

Date: 17 January 2020

To: ANSI Executive Standards Council (ExSC), psa@ansi.org

From: Susan Gitlin, susan.mclaughlin@alumni.stanford.edu

Re: ExSC_017_2019, Proposed Revision to the *ANSI Essential Requirements: Due Process Requirements for American National Standards*

Ladies and Gentlemen:

I have reviewed the proposed revisions to the *Due Process Requirements* that were published in *ANSI Standards Action* on December 9, 2019. I have a few concerns about the proposed changes, based both on my experience as a member of consensus bodies as well as the director of an SDO now under development.

Comments:

1. Section 2.1.

I realize that the new paragraph (lines 15-18) is largely a transfer of language currently in a footnote. Nevertheless, because it is underlined, I understand it to now be open for public comment. I question why there is an inconsistency in the handling of a representative of an affiliation versus someone who represents him- or herself. According to the language in the first paragraph (lines 11-13), for a representative of an affiliation – where that person’s employer is not the affiliation – the name of the employer need not be made available. However, as per the new paragraph, when someone is serving in an individual capacity and independent of their employer, the name of the employer must be provided (if the individual is employed). It seems to me that in either case, if the person is employed, the employer may directly or indirectly affect how the consensus body member votes on any given item. Transparency would dictate that the name of the employer be supplied whether or not the consensus body member is representing that employer. It is not clear why the employer for an individual consensus body member must be supplied, whereas that same information is not required for someone with an affiliation. To correct this discrepancy, I recommend revising the last sentence of the first paragraph (lines 11-13) as follows:

“In addition, the member’s name ..., affiliation, employer (if employed by an organization other than the affiliation), and interest category of each member...”

2. Section 2.3, lines 47-49.

I am concerned that the last clause, “or those who represent multiple interest categories,” may have consequences that are at odds with the first sentence of Section 1.3, i.e., that the *standards development process should have a balance of interests*.

In my experience with standards development, consensus bodies have high participation from individuals and organizations with a financial stake in the outcome of the standard. Even if those members are broken into two distinct interest categories, often their interests merge. For example, both producers and industrial users may place a high value on cost minimization over other considerations. On the other hand, representation from non-profit, health and safety, academic, and/or scientific organizations may be relatively low because either they are not aware of the standard or do not have the resources to be at the table. As a result, a “General Interest” category may have relatively few members.

The proposed language would allow people who represent organizations in two categories to be placed into the General Interest category. This could allow for gaming the system or for unintentionally further skewing votes towards the non-general interest categories. In fact, it could allow for complete dominance by those who have a financial stake in the standard. Take, for example, a standards activity related to an industrial product. The producer and user categories already contain as many people as the SDO would like to include, but the General Interest category is far from full. A few people submit applications for Consensus Body membership and plan to represent organizations in both the producer and user categories. With these proposed revisions, the SDO could place these members in the General Interest category, reducing the opportunity for other individuals to join as General Interest in the future and further reducing the voice and weight of those representing safety, health, or any interest without a material interest in the outcome of the standard.

As a developer of an SDO, I do not want to face pressure from applicants to place them in a General Interest category if I feel that their interests are sufficiently addressed in the producer and user categories. I want to keep the General Interest category open for people who bring expertise and perspective that is not otherwise available on the Consensus Body. Unfortunately, it would be very easy for anyone with financial support of a producer or user to find some additional support, even if minor, from an organization in the other category, thus allowing him or her to be placed in a General Interest category. This would cause reductions in balance – not on paper, perhaps, but effectively.

I recommend against including that clause in the Essential Requirements and instead leaving it up to the SDO to determine what affiliation will likely have the most sway over a member’s votes, and to place him or her in an interest category accordingly. Otherwise, the General Interest category will be ripe for abuse by any applicant or SDO that wants to maneuver around balance requirements.

In short, I recommend the following change to lines 48-49: “...discretely defined interest category, ~~or those who represent multiple interest categories.~~”

3. Section 2.3, line 65.

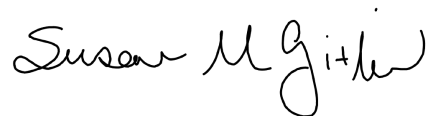
I see that you are proposing deleting “Professional society” and “Trade association” from the categories suggested in the footnote. I agree that this is a good idea, as representatives of such

organizations typically have a viewpoint and material interests similar to those of representatives of the producer or user groups. However, I think it would be helpful to emphasize this in the “User-industrial” user category description, just to add clarity that anyone representing the industry, as a representative of a company or of an association that represents its interests, would be included in the User-industrial category. Specifically, I suggest the following:

Line 65: “product or representative of a trade association for that industry.”

I thank you kindly for your consideration of my comments. Should you have any questions, please do not hesitate to contact me at the phone number or email address below.

Sincerely,

A handwritten signature in cursive script that reads "Susan M. Gitlin". The signature is written in black ink and is positioned below the word "Sincerely,".

Susan M. Gitlin

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