

IEEE Standards and the Law

What You Need to Know

IEEE is a Section 501(c)(3) tax-exempt organization as defined by the United States Tax Code. As such, IEEE is obligated to serve the public good through its educational and scientific endeavors. These endeavors are not directed to benefit any group, industry, or profession, but to benefit the general public. Standards benefit the public in part by advancing technology and enabling competition. Therefore, IEEE standards participants need to follow certain guidelines in order to maintain the Section 501(c)(3) status of IEEE. This pamphlet will give you some general information about those items.

Standards and the Law

IEEE standards-developing groups need to be cognizant of the laws of the United States and international treaties that concern standards. In particular, IEEE standards are not to be created as impediments to international or domestic trade or directed to specific products or businesses. Instead, they are to be directed to technology solutions, human or environmental safety, and the like, in light of current learning in the applicable science. IEEE standards represent a consensus on the subject matter of the standard at the time the standard is promulgated, but they are not intended to, and cannot, guarantee performance, safety, or any results.

Essential information regarding IEEE standards work should be easily accessible to all materially affected parties. Participation in IEEE standards working groups is open generally to all persons interested in the standards being developed. Factors such as race, religion, gender, disability, age, national origin, sexual orientation, gender identity, or gender expression are never an appropriate basis for denial of participation. Therefore, IEEE standards-developing groups must ensure that all persons and comments are treated in a respectful and professional manner.

All persons should be provided with the chance to contribute to a standard's development so that all constituencies, viewpoints, and areas of expertise are heard and considered. Impartiality and fairness are key throughout the standards-development process. To ensure conformance to the general policies of "due process" and openness, IEEE standards-developing groups must operate within the baseline operating procedures created by IEEE.

The Five Basic Principles of standards development

Openness

Due Process

Balance

Right of Appeal

Consensus

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Standards and the Global Market

IEEE standards should be relevant and respond to regulatory and market needs. They should not distort the global or domestic market, have adverse effects on competition, or stifle innovation and technological development. Efforts should be made to avoid duplication or overlap with other standards.

Wherever appropriate, IEEE standards-developing groups should specify standards based on performance or function rather than design or product specifications. Many standards for interoperability or intercompatibility, however, may require detailed specifications.

IEEE standards-developing groups should assure that there are no agreements or understandings – express or implied, formal or informal—that restrict a participant’s freedom to make independent decisions in those matters that may affect competition.

Examples of matters that restrict a participant’s independence include

- Setting prices
- Establishing production and sales levels
- Choosing the markets in which the member operates and selects its customers and suppliers

During standards development meetings, discussions should be confined to technical, engineering, and safety considerations. Commercial considerations are *not* proper factors for consideration or discussion.

Discussion topics to avoid include:

- Prices, discounts, or terms or conditions of sale
- Profits, profit margins, or cost data
- Market shares, sales territories, or markets
- Allocation of customers, markets, or territories
- Discriminatory licensing provisions
- Topics that could result in the hindrance of competition or produce barriers to entry by new competitors
- Selection, rejection, or termination of customers or suppliers
- Restricting territory or markets where a company may sell or resell products
- Restricting customers
- Bidding or the restraint of bidding
- Any matter that restricts a participant’s independence

501(c)3 and 501(c)6 Organizations

Another type of United States tax-exempt organization that is closely related to a Section 501(c)(3) tax-exempt category is a Section 501(c)(6) organization. The key difference between Section 501(c)(3) and Section 501(c)(6) organizations is the obligation to serve the public good. Section 501(c)(3) organizations must serve the good of the general public by making their work available on a nondiscriminatory basis. Work that the government does often falls under this category as well. Because Section 501(c)(6) organizations serve industry rather than the public, they do not need to make their work available to the public on a nondiscriminatory basis.

How to Avoid Conflicts of Interest

The term “conflict of interest” can mean many things to many people. The key criteria are that the public good overrides your own, and that the interests of the IEEE Standards Association (IEEE-SA) should precede any other personal interests. You should keep informed about the general activities of the IEEE-SA, and use the utmost good faith in all your dealings on behalf of the IEEE-SA. Make sure you know all of the duties of your position and be aware of potential conflicts of interest or any situation that creates the appearance of a conflict of interest. Avoid real or perceived conflicts of interest whenever possible and disclose them to affected parties when they do exist. When in doubt, full disclosure could offer you the best course of action. Remember, unless you officially represent a corporate or other type of entity, you only represent yourself.

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Standards and Records

Minutes constitute the official record of IEEE standards-development meetings and provide documentation of what transpired. These documents can be used for many purposes other than their generally intended purpose of providing a historical record of actions taken. One important purpose is to help protect the organization and the participants in the meeting in the event issues develop in the future with respect to actions taken at any such meeting.

It is the responsibility of IEEE standards developers to assure that minutes are taken accurately and succinctly. For additional requirements, see the subclause on Minutes in the *IEEE-SA Baseline Policies and Procedures for Standards Development*.

Further, it is good practice to include the following in minutes:

- References to policies and procedures used in decision making
- Reminders of policies and procedures or compliance with policies and procedures
- Due diligence performed in connection with consideration of relevant issues, including consultation with advisors
- Steps taken to obtain information or guidance during consideration of relevant issues prior to a decision

Privileged or executive session discussions, other than what is agreed to be reported out, is not included in minutes.

The minutes should be reviewed with the Chair prior to distribution or posting. Until approved, the minutes must be denoted as a draft. Once approved, only the final approved minutes is to be retained.

There is no such thing as an “off the record” conversation. If comments are not appropriate for recording, they should not be made at IEEE standards meetings. Comment or discussion concerning competitive terms and conditions of companies or products is highly inappropriate.

When an IEEE standards-development meeting is adjourned, it should be over in all respects. Carryover discussions incidental to the meeting session present too great a temptation for “confidential” discussions of prohibited subjects.

Remember, following these principles protects IEEE and you. These principles are not all encompassing, but they do offer guidance to the rules you must follow. When in doubt, consult with the IEEE-SA staff and, if necessary and with staff guidance, the IEEE Legal and Compliance Department.

Minutes help protect the organization and the participants in the meeting in the event issues develop in the future with respect to actions taken at any such meeting.

Consensus

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IEEE STANDARDS ASSOCIATION

445 Hoes Lane, Piscataway, NJ 08854 USA

<http://standards.ieee.org>

Tel. +1 732-981-0060 Fax +1 732-562-1571

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