AMERICAN ACADEMY OF FORENSIC SCIENCES

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BSR_016_2026

Anne Caldas June 23, 2026

Secretary, ANSI Board of Standards Review (BSR)

Dear Ms. Caldas,

The ASB continues to assert that the Forensic Document Examination consensus body (CB) does not violate the ANSI *Essential Requirements* or ANSI-approved *Academy Standards Board Procedures for the Development of American National Standards* due to domination by a single stakeholder group. This assertion has been upheld by two appeal panels, one on ANSI/ASB Std 011 and the panel for the document under appeal.

As a threshold matter, the scope of this appeal is limited. An appeal of this kind addresses whether the ASB followed its ANSI-approved procedures; the technical content of the standard and the appellant's antitrust theories are not matters resolved on a procedural appeal. The Appeals Panel that reviewed this matter at the ASB has already decided the dispositive question. As the Panel held, the balance requirements of Clauses 1.3 and 2.3 of the ANSI Essential Requirements are grounded in the nature of a party's interest in the standard, that is, whether the party is a producer, user, general interest, or another identified stakeholder category, and not in the professional designations or credentials held by individual participants.

Response to ASB Interest Categories vs "Stakeholder Groups"

The current ASB procedures and interest categories have been approved by ANSI. The ASB Board continues to be responsible for determining the membership of each CB and is required to strive for balance so that no single ANSI-approved ASB interest category constitutes more than one-third of the membership of a consensus body and has done so. Of the 25 voting members on the Forensic Document Examination consensus body, the largest single ANSI-approved interest category comprises 7 members (28%), below the one-third threshold. The ASB Forensic Document Examination consensus body thus satisfied the one-third balance criterion it applies to all of its consensus bodies, a criterion stricter than the majority test that ANSI applies to consensus bodies developing standards other than safety-related standards. The ASB Procedures are not specific to any one ASB consensus body and are intended to cross all forensic disciplines.

The "two competing stakeholder interest groups" provided by the Appellant in his complaint to ANSI are stakeholder groups that are unique to the Appellant's opinion and are not supported in any other documentation. They do not represent the interests of practicing forensic professionals in the way that the ANSI approved ASB interest categories do.

The ASB further notes that the stakeholder groups proposed by the appellant are not based upon stakeholder relationships recognized under the ANSI *Essential Requirements*, but rather upon alleged similarities in individual members' training histories. ANSI balance requirements are intended to ensure representation of materially affected stakeholder interests, not to classify participants based upon personal educational backgrounds, certifications, employment histories, or other biographical characteristics. The complaint provides no evidence that individuals with similar training backgrounds constitute a unified stakeholder interest, share identical viewpoints, or act collectively in the standards development process.

By creating stakeholder groups in the manner suggested by the Appellant, he is making an assumption, that the ASB cannot verify regarding the hours of training received by Forensic Document Examiners

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(FDEs) on the ASB consensus body. The ASB Application for Membership does not, nor has it ever, requested detail on how applicants are educated or trained.

Applications to ASB Consensus Bodies

Page 4 of the complaint states that the ASB did not reach out to various trade/professional associations. The ASB has previously responded to this assertion in a previous complaint from the Appellant and maintains that when the Forensic Document Examination consensus body was formed, the ASB announced the intent publicly, not just to the AAFS membership. Specific announcements were sent to various forensic associations including through OSAC (Organization of Scientific Area Committees for Forensic Science) newsletters, and in the ANSI Standards Action weekly newsletter. The ASB has also encouraged ASB consensus body members (of which, the Appellant is an alternate member) to forward requests from, or contact information for, any organizations to be added to the ASB Newsletter list.

We value the ability to expand ASB outreach, but reflecting the intent of the federal CANSPAM Act, we do not, without a request, add an individual or organization to the newsletter email distribution. The ASB has not, without a request, added any organizations to the ASB Newsletter list. We encourage all current ASB and AAFS members to forward the announcement of CB membership and open comment to any interested party. Anyone who sends a request to asb@aafs.org will be added to the ASB Newsletter. The ASB sincerely hopes that all recipients of the AAFS or ASB newsletters will share ASB information and announcements with their membership to alert all parties to ASB's work, alert them as well to the opportunity for participation as voting or non-voting members, and to encourage them to respond during times of public comment. Because the ASB neither solicits nor maintains information regarding the manner, duration, or location of an applicant's training, it would have been impossible for the ASB to intentionally include, exclude, favor, or disfavor applicants on the basis alleged in the complaint. Assertions that applicants were selected or rejected due to their training backgrounds are therefore speculative, unsupported by any evidence, and incorrect.

