

## American National Standards (ANS) Process: Appeals: ANSI-Accredited Standards Developer (ASD) & ANSI

- The webinar will start at 2pm Eastern
- All participants are muted for the duration of the webinar
- Slides will be distributed to all by email
- Please use the CHAT option to submit questions to *All Panelists*
- This session will be recorded and the recording *may* be available at a later date



## *Let's get started...*

- On behalf of ANSI, thanks very much for joining us today
- A huge thank you to those of you who are already involved in standards...you literally make the world a better place
- Goal for the next 90 minutes:
  - ANSI's appeals requirements at the ASD level
  - Good practices
  - ANSI's appeals options
  - Questions

# Just a reminder...

## ANS-Related ANSI Staff - [psa@ansi.org](mailto:psa@ansi.org)

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- Patty Griffin, ANSI Sr VP & General Counsel – NY
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- [psa@ansi.org](mailto:psa@ansi.org) = our common email box



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ANSI Essential Requirements: Due process requirements for  
American National Standards: [www.ansi.org/essentialrequirements](http://www.ansi.org/essentialrequirements)

ANSI-Accredited Standards Developer's Accredited Procedures

Operating Procedures of the:  
ANSI Executive Standards Council (ExSC), ANSI Board of Standards  
Review (BSR) or ANSI Appeals Board

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# Today's focus...

- 2.8 Appeals (Procedural)
- 2.8.1 Appeals at the Standards Developer
  - Make sure you are familiar with your organization's accredited procedures which include "appeals"
- 2.8.2 Appeals at ANSI
  - ✓ ANSI Board of Standards Review (BSR)
  - ✓ ANSI Executive Standards Council (ExSC)
  - ✓ ANSI Appeals Board

Summary explanation of appeals processes is posted on ANSI Online in *ANS Guidance Documents* ([www.ansi.org/asd](http://www.ansi.org/asd))

# ANS Landscape – A quick review:

## ANS Program Oversight Committees and Staff Roles

- ANSI is a Not-for-profit Membership Organization
  - ✓ Staff's role is to support the ANSI Members who are the decision-makers and populate ANSI Committees
- ANS-Related Oversight Committees:
  - ✓ ANSI Executive Standards Council (ExSC)
    - Accreditation-related appeals and Audited Designator complaints (including Withdrawal for cause requests as a result of an audit or appeal)
  - ✓ ANSI Board of Standards Review (BSR)
    - Appeals of the approval (or denial) of ANS status, after the ASD's appeals process concludes
    - Withdrawal for cause requests
  - ✓ ANSI Appeals Board
    - Final level of appeal for all ANSI programs
- All serve as neutral, knowledgeable professionals and fiduciaries
  - ✓ Oversight role and all decision-making is subject to conflict of interest procedures

# 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 the ANSI Essential Requirements, or an agreement to withdraw an appeal, will terminate the appeal process.*
- ❖ **The ASD is expected to obtain and retain written evidence of withdrawal of any appeal as part of the ASD's records, subject to ANSI audit.**



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# Procedural Appeals through the ASD's process

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# Appeals to the ASD

## *2.8.1 of the ANSI Essential Requirements*

- All ASDs are required to have an identifiable and readily available appeals process
  - ✓ Appeals fees, if any, shall be predetermined, fixed and reasonable
  - ✓ A procedure for requesting a fee waiver or fee reduction shall be available
- ASDs may choose to hear appeals of other than procedural issues
- ANSI normally will not hear appeals that have not first been heard at the ASD level
- ANSI may hear an appeal if a party has been *denied* the right to appeal at the ASD level

## 1.8 & 2.8.1 Appeals – at ASD

Appeals = one aspect of due process

*ASD's written appeals procedures shall contain an identifiable, realistic, and readily available mechanism for the impartial handling of procedural appeals regarding any action or inaction.*

- Appeals shall be addressed promptly and a decision made expeditiously and issued in writing.

# 1.8 & 2.8.1 Appeals – at ASD

- An ASD may choose to offer an appeals process to address appeals on other than procedural issues.
  - ✓ But ANSI would not hear an appeal of a **technical issue**.
- **Procedural appeals include whether a technical issue was afforded due process.**
- Appeals procedures shall provide for participation by all parties concerned without imposing an **undue burden** on them.
- Consideration of appeals shall be **fair and unbiased** and shall **fully address the concerns expressed**.

## 1.8 & 2.8.1 Appeals – at ASD

- Parties who are **directly and materially interested in and who have been or will be adversely affected** by any procedural **action or inaction** by a standards developer with regard to the development of a proposed ANS or the revision, reaffirmation, or withdrawal of an existing American National Standard, have the right to appeal...*to the ASD first*
  - *This provision goes to “standing” to appeal*
- The burden of proof to show adverse effect shall be on the appellant.

# 1.8 & 2.8.1 Appeals – at ASD

- ✓ Appeals of actions shall be made **within reasonable time limits**
  - **ASD's procedures should specify deadlines throughout**
- ✓ Appeals of inactions may be made at any time
  - An ASD can add reasonable language that clarifies “within the current standards development cycle”
- ✓ Appeals shall be directed to the standards developer responsible for the action or inaction **in accordance with the appeals procedures of the standards developer**
  - If a **fee** for a procedural appeal is charged, then it shall be predetermined, fixed and reasonable
  - A procedure for requesting a **fee waiver** or fee reduction shall be available

