



# Standards and Certification Training

Module C – Legal  
C1. Conflict of Interest/Code of Ethics

# MODULE C COURSE OUTLINE

## **C1. Conflict Of Interest/Code Of Ethics**

C2. Antitrust

C3. Torts

C4. Intellectual Property

C5. Speaking For The Society

# REVISIONS

<u>Date</u>	<u>Change</u>
09/26/18	Reformatted in its entirety. Slide 25 was revised.
01/06/16	Minor editorial revisions for formatting consistency.
03/28/14	Reformatted entire Module and removed redundant slides 3, 13, 22, 31 and 33. Added Learning Objectives Slide 3.
09/01/11	Slides 5,7,8,10, 12 Notes revised in their entirety. Slides 20, 21, 27 & 34 Minor Revisions (font changes, reordering or revising for clarity, minor additions). New slide 11 was added for PAF form. Slides 15-19 Added slides and expanded to reflect full text of principles and canons in policy. Slide 32 Revised in its entirety.
07/07/08	Revised entirely.

## LEARNING OBJECTIVES

At the end of this module, you will be able to understand:

- The primary purposes of the ASME Society
- All society members and members of standards committees must act in accordance with the Society's Policies on P-15.7, Ethics, and Policy P-15.8, Conflicts of Interest
- ASME Constitution with regard to indemnification

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- All society members and members of standards committees must act in accordance with the Society's Policies on P-15.7, Ethics, and Policy P-15.8, Conflicts of Interest
- ASME Constitution with regard to indemnification.

# AGENDA

- I. Introduction
- II. Society Policy P-15.7 Ethics
- III. Society Policy P-15.8 Conflicts of Interest

This Module will cover the following topics:

- I. Introduction
- II. Society Policy P-15.7, Ethics
- III. Society Policy P-15.8, Conflicts of Interest

# I. INTRODUCTION

Ethical and Conflict of Interest Obligations are outlined in:

- ASME Constitution
- ASME By-Laws
- ASME Policies
- ASME Codes and Standards Policies

ASME Society Ethical and Conflict of Interest Obligations are outlined in the ASME Constitution, ASME By-Laws, ASME Policies and ASME Codes and Standards Policies. The links to the relevant policies may be found in the references at the end of this presentation.

## ASME CONSTITUTION (C2.1.1)

- Section C2.1.1 of the ASME Constitution states that one purpose of the society is to promote a high level of ethical practice.
- Section C2.1.1 further provides “Members shall be governed in all professional and business relations by the Code of Ethics as stated in the Society Policies.”

Section C2.1.1 of the ASME Constitution states that one purpose of the society is to promote a high level of ethical practice.

The Society accomplished this by ensuring that their Society “Members shall be governed in all professional and business relations by the Code of Ethics as stated in the Society Policies.”

# ASME CONSTITUTION

## Article C4.1.12 Indemnification

- ASME Constitution, Article C4.1.12 provides that Committee members are indemnified provided that the individual:
  - Acted in good faith for a purpose which he reasonably believed to be in the best interests of the Society
  - Had no reasonable cause to believe that the conduct was unlawful
- Potential for loss of indemnification if Committee member does not follow ASME policies

ASME Constitution, Article C4.1.12 provides that Committee members are indemnified provided that the individual:

- Acted in good faith for a purpose which he reasonably believed to be in the best interests of the Society
- Had no reasonable cause to believe that the conduct was unlawful

There is a Potential for loss of indemnification if Committee member does not follow ASME policies



## ASME BY-LAW B2.1 FULFILLMENT of PURPOSE

- By-Law B2.1, Fulfillment of Purpose, requires that the Society shall:
  - Maintain a Code of Ethics of Engineers (P15.7)
  - Promote and encourage practice within this Code
  - Arrange for adjudication of violations of the Code (P15.4)

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## ASME POLICIES

- Ethics
  - Society Policy P-15.7
- Conflicts of Interest
  - Society Policy P-15.8
- Each will be examined in greater depth later in this presentation

This presentation will examine the Ethics Society Policy P-15.7 and Conflicts of Interest Society Policy P-15.8.

