

**For information only: Public comments and responses concerning proposed revisions to ANSI's procedures**

Public comments received in connection with proposed procedural revisions are made available to the public, with attribution, in the [ANSI online public library](#) after the close of the public comment deadline. The ANSI ExSC considers all timely public comments received and provides a written response to commenters. If substantive changes are made to a proposed revision that has already been announced for public comment, another public comment opportunity for those changes will be announced in a future edition of *ANSI Standards Action* ([www.ansi.org/standardsaction](http://www.ansi.org/standardsaction)). Final approved procedural revisions will appear in a future edition of the relevant procedures, which will be posted in a folder at [www.ansi.org/asd](http://www.ansi.org/asd).

We are also providing ANSI's responses to the public comments. These responses are posted for informational purposes and should not be used, cited or quoted outside of this specific comment-response process to which they relate.

Questions may be submitted to [psa@ansi.org](mailto:psa@ansi.org).

**From:** Anne Caldas  
**Sent:** Friday, November 22, 2019 7:36 AM  
**To:** Dina Kallay <dina.kallay@ericsson.com>  
**Cc:** Matteo Sabattini <matteo.sabattini@ericsson.com>; Anne Caldas <acaldas@ansi.org>  
**Subject:** REVISED Response to comments re Operating Procedures - Ms. Kallay

\*\*\*Revised – Please delete prior email\*\*\*

Dear Ms. Kallay -

Thank you for your comments. Please find attached clean, updated versions of the ExSC, BSR and Appeals Board Operating Procedures, which were approved by the Executive Committee of the ANSI Board of Directors on November 20, 2019.

With respect to your specific comments:

1. Your comments that relate to the language of the 2020 ANSI By-Laws have already been considered and a response issued. Please refer to the attached Q&A, which will not be duplicated here.
2. With respect to balance provisions and the make-up of the ExSC, although the proposed updated ExSC Operating Procedures continue to address balance (and the paragraph you reference in the current 2017 edition was removed only because it was deemed redundant of such similar, balance-related language), in light of your and other comments supporting retention of the 2017 text, that paragraph will be retained in the 2020 edition to provide further detail on this point. See attached ExSC Operating Procedures, Section 2.
3. Your statement that the ExSC is a closed group is incorrect and membership on the ExSC is open to any ANSI Member; please refer to the attached recruitment flyer. In addition, the term-related provisions are not new and are part of the existing Operating Procedures of the ANSI ExSC.
4. Concerning your proposal that the BSR and Appeals Board procedures incorporate explicit balance provisions, as this is a new proposal it will be shared with the ExSC for consideration in 2020.

Sincerely,  
Anne

Anne Caldas  
Sr. Director, Procedures & Standards Administration  
ANSI  
212-642-4914  
[acaldas@ansi.org](mailto:acaldas@ansi.org)

**From:** Dina Kallay <[dina.kallay@ericsson.com](mailto:dina.kallay@ericsson.com)>  
**Sent:** Monday, November 11, 2019 10:12 PM  
**To:** PSA Department <[PSA@ansi.org](mailto:PSA@ansi.org)>; Anne Caldas <[acaldas@ansi.org](mailto:acaldas@ansi.org)>  
**Cc:** Matteo Sabattini <[matteo.sabattini@ericsson.com](mailto:matteo.sabattini@ericsson.com)>  
**Subject:** Comments on Proposed Revisions to Operating Procedures of the ExSC, BSR And AD

Further to the notice on the Oct. 11, 2019 ANSI Standards Action (Vol 50 # 41), please find enclosed comments on the proposed revisions to Operating Procedures of the ExSC, BSR And Appeals Board.

Please confirm they were received OK.

