

**Proposed IEEE 802 LMSC Rules Revision Letter Ballot
on
Appeals Process**

From: Matthew Sherman, 2nd Vice Chair IEEE 802

To: Sponsor Executive Committee

Date: March 10, 2003

Duration: Till March 14, 2003

Purpose: Address requirement for appeals process in rules.

Rationale for proposed text:

Section 5.1 of the IEEE-SA Standards Board Operations Manual states:

“The P&P for the Sponsor shall define the process by which the Sponsor handles appeals (see subclause 5.4 of the IEEE-SA Standards Board Bylaws and 5.8).”

Currently the IEEE 802 rules (P&P) have no such process defined. This rules change addresses that issue by proposing a process based on section 5.8 of the Standard Association Board Operations Manual. There are some deviations from the process defined in 5.8 to simplify its implementation in the IEEE 802 format. The key deviations are:

- 1) The entire SEC serves as the appeals pool rather than electing one at the beginning of every year
- 2) If the appeals panel cannot easily be selected, the matter will be referred to the [Computer Society](#) SAB

Proposed Text:

Proposed text for rules change is shown below as a revision against the text in the LMSC Rules as last revised July 12, 2002. Note that it is incorporated as an entirely new section, so no existing text has been changed. Revisions are relative to draft circulated on March 9th.

3.7 Appeal and complaint process

Every attempt should be made to resolve concerns informally, since it should be recognized that a formal appeals process has a tendency to negatively, and sometimes permanently, affect the goodwill and cooperative relationships between and among persons. If the informal attempts to resolve a concern are unsuccessful, the following formal procedure shall be invoked.

3.7.1 Appeals pool

The entire SEC shall serve as an “appeals pool” to hear complaint and appeals on activities within IEEE 802, and documents which they develop. Former SEC members who are in good standing with the LMSC and have achieved status through attendance may also be included in the appeals pool.

3.7.2 Complaint

The appellant shall file a written complaint with the Recording Secretary of the SEC (Secretary) within 30 days after the date of notification / occurrence of an 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 the procedures or the standard(s) that are at issue, actions or inaction 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. The appellant shall include complete documentation of all statements in the complaint. Within 10 days of receipt of the complaint, the Secretary shall send the appellant a written acknowledgment of receipt of the complaint, shall send the respondent (the chair of the committee at issue) a copy of the complaint and acknowledgment, and shall send the parties a written notice of the time and location of the hearing with the appeals panel. The hearing with the appeals panel shall be scheduled at the location set for, and during the period of, the first LMSC plenary meeting (nominally Wednesday evenings) that is at least 60 days after receipt of the complaint by the Secretary.

3.7.3 Response

Within 45 days after receipt of the complaint by the Secretary, the respondent should send the appellant and Secretary a written response, specifically addressing each allegation of fact in the complaint to the extent of the respondent’s knowledge. The response shall include complete documentation of all statements in the response.

3.7.4 Appeals Panel

The IEEE 802 SEC Chair shall appoint from the appeals pool an appeals panel consisting of a chair and two other members 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. If the parties to the appeal cannot agree on an appeals panel within a reasonable amount of time, the whole matter shall be referred to the Computer Society Standards Activity Board (SAB) for consideration.

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3.7.5 Conduct of the Hearing

The hearing shall be open except under the most exceptional circumstances at the discretion of the SEC chair. The appellant has the burden of demonstrating adverse effects, improper actions or inaction, and the efficacy of the requested remedial action. The respondent has the burden of demonstrating that the committee took all actions relative to the appeal in compliance with its 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. The appeals panel shall only consider documentation included in the complaint and response, unless

- a) Significant new evidence has come to light; and
- b) Such evidence reasonably was not available to the appellant or respondent, as appropriate, at the time of filing; and
- c) Such evidence was provided by the appellant or respondent, as appropriate, to the other parties as soon as it became available.

Robert's Rules of Order (latest edition) shall apply to questions of parliamentary procedure for the hearing not covered herein.

3.7.6 Appeals Panel Decision

The appeals panel shall not consider technical issues, but shall limit its consideration to procedural matters. The appeals panel shall render its decision in writing within 30 days of the hearing, stating findings of fact and conclusions, with reasons there for, based on a preponderance of the evidence. Consideration may be given to the following positions, among others, in formulating the decision:

- a) Finding for the appellant, remanding the action to the group involved, with a specific statement of the issues and facts in regard to which fair and equitable action was not taken;
- b) Finding against the appellant, 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 appropriate group for reconsideration.

3.7.7 Request for Re-hearing

The decision of the appeals panel shall become final 30 days after it is issued, unless one of the parties files a written notice of request for re-hearing prior to that date with the Recoding Secretary, in which case the decision of the appeals panel shall be stayed pending review by the SEC at its next meeting. At that time, the SEC shall decide

- a) To adopt the report of the appeals panel, and thereby deny the request for re-hearing; or
- b) To direct the appeals panel to conduct a re-hearing.

Further complaints shall be referred to the Computer Society SAB.

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