as provided in V. A., complaints may be withdrawn by the
complainant, upon written notification to the Committee or its chair­
person, at any time prior to the institution of formal action.

E. The Committee may decline to proceed further with a complaint at
any point in the proceedings, when in the judgement of the Committee,
further action is unfeasible. In an instance when the Committee
decides to proceed, a report of the reasons why no further action
is recommended shall be made by the chairperson to the ALA Executive
Board, which may either approve or disapprove the Committee's action.

V. INQUIRIES

A. The Committee may decide to attempt to arbitrate and mediate the
problem, or it may determine that arbitration and mediation are not
appropriate or would be to no avail and may proceed directly to an
inquiry. If the Committee determines that the problem cannot be
resolved through arbitration and/or mediation, and that the matter
warrants a formal inquiry, then the Committee shall so notify the
complainant. In such notification, the complainant shall be
apprised of the seriousness of such an undertaking, and shall further
be informed that he or she has ten days to withdraw his or her
Request for Action. If at the end of the ten-day period, the
complainant has not withdrawn this Request for Action, a fact-finding
subcommittee shall be appointed. Once the work of the fact-finding
subcommittee has begun, no complainant may withdraw a Request except by
written or personal communication to the Chairperson of SCMAI, who
will require a majority vote of the Committee to cease the process
of inquiry.

In those cases which are in the process of local hearings, no formal
inquiry shall be made, except in extraordinary circumstances, and
no formal inquiry shall be made into cases which are in litigation.
Inquiries shall be conducted objectively in order to provide fair and
just treatment of all.
B. The Committee shall appoint a fact-finding subcommittee whose duty it shall be to gather all of the facts involved in the matter, by interviewing the parties concerned, and through other appropriate means.

1. The fact-finding subcommittee shall be composed, generally, of three persons, including one member of Headquarters staff. Two persons, with the appropriate background of knowledge and experience in regard to the specific situation, shall be drawn from the ALA membership. In all cases, review by peers shall be provided, so that academic librarians conduct inquiries concerning academic librarians and libraries; school librarians conduct inquiries concerning school librarians and libraries; and so forth.

2. All interviews by fact-finding subcommittees shall be conducted in the following manner:

a. All interviews shall be recorded and transcribed.

b. Immediately after the completion of all interviews, the subcommittee will prepare a detailed outline to be used by staff in writing the report.

c. Transcripts shall be made by the Committee for use by staff in writing the report.

d. Transcripts, after review, when necessary, by ALA Legal Counsel and deletion of any actionable material, shall be forwarded to interviewees with certificates of endorsement, for signature and certification. The certificate of endorsement shall read as follows:

   CERTIFICATE

   I certify that the above and foregoing is a transcript of the interview given by me to the Fact-Finding Subcommittee composed of Name, Name, and Name, in the matter of Name, on the day of at .

   I further certify that the above and foregoing is correct as it stands or has been corrected by me and each correction, addition, or deletion has been initialed by me.

   Signed and acknowledged this day of 19 .

   Signature
e. Certified transcripts shall be used as background to write the report, after which the transcripts shall be placed in a confidential file designated by the Committee. This file will be accessible only to members of the Committee on Mediation, Arbitration and Inquiry, to such persons as the Committee may authorize, and to such persons who may require the transcripts for reference in any further hearing(s) by the ALA Executive Board.

3. Following the completion of a fact-finding investigation a written report of the findings and recommendations shall be prepared. All members of the fact-finding subcommittee should examine the report, indicating their concurrence or disagreement with its findings and recommendations. Reports of the fact-finding subcommittees shall be sent to the Chairperson of SCMAI who shall direct copies to the ALA Executive Director, the ALA Legal Counsel and to the Committee for further action.

4. It shall be the responsibility of the Committee to recommend appropriate action, based on the facts gathered in the investigation and reported in written form, to the ALA Executive Board. Members of the fact-finding subcommittees shall not vote on actions.

a. Reports of fact-finding investigations shall be considered highly confidential and shall not be made public, except as authorized by the ALA Executive Board.

b. Reports of fact-finding investigations, including revisions and recommendations for further action, as determined by the Committee shall be reviewed by ALA Legal Counsel prior to submission to the Executive Board.

c. Upon acceptance and approval of reports of fact-finding investigations by the Executive Board, the full report, a summary thereof, or a statement shall be published in AMERICAN LIBRARIES if so determined by the Executive Board.

VI. SANCTIONS

Sanctions may be defined as the appropriate penalty or penalties incurred for violations of one or more of the ALA approved policies to which this PROGRAM OF ACTION relates.** When the facts gathered in a case so warrant, one or more of the following sanctions may be recommended:

**The American Library Association views all sanctions as grave, but particularly Section C. Such a sanction should be applied judiciously and only under extreme circumstances. Sanctions should be applied to administrations as a whole, and rarely, if ever, to specific individuals.
A. Publication of a report that includes a statement of censure indicating the strong disapproval of ALA because of a violation of one or more of the policies to which this PROGRAM OF ACTION relates. If, in the judgment of SCMAI, and the complainant, continued negotiations might result in an amicable solution to the administrative problems involving the complainant, the Board on SCMAI's recommendation, may authorize a lapse of time of no longer than six months, between the Board's acceptance of the SCMAI report and its invocation of sanctions. The publication of the report would also be subject to this six-month delay.

B. Suspension or expulsion from membership in ALA.

C. Listing of parties under censure in AMERICAN LIBRARIES as a warning to persons considering employment in an institution under censure that its practices and policies are in conflict with ALA policies concerning tenure, status, fair employment practices, due process, ethical practices, and/or the principles of intellectual freedom. On the same page with such listings of censured libraries shall appear the following statement:

"The fact that the name of an institution appears on the censured list of administrations does not establish a boycott of a library, nor does it visit censure on the staff. There is no obligation for ALA members to refrain from accepting appointment in censured libraries. The ALA advises only that librarians, before accepting appointments, seek information on present conditions from the Staff Committee on Mediation, Arbitration and Inquiry at Headquarters".

VII. APPLICATION OF SANCTIONS

Sanctions can only be applied upon the completion of a full fact-finding inquiry, leading to a formal report on the basis of which the Committee recommends the imposition of appropriate sanctions. No sanction shall be imposed except with the approval of the ALA Executive Board.

