

SOCIETY POLICY

CONFLICTS OF INTEREST

I. PREFACE

- A. Article C2.1.1 of the Constitution lists the following as one purpose of the Society: To “[p]romote a high level of ethical practice.”
- B. Article C2.1.1 states in part “[i]n all professional and business relations the members of the Society shall be governed by the Code of Ethics.”
- C. Society Policy P-15.7 states in part, “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 interests.”

II. PURPOSE

Each individual acting for or in the name of the American Society of Mechanical Engineers (“ASME” or the “Society”) is in a position of trust. This Society Policy is intended:

- A. To further assure the objectivity and public confidence in the integrity of all Society deliberations and statements, by establishing guidelines and procedures concerning conflicts of interest. It is acknowledged and understood that competent and knowledgeable individuals of recognized abilities, qualifications and interest who participate in professional activities may have potential conflicts of interest.
- B. To establish guidelines and procedures to enable individuals to act ethically and to uphold the integrity of the Society's policies, rules, codes, and standards.
- C. To ensure that individuals act in the Society's best interest and comply with applicable legal requirements.

III. POLICY APPENDIX A & APPENDIX B

- A. Appendix A (Technical or Membership Matters)

Appendix A of this Society Policy applies to decisions or actions pertaining to ASME and involving Technical or Membership Matters. A matter is a “**Technical or Membership Matter**” if it pertains primarily to a technical issue or a membership issue and is not a Financial Matter. Generally speaking, matters coming before the following bodies within ASME are Technical or Membership Matters: the Nominating Committee, the Committee on Organization and Rules, Council on Standards and Certification and the Committee of Past Presidents as well as any units or sub-units of the Society that normally consider Technical or Membership Matters.

B. Appendix B (Financial Matters)

Appendix B of this Society Policy applies to decisions or actions pertaining to ASME (or an ASME affiliate) and involving Financial Matters, but only if the Financial Matter is a **“Covered Arrangement”** as defined in Appendix B. The term **“Financial Matters”** means a matter involving the expenditure, augmentation, use, disposition, or allocation of ASME's resources or the resources of an ASME affiliate. A Financial Matter includes (without limitation) any recommendation, advice, decision, or action concerning:

- an expenditure by ASME (e.g., payment of compensation or a reimbursement, leasing or licensing property from third parties, buying property, contracting for services, and granting a prize or award);
- an augmentation of ASME's resources or capacity (e.g., accepting a gift or bequest of money or property, accepting the use of services, or joining forces with another organization); or
- the use, investment, disposition, or allocation of ASME resources (e.g., selling ASME's property, leasing or licensing ASME property to third parties, selecting an investment advisor or manager, and allowing third parties to use ASME property or other resources such as staff time, endorsements, logos, or other intellectual property).

If a matter involves both Financial Matters and Technical or Membership Matters, it should be handled in a manner consistent with both Appendix A and Appendix B of this Society Policy to the extent possible, and in the event of uncertainty, in a manner consistent with Appendix B.

C. INTEGRAL PART AND USE OF DEFINED TERMS

Appendix A and Appendix B are incorporated in (and therefore are an integral part of) this Society Policy. Capitalized terms used in Appendix A or Appendix B and not defined in such Appendices have the meanings set forth above.

IV. USE OF ASME NAME, SEAL, EMBLEM, INITIALS, TITLES, ETC.

The use of Society titles for those holding elected and non-elected office within the Society shall follow the guidelines stated in paragraph III.D.4 of Society Policy P-14.6, Society Name, Seal, Emblem, Initials, Titles, Identification and Certificates. Violations of those guidelines by volunteers shall be considered under violations of the Code of Ethics. (See Society Policy P-15.7, Ethics.)

V. USE OF ASME STATIONERY

Society Policy P-14.6 Society Name, Seal, Emblem, Initials, Titles, Identification and Certificates contains provisions with respect to the use of ASME stationery in Paragraph III.B.4.

