



# Operating Procedures ANSI Board of Standards Review (BSR)

**Edition: January 1, 2020**

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## Foreword

This document contains the Operating Procedures of ANSI's Board of Standards Review (BSR), which is responsible for approving American National Standards and acting on proposals to revise, reaffirm and withdraw American National Standards. The ANSI Board of Standards Review (BSR) reviews standards submitted to ANSI with unresolved objections on record. This includes negative votes from the consensus body as well as public review comments. Standards submitted without unresolved objections may be administratively approved by the BSR without further review. The BSR does not have jurisdiction over the standards of Audited Designators unless the Audited Designator chooses to submit one or more standards to the BSR for approval.

ANSI does not develop standards. Standards are developed by many qualified technical societies, trade associations, and other groups that voluntarily submit them to ANSI for approval as American National Standards. ANSI's BSR applies a basic set of criteria set forth in the *ANSI Essential Requirements: Due process requirements for American National Standards* to each standard that is a candidate for approval. Standards that (i) are submitted by accredited standards developers that have certified compliance with ANSI requirements and (ii) have no unresolved objections, may be administratively approved by the BSR. Any proposal that meets these criteria is approved as an "American National Standard". That designation signifies that ANSI believes that its criteria for due process have been met and that a consensus for approval exists among those directly and materially affected persons (organization, company, government agency, individual, and the like) who chose to participate in the approval process.

Approval by ANSI informs the user that those who are directly and materially affected have generally accepted the standard and reached substantial agreement on its provisions.

If the Board of Standards Review finds that the criteria for due process have not been met or that the evidence of consensus is inadequate in connection with a standard that it has reviewed, it will not approve that standard as an American National Standard. The BSR acts only on this basis. It does not evaluate or judge the technical content of the standard. Lack of adequate consensus or due process indicates that there was opposition to the voluntary adoption and use of the standard that was sufficient to persuade the BSR that the designation "American National Standard" should not be applied.

The changes contained in the version of these procedures that was distributed to all ANSI-accredited standards developers in July 1998 were approved on or before April 1998. The primary revisions included: clarification of the role of the BSR with regard to developers who have been granted Audited Designator status; clarification of the approval process associated with standards submitted without unresolved objections; and implementation of a filing fee with regard to requests for the withdrawal for cause of an American National Standard.

In addition, changes approved by the National Policy Committee (NPC) of the ANSI Board of Directors in July 1998 were incorporated into these operating procedures. The primary changes approved by the NPC in July 1998 included: clarification of the BSR's voting procedures; inclusion of details concerning conflicts of interest; and language that states that the original action of the BSR shall stand pending appeals unless the BSR determines otherwise. An editorial correction to replace outdated language in section 7.2 with language approved by the Board of Directors was issued in March 1999.

The edition of these procedures issued in January 2001 includes revisions approved by the NPC through September 2000. The revisions include: elimination of text that duplicates requirements contained in the *ANSI Procedures for the Development and Coordination of American National Standards*; and the inclusion of an option to establish an appeals panel to function on behalf of the full BSR, should the BSR wish to implement such an option.

The edition of these procedures issued in January 2003 includes a clarification to the appeals process that explicitly states that extension requests are an option for both parties to an appeal. In addition, references to the *ANSI Procedures for the Development and Coordination of American National Standards* are replaced with references to the *ANSI Essential Requirements: Due process requirements for American National Standards*, which replaces the former document as of January 2003. The 2005 edition includes a clarification to the appeals process. The 2007 edition includes a clarification concerning the BSR's numerical voting requirements. The 2009 edition includes an updated conflict of interest provision. The 2017 edition includes an updated appeals process.

The 2020 edition of these procedures reflects the 2020 *ANSI By-Laws* and includes revisions to the BSR's appeals process.

## **Operating Procedures of the ANSI Board of Standards Review**

### **1 Responsibilities and Functions**

The ANSI Board of Standards Review (BSR) shall have the exclusive authority to render decisions with regard to issues it is charged to oversee, subject only to any possible further appeal pursuant to the applicable appeals procedures.

