

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ALINA BOYDEN and
SHANNON ANDREWS,

Plaintiffs,

Case No. 17-cv-264

v.

STATE OF WISCONSIN DEPARTMENT
OF EMPLOYEE TRUST FUNDS, et al.,

Defendants.

DECLARATION OF CAITLIN M. MADDEN

I, Caitlin M. Madden, certify under penalty of perjury that the following is true and correct to the best of my knowledge and recollection:

1. I am an attorney licensed to practice in the state of Wisconsin and am one of the attorneys representing the Plaintiffs in the above-captioned matter.

2. The parties in this case have engaged in discovery. Attached to this Declaration is a true and correct copy of the following documents produced in discovery:

- a. Attached hereto as **Exhibit A** is a true and correct copy of the May 19, 2016 letter from Dr. Bryan Webster, from the Alina Boyden ETF Written Complaint File, Bates labelled ETF00002.

- b. Attached hereto as **Exhibit B** is a true and correct copy of the Stipulation Regarding Covered Procedures entered into between the parties on June 28, 2018.
 - c. Attached hereto as **Exhibit C** is a true and correct copy of the U.S. Department of Education's Feb. 22, 2017 Dear Colleague letter, accessed at <<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201702-title-ix.pdf>>, last accessed July 6, 2018).
 - d. Attached hereto as **Exhibit D** is a true and correct copy of Ex. 11 to the Deposition of David Williams, Actuarial Standard of Practice.
3. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 9th day of July, 2018.

/s/ Caitlin M. Madden
Caitlin M. Madden

Exhibit A

Print This Page | Close This Window

Name: Alina S Boyden | DOB: [REDACTED] | MRN: 44958121 | PCP: Bryan J Webster, MD

Letter Details



5/19/2016

To Whom It May Concern:

Re: Alina S Boyden

It is my intention with this letter to convey my support of Ms Boyden proceeding with Sexual Reassignment Surgery. I first met Ms Boyden in my office in February of 2014. Since then we have been using medications to help her achieve her goals including oral estrace as well as spironolactone. Unfortunately, in order to keep her testosterone levels low we have needed high doses of spironolactone, which has had some side effects. Also, despite this her testosterone levels remain high. I believe that the best way for her to keep her testosterone levels at goal will be to undergo SRS.

Sincerely,

Bryan J Webster, MD

Alina S Boyden

Page 1 of 1

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 FD RECEIVED
 EMPLOYEE TRUST FUNDS

This letter was initially viewed by Alina S Boyden at 5/19/2016 2:05 PM.

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Exhibit B

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ALINA BOYDEN and
SHANNON ANDREWS,

Plaintiffs,

Case No. 17-cv-264

v.

STATE OF WISCONSIN DEPARTMENT
OF EMPLOYEE TRUST FUNDS, et al.,

Defendants.

STIPULATION REGARDING COVERED PROCEDURES

Plaintiffs, Alina Boyden and Shannon Andrews, through their undersigned attorneys, and the Defendants, through their undersigned attorneys, hereby stipulate to the following:

1. Coverage for reduction mammoplasty (“breast reduction” surgery) to alleviate the symptoms of breast hypertrophy and symptomatic macromastia (e.g., neck/upper back pain, shoulder grooving, skin irritation beneath/between the breasts, difficulty finding clothing, discomfort/difficulty exercising, etc.) is allowable, subject to a medical necessity determination by the applicable third-party health plan, by the Uniform Benefits of the State of Wisconsin Group Health Insurance Program adopted by GIB (“Uniform Benefits”) and has been allowable under these circumstances since at least 2015.

2. Coverage for breast reduction surgery to treat gender dysphoria or gender identity disorder is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

3. Coverage for breast reduction surgery for “gender reassignment” is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

4. Coverage for a mastectomy (removal of the breast) to treat breast cancer is allowable, subject to a medical necessity determination by the applicable third-party health plan, by the Uniform Benefits and has been since at least 2015.

5. Coverage for a mastectomy (removal of the breast) to treat a genetic predisposition to breast cancer is allowable, subject to a medical necessity determination by the applicable third-party health plan, by the Uniform Benefits and has been allowable under these circumstances since at least 2015.

6. Coverage for a mastectomy (removal of the breast) for “gender reassignment” is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

7. Coverage for a mastectomy (removal of the breast) to treat gender dysphoria or gender identity disorder is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

8. Coverage for augmentation mammoplasty, including breast prostheses, following a mastectomy to treat breast cancer is addressed by the Women’s Health and Cancer Rights Act of 1998 and, if applicable, allowable by the Uniform Benefits

subject to a medical necessity determination by the applicable third-party health plan, and has been allowable under these circumstances since at least 2015.