VI. NOTICE, STATEMENT OF ADHERENCE, AND OVERSIGHT

A. *Notice.* Before taking office (including as a Governor-elect or President-elect), each member of a unit or sub-unit of the Society and each volunteer elected or appointed to represent ASME in some other capacity shall be sent by mail or as an electronic link, as appropriate, a copy of this Society Policy, Society Policy P-15.7, Ethics and Society Policy P-14.6, Society Name, Seal, Emblem, etc., and be directed to adhere to the applicable provisions of these policies as a condition of acting for or representing the Society.

B. *Statement of Adherence.* Before taking office (including as a Governor-elect or President-elect), unless there is in ASME's files a prior signed acceptance of Society Policy P-15.8, each member of a unit or sub-unit of the Society and each volunteer elected or appointed to represent ASME in some other capacity shall state in writing his or her commitment to adhere to the applicable provisions of this Society Policy. If this signed Statement of Adherence is not on file, the volunteer may not take office.

C. *Updated Statement of Adherence.* If either Policy P-14.6 or P-15.8 receives substantive revision as determined by the Board of Governors, all volunteers required to have a Statement of Adherence on file shall receive a copy of the revised Policy and shall be requested to sign an updated Statement of Adherence. Should there be any occurrence where a volunteer does not sign a new Statement of Adherence and forward it to the Society within 90 days, the Executive Director/CEO shall inform the pertinent board, committee, sector, or other pertinent body that the volunteer is in violation of this provision of this Society Policy and may not continue in office or further represent ASME. When action is taken by a volunteer to comply with this Policy, that individual shall be reinstated to his or her position and allowed to represent ASME in his or her previous position.

D. *Oversight.* At least twice a year, the Executive Director/CEO of ASME shall submit a report to the Ethics Committee certifying that the requirements of subparagraphs (A), (B) and (if applicable) (C) have been met and shall include names of those volunteers not in compliance.

E. *Employees.* Notice to ASME employees and the handling of Statements of Adherence and Updated Statements of Adherence will be pursuant to ASME employment procedures determined by the Executive Director/CEO.

F. *Initial Review.* Any alleged violation of this Society Policy should be reported to either the Executive Director/CEO or any member of the Executive Committee of the Board of Governors or ASME Human Resources who shall promptly notify the full Executive Committee. The Executive Committee shall initially determine whether the alleged violation shall be addressed through this Policy or Policy 15.4 "Ethical Conduct Violation Procedures" or Policy 15.7 "Ethics" or Policy 15.9 "Policy Against Discrimination (including Discriminatory Harassment) – Members" or Policy 15.14 "Code of Conduct." There may be situations where actions are taken pursuant to one or more Society Policies.

VII. GUIDANCE

Volunteers and employees are urged to seek prompt input from the Office of the General Counsel if they have a question about the proper application of this Society Policy, including a decision whether a matter is a Technical or Membership Matter, a Financial Matter, both, or neither.

APPENDIX A
(ASME Conflicts Policy for Technical or Membership Matters)

1. PREAMBLE (for Technical or Membership Matters)

Because ASME holds as paramount the safety, health, and welfare of the general public, each member and non-member (each, a “volunteer”) participating in decisions with respect to Technical or Membership Matters has a fundamental responsibility to exercise impartial professional judgment to enhance the Society and the practice of mechanical engineering in the public interest. Appendix A applies to volunteers when there are discussions, deliberations or voting with respect to Technical or Membership Matters, whether or not arising during the formal session of a committee or other body within ASME.

This Appendix A is in addition to, and not in lieu of, any policy or operating guide applicable to a particular ASME activity (e.g., honors and awards) or body (e.g., a Sector Board or Council or a Board within a Sector). In the event of a conflict between the terms of any such policy or operating guide and this Appendix A, the terms of this Appendix A shall govern the matter.

Each individual has the primary responsibility for assuring his or her adherence to this Appendix A as well as to Appendix A and other applicable ASME policies or operating guides that address conflicts of interest.