Except in the case of ANSI Audited Designators, the ANSI Board of Standards Review (BSR), a Program Oversight Committee, shall be responsible for the approval and withdrawal of American National Standards, and for such other duties that may be delegated to it by the Board. The functions of the BSR shall include, but not be limited to, determining whether standards submitted to ANSI for approval or withdrawal as American National Standards meet the requirements of the *ANSI Essential Requirements: Due process requirements for American National Standards (ANSI Essential Requirements)* and acting on requests for approval, reaffirmation, revision and withdrawal of American National Standards, including appeals of such decisions.

### **2 Membership**

The requirements for membership and the officers of the BSR are provided in the *ANSI By-Laws*. The members of the BSR shall, in that capacity, act in good faith and as fiduciaries to ANSI and shall act in the best interest of ANSI when making decisions on behalf of ANSI. However, if BSR voting members believe their duties to their employer or another third party conflict in any way with those of ANSI, they may simply recuse themselves from decision making on behalf of ANSI as detailed in Section 5.3 below. The members of the BSR shall also abide by ANSI's Conflict of Interest and Related Party Transaction Policy, as well as, the ANSI Code of Conduct and these Operating Procedures. The BSR shall operate in accordance with Operating Procedures approved by the Executive Committee of the ANSI Board of Directors (Board Executive Committee).

Except as otherwise delegated by the ANSI Board of Directors, members of the BSR shall be nominated by BSR voting members and appointed by the Chair of the ANSI Board of Directors, with the approval of the ANSI Board of Directors. In making these appointments, the Chair of the Board shall endeavor to ensure representation of all membership categories concerned with the activities of the BSR.

The BSR shall strive for a membership of between nine and eighteen members. Membership in ANSI by the entity with which the Member is affiliated shall be a prerequisite for participation in the BSR unless the Board Executive Committee specifically permits otherwise. Membership in the BSR, however, shall be by the individual, not the entity with which such person is affiliated.

Except as may be extended by the Board, each new member appointment shall be for a term of three full years with no person serving more than three full consecutive terms.

The principal qualifications for membership shall be competence and the ability to render impartial judgment in the approval or withdrawal of American National Standards, based on consideration of evidence of meeting criteria set forth in these procedures.

A staff member of ANSI designated by the President shall serve as a non-voting secretary of the BSR.

#### **2.1 Member Participation**

Each member of the BSR shall exercise his or her voting responsibility within such prescribed time limits as may be established. When a member fails repeatedly to return ballots before the close of the ballot period, or to attend meetings, the secretary shall place the matter before the BSR. The BSR may request the Chair of the ANSI Board of Directors to remove such an individual from his or her assignment.

#### **2.2 Officers**

The officers of the BSR shall be a Chair and Vice-Chair. Except as otherwise delegated by the Board, the Chair of the ANSI Board of Directors shall appoint the Chair of the BSR subject to approval by the ANSI Board of Directors. The BSR Chair and Vice Chair shall serve for a term of two years and shall be eligible to serve for a maximum of two full consecutive two-year terms. Except as may be extended by the Board, each appointment of a member to the BSR shall be for a term of three full years with no person serving more than three full consecutive terms.

In the event of the absence of the Chair, the Vice-Chair shall act in their stead.

### **2.3 Nominations and Elections**

Recommendations for BSR membership shall be open to any reasonable source. Recommendations may be requested from appropriate ANSI committees, forums and advisory groups. All recommendations shall be referred to the BSR Nominating Committee for consideration.

