

From: Gillerman, Gordon (Fed) <gordon.gillerman@nist.gov>
Sent: Monday, April 15, 2019 5:17 PM
To: PSA Department <PSA@ansi.org>
Subject: Proposed Revision to ANSI's Appeals Procedures

Below are NIST comments on the proposed revisions to ANSI's Appeals Procedures published for comment in *ANSI Standards Action* on March 15, 2019.

NIST proposes amending Section 11.3 of the ANSI Appeals Board Operating Procedures, second paragraph, as follows:

11.23 Appeals Board Initial Review

The Appeals Board shall determine by letter ballot whether the appellant has established a *prima facie* case that the decision appealed from was clearly erroneous. If the Appeals Board determines that a *prima facie* case has not been established, the secretary will so notify the appellant and the parties to the decision under appeal, in writing and the appeal will be dismissed thereby exhausting all appeals available through ANSI.

If the Appeals Board determines that a *prima facie* case has been established or that the decision appealed from fails to state findings and conclusions sufficient to permit review, it may either remand the matter for further consideration by the ANSI body from which the appeal was taken or set a date for a hearing at which further arguments will be received. If the Appeals Board chooses to set a hearing, the secretary of the Appeals Board will so notify all parties to the appeal that a hearing will be scheduled. No supplemental filing by the appellant prior to the forthcoming hearing shall be permitted without a showing of good cause and the express permission of the Appeals Board Chair.

Rationale:

The proposed amendment to the second paragraph of Section 11.3 would expressly authorize the Appeals Board, upon its initial review of an appeal, to remand to the ANSI body from which the appeal was taken where the Appeals Board determines that the body's decision fails to state findings and conclusions sufficient to permit review under the clearly erroneous standard of review required under the first paragraph of Section 11.3.

If you have any questions on the above, please feel free to contact me.

Sincerely,

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