



SUMMARY OF ANSI APPEALS PROCESSES RELATED TO ANSI-ACCREDITED STANDARDS DEVELOPERS (ASD) & AMERICAN NATIONAL STANDARDS (ANS)

1.0 Summary

All ANSI-Accredited Standards Developers are required to offer a procedural appeals process in accordance with clauses 1.8 and 2.8 of the *ANSI Essential Requirements: Due process requirements for American National Standards* (“ANSI Essential Requirements”). The *ANSI Essential Requirements* (www.ansi.org/essentialrequirements) is the document that governs the American National Standards process, including accreditation of standards developers and approval of standards as American National Standards (ANS). The appeals process at the standards developer level is typically considered the first level of appeal in connection with the ANS process. Participants who are unable to resolve their concerns informally and then via the standards developer’s appeals process may also file an appeal with the appropriate ANSI program oversight committee - ANSI Board of Standards Review (BSR) or ANSI Executive Standards Council (ExSC) - and finally with the ANSI Appeals Board. Conflict of interest procedures apply at all levels of ANSI appeals processes.

In addition to the ANSI appeals process, a “withdrawal for cause” process exists in connection with ANS. This process is detailed in clause 4.2.1.3.4 *Withdrawal for Cause* of the ANSI Essential Requirements (www.ansi.org/essentialrequirements).

A filing fee applies to all appeals, complaints and withdrawal for cause requests filed with ANSI. This fee may be waived or reduced upon sufficient evidence of hardship. Questions concerning these ANSI procedures should be sent to Anne Caldas at acaldas@ansi.org.

2.0 ANS-Related Appellate Bodies

By way of background, when the ANSI Executive Standards Council (ExSC) approves an accreditation application they are approving primarily the procedures related to development of consensus in connection with a candidate ANS; they are not approving a specific standard or a specific standard project. Accreditation is a pre-condition for submittal of a standard for approval as an ANS. The decision to approve a specific standard as an American National Standard (ANS) is based on evidence of procedural compliance and made by the ANSI Board of Standards Review (BSR), unless the ANSI-Accredited Standards Developer holds the status of ANSI-Audited Designator (for further details related to this status, see clause 5.0 of the *ANSI Essential Requirements*).

The appeals procedures related to accreditation issues for most ANSI-Accredited Standards Developers are contained in clause 17 of the *Operating Procedures of the ANSI Executive Standards Council (ExSC)*; for those that hold the status of ANSI Audited Designator, refer instead to clause 18. The appeals procedures related to the approval of a standard by the ANSI BSR as an American National Standard are contained in clause 7 of the *Operating Procedures of the ANSI Board of Standards Review*. (The ANSI ExSC is also responsible for accreditation of U.S. Technical Advisory Groups (TAGs) to ISO, which are governed by the *ANSI International Procedures* (www.ansi.org/internationalprocedures); related appeals procedures are contained in clause 19 of the *Operating Procedures of the ANSI ExSC*.)

3.0 Accreditation Related Appeal: ANSI Executive Standards Council (ExSC)

Typically, an appeal to the ExSC of a standards developer's accreditation is made within 15 working days of notification of the ANSI ExSC's decision to accredit (or reaccredit). This is because those who commented during the accreditation application process are notified of their right to appeal the ExSC's decision. However, an appeal by a materially affected party of a developer's accreditation status including their procedures and the implementation of them may be made at any time. Generally the ANSI ExSC's expectation is that such an appeal would only be filed after some attempt by both parties to articulate and address an objector's concerns has been made and documented. Except in the case of Audited Designators, all appeals filed with the ANSI ExSC are heard via an in person hearing before a panel of ANSI ExSC Members.

4.0 Appeal of the Approval of an American National Standard: ANSI Board of Standards Review (BSR)

Interested parties may comment and object in writing to a particular candidate American National Standard project at the PINS stage; however, the *ANSI Essential Requirements* do not require that there be a right to appeal an issue at that time. When a draft standard is subjected to public review and consensus body vote, all interested parties have the opportunity to submit written comments to the sponsoring ANSI-accredited standards developer. Such votes and comments must be reviewed and objections must be responded to in accordance with a developer's accredited procedures and the *ANSI Essential Requirements*.