VIII. HEARINGS

Should the Committee recommend, and the Executive Board approve, the application of sanctions, the principals shall be notified that a hearing may be held to allow a final opportunity for appeals. A request for such a hearing should be made by the principals within forty-five days after receipt of notification. Copies of the report shall be forwarded to the principal(s) at this time.
IX. REMOVAL OF SANCTIONS

Sanctions may be withdrawn when the conditions causing their original imposition are corrected, and when there is reason to believe that ALA principles concerning tenure, status, fair employment practices, due process, ethical practices and/or the the principles of intellectual freedom will be observed in the future. To effect the removal of sanctions:

A. Each year the Committee shall query sanctioned institutions to determine if conditions warrant removal of sanctions, and/or

B. The sanctioned administration shall request review of the case, furnishing pertinent information as to why the sanctions should be removed;

C. The Committee votes to recommend to the ALA Executive Board that sanctions be removed or retained and that appropriate notice of the Board's action be published in AMERICAN LIBRARIES.

X. ALTERNATIVE ACTIONS

In addition to the possible sanctions, other recommendations for action can include, but are not limited to, the following:

A. Distribute summaries of the final report to the library and educational press, to national newspapers, and to other appropriate media, with a statement that copies of the report are available from the Committee.

B. Assist, as appropriate, in finding suitable temporary or permanent employment for individuals who have lost their positions.

XI. PROGRAM REVIEW

In order to assure Council and the membership of full implementation of the PROGRAM OF ACTION FOR MEDIATION, ARBITRATION, AND INQUIRY, a review of the program will be made at least every three years. The review of the nature and frequency of cases, the conduct of the program, and the effectiveness of the program will be conducted by a special review committee, to be known as the Special Committee to Review the Program of Action for Mediation, Arbitration, and Inquiry appointed by the President of the American Library Association. The review committee will present its report and any recommendation for program changes to the Executive Board and to Council.

American Library Association
50 E. Huron Street
Chicago, Illinois 60611
312-944-6780
I. ESTABLISHMENT OF COMMITTEE

In order to carry out the intent and purposes of this policy, as hereinafter set forth, a Committee, composed of staff members of the American Library Association, is hereby established. The Committee shall be appointed by the Executive Director, and shall be composed of five members, three of whom must be employed at a grade level of program director or its equivalent.

Nothing herein shall preclude the Committee, or its chairperson from drawing into the Committee, on a temporary basis, and as may be necessary or desirable, members of the Association, or staff members of ALA, who are also personal members of the Association, who can supply needed expertise.

II. NAME OF THE COMMITTEE

The Committee shall be known as the Staff Committee on Mediation, Arbitration, and Inquiry, hereinafter referred to as the Committee.

III. SCOPE OF RESPONSIBILITY

The Committee is hereby assigned responsibility for mediation, arbitration, and inquiry, relating to tenure, status, fair employment practices (including discrimination and sexual harassment, due process, ethical practices, and the principles of intellectual freedom as set forth in policies adopted by the Council of the American Library Association.

The Committee shall have full authority to interpret all pertinent ALA approved policies in implementing this PROGRAM OF ACTION FOR MEDIATION, ARBITRATION, AND INQUIRY and conducting activities to meet its committee responsibilities.

Nothing in the PROGRAM OF ACTION FOR MEDIATION, ARBITRATION, AND INQUIRY nor in the authority assigned to the Committee shall be understood, implied or interpreted as granting or vesting in the Committee any policy-making function for any unit of the American Library Association. Nothing in this limitation, however, shall preclude the Committee from referring to any appropriate unit the need for ALA policy.
IV. COMPLAINTS

A. All complaints of alleged violations received at ALA Headquarters, regardless of the unit or individual receiving such, shall be forthwith transmitted to the Committee. No complaint of any alleged violation shall be considered unless it is made by a party directly involved in the alleged violation. Upon receipt, all complaints shall be acted upon in an objective manner in order to provide fair and just treatment of all. The decision by SCMAI to accept or reject a complaint, implies no supposition as to the rightness or wrongness of the complainant or the validity of the complaint.

1. When a complaint is received, whether oral or written, the Committee shall supply a standard form, to be called a Request for Action. The form is to be completed and signed, and returned to the Committee by the complainant.

2. Until a completed and signed Request for Action is received by the Committee, no formal action will be taken.

3. That a completed and signed form is necessary for formal action in no way precludes the Committee from taking informal action, such as, but in no way limited to telephoning the complainant to offer reassurance or to gather additional information, helping the complainant find a position, if he or she is unemployed, advising the complainant of local channels for the redress of the grievance, or notifying alternative sources of potential and financial support as appropriate. In some instances, "informal" action may include an actual visit to the complainant, whether by a member of the Committee, or by another person or persons the Committee so designates. Such visits, however, will be undertaken only on the approval of the chairperson of the Committee, or his or her designate. "Informal" action may include such emergency action as the Committee agrees is necessary and appropriate.

B. After receiving a completed and signed form, it shall be the responsibility of the Committee to determine whether the matter is one which comes under its jurisdiction.

C. If the Committee determines that it has jurisdiction, it shall then determine the most appropriate course of action. Prior to undertaking any action the Committee shall determine whether or not an adequate remedy is available from another

*Formal action means mediation, arbitration, filing of a brief, or inquiry.
source. Such an alternative remedy should be pointed out to the complainant, and the Committee may offer its assistance in the complainant's pursuit of that alternative. If no remedy is available from an alternative source, the Committee shall proceed to act.

1. Among, but not limited to, the possible courses of action are formal mediation and/or arbitration, an inquiry or referral of the matter to a more appropriate agency or organization.

2. If at any time after filing of the Request for Action, the case involves a law suit, the Committee may determine to file, and may file, an amicus curiae brief, or take other appropriate action. The filing of an amicus curiae brief, however, should be limited to cases involving issues of primary importance to the American Library Association which have not yet been determined by the courts.

D. Except as provided in V. A., complaints may be withdrawn by the complainant, upon written notification to the Committee or its chairperson, at any time prior to the institution of formal action.

E. The Committee may decline to proceed further with a complaint at any point in the proceedings, when in the judgement of the Committee, further action is unfeasible. In an instance when the Committee declines to proceed, a report of the reasons why no further action is recommended shall be made by the chairperson to the ALA Executive Board, which may either approve or disapprove the Committee's action.

V. INQUIRIES

A. The Committee may decide to attempt to arbitrate and mediate the problem, or it may determine that arbitration and mediation are not appropriate or would be to no avail and may proceed directly to an inquiry. If the Committee determines that the problem cannot be resolved through arbitration and/or mediation, and that the matter warrants a formal inquiry, then the Committee shall so notify the complainant. In such notification, the complainant shall be apprised of the seriousness of such an undertaking, and shall further be informed that he or she has ten days to withdraw his or her Request for Action. If at the end of the ten-day period, the complainant has not withdrawn this Request for Action, a fact-finding subcommittee shall be appointed. Once the work of the fact-finding subcommittee has begun, no complaint may withdraw a Request except by written or personal communication to the Chairperson of SCMAI, who will require a majority vote of the Committee to cease the process of inquiry.