2. DEFINITIONS (for Technical or Membership Matters)

- a. *“Conflicts of Interest.”* The potential for a “conflict of interest” involving Technical or Membership Matters exists whenever a person owes a loyalty to multiple interests or organizations. Having different interests or loyalties does not constitute a conflict of interest when the action desired by each interest is the same. This situation may be described as a community of interest. A conflict of interest in Technical or Membership Matters occurs only when loyalty to one interest would impel a course of action different from that impelled by another interest. For example, while acting for or on behalf of the Society in a Technical or Membership Matter, a volunteer may be asked to consider a matter which directly affects the specific rather than the collective interests of the individual's employer or a competitor of the employer. In such instances, there could be a conflict of interest between exercise of the volunteer's independent professional judgment on behalf of ASME and the public and the individual's loyalties and responsibilities to his or her employer or another entity.

- b. *“Balance of Interest.”* In many ASME standards-writing committees and other committees, the procedures for appointment provide for a balanced or diversified representation among the various categories of interest within the scope of that committee's concern. This “balance of interest” minimizes the instances of appearance of conflict of interest in Technical or Membership Matters by preventing situations in which a single interest group could control the action on an issue. Accordingly, where general categories of interest were considered in appointing a balanced committee or other group, an individual's identification with the particular interest shall not be grounds for raising an issue of the

appearance of a conflict of interest in Technical or Membership Matters. This is particularly so because the removal of one or more individuals representing a particular category of interest on conflict of interest grounds could upset the planned balance of economic and technical interests.

3. DUTIES AND RESPONSIBILITIES (for Technical or Membership Matters)

- a. It is the duty of volunteers acting for or on behalf of the Society in Technical or Membership Matters to be aware of the possibility of a conflict of interest between their responsibilities to ASME and the public on the one hand and to their employer or another entity on the other.
- b. All volunteers have a fundamental responsibility to refrain from participating in Society decision-making on Technical or Membership Matters when a competing interest precludes or inhibits the exercise of the volunteer's independent professional judgment on behalf of ASME, or when the nature of the competing interest is such that the volunteer's continued participation would unreasonably jeopardize the integrity of the decision-making process in Technical or Membership Matters.

4. PROCEDURES (for Technical or Membership Matters)

- a. In instances where it is clear to an individual volunteer that his or her judgment with respect to a Technical or Membership Matter is controlled by his or her loyalty to a competing interest, he or she should disqualify himself or herself and refrain from influencing and participating in the deliberations and decision-making regarding the conflict-affected matter. This does not preclude the volunteer's attendance and participation at any meeting of a committee or other body on the same basis as any non-member of the committee or other body.
- b. In instances where an individual volunteer believes that there may be the appearance of a conflict of interest (a "possible conflict situation") involving a Technical or Membership Matter, although he or she believes that his or her independent judgment will not be affected by a competing interest, the volunteer should nevertheless take at least one of the following consultative courses of action:
 - i. If the individual is serving on a unit or sub-unit of the Society considering a Technical or Membership Matter, the individual should make certain that all concerned with the projected deliberations or decision-making on the Technical or Membership Matter clearly understand the facts and circumstances involved in this possible conflict situation. Then, following due consideration of the circumstances involved, unless a three-fourths majority concur by secret ballot that the individual's continued participation will not unreasonably jeopardize the integrity of the decision-making process, the individual shall not attempt to influence, be present at or participate in deliberations and decision-making regarding the conflict-affected matter. Such disqualification considerations may be either referred or appealed, in the first instance, to the appointing committee or supervisory body, if any, and then, if unresolved, the

Executive Committee of the Board of Governors, pursuant to Section VI.F, may refer this to the Ethics Committee or other appropriate unit of ASME for action. Such referral and appeals may be made by the chair of the unit or sub-unit, the individual volunteer, or any other participant in the consideration of the possible conflict situation. Additionally, the member may elect to bypass the secret-ballot measure described above and take the matter directly to the appointing committee or supervisory body, if any, and then, if unresolved, to the Executive Committee of the Board of Governors, pursuant to Section VI.F, who may refer this to the Ethics Committee or other appropriate unit of ASME for action.