The Chair of the BSR shall appoint, before February 1 of each year, a Nominating Committee of not less than three (3) members from among the members of the BSR to serve until December 31. By majority vote, on or before September 15 of each year, this committee shall nominate the following:

- a) Candidates to serve as Chair and Vice-Chair of the BSR if the current Chair or Vice Chair term is due to expire; and
- b) Members of the BSR (to fill vacancies and expired terms)

By October 1 of each year, the Secretary of the BSR shall forward to the members of the BSR the report of the Nominating Committee. Other nominations may be made to the Institute by petition, signed by at least five (5) members of the BSR, prior to September 1 of each year. Thereafter, the Secretary of the BSR shall mail to each member of the BSR a ballot containing the names of all nominees, those submitted by the Nominating Committee being so indicated. All ballots returned to the Institute by the closing date, shall be counted, and the names of the nominees receiving a plurality of the votes cast shall be submitted to the Chair of the ANSI Board of Directors for appointment subject to approval by the ANSI Board of Directors.

### **3 Meetings**

The Chair of the BSR shall call meetings as is necessary to conduct the business of the BSR, including hearings.

### **4 Approval and withdrawal of American National Standards**

Approval of standards as American National Standards is delegated to the BSR by the ANSI Board of Directors. The criteria for approval and withdrawal of American National Standards are provided in the *ANSI Essential Requirements: Due process requirements for American National Standards (ANSI Essential Requirements.)*

Notice of the BSR's final action on all standards shall be published in *Standards Action*.

### **5 Voting requirements**

#### **5.1 Actions on the Approval or Withdrawal of American National Standards**

Except as otherwise provided for in these procedures, actions on the approval or withdrawal of American National Standards shall require an affirmative vote by letter ballot or at a meeting of at least two-thirds of the BSR members voting or present, after first excluding both abstentions and negative votes submitted via letter ballot without any explanatory comments provided that the number of BSR members voting, excluding abstentions, is at least a majority of the Board. An abstention shall be required when a member is associated with a standard in such a way as to introduce the possibility of conflict of interest. Otherwise, all BSR members are required to return affirmative or negative ballots.

#### **5.2 Negative Votes and Recirculation**

Negative votes submitted via letter ballot shall be accompanied by explanatory comments. Any negative vote that is not accompanied by explanatory comments shall be treated in the same manner as an abstention.

Prior to a letter ballot closing, all negative votes with explanatory comments shall either be (a) circulated to the BSR via letter ballot (the "recirculation ballot") or (b) discussed at the next regularly scheduled BSR meeting if such meeting is within two weeks of the date on which the recirculation ballot would have been distributed. The purpose of the recirculation ballot or the discussion at the meeting is to give the BSR members an opportunity to review the comments accompanying any negative votes and change their vote if they deem it appropriate before the letter ballot is closed.

If the final result of a recirculation ballot would be the disapproval of a standard, the ballot will remain open through the next BSR meeting at which time a discussion of the negative votes with comments shall be held. BSR members present at the meeting shall cast the final vote.

### **5.3 Conflict of Interest**

In addition to complying with ANSI's Conflict of Interest Policy, a member of the BSR shall act at all times in a manner that promotes confidence in the integrity and impartiality of ANSI's processes and procedures and should avoid a conflict of interest or the appearance of a conflict of interest in connection with all BSR activities. A conflict of interest can arise from involvement by a BSR member with the subject matter of a dispute under consideration by the BSR or from any relationship between the BSR member and a party to an action before the BSR, whether past or present, that reasonably raises a question of a BSR member's impartiality.

Typically a potential conflict of interest arises when a member of the BSR participated in the development of the standard under review or that person is employed by, or a member of the governing body of, the relevant standards developer. Similarly, a conflict of interest usually does not exist by virtue of the fact that a member of the BSR participated in the development of other standards by the same standards developer or is a member of that standards developer.

If a materially affected party (such as a standards developer or a possible appellant) asserts that it believes that a member of the BSR has a conflict of interest, that materially affected party is required to state the reason(s) for its belief. That information shall then be forwarded to the member of the BSR identified as having a possible conflict for that person's response. If that committee member disagrees with the assertion, then the Chair of the BSR shall make a final determination as to whether a conflict of interest exists.