In those cases which are in the process of local hearings, no formal inquiry shall be made, except in extraordinary circumstances, and no formal inquiry shall be made into cases which are in litigation. Inquiries shall be conducted objectively in order to provide fair and just treatment of all.
B. The Committee shall appoint a fact-finding subcommittee whose
duty it shall be to gather all of the facts involved in the
matter, by interviewing the parties concerned, and through
other appropriate means.

1. The fact-finding subcommittee shall be composed,
generally, of three persons, including one member
of Headquarters staff. Two persons, with the appro-
priate background of knowledge and experience in
regard to the specific situation, shall be drawn
from the ALA membership. In all cases, review by
peers shall be provided, so that academic librarians
conduct inquiries concerning academic librarians and
libraries; school librarians conduct inquiries con-
cerning school librarians and libraries; and so forth.

2. All interviews by fact-finding subcommittees shall be
conducted in the following manner:

a. All interviews shall be recorded and transcribed.

b. Immediately after the completion of all interviews,
the subcommittee will prepare a detailed outline
to be used by staff in writing the report.

c. Transcripts shall be made by the Committee for use
by staff in writing the report.

d. Transcripts, after review, when necessary, by ALA
Legal Counsel and deletion of any actionable
material, shall be forwarded to interviewees with
certificates of endorsement, for signature and
certification. The certificate of endorsement
shall read as follows:

CERTIFICATE
I certify that the above and foregoing is a trans-
cript of the interview given by me to the Fact-Finding
Subcommittee composed of Name ____________, Name ____________,
and Name ____________, in the matter of Name ____________,
on the ____ day of ______ at ________________.

I further certify that the above and foregoing is
correct as it stands or has been corrected by me and
each correction, addition, or deletion has been
initialed by me.

Signed and acknowledged this ____ day of ______ 19 ___

 ____________________________
Signature
e. Certified transcripts shall be used as background to write the report, after which the transcripts shall be placed in a confidential file designated by the Committee. This file will be accessible only to members of the Committee on Mediation, Arbitration and Inquiry, to such persons as the Committee may authorize, and to such persons who may require the transcripts for reference in any further hearing(s) by the ALA Executive Board.

3. Following the completion of a fact-finding investigation a written report of the findings and recommendations shall be prepared. All members of the fact-finding subcommittee should examine the report, indicating their concurrence or disagreement with its findings and recommendations. Reports of the fact-finding subcommittees shall be sent to the Chairperson of SCMAI who shall direct copies to the ALA Executive Director, the ALA Legal Counsel and to the Committee for further action.

4. It shall be the responsibility of the Committee to recommend appropriate action, based on the facts gathered in the investigation and reported in written form, to the ALA Executive Board. Members of the fact-finding subcommittees shall not vote on actions.

   a. Reports of fact-finding investigations shall be considered highly confidential and shall not be made public, except as authorized by the ALA Executive Board.

   b. Reports of fact-finding investigations, including revisions and recommendations for further action, as determined by the Committee shall be reviewed by ALA Legal Counsel prior to submission to the Executive Board.

   c. Upon acceptance and approval of reports of fact-finding investigations by the Executive Board, the full report, a summary thereof, or a statement shall be published in AMERICAN LIBRARIES if so determined by the Executive Board.

VI. SANCTIONS

Sanctions may be defined as the appropriate penalty or penalties incurred for violations of one or more of the ALA approved policies to which this PROGRAM OF ACTION relates. When the facts gathered in a case so warrant, one or more of the following sanctions may be recommended:

**The American Library Association views all sanctions as grave, but particularly Section C. Such a sanction should be applied judiciously and only under extreme circumstances. Sanctions should be applied to administrations as a whole, and rarely, if ever, to specific individuals.
A. Publication of a report that includes a statement of censure indicating the strong disapproval of ALA because of a violation of one or more of the policies to which this PROGRAM OF ACTION relates. If, in the judgment of SCMAI, and the complainant, continued negotiations might result in an amicable solution to the administrative problems involving the complainant, the Board on SCMAI's recommendation, may authorize a lapse of time of no longer than six months, between the Board's acceptance of the SCMAI report and its invocation of sanctions. The publication of the report would also be subject to this six-month delay.

B. Suspension or expulsion from membership in ALA.

C. Listing of parties under censure in AMERICAN LIBRARIES as a warning to persons considering employment in an institution under censure that its practices and policies are in conflict with ALA policies concerning tenure, status, fair employment practices, due process, ethical practices, and/or the principles of intellectual freedom. On the same page with such listings of censured libraries shall appear the following statement:

"The fact that the name of an institution appears on the censured list of administrations does not establish a boycott of a library, nor does it visit censure on the staff. There is no obligation for ALA members to refrain from accepting appointment in censured libraries. The ALA advises only that librarians, before accepting appointments, seek information on present conditions from the Staff Committee on Mediation, Arbitration and Inquiry at Headquarters".

VII. APPLICATION OF SANCTIONS

Sanctions can only be applied upon the completion of a full fact-finding inquiry, leading to a formal report on the basis of which the Committee recommends the imposition of appropriate sanctions. No sanction shall be imposed except with the approval of the ALA Executive Board.

VIII. HEARINGS

Should the Committee recommend, and the Executive Board approve, the application of sanctions, the principals shall be notified that a hearing may be held to allow a final opportunity for appeals. A request for such a hearing should be made by the principals within forty-five days after receipt of notification. Copies of the report shall be forwarded to the principal(s) at this time.
IX. REMOVAL OF SANCTIONS

Sanctions may be withdrawn when the conditions causing their original imposition are corrected, and when there is reason to believe that ALA principles concerning tenure, status, fair employment practices, due process, ethical practices and/or the principles of intellectual freedom will be observed in the future. To effect the removal of sanctions:

A. Each year the Committee shall query sanctioned institutions to determine if conditions warrant removal of sanctions, and/or

B. The sanctioned administration shall request review of the case, furnishing pertinent information as to why the sanctions should be removed;

C. The Committee votes to recommend to the ALA Executive Board that sanctions be removed or retained and that appropriate notice of the Board's action be published in AMERICAN LIBRARIES.

X. ALTERNATIVE ACTIONS

In addition to the possible sanctions, other recommendations for action can include, but are not limited to, the following:

A. Distribute summaries of the final report to the library and educational press, to national newspapers, and to other appropriate media, with a statement that copies of the report are available from the Committee.

B. Assist, as appropriate, in finding suitable temporary or permanent employment for individuals who have lost their positions.

XI. PROGRAM REVIEW

In order to assure Council and the membership of full implementation of the PROGRAM OF ACTION FOR MEDIATION, ARBITRATION, AND INQUIRY, a review of the program will be made at least every three years. The review of the nature and frequency of cases, the conduct of the program, and the effectiveness of the program will be conducted by a special review committee, to be known as the Special Committee to Review the Program of Action for Mediation, Arbitration, and Inquiry appointed by the President of the American Library Association. The review committee will present its report and any recommendation for program changes to the Executive Board and to Council.