Thanks,

Dina

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DINA KALLAY, SJD  
**Head of Antitrust (IPR, Americas & Asia-Pacific)**

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## Anne Caldas

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**From:** Anne Caldas  
**Sent:** Friday, November 22, 2019 7:37 AM  
**To:** Stefanie Mielert  
**Cc:** Anne Caldas; Thomas Schuelke; Elisabeth Opie; Lachlan Scully; Stefanie Mielert  
**Subject:** REVISED - Response to comments re Operating Procedures - Ms. Mielert  
**Attachments:** AB Pro 2020\_111119.pdf; BSR Op Pro 2020\_111119.pdf; ExSC Op Pro 2020\_111119.pdf; FREQUENTLY ASKED QUESTIONS.pdf; ANSI ExSC Response to Proposed Revisions to ANSI Appeals and Complaints Procedures (ExSC\_032\_2019) - Fraunhofer; BSR member recruitment 2017.pdf; ExSC recruitment 2018.pdf

**\*\*\*Revised – Please delete prior email\*\*\***

Dear Ms. Mielert -

Thank you for your comments. Please find attached clean, updated versions of the ExSC, BSR and Appeals Board Operating Procedures, which were approved by the Executive Committee of the ANSI Board of Directors on November 20, 2019.

With respect to your specific comments:

1. Your comments that relate to the language of the 2020 ANSI By-Laws have already been considered and a response issued. Please refer to the attached Q&A, which will not be duplicated here.
2. The appeals revisions that were noted for informational purposes only in the documents that were announced in Standards Action were already vetted through the ExSC and the NPC. Fraunhofer submitted comments and was sent a response, which is attached again for your reference.
3. With respect to balance provisions and the make-up of the ExSC, although the proposed updated ExSC Operating Procedures continue to address balance (and the paragraph you reference in the current 2017 edition was removed only because it was deemed redundant of such similar, balance-related language), in light of your and other comments supporting retention of the 2017 text, that paragraph will be retained in the 2020 edition to provide further detail on this point. See attached ExSC Operating Procedures, section 2.
4. As the documents announced for public comment incorporate language that reflects the 2020 By-laws revisions, to the extent any of your proposals are new suggestions, they will be submitted to the ExSC for consideration in 2020. For example, your suggestion of a “minimum number” of members on the ExSC, proposals related to ballot contents, standards advisors, task forces, disclosure policy, etc.
5. This paragraph has been reinstated in the ExSC Operating Procedures as it was deleted unintentionally:  
Members are expected to participate actively by fulfilling attendance, voting, correspondence, and other obligations. Members are expected to participate in good faith and in accordance with professional standards, respectful of the rules of the ExSC and the authority given to the Officers of the ExSC as well as to the ExSC Membership, to act on behalf of ANSI.
6. As to the ExSC nominations process, please refer to the attached ExSC recruitment flyer. Nominations for ExSC Membership have always been open to any ANSI Member. When a nomination is received, regardless of the source, the nominee is invited to attend an ExSC meeting, the ExSC Nominating Committee considers the nomination and then may recommend (or not) membership. The ExSC votes by ballot on the recommendation of the ExSC Nominating Committee and that recommendation is finally submitted to the ANSI Board Executive Committee for approval.
7. For your information, the following editorial update to the Foreword in the Operating Procedures of the ANSI BSR was added and is not the subject of public comment: “The 2020 edition of these procedures reflects the 2020 ANSI By-Laws and includes revisions to the BSR's appeals process.”
8. With respect to BSR recruitment, please see the attached explanatory flyer.
9. In connection with the Appeals Board Operating Procedures, reference to jurisdiction over conformity assessment procedures and programs was removed in light of the 2020 By-Laws revisions and the new status of ANAB (see attached Q&A).

10. Please note the following clarification that is included in the ExSC, BSR, Appeals Board procedures and is consistent with the language shown in the Operating Procedures of the ANSI ISO Council and the 2020 ANSI By-Laws:

The requirements for membership and the officers of the ANSI ExSC/BSR/Appeals Board are provided in the *ANSI By-Laws*. The members of the ExSC/BSR/AB 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 ExSC/BSR/AB 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 x below. The members of the ExSC/BSR/AB 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.