9. Coverage for augmentation mammoplasty, including breast prostheses, following a mastectomy to treat a genetic predisposition to breast cancer is addressed by the Women's Health and Cancer Rights Act of 1998 and, if applicable, allowable by the Uniform Benefits subject to a medical necessity determination by the applicable third-party health plan, and has been allowable under these circumstances since at least 2015.

10. Coverage for augmentation mammoplasty to restore symmetry between the breasts following a mastectomy to treat breast cancer is addressed by the Women's Health and Cancer Rights Act of 1998 and, if applicable, allowed by the Uniform Benefits subject to a medical necessity determination by the applicable third-party health plan, and has been allowable under these circumstances since at least 2015.

11. Coverage for augmentation mammoplasty, including breast prostheses, for "gender reassignment" is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

12. Coverage for augmentation mammoplasty, including breast prostheses, to treat gender dysphoria or gender identity disorder is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

13. Coverage for a penectomy (removal of penis) to treat penile cancer is allowable, subject to a medical necessity determination by the applicable third-party

health plan, by the Uniform Benefits and has been allowable under these circumstances since at least 2015.

14. Coverage for a penectomy for “gender reassignment” is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

15. Coverage for a penectomy to treat gender dysphoria or gender identity disorder is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

16. Coverage for an orchiectomy (removal of testes) to treat testicular cancer or a genetic predisposition to cancer is allowable, subject to a medical necessity determination by the applicable third-party health plan, by the Uniform Benefits and has been allowable under these circumstances since at least 2015.

17. Coverage for an orchiectomy for “gender reassignment” is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

18. Coverage for an orchiectomy to treat gender dysphoria or gender identity disorder is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

19. Coverage for a phalloplasty or scrotoplasty to treat cancer, hypospadias, epispadias, exstrophy, fournier’s gangrene, penile webbing, buried penis, and traumatic injuries to or disabling infections of genitalia is allowable, subject to a medical necessity determination by the applicable third-party health plan, by the Uniform Benefits and has been allowable under these circumstances since at least 2015.

20. Coverage for a phalloplasty or scrotoplasty for “gender reassignment” is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

21. Coverage for a phalloplasty or scrotoplasty to treat gender dysphoria or gender identity disorder is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

22. Coverage for a vaginoplasty, clitoroplasty, and vulvoplasty to treat individuals who have or had cancer, congenital absence of the vagina, traumatic injuries to or disabling infections of genitalia, and to accomplish reconstruction of the vagina/vulva following oncologic resection is allowable, subject to a medical necessity determination by the applicable third-party health plan, by the Uniform Benefits and has been allowable under these circumstances since at least 2015.

23. Coverage for a vaginoplasty, clitoroplasty, or vulvoplasty associated with gender reassignment is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

24. Coverage for a vaginoplasty, clitoroplasty, or vulvoplasty to treat gender dysphoria or gender identity disorder is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

25. Coverage for a hysterectomy to treat endometrial or cervical cancer is allowable, subject to a medical necessity determination by the applicable third-party health plan, by the Uniform Benefits and has been allowable under these circumstances since at least 2015.

26. Coverage for a hysterectomy for “gender reassignment” is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

27. Coverage for a hysterectomy to treat gender dysphoria or gender identity disorder is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

28. Coverage for a salpingo-oophorectomy (removal of ovaries) to treat ovarian cancer is covered by the Uniform Benefits and has been allowable, subject to a medical necessity determination by the applicable third-party health plan, since at least 2015.

29. Coverage for a salpingo-oophorectomy for “gender reassignment” is not allowable by Uniform Benefits and has not been allowable since at least 2015.

30. Coverage for a salpingo-oophorectomy to treat gender dysphoria or gender identity disorder is not allowable by the Uniform Benefits and has not been allowable since at least 2015.

Dated this 28th day of June, 2018.

HAWKS QUINDEL, S.C.

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Exhibit C



U.S. Department of Justice
Civil Rights Division



U.S. Department of Education
Office for Civil Rights

Dear Colleague Letter
Notice of Language Assistance

If you have difficulty understanding English, you may, free of charge, request language assistance services for this Department information by calling 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339), or email us at: Ed.Language.Assistance@ed.gov.