4.1 Appeal to the sponsoring ANSI-Accredited Standards Developer

Prior to final submittal of a candidate standard for approval as an ANS, unresolved objectors (public review commenters and voters) must be notified in writing by the standards developer of their right to file an appeal with the standards developer related to the candidate standard. It is important to note that in order to preserve one's right to appeal a later approval decision of the ANSI BSR (or the ANSI ExSC in the case of an Audited Designator), an objector must file an appeal first at the developer level in accordance with the developer's ANSI-accredited procedures and conclude that appeal accordingly.

4.2 Appeal to the ANSI BSR

Appeals to the ANSI BSR are related to procedural issues only. The ANSI BSR does not evaluate appeals related to the technical content of a standard; however, the BSR does consider whether technical issues were afforded due process. (The BSR also does not hear appeals related to standards approved as ANS by Audited Designators; such complaints are adjudicated by the ANSI ExSC.)

When an ANSI-accredited standards developer has followed its ANSI-accredited procedures, and concluded any procedural appeals filed, they may propose to the ANSI Board of Standards Review (BSR) a standard for approval as an American National Standard (ANS). The submittal includes evidence of consensus such as a final voting tally of the consensus body, information related to unresolved public review comments, documentation related to unresolved negative votes and the identification of those who appealed at the standards developer level.

If the ANSI BSR approves a candidate standard as an ANS, then those on record as having concluded a procedural appeal at the standards developer level are notified by ANSI of their right to file a procedural appeal with the ANSI BSR. Such an appeal is *only* an option in response to the BSR's approval or disapproval action, i.e., there is no mechanism for filing an appeal to the BSR prior to their approval or disapproval of a standard as an ANS.

Once a standard is approved as an ANS and notification of such is provided by ANSI to participants as stated above, a 15-working-day appeals filing period takes effect. An extension of the filing deadline may be granted for cause. All appeals filed with the ANSI BSR are heard via an in person hearing before a panel of ANSI BSR Members.

5.0 Final Appeal to the ANSI Appeals Board

Appeals decisions issued by the ANSI ExSC (i.e., accreditation related appeals, Audited Designator complaints) and by the ANSI BSR (i.e., ANS approval or denial decisions) may be finally appealed to the ANSI Appeals Board. The governing procedures are contained in the *ANSI Appeals Board Operating Procedures*. The ANSI Appeals Board process is a two-phase one that involves a preliminary determination via letter ballot by the ANSI Appeals Board as to whether or not a hearing will be scheduled.

6.0 ANSI Appeals Hearings

All ANSI appeals hearings are conducted similarly. ANSI's General Counsel attends all appeals hearings. Typically hearings are conducted in person; however, if a participant is unable to attend in person, s/he may participate via teleconference or by written submission. The adjudicating panel, however, always meets in-person. Parties submit written documentation in accordance with established deadlines and the applicable procedures. Parties may select up to three speakers of their choosing, without restriction, to address the Panel. No verbatim transcription or recording of hearings is permitted. Hearing attendees must be identified in advance of the hearing.

At a hearing, each side is afforded thirty minutes to present and may reserve any portion of that time for rebuttal. Speakers are not permitted to make assertions about facts or issues not in the record. The Panel then engages in an unlimited question-and-answer period, followed by Executive Session, during which time the Panel deliberates on the appeal. A verbal decision is not issued on the day of the hearing, rather a written decision is issued following the hearing.

Once an appeals decision has been issued, it is not subject to further interpretation by the adjudicating body or by ANSI staff. The Secretary to the ANSI ExSC, ANSI BSR or ANSI Appeals Board is the contact point for appeals. The filing fee for any level of appeal at ANSI is \$1200.