Additionally, the complaint asserts that the ASB rejected applications of those with training over a 4-year period. The ASB Board has never been provided any information regarding the training period of the applicants. The applications are not public information, so the complaint is making an unsupported assumption regarding applications that were approved vs rejected. The ASB Board is tasked with upholding balance across the ANSI approved interest categories in adding new members to ASB consensus bodies.

The complaint separates the stakeholders into a majority and minority group. The Appellant states:

> "The Majority Group comprises about 125 FDEs who are either (a) certified by the American Board of Forensic Document Examiners (ABFDE) or (b) members of trade 3 of 22 associations that sponsor the ABFDE and support the ABFDE's stated policy that applicants for certification are "required to complete and document a full-time training period of at least two years in duration, in a forensic laboratory recognized by the ABFDE".
>
> The Minority Group comprises at least 50 FDEs who are not members of the Majority Group and whose fundamental training took place in the private sector, almost always on a part time basis over the course of four years."

However, the complaint provides no documentation supporting either the existence of these groups as distinct stakeholder interests or the numerical estimates attributed to them. The ASB has not collected, maintained, or verified information regarding the manner, duration, or location of training received by forensic document examiners generally, nor does it maintain information that would permit validation of the classifications proposed in the complaint. Accordingly, the ASB has no basis upon which to confirm the accuracy of the appellant's purported characterizations, numerical estimates, or assumptions regarding the training backgrounds and viewpoints of individual practitioners.

Table 1 of the complaint lists the breakdown of the members of the forensic document examination CB who voted on the ballots for ANSI/ASB Std 155-2026. The table contains information provided by the Appellant's claimed personal knowledge of each member. The applications for membership to a CB are confidential and applicants are not asked to provide the ASB with the information included in the table. The applicants may or may not provide their certification status, certification body, or what professional associations they are members of on their application.

The complaint states "Further, it raises the question as to why ASB would choose sales representatives and academicians to be on the CB and reject applications from private examiners who belong to the Minority Group and one of the professional associations whose members are mainly Minority Group members." As previously stated, the ASB Board selects members for ASB CBs from the pool of applicants received. The ASB Board reviews the qualifications provided by the applicants to determine if they have a material interest in and knowledge of the topic covered by the CB and if they qualify under their self-selected interest category. ASB standards are **all** intended to be utilized by more than just practitioners. Excluding academia, law enforcement, attorneys, and equipment manufacturers, who may utilize the standards in ways that would benefit the entire forensic profession, would be a disservice. No determination is made based on applicant's certification status, certification body, or training history. The ASB Procedures do not address that any discipline might have different stakeholder groups outside of the ANSI approved interest categories. According to the current ASB Procedures section 3.2.3:

> **3.2.3 Selection**
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> The Secretariat's recommendations and the Standards Board final decision consider the following when selecting members (both new applicants and renewals):
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> 1) need for active participation by each interest category;
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> 2) potential for achieving or maintaining balance; and
>
> 3) extent of interest expressed by the applicant and the applicant's commitment to participate actively; for renewals, the applicant's past participation level may be considered.
>
> The Secretariat and/or Standards Board may consult with CB Officers or other knowledgeable parties as applicable.

As an ANSI accredited SDO, the ASB is required to conform to the basis of the balance of our consensus bodies to our ANSI approved interest categories. The "stakeholder" groups defined by the Appellant are neither recognized groups under our ANSI approved ASB Procedures, nor do the procedures themselves indicate they should be. The ASB Board reviews all qualifications an applicant may choose to provide, but this review is to determine if they have a material interest and knowledge of the topic covered by the CB, and if they qualify under their self-chosen interest category.

In the applications for ASB Membership in 2021, 2022, and 2023 there were no questions on the application regarding training, professional associations membership and positions. Therefore, the ASB Board does not have the ability to take this information into consideration in selecting new members.