## 2.8.1 ASD Appeal – Notes on Fees

- ✓ Cost of an ANS-related appeals process is considered a cost of doing business as an ASD within the ANS process
- ✓ Procedures cannot require that “loser pays all fees”
- ✓ Developers should not expect to charge fees that cover all costs – fees must be fixed, pre-determined and reasonable
- ✓ Developers should not charge an appeals fee that could be considered an “undue financial barrier to participation” as stated in clause *1.0 Openness*
- ✓ ANSI ExSC does not “approve” fees
  - But would hear appeals related to whether an appeals fee satisfies ANSI’s requirements



## 2.8.1 ASD Appeal – Guidance Document

- *ANS Related Appeals Process Guidance: Appeals at the Standards Developer Level – Procedural Issues to Consider*
  - Available at [www.ansi.org/asd](http://www.ansi.org/asd)
- *ANSI Web pages geared to facilitating public participation also includes a section on appeals to ASDs (see next slide)*
  - <https://www.ansi.org/american-national-standards/info-for-the-general-public/participate-in-ans-process#.YG8BWehKiM8>

## WHAT OPTIONS EXIST IF YOU THINK THE WAY YOUR COMMENTS WERE HANDLED OR CONSIDERED WAS NOT IN ACCORDANCE WITH THE ASD'S PROCEDURES?

First, ANSI's procedures encourage informal resolution before a formal appeal is filed, or resolution before the appeals process concludes, when possible.

- If you have a concern, speak with the staff of the ASD. There may be more information that could clarify the issue – for example, you may misunderstand a written communication or procedure.
- Additional opportunities to contribute to the standard may exist – for example, you may be able to join a drafting group or attend a meeting or some other option to pursue your comments further.
- So before you consider taking a formal action, like filing an appeal, please make personal contact with the ASD staff; a list of contacts is posted on ANSI's website at [ansi.org/asd](https://ansi.org/asd).

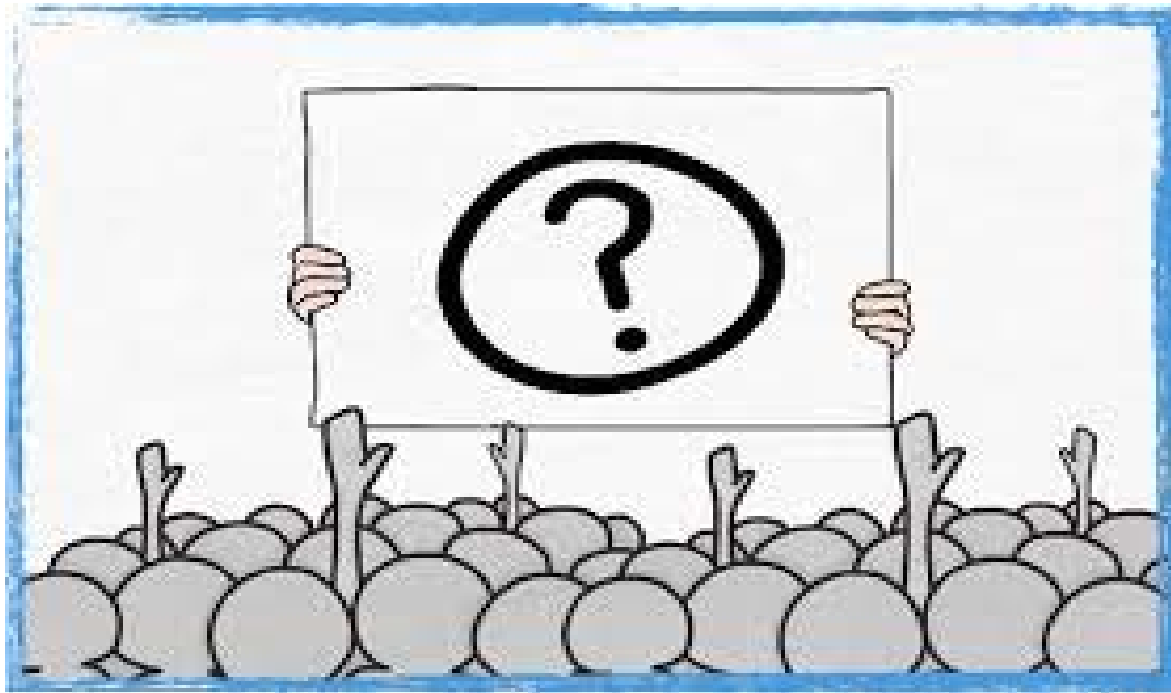
All of this said, understand that if you do wish to file an appeal, you always start with an appeal to the ASD directly. The ASD's procedures, deadlines, and format requirements govern the appeals process at that level, so you need to obtain the ASD's appeal procedures. There may be a filing fee.

If the appeal to the ASD is not resolved to your satisfaction, only then do you have the right to file a procedural appeal with the ANSI Board of Standards Review (BSR), but that right to appeal is not available until after the BSR approves the standard as an ANS. (Also note that some ASDs approve ANS without BSR approval, and are called ANSI Audited Designators. The right to appeal ANS approved by these ASDs is different, so be sure to talk to the ASD staff for more information or contact [psa@ansi.org](mailto:psa@ansi.org).)