- ii. If the individual is acting for or on behalf of ASME other than in a committee or group participation capacity, the individual should bring the possible conflict situation directly to the attention of the appointing committee or supervisory body, if any, and then, if unresolved, to the Executive Committee of the Board of Governors, pursuant to Section VI.F, who may refer this to the Ethics Committee or other appropriate unit of ASME for action.
- c. Any member of a sector, board, division, committee, section, subcommittee, or other decision-making body who believes that the continued participation of any other member of that body in a Technical or Membership Matter may unreasonably jeopardize the integrity of the decision-making process may call for the consultative courses of action set forth in Paragraph 4(b)(i) or (ii) above.

5. **IMPLEMENTATION AND COMPLIANCE**

The Ethics Committee shall oversee the implementation of, and compliance with, this Appendix A. The Ethics Committee shall have authority to review questions of conflicts of interest under this Appendix A and to render opinions thereon. The Ethics Committee may authorize the Chair of the Ethics Committee to issue a letter of warning or admonishment to persons who violate this Appendix A or request that the Chair refer the matter to the Executive Director/CEO for processing as an ethics complaint under Society Policy P-15.4. A decision of the Ethics Committee shall be binding and final if a letter of warning or admonishment is the course of action.

APPENDIX B

(ASME Conflicts Policy for Financial Matters)

1. PREAMBLE (for Financial Matters)

Because ASME is a not-for-profit corporation formed under the laws of the State of New York, those who serve ASME have a duty to adhere to the purposes to which ASME is dedicated and to conduct the affairs of ASME in a manner consistent with those purposes and not to advance their personal financial interests when Financial Matters are under consideration. This Appendix B is intended to ensure that those who fulfill leadership roles with respect to Financial Matters act in ASME's best interest and comply with applicable legal requirements, despite the existence of a conflict of interest. This Appendix B is designed to promote the identification, disclosure, evaluation, and disposition of any real, potential, or apparent conflicts of interest that might, in fact or in appearance, call into question the duty of undivided loyalty owed to ASME by its leaders.

This Appendix B is in addition to, and not in lieu of, any conflict of interest policies promulgated by the Executive Director/CEO with respect to ASME employees and is also in addition to, and not in lieu of, Appendix A and any policy or operating guide applicable to a particular ASME activity (e.g., honors and awards) or body (e.g., a Sector Board or Council or a Board within a Sector). In the event of a conflict between the terms of any policies, operating guides or Appendix A and this Appendix B, the terms of this Appendix B shall govern the matter.

Each individual has the primary responsibility for assuring his or her adherence to this Appendix B as well as to Appendix A and other applicable ASME policies or operating guides that address conflicts of interest.

2. DEFINITIONS (for Financial Matters)

- a. The term "**Authorized Body**" means any one of the following: (a) the ASME Board of Governors, (b) the Audit Committee, or (c) a Committee of the Board having delegated authority with respect to a given sphere of activity. If no Committee of the Board has delegated authority with respect to a given sphere of activity, the term "**Authorized Body**" means the ASME Board of Governors or the Audit Committee.
- b. The term "**Committee Member**" means each member of the following bodies: the Committee on Finance, the Committee on Executive Director/CEO Evaluation and Staff Compensation, the Audit Committee, Retirement Plan Committee, and any committee, task force, or similar body appointed or designated by the Board of Governors or the President.
- c. The term "**Committee of the Board**" is a committee appointed by the Board of Governors and whose voting membership consists of at least three individuals, all of whom are members of the Board of Governors. At the time of adoption of this Society Policy, the

only committees that are Committees of the Board are the Audit Committee, Executive Committee and the Executive Director/CEO Evaluation and Staff Compensation Committee. Because the Committee on Finance includes members who are not members of the Board of Governors, it is not a Committee of the Board.