Aviso a personas con dominio limitado del idioma inglés: Si usted tiene alguna dificultad en entender el idioma inglés, puede, sin costo alguno, solicitar asistencia lingüística con respecto a esta información llamando al 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339), o envíe un mensaje de correo electrónico a: Ed.Language.Assistance@ed.gov.

給英語能力有限人士的通知: 如果您不懂英語, 或者使用英語有困難, 您可以要求獲得向大眾提供的語言協助服務, 幫助您理解教育部資訊。這些語言協助服務均可免費提供。如果您需要有關口譯或筆譯服務的詳細資訊, 請致電 1-800-USA-LEARN (1-800-872-5327) (聽語障人士專線: 1-800-877-8339), 或電郵: Ed.Language.Assistance@ed.gov。

Thông báo dành cho những người có khả năng Anh ngữ hạn chế: Nếu quý vị gặp khó khăn trong việc hiểu Anh ngữ thì quý vị có thể yêu cầu các dịch vụ hỗ trợ ngôn ngữ cho các tin tức của Bộ dành cho công chúng. Các dịch vụ hỗ trợ ngôn ngữ này đều miễn phí. Nếu quý vị muốn biết thêm chi tiết về các dịch vụ phiên dịch hay thông dịch, xin vui lòng gọi số 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339), hoặc email: Ed.Language.Assistance@ed.gov.

영어 미숙자를 위한 공고: 영어를 이해하는 데 어려움이 있으신 경우, 교육부 정보 센터에 일반인 대상 언어 지원 서비스를 요청하실 수 있습니다. 이러한 언어 지원 서비스는 무료로 제공됩니다. 통역이나 번역 서비스에 대해 자세한 정보가 필요하신 경우, 전화번호 1-800-USA-LEARN (1-800-872-5327) 또는 청각 장애인용 전화번호 1-800-877-8339 또는 이메일 주소 Ed.Language.Assistance@ed.gov 으로 연락하시기 바랍니다.

Paunawa sa mga Taong Limitado ang Kaalaman sa English: Kung nahihirapan kayong makaintindi ng English, maaari kayong humingi ng tulong ukol dito sa inpormasyon ng Kagawaran mula sa nagbibigay ng serbisyo na pagtulong kaugnay ng wika. Ang serbisyo na pagtulong kaugnay ng wika ay libre. Kung kailangan ninyo ng dagdag na impormasyon tungkol sa mga serbisyo kaugnay ng pagpapaliwanag o pagsasalin, mangyari lamang tumawag sa 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339), o mag-email sa: Ed.Language.Assistance@ed.gov.

Уведомление для лиц с ограниченным знанием английского языка: Если вы испытываете трудности в понимании английского языка, вы можете попросить, чтобы вам предоставили перевод информации, которую Министерство Образования доводит до всеобщего сведения. Этот перевод предоставляется бесплатно. Если вы хотите получить более подробную информацию об услугах устного и письменного перевода, звоните по телефону 1-800-USA-LEARN (1-800-872-5327) (служба для слабослышащих: 1-800-877-8339), или отправьте сообщение по адресу: Ed.Language.Assistance@ed.gov.



U.S. Department of Justice
Civil Rights Division



U.S. Department of Education
Office for Civil Rights

February 22, 2017

Dear Colleague:

The purpose of this guidance is to inform you that the Department of Justice and the Department of Education are withdrawing the statements of policy and guidance reflected in:

- Letter to Emily Prince from James A. Ferg-Cadima, Acting Deputy Assistant Secretary for Policy, Office for Civil Rights at the Department of Education dated January 7, 2015; and
- Dear Colleague Letter on Transgender Students jointly issued by the Civil Rights Division of the Department of Justice and the Department of Education dated May 13, 2016.

These guidance documents take the position that the prohibitions on discrimination “on the basis of sex” in Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 et seq., and its implementing regulations, see, e.g., 34 C.F.R. § 106.33, require access to sex-segregated facilities based on gender identity. These guidance documents do not, however, contain extensive legal analysis or explain how the position is consistent with the express language of Title IX, nor did they undergo any formal public process.

This interpretation has given rise to significant litigation regarding school restrooms and locker rooms. The U.S. Court of Appeals for the Fourth Circuit concluded that the term “sex” in the regulations is ambiguous and deferred to what the court characterized as the “novel” interpretation advanced in the guidance. By contrast, a federal district court in Texas held that the term “sex” unambiguously refers to biological sex and that, in any event, the guidance was “legislative and substantive” and thus formal rulemaking should have occurred prior to the adoption of any such policy. In August of 2016, the Texas court preliminarily enjoined enforcement of the interpretation, and that nationwide injunction has not been overturned.