Adopted by ALA Council, January 11, 1979
American Library Association
50 E. Huron Street
Chicago, Illinois 60611
312-944-6780
REPORT OF THE REVIEW COMMITTEE
ON THE
STAFF COMMITTEE ON MEDIATION, ARBITRATION AND INQUIRY
OF THE
AMERICAN LIBRARY ASSOCIATION

A. Background of this Committee’s Charge

Procedures, established by Council to review work of the Staff Committee on Mediation, Arbitration, and Inquiry (SCMAI), require that "in order to assure full implementation of the PROGRAM OF ACTION FOR MEDIATION, ARBITRATION, AND INQUIRY, a review of the program will be made at least every three years." However, the last review was conducted in 1979. A number of recommendations from that Report have been approved, implemented and are reflected in The ALA Policy Manual (revised July 3, 1980). Further, in preparation for an anticipated 1982 review, ALA staff prepared a SCMAI "issues" report, intended to provide the necessary background for a review which was to follow. Although the review was not conducted, many of the observations in that report are still timely. Upon Executive Board approval President Regina Minudri appointed the following Review Committee at the San Francisco Conference in July 1987. Estelle Black, Donna Dziedzic, Jeanne Isaaco, Ann Randall, Betty-Carol Sellen, and Robert D. Stueart as chairperson. The committee was charged with reviewing "the nature and frequency of cases, the conduct of the program, and the effectiveness of the program." The committee herewith presents its report and recommendations for program changes to the Executive Board and Council.

In carrying out its charge, the review Committee accomplished the following tasks:
1. Met in a two and one-half day session at ALA headquarters, November 15-17, 1987. Present at various times during that meeting were several resource persons: Mr. James Whitehead, Labor Attorney with Sidley & Austin, ALA’s contracted law firm; Dr. Robert Kreiser, Chair of AAUP’s Committee A which has similar charges as SCMAI; and the following SCMAI members: Mr. Roger Parent, Deputy Executive Director of ALA and chairperson of SCMAI; Dr. Thomas Galvin, Executive Director of ALA; Ms. Judith Krug, Director of the Office for Intellectual Freedom; Ms. Margaret Myers, Director of the Office for Library Personnel Resources; and Ms. Ann Weeks, Executive Director of the American Association of School Librarians. All of those individuals made presentations, responded to questions, and generally addressed issues relating to the Review Committee’s charge. Others in attendance during parts of the meeting were: Mr. Ernest Martin, Associate Executive Director for Administrative Services and staff liaison to the Committee; Ms. Jeneice Guy, Deputy Director of the Office of Personnel Resources and a former member
of SCMAI; and Ms. Elaine Wingate, Membership Group Secretariat and a long time staff person who has worked with SCMAI. Ms. Ruth Frame, scheduled to meet with the Committee, was unable to do so but provided comments via telephone.

2. The chairperson of the Review Committee spent two days at ALA headquarters, October 13 and 30, 1987, examining each file containing a "Request for Action," which had been initiated since the last review of 1979. In addition, a list of cases with their disposition was prepared by staff for the Committee's information. Random samples of those cases were discussed in a confidential session with the chairperson of SCMAI during the November meeting.

3. The Committee solicited comments, through a questionnaire, to all ALA members who have filed a "Request for Action" since 1979. Respondents were not required to affix names to their responses which they returned to the Review Committee chairperson. Fifty-five percent of the questionnaires were returned.

4. The Committee held open hearings at the ALA Meeting in San Antonio, January 11, 1988, during which testimony and comments were received from individual members and specific units of the Association. Previous to that meeting the chairpersons of the following ALA Committees had been notified of that meeting and were requested to provide input: Intellectual Freedom Committee; Office for Library Outreach Services Advisory Committee; Office for Library Personnel Resources Advisory Committee; Minority Concerns Committee; Pay Equity Committee; Professional Ethics Committee; and Status of Women in Librarianship Committee.

5. The library press was notified of the open hearings schedule and American Libraries published a request for members who wanted to comment but who could not attend those hearings to send written comments to the chairperson of the Review Committee. The meeting was also highlighted in the Conference Program booklet.

6. A letter was sent to all current and former SCMAI members and Executive Directors of ALA divisions and Directors of ALA Offices seeking written comments.

7. A letter was sent to approximately 300 ALA members including council and selected divisional committee chairs asking for their perceptions of SCMAI activities and its role.

B. Background and Rationale for the Program

The ALA Program of Action for Mediation, Arbitration and Inquiry was instituted at the Dallas Conference in 1971 by action of Council. The Program established a Staff Committee on Mediation, Arbitration and Inquiry (SCMAI), to include five members of headquarters staff. The rationale for a staff committee, as opposed to a membership committee, was the need to act quickly on any request brought to the Committee. According to its charge as written in the ALA Handbook, "The Committee is assigned responsibility for mediation, arbitration, and inquiry related to tenure, status, fair employment practices (including discrimination and sexual harassment), due process, ethical practices,
and the principles of intellectual freedom as set forth in policies adopted by the Council of ALA". Committee appointments are made by the Executive Director of ALA. In effect, SCMAI is responsible for acting as a coordinating committee in handling complaints and investigations for the entire Association. The Program assigns to the Committee full authority to interpret all pertinent ALA approved policy in implementing the program, but it states specifically that no policy-making function is assigned to or invested in the Committee. The Committee therefore operates on the basis of ALA policies in effect at the time a complaint arises. Procedurally, a complainant (librarian, other library employee, employing library, trustee, or patron) directly involved in the alleged violation notifies SCMAI that (s)he wishes to pursue a course of action rectifying a grievance. Sometimes, that request comes first to another ALA unit, usually the Office for Library Personnel Resources (OLPR) or the Office for Intellectual Freedom (OIF), and is then referred to SCMAI. Pertinent information is solicited from the complainant by means of a "Request for Action" form. With that information in hand, SCMAI meets to discuss the request and to determine what actions it can take. Occasionally legal counsel is sought. The decision is then communicated to the complainant in writing. When applicable, the complainant is also made aware of financial aid available through the LeRoy C. Merritt Humanitarian Fund. The Committee strives to remain open-minded. This is consistent with its charge to be impartial rather than to serve as an advocate.

During an earlier period of time, particularly in the mid-1970’s, many complaints were handled, most of them informally. In several of those cases SCMAI investigated the situation and made recommendations as to a feasible solution of the major aspects of the problem and/or directed the complaint to the proper agency.