Sincerely,  
Anne

Anne Caldas  
Sr. Director, Procedures & Standards Administration  
ANSI  
212-642-4914  
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## Anne Caldas

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**From:** Anne Caldas  
**Sent:** Friday, November 22, 2019 7:35 AM  
**To:** George Willingmyre  
**Cc:** Anne Caldas  
**Subject:** Revised: Response to comments re Operating Procedures - GTW - REVISED  
**Attachments:** AB Pro 2020\_111119.pdf; BSR Op Pro 2020\_111119.pdf; ExSC Op Pro 2020\_111119.pdf; ExSC recruitment 2018.pdf; FREQUENTLY ASKED QUESTIONS.pdf; ExSC\_response to Bart and GTW re proposed appeals revisions\_031419.pdf; GTW\_appeals rev\_July 2019.pdf; PG Ltr - Members of the IPRPC - 8-8-18.pdf; BSR member recruitment 2017.pdf

**\*\*\*Revised – please delete earlier response\*\*\***

Dear Mr. Willingmyre -

Thank you for your comments. Please find attached clean, updated versions of the ExSC, BSR and Appeals Board Operating Procedures, which were approved by the Executive Committee of the ANSI Board of Directors on November 20, 2019.

With respect to your specific comments:

1. Your comments that relate to the language of the 2020 ANSI By-Laws have already been considered and a response issued. Please refer to the attached Q&A, which will not be duplicated here.
2. The appeals revisions that were noted for informational purposes only in the documents that were announced in Standards Action were already vetted through the ExSC and the NPC. You submitted comments earlier in 2019 and were sent two responses, which are attached again for your reference. As a non-voting member of the NPC, you asked at the NPC's November 8, 2019 meeting to discuss the appeals and other proposed procedural revisions and the NPC Chair agreed; however, no NPC voting member made a motion calling for a vote and so the consent agenda items were approved as included on the NPC/CAPC agenda. In addition, thereafter, the ANSI Executive Committee of the ANSI Board of Directors also reviewed the proposed appeals revisions and approved them for incorporation into the 2020 editions of the Operating Procedures of the ANSI BSR, ANSI ExSC and ANSI Appeals Board. As the Chair of the NPC stated, anyone with alternative proposals or concerns that they'd like to share with the ExSC may certainly do so, through me as the Secretary to the ExSC. To this point, I'll note that this is the third submittal of your comments related to ANSI's appeals procedures and the ExSC has fully and fairly considered them during the first two rounds of public comment.
3. With respect to your incorrect statement that the ExSC is replacing the IPRPC, please refer again to the attached letter from Patty Griffin dated August 8, 2018.
4. In connection with the Appeals Board Operating Procedures, reference to jurisdiction over conformity assessment procedures and programs was removed in light of the 2020 By-Laws revisions and the new status of ANAB (see attached Q&A).
5. With respect to balance provisions and the make-up of the ExSC, although the proposed updated ExSC Operating Procedures continue to address balance (and the paragraph you reference in the current 2017 edition was removed only because it was deemed redundant of such similar, balance-related language), in light of your and other comments supporting retention of the 2017 text, that paragraph will be retained in the 2020 edition to provide further detail on this point. See attached ExSC Operating Procedures, section 2.
6. As to the ExSC nominations process, please refer to the attached ExSC recruitment flyer. Nominations for ExSC Membership have always been open to any ANSI Member. When a nomination is received, regardless of the

source, the nominee is invited to attend an ExSC meeting, the ExSC Nominating Committee considers the nomination (again, regardless of the source) and then may recommend (or not) membership. The ExSC votes by ballot on the recommendation of the ExSC Nominating Committee and that recommendation is finally submitted to the ANSI Board Executive Committee for approval.

7. With respect to BSR recruitment, please see the attached explanatory flyer. Please also note that the BSR Operating Procedures are clear: “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.”
8. The term-related membership provisions (3, 3-year terms) are not new and are part of the existing Operating Procedures of the ANSI ExSC (2017 edition).
9. The President of ANSI appoints a non-voting Secretary to the ExSC, BSR and Appeals Board. This is not a new responsibility.
10. With respect to BSR and ExSC appointments, the following clarification has been made, which tracks the 2020 By-Laws: “Except as otherwise delegated by the ANSI Board of Directors, members of the BSR/ExSC shall be nominated by BSR/ExSC voting members and appointed by the Chair of the ANSI Board of Directors, with the approval of the ANSI Board of Directors.”
11. Any reference to the NPC in the operating procedures of the ExSC, BSR and Appeals Board has been removed.
12. This paragraph has been reinstated in the ExSC Operating Procedures as it was deleted unintentionally:  
Members are expected to participate actively by fulfilling attendance, voting, correspondence, and other obligations. Members are expected to participate in good faith and in accordance with professional standards, respectful of the rules of the ExSC and the authority given to the Officers of the ExSC as well as to the ExSC Membership, to act on behalf of ANSI.