Evidence that an unresolved objector completed the appeals process at the ASD level is part of the record that is reviewed by the ANSI BSR. You can learn more about the appeal process to [BSR](#) – but keep in mind that:

- Notice of the right to appeal an ANSI BSR decision to approve a standard as an ANS is issued by ANSI after the ASD has submitted evidence of consensus to ANSI and after the ANSI BSR has voted that the evidence reflects procedural







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# ASD Appeals Guidance

Informative Guidance, but ASD's Procedures Govern

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## American National Standards (ANS)-Related Appeals Process Guidance: Appeals at the Standards Developer Level – Procedural Issues to Consider

Note: this document is informative only and does not supersede any requirements set forth in the *ANSI Essential Requirements: due process requirements for American National Standards* ([www.ansi.org/essentialrequirements](http://www.ansi.org/essentialrequirements))

1. An appeals process that is intended to satisfy ANSI's procedural requirements as established in the *ANSI Essential Requirements* ([www.ansi.org/essentialrequirements](http://www.ansi.org/essentialrequirements)) should clearly indicate that the Appeals Panel will be populated by fair and impartial individuals.
  - Documented and published Conflict of Interest procedures are useful in ensuring a fair appeals panel.
2. The consensus body that voted on the standard under appeal cannot be the sole appeals panel that reviews and adjudicates procedural issues.
  - The consensus body may be one level of a multi-level process, but there must be a separate fair, impartial and unbiased body that makes the final decision.
3. A minimum size for an appeals panel and the voting requirements associated with it should be specified. Information about how an appeals panel is selected or appointed should also be stated.
4. Time periods associated with an appeals process should be established and made known to all parties.
5. For each established time period, e.g., appeals filing period, referenced in a developer's procedures, the text should specify whether the "days" are in calendar days or exclude Saturdays, Sundays and other holidays.
  - Deadlines for the following should be stated: any informal resolution phase (if applicable); appeals filing period; appeals response deadline; deadline for submittal of all related documentation; deadline for appeals fee (if applicable); deadline for any claims of conflict of interest; deadline for the identification of participants in the appeals process; other.
6. Unless otherwise specified, if an appeals procedure does not require an in-person hearing, a

# ASD Appeals Checklist – the Basics

- ✓ Establish written compliant appeals procedures and protocols
- ✓ Provide written notice with deadlines and specifications for each phase of the appeals process (*include a link to the appeals procedures or attach*)
- ✓ Establish a Panel and identify Chair
  - ASD staff may not serve as a voting member of a Panel, but may serve as Secretary
  - COI claims should be considered (more later)
- ✓ All parties should have the same information in advance of a hearing
  - Distribute written appeal filing to respondent
  - Distribute respondent's response to appellant
- ✓ Distribute appeal and response to Panel and all parties along with hearing protocol – in advance of hearing, allowing review time
- ✓ Circulate hearing details/time/rules/names & affiliations of attendees
- ✓ Hold hearing per ASD's procedures
- ✓ Distribute written decision in a timely manner



# ASD Process Steps and Deadlines

- Filing periods and deadlines associated with each phase of an appeals process should be established by the ASD and made known to all parties in writing.
  - ✓ The ASD should monitor and track compliance with established deadlines.
  - ✓ Failure to adhere to clearly established and fair deadlines may result in the forfeiture of the right to proceed with the appeals process.
    - Be clear on this point, ANSI is
- Do not be afraid of appeals; implement your procedures fairly, as written

# ASD Appeals Process Deadlines: At every phase, start to finish

- Clarify whether the “days” are in calendar days or exclude Saturdays, Sundays and other Federal holidays.
  - Confirm time zones or other relevant issues, like EOD
- Deadlines for the following should be stated:
  - any informal resolution phase (if applicable, and prior to confirmation that a hearing is requested);
  - deadline for requesting a hearing (if applicable);
  - appeals filing period;
  - appeals response period;
  - submittal of all related documentation with the appeals filing or the response;
  - extensions;
  - appeals fee (if applicable);
  - claims of conflict of interest;
  - identification of participants in the appeals process;
  - issuance of the final written decision to all parties;
  - other.

# ASD Appeals Filing Form: An option

- ✓ If used, should reflect key data points necessary for an appeals filing to proceed
- ✓ If used, it would be expected to mirror the ASD's appeals procedures and not be viewed as an undue barrier to the appeals process
- ✓ Require appellant to identify procedural provisions upon which the appeal is based (e.g., lack of compliance with 2.2...)

# ANSI BSR Filing Requirements:

## *An example - be clear and consistent*

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

# ASD Appeals Hearing - Format

- Unless otherwise specified, flexible format:
  - virtual
  - in-person
  - teleconference
  - in writing
  - other suitable electronic means
- Distribute an appeals protocol to all participants in advance
  - Order of hearing
  - Time allocations (presentation, rebuttal, Q&A)
  - Rules
- Recommend there be an opportunity for Q&A

# Appeals Panel - Membership

- The ANS consensus body that voted on the standard under appeal **cannot be the sole appeals panel** that reviews and adjudicates procedural issues
  - The consensus body may be one level of a multi-level process, but there must be a separate fair, impartial and unbiased body that makes the final decision.
- Appeals Panel Members, including the Chair, are to be identified in advance of the hearing
  - Allow for a conflict of interest claim
- ASD staff may not serve on an Appeals Panel



# Appeals Panel - Composition

- Recommend
  - ✓ A minimum size for an appeals panel and the voting requirements associated with it should be specified.
    - 3-5 is common (odd number, including Chair if Chair will vote – ANSI Appeals Panels include a voting Chair)
  - ✓ Information about how an appeals panel is selected or appointed should also be stated.
  - ✓ Documented and published *Conflict of Interest* procedures are useful in ensuring a fair appeals panel.
    - See ANSI's COI Procedures for the BSR, ExSC and Appeals Board

# Appeal – Filing and Response

- A **written appeals filing and a written response** to it are routine and expected parts of an appeals process.
  - A **deadline** (and any extensions) for filing written appeals documentation and a response to it should be clearly established, documented and made known to all parties.
  - **Page limitations** associated with filings and responses, and any similar rules, must be consistent and clearly articulated. If supplements to an already-filed appeal or response are not allowed, state this upfront.
    - ✓ See ANSI's Appeals Procedures for the BSR, ExSC and Appeals Board for examples (but context matters)

# Use of templates to manage the process

- Use of standardized forms/email communications where appropriate and feasible are allowable and encouraged:
  - appeals filing and response instructions;
  - receipt of appeals filing and response;
  - filing extension response;
  - transmittal of documentation to appeals panel and parties to appeal;
  - distribution of appeals hearing protocol; and
  - format of appeals decision.