During the open application process in 2018 the FDE consensus body had three open positions and 25 applicants. Two were filled. One position was filled with a member in the "Producer" category as it was underrepresented, and one member who was already an active member of document working groups. One position was left open as no one applied in the "Consumer Group" category.

During the open application process in 2020, the FDE consensus body had four openings and 17 applications, and at that time Academics and Researchers, Producer, and Jurisprudence and Criminal Justice were underrepresented categories. Of the four members added, two were Academics and Researchers, one was a Producer, and one in Jurisprudence and Criminal justice.

During the open application process in 2021, the FDE consensus body had two openings and 12 applications. At the time Academics and Researchers, Producer, and Jurisprudence and Criminal Justice were underrepresented categories. No applications in the Jurisprudence and Criminal Justice category were received, so one applicant in Academic and Researchers and one in Producer were added.

During the open application process in 2022, the FDE consensus body had no openings. Thereafter, one member resigned during the 5-year application period, and only one person applied, so that applicant was added.

During the open application process in 2023 and 2024, the FDE consensus body was at capacity with 25 members, there were two members who applied under the 5-year reapplication period in 2023 and were maintained on the consensus body, leaving no room for any new members to be added.

During the open application process in 2025, there were two openings on the FDE consensus body, the User – Non-Government category could not have any additions in order to stay below the 33%, so a User – Government applicant, who had also been very active in working groups was added.

Since its creation in 2015/2016 the ASB has revised its interest categories, the current Interest Categories (Academics and Researchers, General Interest, Jurisprudence and Criminal Justice, Producer, User – Government, User - Non-Government) have been approved by ANSI and are intended to create consensus bodies that are balanced, open, and offer all parts of each forensic discipline the opportunity to provide input on standards. The ASB submits that having perspectives from academia, law enforcement/legal, instrument manufacturers, in addition to government and non-government practitioners, is important for comprehensive standards that may have a wide variety of end users. The application history set out above is also affirmative evidence against the Appellant's "stacking" theory. Across the 2018 through 2025 application cycles, the majority of the seats filled went to the Academics and Researchers, Producer, and Jurisprudence and Criminal Justice categories, which were the underrepresented categories at the relevant times, rather than to additional examiner practitioners of any kind. A body that adds non-practitioner members to cure underrepresentation is the opposite of one stacked to favor a single practitioner viewpoint.

The complaint further asserts that certain consensus body members possessed economic incentives to favor one form of training over another. These assertions are unsupported by evidence. The complaint assumes that individuals with similar training backgrounds necessarily possess identical economic interests and voting objectives. The ASB has no evidence supporting that proposition. Consensus body members include individuals from government laboratories, private practice, academia, manufacturing, legal professions, and retired practitioners. The complaint identifies no evidence that any member acted to advance a personal economic interest rather than exercising independent professional judgment regarding the proposed standard.

Misstatements of ANSI/ASB Standard 155-2026

ASB appeals shall be based on perceived procedural actions or inactions of the CB. Technical content, as such, is not subject to the appeals process. The assertions regarding the content of the standard are a technical, not procedural, issue. Regardless, the appellant's complaint materially misstates ANSI/ASB Standard 155-2026: the standard imposes no maximum program length, ties the pace of training to the trainee's demonstrated competency rather than a fixed number of hours, and expressly contemplates instruction that is less than fully workplace-supervised, subject only to documentation by the principal trainer. Moreover, ANSI/ASB Std 155-2026 is a **voluntary** consensus standard and **expressly not retroactive**; it therefore imposes no obligation on the appellant. Section 4.1 of the standard states this in the terms: "This standard is intended to be applied prospectively, and not retroactively." The training already completed or in progress by any currently practicing examiner is therefore unaffected.

