

ANSI ExSC Discussion in Response to Questions Regarding Disclosure Expectations in light of the 2022 ANSI Essential Requirements

An ASD proposed a number of questions to staff and staff responded, then asked the ExSC to consider these responses to confirm agreement or to provide other or additional direction to staff. At the September ExSC 2021 meeting, the ExSC confirmed its agreement with the responses to the questions posed. This Q&A is presented as guidance only.

1. *Comment - someone that works for a “producer” or a “test house” may also be a “user”. However, the upcoming ER language suggests that “typically” someone is classified in accordance only with their business (or sponsor); we argue this may not be appropriate for our category of standards (and may limit or discourage participation). In order to address this, and to allow stakeholders to be considered as users, we are proposing the following footnote clarify that stakeholders could also be considered for the user category if they desire/agree (assuming they are indeed users).*

STAFF RESPONSE: The interest classification of a consensus body member must reflect the interests the person is representing in connection with the proposed standard. So if the consensus body member is representing their employer and the employer is financially supporting that participation on the consensus body, then the interest category applicable to their employer would apply. If the consensus body member is representing themselves as an individual and is not funded by their employer to participate in that standards development activity, then a different interest category would apply. Each consensus body member may only be categorized in one interest category.

2. *To what extent does “where a consensus body member received funding from the ASD or other entities” apply? Most people “receive funding” from somebody for something. For example, Mr. Smith works at Company A, who provides Mr. Smith funding, but it has nothing to do with the subject standard. Or, Mr. Jones is a contractor of Company B for a particular regulatory issue unrelated to the proposed standard. We could understand that the intent is likely “in connection with the standards development activity”, which may require case by case review, but it is not implicitly stated in this sentence (like it is in the preceding sentence). Please confirm the ExSC’s scope of “receives funding” here.*

STAFF RESPONSE: The context in which all of the *Essential Requirements* provisions apply is a proposed ANS, so that is the context in which disclosure of funding would apply.

3. *Does every interest category have to be defined, e.g., Government, Trade Association?*

STAFF RESPONSE: Staff would recommend a simple statement as a definition, even if you think it is clear because the *Essential Requirements* specify that all ASDs must define interest categories: “Interest categories shall be discretely defined, cover all materially interested parties and differentiate each category from the other categories. Such definitions shall be available upon request.” For example, is “Government” any level or just Federal? In addition, unless the standard is about “Trade Associations”, a representative of a Trade Association would properly be classified based on the interests they represent, e.g., manufacturers (if that is the case). This is the reason the 2022 *Essential Requirements* deletes

that example from the existing footnote (FN) – see FN 3. As well, any General Interest Category should exclude someone eligible under a different interest category definition: “If, after consideration, a ‘General Interest’ category is deemed appropriate, that interest category should include only those whose business or other interests are not covered by another discretely defined interest category.”

4. *We are concerned about the expectations or burden on an ASD to track this. If the stakeholder is new, say as a result of an ANSI Standards Action or social media post, (1) to what extent does an ASD need pursue the accuracy of this, and (2) how does the ExSC anticipate such information is collected?*

STAFF RESPONSE: It seems reasonable that an ASD could obtain information related to consensus body participation funding as part of a consensus body membership application or the like. This is what many ASDs already do. As with other pieces of information obtained in connection with a consensus body membership application, the applicant signs a certification that what they say is true and the ASD can rely on it. It could also be confirmed as part of an annual (or other) review of the membership roster, distribution of conflict of interest policy, etc. Some developers also have provisions that allow other members to object to an interest classification and to have those objections vetted – this is viewed as an additional safeguard.