- d. The term “**Covered Arrangement**” means each proposed transaction, agreement, or other arrangement (including any grant, scholarship, or compensation arrangement) in which:
- i. (A) one or more Related Parties (defined below) would have a financial interest and (B) the Society or any affiliate of the Society (including without limitation the ASME Foundation) would be a participant; or
 - ii. there could be an actual or perceived conflict of interest for some other reason, including any transaction, agreement, or other arrangement in which the interests of a Related Party could be seen as competing with the interests of the Society or any affiliate of the Society.
- All Covered Arrangements are circumstances that constitute a perceived, potential, or actual conflict of interest and as such are subject to the terms of this Appendix B. If a Covered Arrangement involves an affiliate of the Society, it is an “**Affiliate Covered Arrangement.**”
- e. The term “**Governor**” means each member of the Board of Governors in office from time to time, as well as each Governor-elect and Governor-nominee.
- f. The term “**Key Employee**” means each person who is in a position to exercise substantial influence over the affairs of the Society within the meaning of Section 4958(f)(1)(A) of the Internal Revenue Code and Section 53.4958-3(c), (d) and (e) of the Treasury Regulations or analogous provisions. The group of Society employees who are deemed to be Key Employees includes (but is not necessarily limited to) employees designated from time to time by the Executive Director/CEO, in consultation with the Treasurer.
- g. The term “**Officer**” means each volunteer officer of the Society holding office from time to time and holding the rank of Senior Vice President, President, Immediate Past President or President-elect as well as each Senior Vice President-elect.
- h. The term “**Related Parties**” means:
- i. The Governors, Officers, Committee Members and Key Employees of the Society.
 - ii. The following living relatives of each individual described in subparagraph (i):
 - (A) his or her ancestors
 - (B) his or her spouse or domestic partner
 - (C) his or her siblings and half-siblings

- (D) the spouses or domestic partners of his or her siblings and half-siblings
 - (E) his or her children, grandchildren, and great-grandchildren¹
 - (F) the spouses or domestic partners of his or her children, grandchildren, and great-grandchildren.
- iii. The following entities and trusts:
- (A) any entity or trust of which any individual described in subparagraph (i) or (ii) serves as a director, trustee, officer, or employee.
 - (B) any entity or trust in which any one or more individuals described in subparagraph (i) or (ii) have a 5% or greater ownership or beneficial interest.

3. PROCEDURES (for Financial Matters)

a. Individual Responsibilities

- i. *Disclosure.* If a Governor, Officer, Committee Member or Key Employee of ASME has a direct interest in a Covered Arrangement, or an indirect interest through a person who is a Related Party with respect to him or her, he or she must immediately disclose in writing the existence and circumstances of the arrangement (including the material facts concerning his or her interest) to an Authorized Body.
- ii. *Refraining from Influence.* The individual must refrain from attempting to influence the deliberation or voting on the Covered Arrangement.
- iii. *Deliberations and Voting.* The individual may not participate in or attend the deliberations or vote on the Covered Arrangement. However, at the request of the Authorized Body, the individual may present background information or answer questions on the Covered Arrangement. The conflict does not preclude the individual's attendance at and participation in the rest of the meeting of the Authorized Body.
- iv. *Affiliate Covered Arrangements.* If the Covered Arrangement is also an Affiliate Covered Arrangement, the disclosure required by Paragraph 3(a)(i) shall be made only to the Audit Committee of the Society and the Audit Committee of the affiliate (or, if the affiliate does not have an Audit Committee, to the governing body of the affiliate). The Audit Committee of the Society must confirm that the steps required in this Paragraph 3(a) have been and are being taken, and no further action by the Society shall be required pursuant to this Appendix B except as the Audit Committee shall determine in the specific instance following consultation with the Audit Committee of the affiliate.

¹ Adoptive children, grandchildren, and great-grandchildren are included within this definition.