## OBLIGATIONS OF COMMITTEE MEMBERS

- Participation Acknowledgement Form (PAF Form)
  - ASME committee members must formally agree to comply with the Society policies noted on the PAF form including:
    - Society Policy P-15.7, Ethics
    - Society Policy P-15.8, Conflicts of Interest
  - Without a signed form, a member may not be appointed
- Adhere to Society Policies
  - ASME volunteers have the responsibility for assuring their adherence to these Society Policies
  - ASME staff oversees committee members

All ASME committee members are required to file a Participation Acknowledgement Form (PAF Form). This acceptance form requires that the committee member adhere to Society Policy P-15.7 on Ethics and Society Policy P-15.8, Conflicts of Interest. Without a written acceptance a member may not be appointed

All ASME volunteers have the responsibility for assuring their adherence to these Society Policies. ASME staff is assigned to oversee committee members.

# ASME PARTICIPATION ACKNOWLEDGEMENT FORM

ASME Codes and Standards  
Participation Acknowledgement Form

I acknowledge my responsibility to comply with one of the following in carrying out my activities for all appointments and reappointments to ASME Codes and Standards activities (check one):

- I have read and agree to comply with Society Policies [P-15.7 Ethics](#), [P-15.4 Ethical Conduct Violation Procedures](#), [P-15.8 Conflicts of Interest](#), [P-15.9 Policy Against Discrimination \(including Discriminatory Harassment\)](#) and [P-14.6 Society Name, Seal, Emblem, Initials, Titles, Identification, and Certificates](#).

[NOTE: ASME Society Policies are available on ASME's web site (<http://www.asme.org/about-asme/governance/asm-society-policies>). Copies of the Policies may be requested via e-mail at [cs@asme.org](mailto:cs@asme.org).

- As an employee of a government agency, I agree to follow a Code of Ethics and /or Policy on Conflict of Interest administered by the pertinent jurisdiction or governmental agency

Further, I acknowledge that copyright and all rights in all materials produced by ASME Codes and Standards Committees are owned by ASME, that ASME may register copyright in its own name, and that the only permitted reproduction of ASME copyrighted material is for Committee business.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_  
(Please Print)

Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_

## ENFORCEMENT OF ETHICAL OBLIGATIONS OF COMMITTEE MEMBERS

- ASME Ethics Committee
  - This committee is under the Committee of Past Presidents
  - Provides oversight of professional practice and ethics
- Authority
  - To review questions of ethics and conflict of interest and render opinions
  - May issue letter of warning or admonishment
  - May refer matters to Executive Director and request that a hearing be conducted
  - The procedure for the adjudication of alleged violations of the Ethics code can be found in P-15.4 Ethical Conduct Violation Procedures

ASME Ethics Committee provides oversight of professional practice and ethics. This committee is under the Committee of Past Presidents, which reports directly to the ASME Board of Governors.

This committee has the authority to review questions of ethics and conflict of interest and render opinions.

The committee may decide to issue a letter of warning or admonishment or it may refer matters to Executive Director and request that a hearing be conducted. If a hearing is determined to be in order, the procedure for the adjudication of alleged violations of the Ethics code can be found in Society Policy P-15.4 Ethical Conduct Violation Procedures.

## II. SOCIETY POLICY P-15.7 ETHICS

Society Policy, P-15.7, Ethics

## SOCIETY POLICY P-15.7

Society Policy 15.7 Ethics contains the Code of Ethics of Engineers consisting of:

- The Fundamental Principles
- The Fundamental Canons

Society Policy 15.7 Ethics contains the Code of Ethics of Engineers consisting of: three fundamental principles and ten fundamental canons that will be reviewed in the next set of slides.

## **SOCIETY POLICY P-15.7 FUNDAMENTAL PRINCIPLES**

Engineers uphold and advance the integrity, honor and dignity of the profession by:

- Using their knowledge and skill for the enhancement of human welfare
- Being honest and impartial, and serving with fidelity their clients (including their employers) and the public; and
- Striving to increase competence and prestige of the engineering profession

The three fundamental principles require that engineers uphold and advance the integrity, honor and dignity of the profession by:

- Using their knowledge and skill for the enhancement of human welfare
- Being honest and impartial, and serving with fidelity their clients (including their employers) and the public; and
- Striving to increase competence and prestige of the engineering profession



## TEN FUNDAMENTAL CANONS

1. Engineers shall hold paramount the safety, health and welfare of the public in the performance of their professional duties
2. Engineers shall perform services only in the areas of their competence; they shall build their professional reputation on the merit of their services and shall not compete unfairly with others
3. Engineers shall continue their professional development throughout their careers and shall provide opportunities for the professional and ethical development of those engineers under their supervision

The ten fundamental canons and accepted principles for the behavior of ASME Society members are as follows:

1. Engineers shall hold paramount the safety, health and welfare of the public in the performance of their professional duties.
2. Engineers shall perform services only in the areas of their competence; they shall build their professional reputation on the merit of their services and shall not compete unfairly with others.
3. Engineers shall continue their professional development throughout their careers and shall provide opportunities for the professional and ethical development of those engineers under their supervision.