# ASD (or other Respondent) Response to an Appeal

- When responding to an appeal, the following guidance may be helpful:
  - **Excerpt each argument** and provide a specific response for each - clearly labeled
  - Reference **relevant procedural history**, including pertinent dates, communications, meetings and procedural citations
  - Ensure that each point /response is **succinctly made**
  - Ensure that the response is **objective and professional** in tone
  - Ensure that the response **complies with procedural requirements**
  - **Adhere to any page limitations**, etc., that apply to the Appellant

# ASD Appeals Documentation Distribution and Review

- All parties to an appeal and the Panel require advance access to all of the documentation that will be considered by the Panel
  - ✓ Copy all parties on transmissions or postings of documents and related communications
  - ✓ Distribute to all parties and the Panel a copy of the ASD's accredited procedures (including appeals provisions) and any relevant supplemental procedures, in advance of the hearing
  - ✓ Generally, it is good practice to circulate documentation 2-3 weeks in advance of the hearing date

# ASD Appeals Hearing Protocol

- **Time allocations** for speaking, rebutting and question-and-answers should be made known to all parties prior to the hearing.
- Uninvolved staff should keep track of time during the hearing. Use a timer – it's great!
- A staff Secretary can be appointed to the Panel as a neutral organizer and note taker
- The appellant and the respondent are to be allowed **equivalent time** for formal presentation before a Panel. Even if an ASD is the respondent, both (all) parties to the appeal must be treated fairly.
  - ✓ For example, each party may be allowed up to 30 minutes to address the Panel and may reserve any portion for rebuttal, followed by an unlimited (or time limited, x minutes) question and answer session directed by the Chair of the Panel, followed by Executive Session during which time the Panel will deliberate.
- At the hearing, speakers are not permitted to make assertions about facts or issues not in the record.



# ASD Appeals Panel Final Decision

- Issuance of a concise and timely final **written appeals decision** is required
  - ✓ It should be clear and complete, allowing all those involved and other readers, including ANSI Program Oversight Committees like the ANSI BSR, ExSC and ANSI Appeals Board, to understand the decision and the basis for it.
  - ✓ It should be distributed to all parties to the appeal at the same time
- Recommend the circulation of the final decision to the relevant consensus body - FYI

# ASD Appeals Panel Final Decision

- The format of a written appeals decision should include:
  - 1) date of hearing;
  - 2) names of parties and any other participants;
  - 3) names of panelists;
  - 4) Brief summary of the issues and brief procedural history;
  - 5) the Panel's decision and the procedures upon which it relies; and
  - 6) final decision/outcome/direction.

# Other considerations

- Appeals records shall be retained subject to [ANSI audit](#).
- Good practices to educate and reduce the likelihood of appeals:
  - ✓ Circulate at the start of each year, the ASD's accredited procedures, consensus body roster, code of conduct, staff contact information, and links for training and reference materials (and mentors if they exist).
    - Participation and cooperation may be improved when everyone knows and understands the rules.
  - ✓ Consider requiring a signed code of conduct, so everyone knows the rules and consequences for improper behavior.

# More on a Code of Conduct

- Consider incorporating a *Code of Conduct* as part of the ASD's routine protocols/references to ensure all participants are aware of expectations and consequences.
  - ✓ Provide it annually
  - ✓ Require a signed copy be on file
  - ✓ Link it to agendas and meeting reports
  - ✓ Recite it at the start of meetings and webinars, etc.
  - ✓ See ANSI's Code of Conduct (<https://www.ansi.org/publicstatements/Code-of-Conduct?menuid=1>)
  - ✓ See ISO's Code of Conduct (<https://www.iso.org/publication/PUB100397.html>)

## General Principles of the **ISO Code of Conduct**

All parties engaged in the development of ISO standards:

### Respect others

We are committed to:

- ▶ Respecting others and the professional culture of international standardization within ISO
- ▶ Conducting ourselves in a professional manner
- ▶ Respecting others and the diversity of professional opinions – scientific, technical, or otherwise
- ▶ Embracing the concepts of compromise and consensus-building in the development of ISO standards
- ▶ Accepting and respecting consensus decisions of the committee or working group and of the ISO/TMB
- ▶ Making the effort to hear and understand the views of all, regardless of the diversity of acceptable accents and levels of command of the language of the meeting

# ANSI's Code of Conduct...(excerpt)

- To maintain a process that is open, honest, and fair to all participants.
- To promote the development of consensus through the broad participation of a variety of interests and through a full airing and discussion of all points of view.
- To adhere, both in letter and in spirit, to all duly established rules, regulations, and policies governing the ANSI voluntary consensus standards system.
- Violations of this Code will result in disciplinary action against Participants, which may include termination of a Participant's continued participation and/or termination of ANSI membership status of the ANSI member on whose behalf the Participant acts.

#### **Annex C: Model Code of Conduct for Participation on an ANSI-Accredited U.S. TAG**

This model Code of Conduct<sup>29</sup> may be adopted as is or adapted as part of a TAG Membership application or other document. A TAG Administrator may require TAG members to sign a copy of this Code (or comparable document) as a condition of participation. It is recommended that this Code be published and distributed annually along with a copy of the TAG's accredited procedures, links to the ISO/IEC Directives and contact information for the individual(s) serving as TAG Administrator.