In addition, the Departments believe that, in this context, there must be due regard for the primary role of the States and local school districts in establishing educational policy.

In these circumstances, the Department of Education and the Department of Justice have decided to withdraw and rescind the above-referenced guidance documents in order to further and more completely consider the legal issues involved. The Departments thus will not rely on the views expressed within them.

Dear Colleague Letter

Page 2 of 2

Please note that this withdrawal of these guidance documents does not leave students without protections from discrimination, bullying, or harassment. All schools must ensure that all students, including LGBT students, are able to learn and thrive in a safe environment. The Department of Education Office for Civil Rights will continue its duty under law to hear all claims of discrimination and will explore every appropriate opportunity to protect all students and to encourage civility in our classrooms. The Department of Education and the Department of Justice are committed to the application of Title IX and other federal laws to ensure such protection.

This guidance does not add requirements to applicable law. If you have questions or are interested in commenting on this letter, please contact the Department of Education at ocr@ed.gov or 800-421-3481 (TDD: 800-877-8339); or the Department of Justice at education@usdoj.gov or 877-292-3804 (TTY: 800-514-0383).

Sincerely,

/s/

Sandra Battle
Acting Assistant Secretary for Civil Rights
U.S. Department of Education

/s/

T.E. Wheeler, II
Acting Assistant Attorney General for Civil Rights
U.S. Department of Justice

Exhibit D



ACTUARIAL STANDARDS BOARD

**Actuarial Standard
of Practice
No. 1**

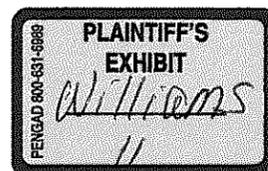
Introductory Actuarial Standard of Practice

**Developed by the
General Committee of the
Actuarial Standards Board**

**Adopted by the
Actuarial Standards Board
March 2013**

Doc. No. 170

Note: Nonguaranteed Charges or Benefits for Life Insurance Policies or Annuity Contracts, which was formerly known as ASOP No. 1, has been renumbered as ASOP No. 2 effective on March 21, 2013. Recommendations for Actuarial Communications Related to Statements of Financial Accounting Standards Nos. 87 and 88, which was formerly labeled ASOP No. 2, was repealed on March 14, 2011 and does not apply to actuarial communications issued after that date.



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ASOP No. 1—March 2013

March 2013

TO: Members of Actuarial Organizations Governed by the Standards of Practice of the Actuarial Standards Board and Other Persons Interested in the Introductory Actuarial Standard of Practice

FROM: Actuarial Standards Board (ASB)

SUBJ: Actuarial Standard of Practice No. 1

This document contains the final version of a revision of the Introduction to ASOPs, now titled ASOP No. 1, *Introductory Actuarial Standard of Practice*.

Background

This Introductory ASOP is a revision of the *Introduction to the Actuarial Standards of Practice*. The Introduction was adopted in 2004 to replace a Preface to the standards that was adopted in 1989. The Introduction was intended to offer actuaries guidance on the ASB's operations, the content and format of standards, and the ASB's intent with respect to certain terms that appear frequently in the text of the standards themselves.

The Introduction was updated in October 2008 to make clear that the ASB, in promulgating ASOPs, seeks to define an appropriate level of practice (rather than simply codifying current practices), to remove references to "prescribed statements of actuarial opinion" in light of revisions made to the *Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States* and to conform the provisions on deviations from the ASOPs to the deviation provisions of ASOP No. 41, *Actuarial Communications*, in accordance with the ASB's project to standardize the "deviation" provisions in all ASOPs. The ASB received a number of comments on the Introduction at the time of this 2008 revision and concluded that further review would be appropriate. The revision is a result of that review.

In addition, to reinforce that the Introductory ASOP contains guidance, it has been numbered as ASOP No. 1. The previous ASOP No. 1, *Nonguaranteed Charges or Benefits for Life Insurance Policies and Annuity Contracts*, has been renumbered as ASOP No. 2. The previous ASOP No. 2, *Recommendations for Actuarial Communications Related to Statements of Financial Accounting Standards Nos. 87 and 88*, was repealed in March 2011. The sole reference to ASOP No. 1, which appears in ASOP No. 24, *Compliance with the NAIC Life Insurance Illustrations Model Regulation*, has been updated to reflect this change.

