

EXECUTIVE SUMMARY

SUMMARY OF THE RECOMMENDATION

This resolution urges the ABA to take the position that law firms should discontinue the use of mandatory, age-based retirement policies, because they are inconsistent with accepted employment practices in the United States and against public policy, are not in the best interest of law firms or their clients, deprive clients of the right to continue longstanding relationships with counsel of their choice, fail to make a qualitative analysis of a partner's performance, and deny clients the unique perspective and judgment of senior lawyers. Instead, firms should evaluate each older partner just as they evaluate each younger partner, by assessing the individual's (1) record of client origination and development, (2) service to the firm's clients, (3) successful transfer of responsibility for clients to other and younger partners, (4) productivity in billable hours, (5) participation in significant non-billable activities that benefit the firm, including pro bono, administrative and mentoring activities, and (6) teamwork and cooperation to advance the firm's interests.

SUMMARY OF THE ISSUE WHICH THE RECOMMENDATION ADDRESSES

Although mandatory, age-based retirement has largely disappeared from, and indeed has been prohibited in, most sectors of the economy, it remains deeply entrenched in the legal profession. Indeed, in some firms, the age for mandatory retirement has declined, even as people live longer, healthier lives. With the oldest of the baby boom generation, including tens of thousands of lawyers, entering their 60's, it is necessary for law firms to re-evaluate these policies.

EXPLANATION OF HOW THE PROPOSED POLICY POSITION WILL ADDRESS THE ISSUE

This policy is needed for the ABA to take the position that law firms should move away from rigid, age-based retirement policies and instead evaluate individual partners on the basis of their continuing contributions to their firms.

SUMMARY OF ANY MINORITY VIEWS OR OPPOSITION WHICH HAVE BEEN IDENTIFIED

This report and recommendation was adopted by the New York State Bar Association without opposition.