##### **General Principles**

1. To promote and support the work of the ANSI-Accredited U.S. TAG to ISO xxx as well as the purposes and objectives of the voluntary consensus standards system.
2. To maintain a process that is open, honest, and fair to all participants.
3. To promote the development of consensus through the broad participation of a variety of interests and through a full airing and discussion of all points of view.
4. To adhere, both in letter and in spirit, to all duly established rules, regulations, and policies governing the work of the ANSI-Accredited U.S. TAG to ISO xxx.

##### **Participant Obligations**

1. All TAG members, authorized observers and public commentators ("Participants") shall act honestly, in good faith, and with the highest professional standards.
2. Although it is recognized that legitimate differences of opinion can exist on individual issues, Participants should act in a dignified and courteous manner, so as to avoid injuring others, their property, reputation, or employment by false, malicious or improper action and to avoid acting in a disrespectful or unprofessional manner towards other Participants or staff.
3. Participants who have been retained to represent the interests of another with respect to a specific issue or issues that are to be addressed by the TAG shall declare those interests.
4. In order that the points of view and information Participants advance can be accurately evaluated by others, Participants should always endeavor to make known their business, commercial, organizational, or other affiliations that might affect their interests or points of view, avoiding real or perceived conflicts of interest whenever possible.
5. In all discussion, debate, and deliberation, Participants should confine their comments to the merits of the issues under review. Although Participants may forcefully advocate their views or positions, they should be candid and forthcoming about any weaknesses in their position, and they should refrain from debate and discussion that is disrespectful or unprofessional in tone or that is unduly personalized or damaging to the overall process of achieving consensus.
6. In circumstances where duly established policies and procedures related to the TAG's work permit deliberations to take place in Executive Session, participants should respect and observe the confidentiality of those Executive Sessions.
7. No Participant should ever attempt to withhold or prohibit information or points of view from being disseminated, particularly on the grounds that the Participant is in disagreement with the information or points of view. Disagreements should be addressed and resolved through full presentation and discussion of all information and points of view not through withholding information or preventing points of view from being expressed.
8. Participants should treat all persons with respect and fairness and should not offer or appear to offer

<sup>29</sup> See ANSI Code of Conduct (<https://www.ansi.org/standards-center/code-of-conduct/>) and ISO Code of Conduct for the technical work (<https://www.iso.org/publication/IWI130397.html>).

9. Participants should refrain from disseminating false or misleading information.
10. Participants should obey all applicable laws, ANSI and ISO policies.
11. Participants should safeguard ANSI's reputation and integrity by ensuring that any public statements relating to ANSI or the work of the TAG, which are not official statements of ANSI or the ANSI-Accredited U.S. TAG Administrator (as the case may be), are properly portrayed as the opinion of the individual making them.

##### **TAG Administrator Obligations**

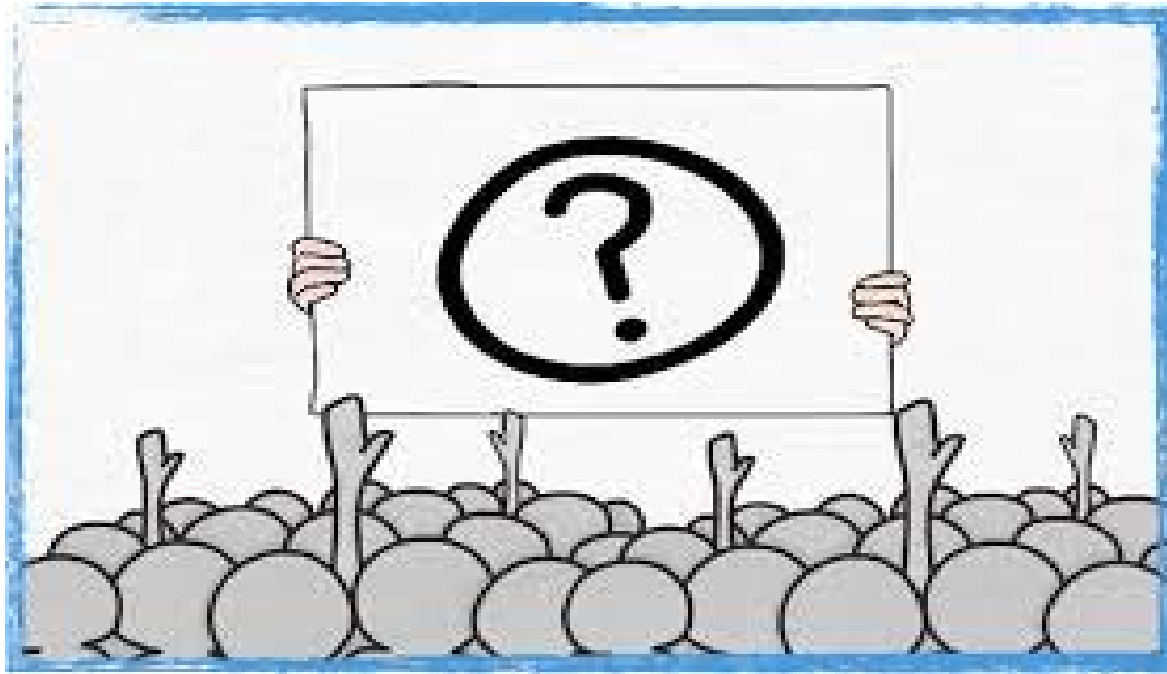
The TAG Administrator is expected to comply with all applicable Participant obligations.

##### **Violations of this Code**

Infernal resolution of an alleged violation of this code is encouraged, consistent with the ANSI International Procedures and ANSI's obligations as the U.S. National Member Body to ISO.