A few cases proceeded to a stage in which a fact-finding team, comprising both ALA members and staff, was appointed. Each team made on-site inquiries and furnished a report of findings to SCMAI, ALA legal counsel and the Executive Board. ALA has never entered into court cases at the fact-finding level, but has, at the appellate level, as a friend of the court, when issues of broad concern to the Association and the profession are being decided. In that regard the Association can offer to file an amicus curiae brief if the issue is of primary importance to ALA and has not yet been determined by the courts. Additionally, the Association can offer to provide expert testimony relating to facts which might not be readily available to the court. In no case though can ALA through SCMAI render legal advice to complainants. Current practice provides that no action will be taken by SCMAI until all litigation in the case has been completed or unless the issue has not yet gone to litigation.

ALA can impose sanctions on organizations or persons by pointing out that the particular institution in question does not adhere to ALA policies or has violated ALA policies. (Those policies are found primarily in sections 52-54 of the ALA Policy Manual). If the Executive Board authorizes sanctions, the fact is stated in American Libraries and the library press is
notified. Such actions have not been taken for a number of years.

In general, instances brought to SCMAI reveal that not every library has well defined policies and clear procedures regarding terms of employment, performance appraisals, warnings and notices, equal opportunity guidelines, length of probation, contract periods and renewals, and collection policies. It is also clear that many do not have detailed or inclusive written job descriptions for positions and lack clear channels of authority for resolving operational and personal problems. Historically, then, when one reviews the subjects of "Requests" they fall into two primary categories, lack of due process and unfair employment practices, and to a much lesser extent censorship issues which would normally go to the Intellectual Freedom Committee. By far the majority relate to personnel practices.

C. Amount and Character of SCMAI Activity

In 1979 it was estimated that each member of SCMAI expended approximately three to five hours weekly on those activities, although more time was needed if a formal inquiry was lodged, in which case two to four weeks of full-time equivalent employment was needed. Additionally, secretarial support was more than five hours per week. Estimated costs ranged between $30,000 and $60,000 annually for SCMAI activities, according to the 1979 Report. Neither of those estimates reflected the salaries of ALA members who served on inquiry teams.

Currently the costs are negligible because so few cases are brought to SCMAI. Although certain activities still go on - telephone calls, letters, memoranda to the files, Committee meetings, and some report writing - others, such as extensive report writing, travel arrangements, selecting personnel for the formal inquiries, on-site visits, and consultations with both the complainant and the employer and associates have virtually disappeared from the activities. To illustrate, in 1979 SCMAI received ten "Requests for Action" and during that time also received nineteen inquiries which did not result in a "Request for Action" form being filed; in 1985 the number had dropped to two "Requests for Action" and six other inquiries which did not result in a "Request for Action" being filed. This rather dramatic decrease may reflect the impact of new federal and state regulations; improved personnel policies in some institutions; improved local alternatives for the solution of grievances; effective educational programs developed by the Office for Intellectual Freedom; the Office of Library Personnel Resources' work in providing information, guidelines and assistance; a lack of ALA membership awareness of SCMAI's existence; or a combination of those and other things.

Within the specific charges to SCMAI, it appears that SCMAI has taken its responsibilities seriously and that the Program has been conducted with great care on the part of those involved. A consistent, deliberate approach has been taken to each "Request." The Program, as a whole, reflects staff dedication and professional concern. One could conclude that SCMAI has done most things right. Whether it has done all of the right things is quite another matter which Council must address. That involves
the issue refining SCMAI's current nebulous role and in promulgating additional policies to aid the Committee in its charge.

It should be repeated, as written in the last Report, that SCMAI is not "the proper instrument to aid in the continuous education of boards or other administrative units." Although such an education process is necessary as is a "long range educational program to inculcate proper personnel policies and procedures" in some recalcitrant American library institutions, it is not within the scope of SCMAI to conduct such a process. Finally, the Committee weighed the pros and cons of recommending abolishing/altering SCMAI. The Review Committee believes that the SCMAI program provides an important service, or at least a potential one, to ALA membership.

D. Specific Issues Which Lead to Recommendations

Following is a series of specific issues which emerged as the Review Committee addressed its charge. These provide background for recommendations which conclude this report.

1. Make-up of the Committee:

The five members of SCMAI ("three of whom must be employed at a grade level of program director or its equivalent") are appointed by the Executive Director from among the ALA staff. All Committee members work on SCMAI as additional assignments to their regular duties. All current members are in management positions. There is no budgetary, staff or clerical support allocated specifically for SCMAI. Each of the Committee members interviewed indicates that since there is little use of SCMAI at present, the time demand is minimal. They point out, however, that should the program be used more heavily, they could not handle the increased demands on their time without some sacrifice to their basic job assignments. SCMAI members receive no special training for working on the Committee.

Members of SCMAI and others raised several issues regarding the work of the Committee: 1) There is a wide gap between what membership might expect of SCMAI and the ability of both the Committee and ALA to respond; 2) There is possibility of conflict when ALA conducts an inquiry and both parties in the conflict are ALA members; 3) The ALA practice of non-intervention when litigation has already commenced, nevertheless creates confusion in the perceptions of those requesting help; 4) The Committee may not be appropriate to the present legal climate; 5) Confidentiality makes it difficult to inform ALA members of SCMAI's role and to generate membership interest and involvement in the issues that come before SCMAI and 6) There needs to be more specific definition of the work of SCMAI.

Several ALA members suggested a change in the membership of SCMAI, because:

- "The staff role may be best concerned with the investigation of complaints (not receipt of them or decision-making)."
- "SCMAI should not be an ALA Staff Committee...it ought to be comprised of members of ALA."


- "ALA committees chaired or staffed by ALA personnel...contradicts the intent and purpose of a membership-driven organization."
- "I am opposed to staff being on the committee."
- "If SCMAI-like activities are to be continued...counsel should work with staff to review issues..."
- "Given the increased workload of Divisions the imposition of a SCMAI assignment on divisional staff could be a significant handicap to the division(s) involved. I suggest a group outside of ALA staff might be more appropriate."

2. Review process:
   Calls/reports of complaints go to the chair of SCMAI. On the day the complaint is received written acknowledgement is made and the "Program of Action" statement is mailed. Response to all requests has been pro forma. The Committee meets when a formal "Request for Action" is received. In 1987 there were three general inquiries. Two were sent forms but there was no further request for assistance. The third person did file a "Request for Action" and had contacted a lawyer but was not in litigation. SCMAI referred that person to the Merritt Fund Committee which is providing financial assistance. In 1986 there were two requests for action. In 1985 there were none. In 1984 there were two. 1979 is the date of the last formal inquiry, and 1980 the date of the last offer to mediate.

