

# American Brush Manufacturers Association (ABMA) Procedures in accordance with the American National Standards (ANSI) Essential Requirements

## SECTION 2

### Policies

#### 2.1 Appeals Policy

The sponsor of B165.1 adopts the following language as their appeals policy. It states:

##### 2.1.1 Appeals at the Standards Developer Level

Persons who have directly and materially affected interests and who have been or will be adversely affected by any procedural action or inaction by ABMA with regard to the development of a proposed American National Standard or the revision, reaffirmation, or withdrawal of an existing American National Standard, have the right to appeal. An appeal may include whether a technical issue was afforded due process.

##### 2.1.2 Complaint

The appellant shall file a written complaint with the ABMA secretariat within thirty days after the date of notification of action or at any time with respect to inaction. The complaint shall state the nature of the objection(s) including any adverse effects, the clause(s) of these procedures or the standard that is at issue, actions or inactions that are at issue, and the specific remedial action(s) that would satisfy the appellant's concerns. Previous efforts to resolve the objection(s) and the outcome of each shall be noted.

##### 2.1.3 Response

Within thirty days after receipt of the complaint, the respondent (chair or secretariat representative) shall respond in writing to the appellant, specifically addressing each allegation of fact in the complaint to the extent of the respondent's knowledge.

##### 2.1.4 Hearing

If the appellant and the respondent are unable to resolve the written complaint informally in a manner consistent with these procedures, the secretariat shall schedule a hearing with an appeals panel on a date agreeable to all participants, giving at least ten working days' notice.

##### 2.1.5 Appeals panel

The appeals panel shall consist of three individuals who have not been directly involved in the matter in dispute, and who will not be materially or directly affected by any decision made or to be made in the dispute. At least two members shall be acceptable to the appellant and at least two shall be acceptable to the respondent. Should ABMA and the appellant be unable to agree on the composition of the appeals panel within 15 working days, the ABMA Executive Committee shall appoint the appeals panel.

##### 2.1.6 Conduct of the hearing

The appellant has the burden of demonstrating adverse effects, improper actions or inactions, and the efficacy of the requested remedial action. The respondent has the burden of demonstrating that the consensus body and the secretariat took all actions in compliance with these procedures and that the requested remedial action would be ineffective or detrimental. Each party may adduce other pertinent arguments, and members of the appeals panel may address questions to individuals. *Robert's Rules of Order* (latest edition) shall apply to questions of parliamentary procedure for the hearing not covered herein.

### **2.1.7 Decision**

The appeals panel shall render its decision in writing within thirty days, stating findings of fact and conclusions, with reasons therefore, based on a preponderance of the evidence presented to the appeals panel. A summary of the nature of the appeal, and the decision and rationale thereof, shall be reported in writing to the appellant, the canvass list and ANSI. Consideration shall be given to the following positions, among others, in formulating the decision:

- a. Finding for the appellant, remanding the action to the consensus body or the secretariat with a specific statement of the issues and facts in regard to which fair and equitable action was not taken;
- b. Finding for the respondent, with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections;
- c. Finding that new, substantive evidence has been introduced, and remanding the entire action to the consensus body or the secretariat for appropriate reconsideration.