b. Society Responsibilities

- i. *Authorized Body Tasked with Fulfilling These Responsibilities.* An individual's disclosure with respect to a Covered Arrangement pursuant to Paragraph 3(a) triggers the Society's responsibilities under this Paragraph 3(b) (unless it is an Affiliated Covered Arrangement, in which event the Audit Committee will determine which, if any, responsibilities under this Paragraph (b) will apply or if some other course of action is warranted). However, the Authorized Body receiving the disclosure may request that another Authorized Body perform the Society's responsibilities under this Paragraph 3(b), in which event references below are to that Authorized Body if it undertakes the responsibilities. For example, if disclosure is made to the Audit Committee, the Audit Committee may request that the Board of Governors fulfill the remaining responsibilities under this Paragraph 3(b).
- ii. *Confirmation of Individual Actions.* The Authorized Body must confirm that the steps required in Paragraph 3(a) have been and are being taken.
- ii. *Fairness and Reasonableness.* Before approving a Covered Arrangement, the Authorized Body must determine that it is fair, reasonable and in the Society's best interest at the time of such determination.
- iv. *Comparability Data.* Prior to entering into the Covered Arrangement, the Authorized Body must obtain and rely on comparable market data, to the extent available.
- v. *Alternative Transactions.* Prior to entering into the Covered Arrangement, if a related party has a "substantial financial interest" in it within the meaning of New York law, the Authorized Body must consider alternative transactions, agreements, or arrangements, to the extent available.
- vi. *Materiality to ASME.* The Authorized Body must determine whether the arrangement is material to the financial, reputational, or other interests of the Society, in which event consideration must be given to alternative transactions, agreements or arrangements, to the extent possible. If an Authorized Body other than the Board of Governors makes a determination that the arrangement is material, it (A) must promptly notify the Board of Governors of this determination and (B) may condition its approval, if any, of the arrangement on the further review, approval, endorsement or other input of the Board of Governors.
- vii. *Voting.* All determinations and approvals with respect to a Covered Arrangement require the affirmative vote of not less than a majority of the members of the Authorized Body present at the meeting of the Authorized Body (provided a quorum is present and no greater portion is required by applicable

law or Society requirement). Interested members of the Board of Governors may be counted solely for determining the presence of a quorum. Notwithstanding the foregoing, the salary of the Executive Director/CEO may be set only by the affirmative vote of a majority of the entire Board of Governors.

- viii. *Contemporaneous Documentation.* All disclosures and recusals with respect to a Covered Arrangement together with the basis for all determinations and approvals of the Authorized Body must be contemporaneously documented in writing (including in the minutes of any meeting at which the arrangement was discussed and voted on). This documentation must include an account of the consideration of comparable market data and alternative transactions, agreements, or arrangements, to the extent considered or available.
- ix. *Reporting to the Board or Audit Committee.* If the arrangement is before an Authorized Body other than the Board of Governors or Audit Committee, the existence of the matter and its disposition must be promptly disclosed to the Board of Governors and Audit Committee.

4. ANNUAL COMPLIANCE AND DISCLOSURE STATEMENT

At least once per year, each Governor, Officer, Committee Member and Key Employee must complete, sign, and submit to the Secretary a written Compliance and Disclosure Statement acknowledging that he or she has read and is in compliance with this Policy and identifying to the best of his or her knowledge:

- a. any business or nonprofit of which the individual is an officer, director, trustee, member, owner, or employee and with which the Society or any affiliate of the Society has a relationship.
- b. any transaction in which the Society or any affiliate of the Society is a participant and in which the individual or Related Party with respect to that individual might have a conflicting interest;
- c. any other interests that could give rise to conflicts of interest.

Prior to the initial election or appointment of any Governor, he or she must supplement his or her Statement of Adherence (referenced above) with the disclosure described in Paragraphs 4(a), (b) and (c).

In addition, the Executive Director/CEO, in consultation with the Board of Governors, shall identify those levels of ASME employees who are also subject to the requirement to provide the Compliance and Disclosure Statement described above and shall require each employee at those levels to complete, sign and submit a Compliance and Disclosure Statement to the Secretary on an annual basis as described above.

The Secretary shall provide a copy of all completed Compliance and Disclosure Statements to the Chair of the Audit Committee and shall periodically update the Chair of the Audit Committee concerning compliance with the annual disclosure statement requirements of this Society Policy. Completed disclosure statements shall be available for inspection by any member of the Board of Governors and may be reviewed by the Society's legal counsel.

5. IMPLEMENTATION AND COMPLIANCE

The Audit Committee shall oversee the implementation of, and compliance with this Appendix B.

Responsibility: Ethics Committee (Appendix A)
Audit Committee (Appendix B)

Reassigned from Ethics Committee

Reassigned from Committee of Past Presidents/Ethics Committee

Reassigned from Centers Board of Directors/Center for Career and Professional Advancement/Committee on Ethical Standards and Review

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