3. Publicity/Awareness:
   Each year, from 1976 through 1981, there was an annual report on the work of SCMAI in the ALA Yearbook. For 1982-85 there were no articles but there was a reference in the Index drawing attention to past articles. Since 1985 there have been no references in the Yearbook. An online data base search located 16 references to SCMAI, the latest one dated June 1979. The ALA Handbook on Organization does have a listing for SCMAI as a Council Committee and also on the back cover under "Request assistance..."

   Two hundred and five (79%) replies were received to the questionnaire sent out by the Review Committee. Eighty five people wrote that they had never heard of SCMAI, had had to "look it up" to see what it was, couldn't remember ever reading about it anywhere, and therefore had no opinions on the Committee. Many letters providing detailed commentary on SCMAI. However, several made comments, such as, "there has been no mention", "I have seen no publicity", "I had forgotten that it exists..." Executive Directors of ALA Divisions and Directors of ALA Offices concede that there is little if any publicity. Respondents who had heard of SCMAI are of the impression that SCMAI had no power and therefore is ignored by the professional community.

   In the 1982 SCMAI report it was noted that "traditionally SCMAI has maintained strict confidentiality in all its work." This is one aspect which is not clearly defined in the program, but consideration should be given to "going public" once ALA has agreed to participate.
4. ALA’s Principles and Policies:

SCMAI is guided by policies adopted by the ALA Council and codified in the ALA Policy Manual. These include, but are not limited to, policies on tenure, status, fair employment practices, due process, ethical practices and intellectual freedom principles. Some units of the Association have statements and guidelines which have not been "adopted" by the Council. There is question as to whether they can be used as "Association" policies. Further, some existing policies need to be reviewed and refined. For example, the "Security of Employment" policy does not include statements about procedures in performance evaluation warnings and/or disciplinary activities that may precede termination.

SCMAI interprets policies and determines, sometimes with counsel, whether an ALA policy has been abridged in each individual case brought to it. Further, SCMAI has a role in informing ALA membership and other interested parties when the basic tenets of the profession have been ignored or violated. In general, ALA policy does explicate the basic philosophies and provisions of the profession as guidelines for the work of the Committee. Where policy does not cover an issue, SCMAI or other units of the Association should place priority on developing and bringing proposed new policies to Council. Rightfully, SCMAI has been reluctant to handle cases in which the complaint may be ambiguously covered by policy or in other cases not addressed at all by ALA policy. Just what ALA’s policies are in relation to SCMAI’s charge, would be best be illuminated in a booklet on the topic to inform membership and others of ALA policies.

5. SCMAI’S Activities as an ALA Priority

In order to determine how closely SCMAI’s responsibilities match ALA’s designated priorities the Strategic Long Range Plan of ALA was examined. Certain priority areas are easily identified.

PRIORITY AREA E: PERSONNEL RESOURCES. ALA promotes "the recruitment, education, professional development, rights, interests, and obligations of library personnel and trustees." Specific related goals are:

- Librarians and all other library personnel are paid equitable and attractive salaries...
- Effective library personnel policies are established and used.
- Librarianship recruits a racially and ethnically diverse group of high caliber persons.
- Librarians uphold the ALA Code of Ethics.
- Librarians are proactive professionals who ensure the free flow of information and ideas...

PRIORITY AREA C: INTELLECTUAL FREEDOM. Recognizes ALA’s responsibility to protect materials and personnel from censorship and to defend library personnel in support of intellectual freedom and the Library Bill of Rights, with specific related goals of:

- First Amendment rights are secure.
Persons whose First Amendment rights are challenged have adequate support.

6. SCMAI's Conflicting Roles:
   There is a conflict in the Committee's charge, on the one hand expecting that "inquiries shall be conducted objectively in order to provide fair and just treatment of all" (Sect. IV. A), and on the other, acting as advocate by "telephoning the complainant of local channels for the redress of the grievance" (Sect. IV. C. 3) Impartiality might become an issue in litigation. There seems to be a misperception about the role of SCMAI. Often it is expected to play the role of advocate for an individual rather than an advocate for the policies of ALA. The Committee is charged with impartially gathering and reviewing, not advocating. The "disappointment", expressed by many that SCMAI is not a strong advocate for the individual librarian, is a symptom of the larger problem that the Committee has in addressing its charge.

   In the official description of the work of SCMAI there is only brief note of the possibility to arbitrate and mediate. The emphasis in the document is on formal inquiry not investigation. Therefore there is little definition and explication of the concepts of arbitration to guide Committee actions. ALA's policies can serve as the basis for inquiry but local policies are the basis for arbitration procedures.

   A dual role of advocacy and impartial evaluation could lead one to question the committee's role in an organization that has such a variety of members - employers, employees, trustees, and institutions. Further, there is a question as to how effectively ALA can arbitrate and if that concept should be left to the experts and removed from the Committee's charge.

7. Staff Training:
   One of the most difficult aspects of the Committee's charge is the assumption that committee members have been prepared to handle cases which might come to them. This is not the case since the issues are complex and require expertise which can be developed most effectively through education and training. It would appear to be necessary to indoctrinate any member of the committee to the process of mediation and inquiry. An educational process must be established to ensure that committee members thoroughly understand the concept, can define the issues, and are familiar with the procedures, including policies underlying them.

8. Litigation:
   It has been the Association's practice to remain silent during stages of litigation. The membership clearly believes that the ALA should take a more proactive role in entering an Amicus Brief or acting as an expert witness. In areas where ALA policy or principles are at stake, it is felt that ALA should act as a friend of the court. Such action would need to be referred to legal counsel, upon a request, before steps could be taken, since SCMAI cannot render legal advice.
9. Budgetary Implications:
Since there have been few "Requests" over the past several years, there has been little use of the Association's resources. However, it is evident that should a more assertive approach be taken in areas of publicity and actively pursuing cases which might come as a result, then personnel and other financial resources would be needed to support that effort. It would be both time consuming and expensive. Since the concepts embodied in the Committee's charge are priorities of the Association, as identified in the SLRP process, a separate budgeted category may be necessary to effectively carry out those charges.

10. Referral to Other Agencies:
It seems obvious from talking with staff and membership that the "arbitration" role is one for which the committee is not prepared. It is one which has never been clearly defined in the Committee's charge and the authority to carry it out has never been described. However, it is an important concept in dispute settlement. The concept is one which requires a defined expertise with training and knowledge of procedures. Since there are agencies which deal specifically with this complex issue, ALA's role would be more legitimately carried out by identifying those agencies and referring inquiries to those experts. This procedure would require an alteration of the Committee's charge.

E. Recommendations
1. The Committee should be reformed to a membership committee as are other standing committees of the Association. Further, composition of and appointment to the committee should follow the guidelines prescribed in ALA's Bylaws: Article VII Committees, Sec. 3 Standing Committees. It is recommended that the Deputy Executive Director be designated as the staff liaison and also an ex-officio member of the Committee along with the directors of the Office of Library Personnel Resources and the Office of Intellectual Freedom.

