



What You Need to Know About IEEE Standards and Indemnification

What is indemnification?

Indemnification is giving security for a loss that someone has suffered because of another's act or default. Indemnification, then, is the action of compensation for actual loss or damage sustained.

What are the IEEE policies on indemnification?

IEEE Bylaw I-300.3 sets forth the IEEE policy on indemnification. Anyone concerned with rights of indemnification should become familiar with that Bylaw. Although indemnification is permissive and not mandatory under the New York Not-For-Profit Corporation Law (the NPCL) that governs the IEEE, Bylaw I-300.3 makes indemnification mandatory. However, such indemnification in the IEEE is subject to the following conditions:

- The action taken is found by the IEEE Board of Directors to have been duly authorized and not to have been taken in bad faith or in a manner inconsistent with the purposes or objectives of the IEEE;
- The person to be indemnified has otherwise met appropriate minimum

standards of conduct set forth in the NPCL; and

- Such indemnification is not otherwise prohibited by law.

What are “appropriate minimum standards of conduct”?

Standards of conduct under the NPCL require that the indemnified person acted in good faith and for a purpose that person reasonably believed to be in the best interests of the IEEE. In the case of criminal matters, these standards require that the indemnified person had no reasonable cause to believe his or her conduct was unlawful. Under the NPCL, the IEEE may not indemnify a person who

- (i) Is found to have acted in bad faith,
- (ii) Has actively and deliberately acted in a dishonest manner, which actions were material to the cause of the action in question, or
- (iii) Received a personal gain to which he or she was not entitled.

All IEEE volunteers should be familiar with the IEEE Code of Ethics.

So how is indemnification determined?

The IEEE Board of Directors or Executive Committee, with advice of legal counsel, determines whether or not indemnification would be available in a particular instance. The IEEE is also permitted to advance expenses to an individual before the final disposition of an action or proceeding, subject to receipt of an undertaking to repay any amounts that exceed the amount to which the individual is ultimately entitled.

Does my indemnification coverage come solely from the IEEE?

A volunteer who participates in IEEE Standards Association activities on behalf of his or her employer might also be protected by insurance coverages maintained by the employer or by reason of indemnification policies adopted by the employer.

What if I have questions about this indemnification policy?

Questions about this policy should be directed to the Managing Director, IEEE Standards, or to the IEEE President through his or her staff.

How does insurance relate to indemnification?

The IEEE maintains several types of insurance, some of which provide coverage for certain exposures arising from standards-development activities and for defense of antitrust claims. Although it is against public policy to insure acts violating antitrust

laws, it is lawful to insure the cost of defending claims alleging such acts.

Under this insurance, the insurer has a duty to defend IEEE and its volunteers, if and when they are sued for a covered claim. In the event the IEEE is denied coverage under its insurance policies for a specific claim, the IEEE would not be relieved of its duty to indemnify volunteers as described and determined above.

Terms and conditions of the policies govern, and this document should not be construed as a representation by the IEEE or its insurers that coverage exists for any claim. This document is not intended to provide specific information on any particular coverage, but rather to provide basic information. IEEE reserves the right to change or modify its insurance policies, coverages, carriers, and terms of coverage from time to time.

What if I have questions about this insurance?

Inquiries regarding IEEE's insurance coverages should be directed to the IEEE Staff Director—Financial Services.

What other protections exist for standards volunteers?

The US Federal Volunteer Protection Act (VPA) may apply in certain cases. Subject to certain limitations and exceptions, under the VPA, a volunteer will not be held liable for harm caused by the volunteer if

- The volunteer was acting within the scope of his or her responsibilities;



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- The volunteer was properly licensed or certified (if appropriate or required);
- The harm was not caused by the volunteer's willful or criminal conduct, gross negligence, or reckless misconduct; and
- The harm was not caused by the volunteer operating a vehicle for which the operator must have a license or that must be insured.

For purposes of the VPA, a “volunteer” is an individual performing services for a nonprofit organization or governmental entity who does not receive compensation or any other thing of value in lieu of compensation.

Furthermore, the NPCL may also shield persons serving without compensation as officers or directors of the IEEE from liabilities to third parties in certain circumstances and subject to certain limitations.