Sincerely,  
Anne

Anne Caldas  
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**From:** Anne Caldas  
**Sent:** Friday, November 22, 2019 7:02 AM  
**To:** Hung Ling <hung.ling@nokia.com>  
**Cc:** John Kolakowski <john.kolakowski@nokia.com>; Anne Caldas <acaldas@ansi.org>  
**Subject:** Response to comments - ExSC Operating Procedures - Mr. Ling

Dear Mr Ling -

Thank you for your comments. Please find below responses to your comments. Also attached is a clean, updated version of the ExSC Operating Procedures, which was approved by the Executive Committee of the ANSI Board of Directors on November 20, 2019.

Sincerely,  
Anne

Anne Caldas  
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**From:** Ling, Hung (Nokia - US/Murray Hill) <[hung.ling@nokia.com](mailto:hung.ling@nokia.com)>  
**Sent:** Monday, November 11, 2019 2:28 PM  
**To:** PSA Department <[PSA@ansi.org](mailto:PSA@ansi.org)>  
**Cc:** Hung Ling <[hung.ling@nokia.com](mailto:hung.ling@nokia.com)>; John Kolakowski <[john.kolakowski@nokia.com](mailto:john.kolakowski@nokia.com)>  
**Subject:** my comment to the proposed 2020 ExSC Operating Procedures

Hello,

Below please find my comments and proposal to the 2020 ExSC draft Operating Procedure out for comment till November 11, 2019.

Thank you for the consideration.

Hung Ling  
Nokia USA

Four comments on the “Operating Procedures of the ANSI Executive Standards Council” (Hung Ling, Nokia USA)

A. In the existing version under Section 4 “Officers”, it is stated that:

“In addition, the ExSC shall be composed of representatives of organization members, company members, government members, members of the Consumer Interest Council, and members-at-large. An attempt shall be made to have at least two members, with a maximum of six members, in each category. The ExSC shall strive to a balance of representation among the category to the extent possible. However, in no case shall the membership of the ExSC be greater than 21.”

The above text that governs the balance and overall membership in the ExSC is being deleted from the 2020 version. This text is extremely important in eliciting the requirement of balance and representation across all ANSI member categories in an important Program Oversight Committee. So its deletion is highly



unusual and regrettable. We strongly urge and must request that this language be added back to under Section 2 of the proposed 2020 version “ExSC Membership and Membership Rights” as paragraph 2.

**RESPONSE:** With respect to balance provisions and the make-up of the ExSC, although the proposed updated ExSC Operating Procedures continue to address balance (and the paragraph you reference in the current 2017 edition was removed only because it was deemed redundant of such similar, balance-related language), in light of your and other comments supporting retention of the 2017 text, that paragraph will be retained in the 2020 edition to provide further detail on this point. See attached ExSC Operating Procedures, section 2.

B. Under Section 2, it is stated in the second paragraph that  
“Except as otherwise delegated by the Board, members of the ExSC shall be nominated by ExSC voting members and appointed by ...”.

It is highly unusual in any committee (and indeed in any organization) that only the existing voting members can nominate voting members of the subsequent class. This does not purport to the concept of openness and balance and will certainly perpetuate the make-up of ExSC membership with little likelihood of introducing new blood and ideas into the ExSC. (Note that this is different from nominating ExSC leadership by/from the ExSC voting membership.) We request that this limitation be stricken from the 2020 version and replaced by:

“In any year in which the term of current members of the ExSC is to expire, the ExSC shall follow the nomination and election procedure stated in Section 5.”