2. The ALA policies, which support the work of the Committee, should be gathered into one document for easy reference and information for staff and membership. Areas not specifically covered by policies should be reviewed for possible policy statement. Further, it is recommended that ALA Committees which review and recommend policies relating to the Committee's charge - i.e. OIF, OLOS, and OLPR - review existing policies with the thought that policy gaps would be recommended to Council for action.

3. Members of the Committee should annually receive briefings from ALA counsel regarding employment and labor laws. Further there should be a training manual with other background information, including definition of mediation and inquiry.

4. The Committee should consider acting on cases in litigation and recognize opportunities for ALA to provide "expert witness" or file amicus curiae in instances where it is clear that Association policies or professional principles are at stake.
5. Arbitration should not be a function of the Committee itself, except that it could refer parties to official arbitrators. Concentration should be on the inquiry and mediation aspects.

6. The Committee should consider whether the procedure of strict confidentiality should continue, or whether other models should be explored. A report, with alternatives might prove helpful in making a decision and it is recommended that the Committee prepare such a report.

7. An effective publicity and public relations program should be undertaken as an emphasis on membership services to the Association. This should be done in conjunction with OLPR and OIF.

8. The Committee should not be expected to play an education role. Educational resources are legitimate concerns of other units of the Association which are charged with recommending policy to Council or to divisions of the Association.

9. A budget category should be established to begin a publicity program as a part of membership services. At the same time it should be recognized that a larger amount may need to be budgeted in the future to accommodate staff and material costs.

10. It is recommended that the Executive Board order disposal of case files which have accumulated since the last report of 1979.
PROGRAM OF ACTION FOR MEDIATION,
ARBITRATION AND INQUIRY

I. Establishment of Committee

In order to carry out the intent and purposes of this policy, as hereinafter set forth, a Committee, composed of senior staff members of the units of the Association with policy assignments in the areas hereinafter delineated, along with one staff member-at-large, is hereby established. The Committee shall be composed of five members, as follows:

- Executive Secretary, Association of College and Research Libraries
- Executive Secretary, Library Administration Division
- Director, Office for Intellectual Freedom
- One staff member-at-large, chosen at the discretion of the Executive Director of ALA
- ALA Executive Director, chairman

Nothing herein shall preclude the Committee, or its chairman, from drawing into the Committee, on a temporary basis, from time to time, and as may be necessary or desirable, senior staff members of other units of the Association when those other units may have interests involved or can supply needed expertise.

II. Name of the Committee

The Committee shall be known as the Staff Committee on Mediation, Arbitration and Inquiry (hereinafter referred to as the Committee).

III. Scope of Responsibility

The Committee is hereby assigned responsibility for mediation, arbitration, and inquiry, relating to tenure, status, fair employment practices, due process, ethical practices, and the principles of intellectual freedom as set forth in policies adopted by the Council of the American Library Association.

The Committee shall have full authority to interpret all pertinent ALA-approved policies in implementing this PROGRAM OF ACTION FOR MEDIATION, ARBITRATION AND INQUIRY and conducting activities to meet its committee responsibilities.
Nothing in this PROGRAM OF ACTION FOR MEDIATION, ARBITRATION AND INQUIRY not in the authority assigned to the Committee shall be understood, implied or interpreted as granting or vesting in the Committee any policy-making function for any unit of the American Library Association. Nothing in this limitation, however, shall preclude the Committee from referring to any appropriate unit the need for ALA policy.

IV. Complaints

A. All complaints of alleged violations received at ALA Headquarters, regardless of the unit or individual receiving such, shall be forthwith transmitted to the Committee. No complaint of any alleged violation shall be considered unless it is made by a party directly involved in the alleged violation.

1. When a complaint is received, whether oral or written, the Committee shall supply a standard form, to be called Request for Action. The form is to be completed and signed, and returned to the Committee by the complainant.

2. Until a completed and signed Request for Action is received by the Committee, no formal action will be taken.

3. That a completed and signed form is necessary for formal action in no way precludes the Committee from taking informal action, such as, but in no way limited to, telephoning the complainant to offer reassurance or to gather additional information, helping the complainant find a position if he is unemployed, advising the complainant of local channels for the redress of the grievance, or notifying alternative sources of potential interest and financial support as appropriate. In some instances, "informal" action may include an actual visit to the complainant, whether by a member of the Committee, or by another person or persons the Committee so designates. Such visits, however, will be undertaken only on the approval of the chairman of the Committee, or his designate. "Informal" action may include such emergency action as the Committee agrees is necessary and appropriate.

B. After receiving a completed and signed form, it shall be the responsibility of the Committee to determine whether the matter is one which comes under its jurisdiction.

*Formal action means mediation, arbitration, filing of a brief, or inquiry.
C. If the Committee determines that it has jurisdiction, it shall then determine the most appropriate course of action. Prior to undertaking the action deemed appropriate, however, the Committee shall ascertain that no adequate remedy is available from any alternative source.

1. Among but not limited to, the possible courses of action are formal mediation and/or arbitration, an inquiry or referral of the matter to a more appropriate agency or organization.

2. If at any time after filing of the Request for Action, the case involves a law suit, the Committee may determine to file, and may file, an AMICUS CURIAE brief, or take other appropriate action. The filing of an AMICUS CURIAE brief, however, should be limited to cases involving issues of primary importance to the American Library Association which have not yet been determined by the courts.

D. Except as provided in V-A., complaints may be withdrawn by the complainant, upon written notification to the Committee, or its chairman, at any time prior to the institution of formal action but not thereafter.

E. The Committee may decline to proceed further with a complaint at any point in the proceedings, when, in the judgment of the Committee, further action is unfeasible. In any instance when the Committee declines to proceed, a report of the reasons shall be made by the chairman to the ALA Executive Board.

V. Inquiries

A. When the Committee determines that a just and equitable resolution of the problem cannot be reached through arbitration and/or mediation, and that the matter warrants a formal inquiry, the Committee shall so notify the complainant. In such notification, the complainant shall be apprised of the seriousness of such an undertaking, and shall further be informed that he has ten days to withdraw his Request for Action. If, at the end of the ten-day period, the complainant has not withdrawn his Request for Action, a fact-finding subcommittee shall be appointed. (This paragraph is to be interpreted as meaning that the Committee may decide to attempt to arbitrate and mediate the problem, or it may determine that arbitration and mediation are not appropriate and/or would be to no avail and may proceed directly to an inquiry. However, no formal inquiry shall be made into cases which are in the process of local hearings, except in extraordinary circumstances, and no formal inquiry will be made into cases which are in litigation.)
B. The Committee shall appoint a fact-finding subcommittee whose duty it shall be to gather all of the facts involved in the matter, by interviewing the parties concerned, and through other appropriate means.