Members of the BSR who are disqualified from a particular discussion shall not participate in the deliberations or decisions.

### **5.4 Request to Discuss a Letter Ballot at a Meeting**

Any BSR member may request that a letter ballot be discussed at the next Board meeting provided that he or she casts a ballot and plans to attend and participate in the discussion. A request to discuss a letter ballot at a meeting shall not cause the letter ballot to remain open unless the letter ballot satisfies the relevant criteria in section 5.2 above.

### **5.5 Actions of the BSR Requiring Less Than a 2/3 Vote and Quorum**

Unless otherwise specified, actions of the BSR that do not involve the approval or withdrawal of American National Standards shall require an affirmative vote of:

- a majority of those voting at a meeting at which a quorum is present; or
- a majority of those voting by letter ballot, excluding not returned letter ballots, provided that a majority of the BSR-members return affirmative or negative ballots.

A quorum at a meeting shall consist of the presence of a majority of the members.

## **6 Public Review Listing in Standards Action and Formal Submittal Processing**

Proposals for new American National Standards and proposals to revise, reaffirm, or withdraw approval of existing American National Standards shall be transmitted to the secretary of the BSR for listing in *Standards Action* in order to provide an opportunity for public comment.

Such a listing may be requested at any stage in the development of the proposal at the option of the standards developer and may be concurrent with the final balloting.

### **6.1 Staff responsibilities: public review announcements**

The secretary of the BSR shall, within twenty (20) working days of receipt of the request, process a BSR-8 submittal to initiate a public comment period in *Standards Action*.

### **6.2 Staff responsibilities: processing formal standard submittals**

When a proposal is submitted to the secretary of the BSR for approval, the secretary shall complete the following steps:

- a) determine whether objections have been filed and/or reported in accordance with the submitter's accredited procedures;
- b) if no objections to the standard have been filed and the developer has submitted the requisite certification, the BSR may administratively approve the standard and so notify the accredited developer within 10 business

- days; or
- c) if outstanding objections are reported or on file, within 20 working days after receipt of the submittal, determine whether sufficient evidence of compliance with section 4 has been provided for BSR consideration and decision;
  - d) if evidence of compliance with section 4 is incomplete, request that the submitter provide the necessary information as promptly as possible.

### **6.3 Notification of approval**

When a proposal is approved by the BSR, the secretary of the BSR shall notify:

- a) the submitter; and
- b) those (if any) on record at ANSI who have objected to approval by ANSI and who have completed the appeals process at the developer level.

Notice of action on approval shall also be published in *Standards Action* and the standard shall be listed in the *Catalog of American National Standards*.

### **6.4 Notification of denial of approval**

When approval of a proposal is denied by the BSR, the secretary of the BSR shall notify:

- a) the submitter; and
- b) those (if any) on record at ANSI who have objected to approval by ANSI and who have completed the appeals process at the developer level.

Notice that the proposal was not approved shall be published in *Standards Action*.

## **7 Appeal of action on American National Standards**

### **7.1 Right to appeal**

All directly and materially interested persons<sup>1</sup> who have been or will be adversely affected by an action of the BSR, who completed the appeals process at the standards developer level and whose position is included in the BSR documentation, may appeal to the BSR a prior BSR decision regarding the approval or withdrawal of an American National Standard. The appeal shall be based on procedural criteria (see section 4). The BSR will not render decisions on the relative merits of technical matters, but it shall consider whether due process was afforded technical concerns. The burden of persuasion shall rest with the appellant.

The BSR may also hear appeals remanded or referred to the BSR by the ANSI Appeals Board. Pending a decision by the BSR, the original decision of the BSR shall remain in effect unless the BSR determines otherwise in accordance with section 7.2. No party to an appeal may communicate with any unrecused member of the ANSI BSR on the subject of the appeal while the matter is pending. All communications shall be directed to the secretary of the ANSI BSR.