The two documents referenced on page 2 of the complaint are not relevant to procedural issues raised in the current ANSI/ASB Standard 155-2026 appeal. While the ASTM and SWGDOC documents cited by the Appellant may provide historical context, the issue presented in this appeal is whether the ASB followed ANSI-approved procedures in developing ANSI/ASB Std 155-2026. Accordingly, the existence of prior ASTM or SWGDOC guidance does not establish that the current ANSI-accredited consensus body lacked

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balance, failed to follow ANSI procedures, or otherwise violated the ANSI *Essential Requirements*. To the extent the Appellant relies on ASTM's handling of interest categories in Subcommittee E30.02 as precedent, that reliance is misplaced. ASTM E30.02 operated under different procedures and an open-membership model in which any stakeholder could join and vote, whereas the ASB consensus body is a fixed body whose membership is balanced across the discrete interest categories approved by ANSI for the ASB. The manner in which a different standards developer, applying different rules, classified its participants does not establish a deficiency in the ASB's application of its own ANSI-approved categories.

A significant portion of the complaint states "…that one can only be a qualified FDE if he or she trained on a full-time basis for 24 months whereas members of the Minority Group maintain that one can be a qualified FDE by undergoing the equivalent of 24-months full-time training over a 4-year period instead of a 2-year period." The published ANSI/ASB Standard 155-2026 states:

> **"4.5 Duration**
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> The training program shall be a structured, documented, and systematic apprenticeship program of workplace supervised learning. This training shall be supervised by the principal trainer or an associate trainer. It is estimated that a trainee can achieve competency in all modules of forensic document examination in 4,000 hours of training.
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> NOTE 1 An hour is defined as 60 minutes spent reading, examining, observing, testing, or studying topics specifically related to this training program.
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> NOTE 2 4,000 hours is extrapolated from the "equivalent of a minimum of 24 months of full-time training" program described by ASTM E2388:2005, *Standard Guide for Minimum Training Requirements for Forensic Document Examiners*.
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> A trainee may or may not be a salaried employee and is expected to work almost daily with the instructor in their laboratory or office. The principal trainer determines when the trainee has sufficiently trained to begin working on his/her own and may or may not follow that trainee's case work for a period of time.
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> The training program may be interrupted or extended due to exigent circumstances, but it is the responsibility of the principal trainer, with agreement of the trainee, to approve any break or extension in training. To ensure continuity of training, the completion time shall not exceed the originally projected normal program length by more than 50% (e.g., a three year program may not last more than 4.5 years)."[…] The reason for lapses or extensions in training, or for less than 100% workplace supervised instruction, shall be documented by the principal trainer."

Note that the final parenthetical statement "**(e.g., a three year program may not last more than 4.5 years)**" explicitly allows for a program length of more than 2 years, or even 4 years. The standard does not have a specified maximum time constraint for completion of a training program. The standard does NOT state "the training program can only exceed 24 months upon a showing of exigent circumstances." On the contrary, the standard allows for a program of undefined length to be extended in exigent circumstances, but to be clear, the standard does not set a maximum of 24 months for a training program. Nor does the standard confine training to full-time, on-site instruction. Section 4.5 expressly requires the principal trainer to document the reason for "less than 100% workplace supervised instruction," which presupposes that instruction need not be fully workplace-supervised, and Section 4.6.2 permits distance learning as a component of the program (though not as its sole basis) and directs that the pace of instruction be set by demonstrated competency rather than a predefined number of hours. The standard thus accommodates the very flexibility the appellant contends it forecloses.

The ASTM and SWGDOC standards cited in the complaint contain more restrictive requirements. ASTM E2388:2005 and the SWGDOC document state:

> **6.1** The training program shall be the equivalent of a minimum of 24 months full-time training under the supervision of a principal trainer.

6.1.1 The training program shall be successfully completed in a period not to exceed four years.

Therefore, the complaint is misstating the training program length requirements in the documents. The ASB standard is more permissive than the two standards it has superseded, as the standard does not set a maximum length on any FDE training program.

Response to Appellant's Antitrust Assertions

As an initial matter, the ASB respectfully submits that the Appellant's antitrust arguments fall outside the proper scope of this appeal. The ANSI *Essential Requirements* establish a framework for reviewing whether accredited standards developers have complied with procedural due process requirements, such as openness, balance, lack of dominance, and consideration of comments. The ANSI Appeals Board's role is correspondingly limited to determining whether those procedural requirements have been met.

By contrast, determinations of liability under the federal antitrust laws involve complex factual and legal analyses, including market definition, competitive effects, and intent, that are reserved to courts and enforcement agencies. While the ASB is committed to conducting all standards development activities in accordance with applicable law, including antitrust principles, the present appeal is properly confined to questions of procedural compliance, not adjudication of antitrust claims.