Violations of this Code will result in disciplinary action against the offending TAG Member, which may include termination of a TAG Member's (or authorized observer's) continual participation. The Chair of the TAG along with the TAG Administrator, as appropriate, shall consider any violations brought to their attention in a timely manner.

Any claim that the TAG Administrator has violated this Code shall be considered through the TAG's appeals process.



# Questions?

*Then, a review of appeals options at ANSI*



## 2.8.2 Right to Appeal: Appeals at ANSI

- Parties who have directly and materially affected interests and who have been or will be adversely affected by any procedural action or inaction by ANSI or by any ANS-related process have the right to appeal.
  - *Appellant must have standing to appeal*
- ANSI will not normally hear an appeal of an action or inaction by an ASD relative to the development of an ANS until the appeals procedures provided by the ASD have been completed.
- Appeals of actions shall be made within reasonable time limits; appeals of inactions may be made at any time.
  - Appeals shall be directed to ANSI in accordance with the procedures of the appropriate ANSI board or council (e.g., [Board of Standards Review](#), [Executive Standards Council](#)).

# ANSI Appeals & Complaint Options

- Appeal of Approval of ANS or Denial of ANS Status:
  - ANSI BSR then ANSI Appeals Board (if not Audited Designator)
- Appeal of Accreditation or Reaccreditation:
  - ANSI ExSC then ANSI Appeals Board
- Complaint Against ANSI Audited Designator - ANS or Accreditation Related:
  - ANSI ExSC then ANSI Appeals Board
- Withdrawal for cause of an ANS (see 4.2.1.3.4)
  - ANSI BSR then ANSI Appeals Board
  - ANSI ExSC then BSR then ANSI Appeals Board (Audit-related, not Audited Designator)

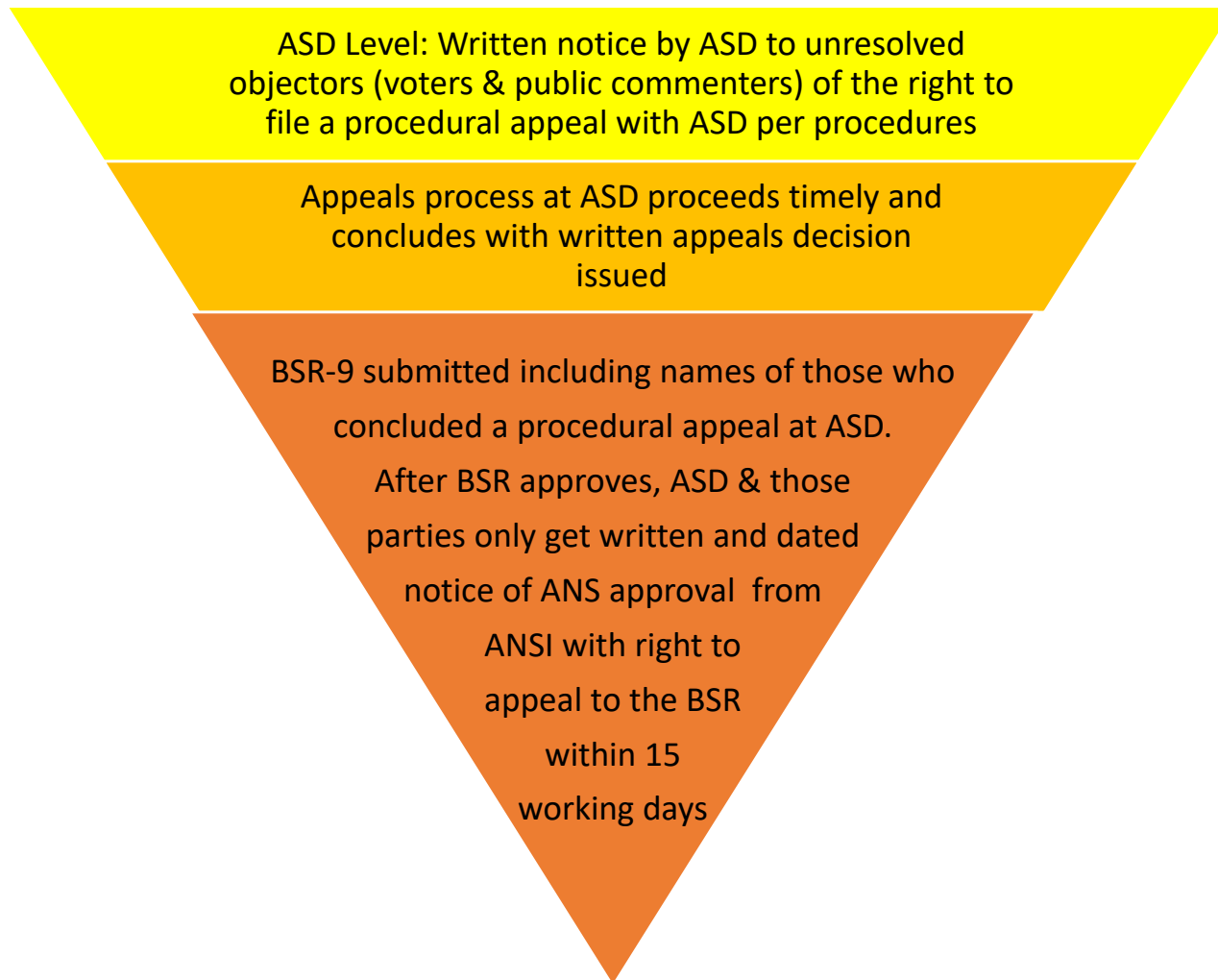
# Appeals to the BSR & ExSC

- Actions of the BSR concerning the approval or disapproval of a standard as an ANS – and accreditation decisions of the ExSC - may be appealed within 15 working days of notification by ANSI of the approval or disapproval
  - ANSI notification is sent to the standards developer and to *those unresolved objectors listed on the BSR-9 form as having concluded an appeal at the standards developer (BSR) or who submitted objections as public comments in response to re/accreditation actions (ExSC)*
- Appeals must be procedural in nature
- Technical issues may not be appealed to the BSR; however, the procedural handling of technical comments may be