All parties filing or responding to appeals or authoring letters of support must be clearly identified, and contact information provided, at the time of filing. Anonymous filings will not be accepted.

### **7.2 Request to stay a decision pending the conclusion of an appeal**

In the event that a party to a duly filed appeal wishes to request a stay of the decision at issue pending the conclusion of the review process, these procedures apply. The party requesting the stay will be allowed to submit a one-page statement to succinctly explain the extraordinary basis for the request and the other party, if it opposes, will also be allowed to submit a one-page statement to succinctly explain why the BSR should not grant the request.

- a) The requestor shall contact the secretary to request implementation of this process.
- b) The requestor will be allowed one week to submit a one-page statement in support of its request.
- c) The one-page request will be provided to the other party(ies), which will in turn be allowed one week to

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<sup>1</sup> "Persons" includes organizations, companies, government agencies, individuals etc.

submit a one-page response. (The one-page request/response shall be single spaced and 12 point font or larger.)

- d) Both documents will be provided to the BSR via an expedited ballot.
- e) The secretary will issue a written decision to both parties on behalf of the BSR.

### **7.3 Appeal**

All appeals shall be made in writing. Appeals and the required filing fee shall be directed to the secretary of the ANSI BSR on or before midnight Eastern time of the due date. The filing fee may be waived or reduced only upon sufficient evidence of hardship.

The appeal shall be comprised of a brief statement of the matter and the reason(s) why the appellant believes the decision is in error. Specifically, the appeal should include as appropriate:

- a) a copy of the decision from which the appeal is taken;
- b) an explanation of the issue and the procedural history;
- c) arguments that explain why appellant believes the decision was in error;
- d) references to the provision(s) of the ANSI procedures upon which appellant relies;
- e) relevant evidence that directly supports appellant's position and upon which appellant relies;
- f) letters of support for the appeal, if any, per section 7.5; and
- g) the specific relief sought by appellant from the BSR.

The brief appeal statement (exclusive of exhibits and table of contents) shall not be more than 30 pages, double-spaced, 12 point font or larger. The secretary of the BSR shall have discretion to extend this limit for good cause shown.

Unless otherwise instructed by the secretary of the BSR, the appeal shall be sent via electronic means (with one complete hard copy mailed to ANSI) within fifteen (15) working days following the date of the decision that is the subject of the appeal. If the appellant is unable to provide the required appeals materials within the fifteen (15) working day deadline, an extension may be requested, with the grounds for such request noted. Such request must be directed to the secretary of the BSR, within the fifteen (15) working day deadline or the appellant shall forfeit the right to appeal. No supplemental filing prior to the forthcoming hearing shall be permitted without a showing of good cause.

### **7.4 Response**

The appeal shall be distributed by the secretary of the BSR to the potential respondent(s) identified by the BSR to allow them the opportunity to respond, if they so desire. Thereafter, this party shall have fifteen (15) working days to submit their response to the appeal on or before midnight Eastern time of the due date.

The response shall include:

- a) the reasons why respondent believes the decision under appeal was correct and a reference to the provisions in the ANSI procedures upon which the respondent relies;
- b) relevant evidence that directly supports respondent's position and upon which respondent relies; and
- c) letters of support for the response, if any, per section 7.5.

The brief response (exclusive of exhibits and table of contents) shall not be more than 30 pages, double-spaced, 12 point font or larger. The secretary of the BSR shall have discretion to extend this limit for good cause shown.

The response shall be distributed by the secretary of the BSR to BSR members, subject to applicable conflict of interest procedures, and to the appellant. No supplemental filing prior to the forthcoming hearing shall be permitted without a showing of good cause.

If the respondent is unable to provide the required response within fifteen (15) working days, an extension may be requested, with the grounds for such noted. Such request must be directed to the secretary of the BSR within the fifteen (15) working day deadline or the respondent shall forfeit the right to respond. Extensions of time to submit a response may be granted at the discretion of the Chair of the BSR, or, if the Chair is unavailable, the Vice Chair of the BSR or the secretary of the BSR.