1. The fact-finding subcommittee shall be composed, generally, of three persons, including one member of Headquarters staff. Two persons, with the appropriate background of knowledge and experience in regard to the specific situation, shall be drawn from the ALA membership. In all cases, review by peers shall be provided, so that academic librarians conduct inquiries concerning academic librarians and libraries; public librarians conduct inquiries concerning public librarians and libraries; school librarians conduct inquiries concerning school librarians and libraries; and so forth.

2. All interviews by fact-finding subcommittees shall be conducted in the following manner:

(a) All interviews shall be recorded and transcribed.

(b) Immediately after the completion of all interviews, the subcommittee will prepare a detailed outline to be used by staff in writing the report.

(c) Transcripts shall be made by the Committee for use by staff in writing the report.

(d) Transcripts, after review, when necessary, by ALA Legal Counsel and deletion of any actionable material, shall be forwarded to interviewees with certificates of endorsement, for signature and certification. The certificate of endorsement shall read as follows:

CERTIFICATE

I certify that the above and foregoing is a transcript of the interview given by me to the Fact-Finding Subcommittee composed of _____(Name)_____, and _____(Name)_____, and _____(Name)_____, in the matter of _____(Name)_____, on the ____ day of ____ at _____.

I further certify that the above and foregoing is correct as it stands or has been corrected by me and each correction, addition, or deletion has been initialed by me.

Signed and acknowledged this ____ day of ____ 19__.

Signature
(e) Certified transcripts shall be used as background to write the report, after which the transcripts shall be placed in a confidential file designated by the Committee. This file will be accessible only to members of the Committee on Mediation, Arbitration and Inquiry, to such persons as the Committee may authorize, and to persons who may require the transcripts for reference in any further hearing(s) by the ALA Executive Board.

3. Following the completion of a fact-finding investigation a written report of the findings shall be prepared. Such reports of fact-finding subcommittees shall be sent to the ALA Executive Director, who shall direct copies to the ALA Legal Counsel and to the Committee for further action.

4. It shall be the responsibility of the Committee to recommend appropriate action, based on the facts gathered in the investigation and reported in written form, to the ALA Executive Board. (Members of the fact-finding subcommittees shall not vote on actions.)

   (a) Reports of fact-finding investigations shall be considered highly confidential and shall not be made public, except as authorized by the ALA Executive Board.

   (b) Reports of fact-finding investigations, including revisions and recommendations for further action, as determined by the Committee shall be reviewed by ALA Legal Counsel prior to submission to the Executive Board.

   (c) Upon acceptance and approval of reports of fact-finding investigations by the Executive Board, the full report, a summary thereof, or a statement shall be published in AMERICAN LIBRARIES if so determined by the Executive Board.

VI. Sanctions

Sanctions may be defined as the appropriate penalty or penalties incurred for violations of one or more of the ALA approved policies to which this PROGRAM OF
ACTION relates.** When the facts gathered in a case so warrant, one or more of the following sanctions may be recommended:

A. Publication of a report that includes a statement of censure, indicating the strong disapproval of ALA because of a violation of one or more of the policies to which this PROGRAM OF ACTION relates.

B. Suspension or expulsion from membership in ALA.

C. Listing of parties under censure in AMERICAN LIBRARIES as a warning to persons considering employment in an institution under censure that its practices and policies are in conflict with ALA policies concerning tenure, status, fair employment practices, due process, ethical practices, and/or the principles of intellectual freedom. On the same page with such listings of censured libraries shall appear the following statement:

"The fact that the name of an institution appears on the censured list of administrations does not establish a boycott of a library, nor does it visit censure on the staff. There is no obligation for ALA members to refrain from accepting appointment in censured libraries. The ALA advises only that librarians, before accepting appointments, seek information on present conditions from the Staff Committee on Mediation, Arbitration and Inquiry at Headquarters."

**The American Library Association views all sanctions as grave, but particularly Section C. Such a sanction should be applied judiciously and only under extreme circumstances. Sanctions should be applied to administrations as a whole, and rarely, if ever, to specific individuals.
VII. Application of Sanctions

Sanctions can only be applied upon the completion of a full fact-finding inquiry, leading to a formal report on the basis of which the Committee recommends the imposition of appropriate sanctions. No sanction shall be imposed except with the approval of the ALA Executive Board.

VIII. Hearings

Should the Committee recommend, and the Executive Board approve, the application of sanctions, the principals shall be notified that a hearing may be held to allow a final opportunity for appeals. Copies of the full report shall be forwarded to the principal(s) at this time.

IX. Removal of sanctions

Sanctions may be withdrawn when the conditions causing their original imposition are corrected, and when there is reason to believe that ALA principles concerning tenure, status, fair employment practices, due process, ethical practices and/or the principles of intellectual freedom will be observed in the future. To effect the removal of sanctions:

A. Each year the Committee shall query sanctioned institutions to determine if conditions warrant removal of sanctions, and/or

B. The sanctioned administration shall request review of the case, furnishing pertinent information as to why the sanctions should be removed;

C. The committee votes to recommend to the ALA Executive Board that sanctions be removed or retained.

X. Alternative actions

In addition to the possible sanctions, other recommendations for action can include, but are not limited to, the following:

A. Distribute summaries of the final report to the library and educational press, to national newspapers, and to other appropriate media, with a statement that copies of the full report are available from the Committee.

B. Assist, as appropriate, in finding suitable temporary or permanent employment for individuals who have lost their positions.
(The ALA Executive Board, at its meeting on April 28, 1971, adopted the following item, to become effective when Council adopts the PROGRAM OF ACTION FOR MEDIATION, ARBITRATION AND INQUIRY).

XI. Committee on Policy and Implementation

A. In order to assure Council and the membership of full implementation of the PROGRAM OF ACTION FOR MEDIATION, ARBITRATION AND INQUIRY, a Committee on Policy and Implementation is hereby established by the ALA Executive Board. The Committee on Policy and Implementation shall be composed of five members as follows:

- President of the Association of College and Research Libraries, or his representative;
- President of the Library Administration Division, or his representative;
- Chairman of the Intellectual Freedom Committee, or his representative;
- One member-at-large, appointed by the President of ALA;
- President of ALA, Chairman

B. Function of Committee on Policy and Implementation

The Committee on Policy and Implementation is authorized and charged with ascertaining that the intent of the PROGRAM OF ACTION FOR MEDIATION, ARBITRATION AND INQUIRY is fulfilled and implemented, and that the Staff Committee on Medication, Arbitration, and Inquiry is working within the scope of the PROGRAM OF ACTION FOR MEDIATION, ARBITRATION AND INQUIRY and is expediting with reasonable speed the just resolution of the complaints received.