## TEN FUNDAMENTAL CANONS

4. Engineers shall act in professional matters for each employer or client as faithful agents or trustees, and shall avoid conflicts of interest or the appearance of conflicts of interest
5. Engineers shall respect the proprietary information and intellectual property rights of others, including charitable organizations and professional societies in the engineering field
6. Engineers shall associate only with reputable persons or organizations

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5. Engineers shall respect the proprietary information and intellectual property rights of others, including charitable organizations and professional societies in the engineering field.
6. Engineers shall associate only with reputable persons or organizations.

## TEN FUNDAMENTAL CANONS

7. Engineers shall issue public statements only in an objective and truthful manner and shall avoid any conduct which brings discredit upon the profession
8. Engineers shall consider environmental impact and sustainable development in the performance of their professional duties
9. Engineers shall not seek ethical sanction against another engineer unless there is good reason to do so under the relevant codes, policies and procedures governing that engineer's ethical conduct

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8. Engineers shall consider environmental impact and sustainable development in the performance of their professional duties.
9. Engineers shall not seek ethical sanction against another engineer unless there is good reason to do so under the relevant codes, policies and procedures governing that engineer's ethical conduct.

## TEN FUNDAMENTAL CANONS

10. Engineers who are members of the Society shall endeavor to abide by the Constitution, By-Laws and Policies of the Society, and they shall disclose knowledge of any matter involving another member's alleged violation of this Code of Ethics or the Society's Conflicts of Interest Policy in a prompt, complete and truthful manner to the chair of the Ethics Committee

Finally,

10. Engineers who are members of the Society shall endeavor to abide by the Constitution, By-Laws and Policies of the Society, and they shall disclose knowledge of any matter involving another member's alleged violation of this Code of Ethics or the Society's Conflicts of Interest Policy in a prompt, complete and truthful manner to the chair of the Ethics Committee

## APPLICATION OF ETHICS POLICY

- The Ethics Policy requires ethical practice by every Society member
- The Ethics Policy applies to all codes and standards writing committee members including non-ASME members

The Ethics Policy requires ethical practice by every Society member

In order to participate on ASME standards writing committees, members have agreed to adhere to the Ethics Policy. This policy therefore applies to all codes and standards writing committee members including non-ASME members.

## INTERPRETATIONS OF CODE OF ETHICS

- Code of Ethics and Criteria for the Interpretation of the Fundamental Canons can be accessed on [asme.org](http://asme.org)

Further information regarding the interpretation of the Code of Ethics may be found online in the Code of Ethics and Criteria for the Interpretation of the Fundamental Canons which can be accessed on [asme.org](http://asme.org).

### **III. SOCIETY POLICY P-15.8, CONFLICTS OF INTEREST**

Society Policy P-15.8, Conflicts Of Interest

### III. SOCIETY POLICY P-15.8, CONFLICTS OF INTEREST

- Recognizes the importance of objectivity and impartial professional judgment to the integrity and public confidence in ASME's work
- Acknowledges that professionals may have conflicts of interest
- Holds each individual responsible for determining when a conflict of interest exists
- Establishes guidelines and procedures to help individuals act ethically

Society Policy P-15.8, Conflicts of Interest recognizes the importance of objectivity and impartial professional judgment to the integrity and public confidence in ASME's work. It also acknowledges that professionals may have conflicts of interest and holds each individual responsible for determining when a conflict of interest exists. Finally, this policy has established guidelines and procedures to help individuals act ethically.



## INDIVIDUAL'S RESPONSIBILITY

- An individual's fundamental responsibility is to refrain from participating in Society decision-making when:
  - A competing interest precludes or inhibits the volunteer's independent professional judgment
  - Continued participation would unreasonably jeopardize the integrity of the decision making process

As a committee member, your fundamental responsibility is to refrain from participating in Society decision-making when either of these conditions occur:

- If a competing interest precludes or inhibits the volunteer's independent professional judgment
- If continued participation would unreasonably jeopardize the integrity of the decision making process

## CONFLICT DEFINED

- When does a conflict of interest exist?
  - The potential exists whenever a person owes a loyalty to multiple interests or organizations
  - A conflict of interest occurs only when loyalty to one interest would impel a course of action different from that impelled by another interest

When does a conflict of interest exist?

