General Information Form

Submitting Entity: Judicial Division

Submitted By: Richard N. Bien, Esq., Chair

1. Summary of Recommendation

The unique characteristics of the federal administrative judiciary and the need to encourage highly-qualified and independent-minded candidates to apply for positions as administrative law judges (ALJs) to prevent stagnation, and to encourage diversity in age, race, gender, and legal background require an enhanced retirement plan separate from that of other federal civil servants.

2. Approval by Submitting Entity

The Judicial Division Council approved the recommendation on November 14, 2003.

3. Has this or a similar recommendation been submitted to the House or Board previously?

A similar recommendation in support of a separate pay schedule for the federal administrative judiciary was submitted and approved by the House of Delegates in 1983. A separate pay schedule was established in 1990 by the U.S. Congress.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?

This recommendation would help to implement existing ABA policies. In addition to the policy in 1983 supporting a separate pay schedule for the federal administrative judiciary, the Association included the issue of compensation for ALJs in its jointly produced (with the Federal Bar Association) 2003 Report on Judicial Compensation, and in the ABA Statement on the Judicial Pay Recommendations of the National Commission on the Public Service (March 2003). Further, this recommendation is consistent with the several policies adopted over the years in support of judicial independence.
5. What urgency exists which requires action at this meeting of the House?

Several agencies have identified needs for significant numbers of new administrative law judges to be hired as soon as possible. ABA support would encourage the federal government to provide more appropriate retirement benefits as part of a compensation package that could be expected to generate a wider range of highly qualified applicants for these positions. Also, adopting this recommendation would enable the ABA to contribute to the public debate on the issue.

6. Status of Legislation (if applicable)

HR 2316 providing for a separate pension plan has been introduced and is pending hearings. However, this recommendation supports the general principle and not any particular legislation at this time.

7. Cost to the Association (both direct and indirect costs)

There are no costs to the Association.

8. Disclosure of interest

The ABA members who are now or who may become federal administrative law judges would benefit if legislation enacting a separate retirement plan as envisioned by this recommendation were to be passed by Congress.

9. Referrals.

The report and recommendation have been circulated to all ABA sections, divisions, forums, committees and commissions; the Conference of Chief Justices, State, Local & Territorial Bar Associations, and Justice at Stake and its partner organizations.

10. Contact Person (prior to the meeting)

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11. Contact Person (who will present the report to the House)

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