That said, to the extent the Appellant raises antitrust principles as a concern, several general observations are appropriate.

Applicable Legal Framework

Courts evaluating claims arising out of standards-development activity typically apply a "rule of reason" analysis. Under that framework, the inquiry focuses on whether the challenged conduct results in an unreasonable restraint of trade, taking into account both potential anticompetitive effects and legitimate procompetitive justifications.

The development and adoption of consensus-based standards has long been recognized as a process that can yield substantial procompetitive benefits. These include enhancing quality and consistency, promoting interoperability and reliability, facilitating informed decision-making by consumers and users, and improving confidence in professional practices. In the context of forensic science, minimum training standards serve these objectives by providing guidance regarding the knowledge, skills, and competencies necessary to perform work reliably and responsibly within the justice system.

Accordingly, the existence of a standard that establishes training requirements does not, in itself, give rise to antitrust concern. Rather, the relevant inquiry is whether the effect of the alleged conduct would be a standard that, once adopted, would unreasonably restrain competition when viewed in light of its legitimate objectives.

Market Definition, Market Power, and Competitive Effects

A rule-of-reason analysis ordinarily requires consideration of a relevant product and geographic market, as well as an assessment of market power, which is to say the ability to exclude competition or control market outcomes. Appellant makes no allegation that such market power existed in the consensus group.

In standards-setting contexts, courts may also consider whether a particular standard functions as a practical "gatekeeper" by virtue of its adoption or reliance by third parties, such as employers, certifying bodies, or regulators.

Absent such market power or gatekeeping effect, the adoption of a voluntary standard is unlikely to result in the type of substantial anticompetitive impact required for liability. In particular, where (as here) multiple pathways for professional qualification or market participation remain available, and where adherence to a standard is not mandated, the likelihood of actionable competitive harm will not exist. Again Appellant has made no allegation that such a "gatekeeper" potential is present.

Standards Development Process and Allegations of "Stacking"

The Appellant relies in part on *Allied Tube & Conduit Corp. v. Indian Head, Inc.* to suggest that alleged imbalance in the composition of a consensus body may give rise to antitrust risk. However, *Allied Tube* concerned highly specific and egregious conduct in which participants deliberately manipulated the standards-setting process by recruiting and coordinating votes solely to predetermine the outcome. The Supreme Court's concern in that case was not the existence of differing stakeholder perspectives, but the intentional distortion of the consensus process through bad-faith participation. Respondent has satisfactorily explained the means by which the consensus group was formed, and there has been no conduct remotely resembling that reviewed by the Supreme Court in *Allied Tube*.

Relationship Between ANSI Procedures and Antitrust Considerations

While a given court may find the ANSI *Essential Requirements* to be representative of best practices in standards development, they are not themselves antitrust law. Accordingly, compliance or non-compliance with ANSI procedures is not determinative of antitrust liability. Rather, it is at most one factor among many in a broader analysis. Accordingly, the question before the Appeals Board - whether the ASB complied with ANSI's procedural requirements - remains distinct from any hypothetical inquiry into antitrust liability.

Conclusion of Antitrust Assertions

In sum, while the ASB takes seriously its obligation to conduct standards development in a manner consistent with applicable law, the Appellant's antitrust arguments do not alter the appropriate scope of this appeal. The issues properly before the Appeals Board concern compliance with the ANSI *Essential Requirements* governing due process.

To the extent antitrust principles are invoked, Appellant has not alleged specifics that could support a claim of violation of the antitrust laws. Nor does the single authority cited by the Appellant suggest a different conclusion.

Accordingly, the ASB respectfully submits that the Appellant's antitrust allegations do not provide a basis for overturning the decision under review and should not affect the Board's evaluation of the procedural issues presented.

Final Conclusion

In conclusion, the ASB submits that the interest categories recommended by the Appellant would exclude many members of the FDE community who provide valued knowledge and input into the ASB FDE standards. ASB standards are all intended to be utilized by more than just the practitioners. Excluding academia, law enforcement, attorneys, and equipment manufacturers, who may utilize the standards in ways that would benefit the entire forensic profession, would be a disservice.

Regards,

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