The potential exists whenever a person owes a loyalty to multiple interests or organizations.

But, a conflict of interest occurs only when loyalty to one interest would impel a course of action different from that impelled by another interest.

## BALANCE OF INTERESTS

- Identification with a specific “interest category” is not necessarily grounds for a conflict because:
  - Members are appointed as individuals, not representatives of companies or organizations
  - Members are categorized by the nature of their employment or financial support for Committee activities
  - Balance of interests is designed to prevent a single interest group from controlling an action

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- Members are appointed as individuals, not representatives of companies or organizations
- Members are categorized by the nature of their employment or financial support for Committee activities
- Balance of interests is designed to prevent a single interest group from controlling an action

## CONFLICT OF INTEREST SITUATION

- When an individual believes his/her participation represents a conflict of interest that person:
  - Should disqualify him/herself from decision-making process
  - This could be accomplished by “Not Voting” during the vote or ballot process

**NOTE:** This does not preclude participation in any meeting on the same basis as a non-member

If an individual determines that his/her participation represents a conflict of interest, they should disqualify him/herself from decision-making process. This could be accomplished by “Not Voting” during the vote or ballot process.

This does not preclude participation in any meeting on the same basis as a non-member.

## APPEARANCE OF CONFLICT OF INTEREST

- When a member of a decision-making body believes his/her participation may give the appearance of conflict of interest:
  - Individual should make facts and circumstances known
  - Body will vote by secret ballot. Three fourths approval is required to concur that continued participation will not unreasonably jeopardize the decision-making process
  - Decision may be referred to the supervisory body or appealed to the Ethics Committee by any party

When a member of a decision-making body such as a Board or Committee believes his/her participation may give the appearance of conflict of interest:

- The individual should make facts and circumstances known to that committee or Board.
- The committee or Board will then vote by secret ballot. Three fourths approval is required to concur that continued participation will not unreasonably jeopardize the decision-making process.
- The decision may be referred to the supervisory body or appealed to Ethics Committee by any party.

## APPEARANCE OF CONFLICT OF INTEREST

- When an individual serving on a committee or group believes there is an appearance of a conflict of interest and wishes to bypass the step described on the previous slide:
  - Individual should make facts and circumstances known to the appointing committee or supervisory body
  - If the matter is not resolved by the appointing committee or supervisory body then it may be referred to the attention of the Ethics Committee

When an individual serving on a committee or group believes there is an appearance of a conflict of interest and wishes to bypass the step described on the previous slide:

Individual should make facts and circumstances known to the appointing committee or supervisory body.

If the matter is not resolved by the appointing committee or supervisory body then it may be referred to the attention of the Ethics Committee.

## WHO MAY RAISE CONFLICT ISSUE

- The right to challenge participation
  - Any member of a decision-making body may challenge the participation of any other member
  - Issue decided by same process as described in the previous two slides

Any member of a decision-making body may challenge the participation of any other member.

Issue is decided by the same process as described in the previous two slides

## MODULE SUMMARY

- One of the primary purposes of the ASME Society is to “promote a high level of ethical practice.”
- All society members and members of standards committees must act in accordance with the Society’s Policies
  - Society Policy P-15.7, Ethics
  - Society Policy P-15.8, Conflicts of Interest
- ASME Constitution provides that Committee members are indemnified, when acting in good faith. There is potential for loss of indemnification if Committee member does not follow ASME policies.

### In summary:

- One of the primary purposes of the ASME Society is to “promote a high level of ethical practice.”
- All society members and members of standards committees must act in accordance with the Society’s Policies
  - Society Policy P-15.7, Ethics
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- ASME Constitution provides that Committee members are indemnified, when acting in good faith. There is potential for loss of indemnification if Committee member does not follow ASME policies.



## REFERENCES

- ASME Constitution (<http://www.asme.org/about-asme/governance/asm-constitution-and-by-laws>)
  - C2.1, Purposes
  - C4.1.2, Indemnification
- Society Policies (<http://www.asme.org/about-asme/governance/asm-society-policies>)
  - P-15.4, Ethical Conduct Violation Procedures
  - P-15-7, Ethics
  - P-15-8, Conflicts of Interest
- Codes and Standards Policy (<https://cstools.asme.org/csconnect/FileUpload.cfm?View=yes&ID=7614>)
  - CSP-11, Committee Participation Acknowledgement

ASME policies are available online through the addresses listed on this page.