**RESPONSE:** Please refer to the attached ExSC recruitment flyer. Nominations for ExSC Membership have always been open to any ANSI Member. When a nomination is received, regardless of the source, the nominee is invited to attend an ExSC meeting, the ExSC Nominating Committee considers the nomination and then may recommend (or not) membership. The ExSC votes by ballot on the recommendation (regardless of the source) of the ExSC Nominating Committee and that recommendation is finally submitted to the ANSI Board Executive Committee for approval. Please refer to Section 5 of the attached Operating Procedures of the ANSI ExSC; referring to section 2 alone is not sufficient.

C. With our proposal, the first three paragraphs of Section 2 “ExSC Membership and Membership Rights” should now read as:

“The requirements for membership and the officers of the ExSC are provided in the ANSI By-laws. The members of the ExSC shall, in that capacity, act as fiduciaries to ANSI and shall act in the best interest of ANSI. The members of the EXSC 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.

In addition, the ExSC shall be composed of representatives of organization members, company members, government members, members of the Consumer Interest Council, and members-at-large. An attempt shall be made to have at least two members, with a maximum of six members, in each category. The ExSC shall strive to a balance of representation among the category to the extent possible. However, in no case shall the membership of the ExSC be greater than 21.

In any year in which the term of current members of the ExSC is to expire, the ExSC shall follow the nomination and election procedure stated in Section 5.

Membership in ANSI by the entity with which the Member is affiliated shall be a prerequisite .....

**RESPONSE:** Please refer to response above. Please also see the following clarification that has been added to address the fiduciary responsibility of the ExSC, BSR and Appeals Board :

**The requirements for membership and the officers of the ANSI ExSC are provided in the *ANSI By-Laws*. The members of the ExSC 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 ExSC 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 x below. The members of the ExSC 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.**

D. It is not clear to me, as a voting member of the IPC, NPC and IPRPC that I have received any request to recommend candidates for the ExSC in past or current years while I get yearly request to nominate candidates to the policy committees. So it is important to follow the nomination process where it is stated in Section 5:

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

Given that ANSI has 790 company members and 350 organization members (even smaller number of ASDs), the representation on the ExSC is weighted heavily towards ASDs and under-represented by company members. As company members are the constituents and technical contributors to the ASDs, they have strong stakes in the outcome and decisions of the ExSC. I would appreciate an explanation why this imbalance in representation exists and will likely to persist unless there is a conscientious effort by ANSI to make correction. (There is certainly a violation in the past of the rule of “...with a maximum of six members, in each category.”)

**RESPONSE:** Please refer to the attached ExSC recruitment flyer and the earlier response above. In addition, the language that you reference that addresses categories of members, and which has been restored to the current draft, must be read in full as it includes the phrases “an attempt shall be made” and the ExSC “shall strive”:

**Except as otherwise delegated by the Board, members of the ExSC shall be nominated by ExSC voting members and appointed by the Chair of the Board with the approval of the Board. In making these appointments, the Chair of the Board shall endeavor to ensure representation of all membership categories concerned with the activities of the ExSC. The ExSC shall be composed of representatives of organizational members, company members, governmental members, members of the Consumer Interest Council, and members-at-large. An attempt shall be made to have at least two members, with a maximum of six members, in each category. The ExSC shall strive to a balance of representation among categories to the extent possible. In no case shall the voting membership of the ExSC be greater than 21. Membership in ANSI by the entity with which the member is affiliated shall be a prerequisite for participation in the ExSC unless the Board specifically permits otherwise. Membership in the ExSC, however, shall be by the individual, not the entity with which such person is affiliated.**

**Finally, 2 additional company members will serve on the ExSC for 2020, making a total of 6 company members on the ANSI ExSC. Please note that all members of the ExSC are required to work on all issues before the ExSC, meaning they cannot choose, for example, to only contribute to issues related to the patent policy. The ExSC is a working committee of ANSI and is responsible for considering a broad range of issues via many ballots and task group teleconferences between meetings and appeals**

**hearings. The ExSC requires a significant time commitment and one that potential candidates must embrace.**