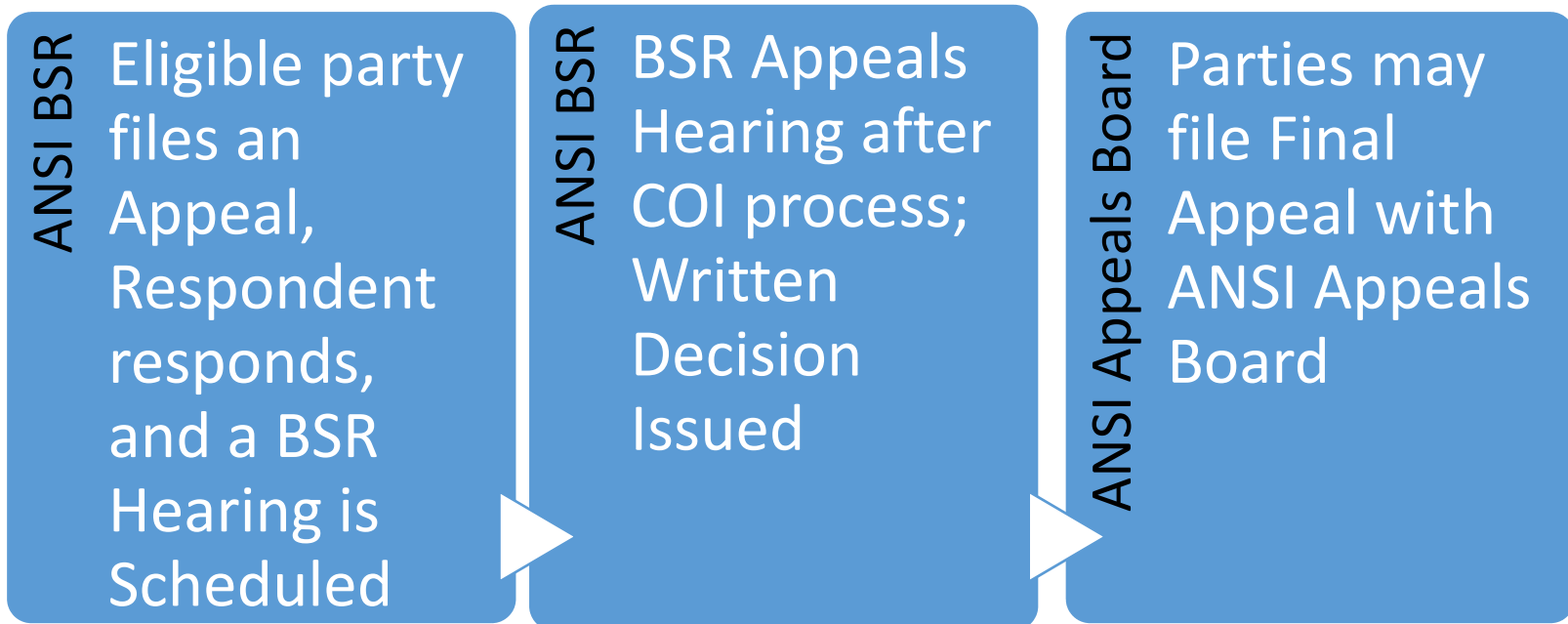
# ANSI Appeals Format (Most appeals)

- ANSI Staff manages the appeals process, but an Appeals Panel, subject to COI procedures, makes all decisions
  - ✓ BSR/ExSC members who believe they have, or who are thought to have, a potential conflict of interest do not participate in any part of the appeals hearing
- The appellant files a written statement outlining the nature of the appeal and provides all supporting documentation
  - \$1200 filing fee with hardship reduction or fee waiver possible
- The respondent is given the opportunity to provide a written response to the appeal
- The BSR/ExSC Panel and all parties are provided with the appeal and the response in advance of the hearing
- A formal hearing is held

# How an appeal gets to the ANSI BSR



# ANSI BSR Appeal then ANSI Appeals Board



# ANSI Appeals Format – BSR & ExSC

- The BSR/ExSC normally hears appeals at one of their scheduled meetings
  - Both sides are notified in advance of the time and place of the hearing
  - Staff works with parties to finalize date
- Both sides are given an opportunity to present their views in person/virtually, first the Appellant, followed by the Respondent
  - Each side is given 30 minutes to present their views with up to 3 speakers per side
    - ✓ each may reserve a portion of 30 minutes as rebuttal
  - BSR/ExSC members then have an opportunity to ask questions or request clarification from the parties
    - ✓ Parties cannot question each other or engage in dialogue between themselves

# ANSI Appeals Format – BSR & ExSC

- ✓ BSR/ExSC Panel makes their decision in **Executive Session**
- ✓ **Decision is provided in writing** to all parties in the appeal at the same time and is available upon request to the public
- ✓ Decisions of the BSR/ExSC may be finally **appealed to the ANSI Appeals Board**