### **7.5 Letters of support by non-parties to the appeal**

A person or organization that is not a party to the appeal may submit a letter of support for a position taken by the appellant or respondent to the appeal by contacting that party and requesting that such a letter be included in that party's formal appeals brief or response. Such party-supporting letters shall be clearly marked as such, may not include new evidence, may not exceed three single-space pages in length, 12 point font or larger, and may address procedural issues only. Letters not meeting the requirements of this section will not be accepted without the approval of the BSR Chair or Vice Chair. Authors of such letters do not have any special standing with respect to ANSI's appeals processes, are not considered parties to the appeal and do not have the right to address the adjudicating body at the hearing on the matter.

### **7.6 Hearing**

The secretary of the BSR shall establish a panel consisting of at least five BSR members to hear the appeal, subject to applicable conflict of interest procedures. If five members of the BSR are not available to serve on the panel, the Chair or the Vice Chair of the BSR may appoint one or more additional panel members who shall be persons knowledgeable about the *ANSI Essential Requirements: Due process requirements for American National Standards (ANSI Essential Requirements)* and the standards development process. Such appointment(s) of non-BSR members shall be with the concurrence of all parties to the appeal. A majority of the members of the panel shall be members of the BSR.

A hearing date for an appeal shall be set by the secretary of the BSR after consultation with the Chair. However, a later date may be scheduled if mutually agreeable to the participants in the hearing. All parties shall be given at least fifteen (15) working days notice of the hearing date. BSR panel members shall receive copies of the appeals record at least fifteen (15) working days prior to the date of the appeals hearing. The name and affiliation of all speakers and any observers must be provided to the secretary of the BSR in advance of the hearing.

At the hearing, the appellant's position shall be presented first, followed by the respondent. Each side is then allowed to respond until their total allotted time is exhausted. A half hour total, for the initial presentation and subsequent responses, is allotted for each side, with a limit of three speakers per side. Additional time is allotted for a question and answer session directed by the panel. At the hearing, speakers are not permitted to make assertions about facts or issues not in the record. The hearing may not be recorded in any way. At the close of the question and answer period, the appeals panel shall go into executive (closed) session for the purpose of arriving at a decision.

Should any party at interest not be present at the hearing, the decision of the BSR panel shall be based on the presentations made by the parties that are present at the hearing in addition to the written submissions on record.

### **7.7 Decision**

Decisions of BSR panels shall require a majority vote of the panel, shall represent the decision of the BSR, and shall be provided to all BSR members for their information. Notice of a decision reached by the BSR appeals panel shall be sent by the secretary to the parties within fifteen (15) working days unless an extension is authorized by the Chair of the BSR, or, if the Chair is unavailable, by the Vice Chair of the BSR. The decision shall specify the outcome of the appeal, and shall be accompanied by an explanation of the reasons for such outcome, and the specific relief granted, if any. The outcome of the appeal shall be announced in *Standards Action*.

### **7.8 Accessibility of appeals decisions**

A copy of the appeal decision shall be made available upon request.

### **7.9 Appeal of BSR actions**

In accordance with the *ANSI Appeals Board Operating Procedures*, an appeal from a final appeals decision of the BSR may be filed with the Appeals Board by the appellant or respondent to the BSR appeal at issue.

## **8 Informal settlement**

ANSI encourages settlement of disputes at any time if the settlement is consistent with the objectives of the *ANSI Essential Requirements*. Any settlement (to which the parties agree in writing) that is consistent with these



procedures, or an agreement to withdraw the appeal, will terminate the appeal process. If the settlement leads to a substantive change in the standard, the change must be processed in accordance with the *ANSI Essential Requirements*.

**9 Written report**

The BSR shall present a written report of its activities to the Board of Directors from time to time and at least once a year.

**10 Amendments**

The Board Executive Committee may make changes to these operating procedures at any time after consultation with or upon recommendation of the BSR and the ExSC.