# Unique provisions: ExSC & Appeals Board

- Unique ExSC complaint procedures apply to ANSI Audited Designators and to ANSI-Accredited US TAGs to ISO, respectively
- The ANSI Appeals Board process initial filing and review is different from BSR and ASD-related ExSC appeals
  - ✓ it is a 2-step process and an appeal may be dismissed without a hearing, but if the Appeals Board holds a hearing, it follows the same model as the BSR and ExSC
  - ✓ if the AB holds a hearing and issues a written decision, then a reconsideration of the written decision is also an option

# Appeals to the Appeals Board (AB)

Final level of appeal at ANSI for all program areas

- Appellant files a written statement outlining why they believe the lower level decision is in error
  - See AB Operating Procedures for filing rules
- Appeals Board **conflict of interest** procedures apply
- A letter ballot is issued to the members of the AB to determine whether a prima facie case has been established that the appeals decision of the lower body is clearly erroneous

# Appeals Board initial decision

1. **Prima facie case** that the lower level decision is **clearly in error** not established
  - the Appellant and would-be Respondent notified, and the appeal is dismissed without a hearing

OR

2. **Prima facie case** has been established
  - the Appellant and Respondent are notified, and the Respondent is given an opportunity to submit a written response to the statement of the appellant prior to a formal hearing

# Appeals to the ANSI Appeals Board: Hearing and Written Decision

- Appeals Board **hearing** results in a **written decision** issued to all parties in the appeal
- Parties to an appeals hearing for which a written decision was issued may request a **Reconsideration** of the Appeals Board's decision within 10 days
- The Appeals Board may entertain a request for reconsideration based upon claims of a *mistake, oversight or error in the decision or any other like reason justifying relief from the implementation of the decision.*

## Withdrawal for cause of an American National Standard (4.2.1.3.4)

- ✓ At the request of a directly and materially interested and adversely affected party or the ExSC
- ✓ Post-ANS approval safeguard
- ✓ Not time-limited to a particular filing period
- ✓ Appeals filing fee and documentation requirements apply

# Withdrawal for Cause (4.2.1.3.4)

- **Criteria** for approval of withdrawal for cause:
  - ANSI's **patent policy** was violated;
  - ANSI's requirements for **designation, publication, and maintenance** were violated;
  - an ANS is **contrary to the public interest**;
  - an ANS **contains unfair provisions**;
  - an ANS is **unsuitable for national use**; or
  - the ASD has **failed to make a good faith effort to resolve conflicts**.

# Withdrawal for Cause – BSR Process

(Does not apply to Audited Designators)

1. Request for withdrawal received by ANSI Secretary of BSR;
2. Request for withdrawal sent to ASD for response;
3. If ASD concurs, processed accordingly;
4. If ASD does not concur, requestor provided with ASD response;
5. If requestor continues request, then the matter is referred to the BSR for action via letter ballot
  - Request may be granted or denied or rejected for lack of standing; or
  - A hearing may be held or some other appropriate action directed by the ANSI BSR.



# Withdrawal for Cause – ExSC Request

- As a result of an Audit or an Appeal
- If the request is submitted by the ExSC, as a result of an Audit or an appeal:
  - ✓ The secretary of the BSR shall provide the ASD with an opportunity to withdraw the ANS without review by the ANSI BSR;
  - ✓ If the ASD concurs with the proposed withdrawal, public notice shall be given and the ANS shall be withdrawn in accordance with the developer's procedures;
  - ✓ If the ASD does not concur with the proposed withdrawal, the secretary of the BSR shall provide the ASD with a reasonable timeframe within which the ASD may supplement the original record upon which the standard was approved;
  - ✓ The ExSC request and the original BSR-9 submittal together with any supplemental information provided by the ASD shall be provided to the BSR via letter ballot for decision on subsequent action.

Questions?  
Reference slides follow

- Introduction
- Standards Developers
- General Public

- What is an ANS?
- More to Know
- Get Involved
- Essential Requirements

## GET TO KNOW ANSI'S ESSENTIAL REQUIREMENTS!



The Essential Requirements govern the American National Standards development process.

[ACCESS THE ER >](#)

**SOLUTIONS**

I want to... Select an option

## THE AMERICAN NATIONAL STANDARDS INSTITUTE OVERSEES STANDARDS AND CONFORMITY ASSESSMENT ACTIVITIES IN THE UNITED STATES.



ANSI's mission is to enhance both the global competitiveness of U.S. business and the U.S. quality of life by promoting and facilitating voluntary consensus standards

https://www.ansi.org/#

# Enhanced ANSI Website ([www.ansi.org](http://www.ansi.org))

## ✓ ANS - Background:

<https://www.ansi.org/american-national-standards/ans-introduction/overview#introduction>

## ✓ ASD – Developer focused:

<https://www.ansi.org/american-national-standards/info-for-standards-developers/standards-developers>

## ✓ General Public - participation:

<https://www.ansi.org/american-national-standards/info-for-the-general-public/general-public>

## ✓ *Standards Action* page with resources

<https://www.ansi.org/resource-center/standards-action>

## Where can I find ANS information?

[www.ansi.org](http://www.ansi.org) First tab on the left!

[www.ansi.org/asd](http://www.ansi.org/asd)

1. List of ANSI-Accredited Standards Developers (ASD) with a scope and contact
2. List of **proposed** ANS (point-in-time)
3. List of **approved** ANS (point-in-time)

[www.ansi.org/StandardsAction](http://www.ansi.org/StandardsAction)

- ANSI's free public notice vehicle for ANS
- Published weekly on Friday afternoon
- Includes proposed ANS and open public comment opportunities

# Thanks for joining us today...

- ✓ Exit survey – 3 quick questions,  
please complete them:
  - ❖ Was this webinar useful?
  - ❖ How can we improve it?

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