Exposure Draft

The exposure draft of this ASOP was approved for exposure in December 2011 with a comment deadline of May 31, 2012. Thirteen comment letters were received and considered in making clarifications that were reflected in this final ASOP. For a summary of the issues contained in

ASOP No. 1—March 2013

these comment letters, please see appendix 2. In general, the suggestions helped improve the clarity of the standard but did not result in substantive changes to the standard.

Key Changes

Many comments were received with respect to the terms “must,” “should,” and “should consider.” Some commentators objected to the concept that failure to comply with a “should” statement constitutes a deviation from the guidance in the ASOP and hence triggers disclosures. These commentators indicated that failure to follow a “should” statement had not previously been understood to be a deviation requiring disclosure, so that ASOPs were in effect being retroactively changed. Other commentators indicated the distinction between the two terms “must” and “should” was not clear.

To assist in reviewing these and other comments, the General Committee analyzed the use of the terms “should,” “should consider,” and “must” in the various ASOPs. The General Committee concluded that the use of these terms in this ASOP No. 1 would not retroactively change the intended meaning of the terms as used in the various ASOPs, and so the Introductory ASOP reaffirms that a failure to follow a “should” statement constitutes a deviation from the guidance.

In order to better contrast and clarify the meaning of “must” vs. “should,” the definitions have been combined into a single “must/should” discussion that defines each term and highlights the distinction between the terms.

The General Committee concluded that a definition of “should consider” is not needed. The terms “must” and “should” are generally followed by an action (for example, “disclose” or “document”). When the term “should consider” is used, the action required to be performed (or to be disclosed as a deviation if not performed) is to consider something. Thus, there is no need to separately define “should consider.” The revised ASOP makes clear that if the actuary considers something the ASOP indicates he or she should consider, but determines that the item being considered is inappropriate or impractical, the actuary has complied with the guidance and there is no deviation to be disclosed.

The final version of this Introductory ASOP contains several other clarifications but none are considered substantial. Notable changes are the addition of a definition of “deviation” and clarifying changes to the definitions of a number of other items, largely as a result of comments received.

The ASB thanks everyone who took the time to contribute comments and suggestions on the exposure draft.

The ASB voted in March 2013 to adopt this standard.

ASOP No. 1—March 2013

General Committee of the ASB

Michael S. Abroe, Chairperson
Maria M. Sarli, Vice-Chairperson

Albert J. Beer	Martin M. Simons
Paul Braithwaite	Barbara L. Snyder
Raymond Brouillette	Thomas D. Snook
Charles Cook	James E. Turpin
Mary Simmons	

Actuarial Standards Board

Robert G. Meilander, Chairperson

Beth E. Fitzgerald	Thomas D. Levy
Alan D. Ford	Patricia E. Matson
Patrick J. Grannan	James J. Murphy
Stephen G. Kellison	James F. Verlautz

The ASB establishes and improves standards of actuarial practice. These ASOPs identify what the actuary should consider, document, and disclose when performing an actuarial assignment. The ASB's goal is to set standards for appropriate practice for the U.S.

ASOP No. 1—March 2013

INTRODUCTORY ACTUARIAL STANDARD OF PRACTICE

Section 1. Overview

The Actuarial Standards Board (ASB) promulgates actuarial standards of practice (ASOPs) for use by actuaries when rendering actuarial services in the United States. The ASB is vested by the U.S.-based actuarial organizations¹ with the responsibility for promulgating ASOPs for actuaries rendering actuarial services in the United States. Each of these organizations requires its members, through its *Code of Professional Conduct*² (Code), to satisfy applicable ASOPs when rendering actuarial services in the United States.

This Introductory ASOP sets forth principles that have been broadly applicable to the work of the ASB since its inception, and carries the same weight and authority as other ASOPs. Any Actuarial Compliance Guidelines promulgated or republished by the ASB that have not been repealed or superseded carry the same weight as ASOPs.

The ASB establishes and improves standards of actuarial practice. These ASOPs identify what the actuary should consider, document, and disclose when performing an actuarial assignment. The ASB's goal is to set standards for appropriate practice for the U.S. The ASB promulgates ASOPs through a notice and comment process described in the *ASB Procedures Manual*. The ASB has exclusive authority in the United States to determine whether an ASOP is needed in a particular actuarial practice area, to promulgate ASOPs, and to amend or repeal ASOPs. The ASB is the final authority for determining the content of ASOPs.

ASOPs are binding on members of the U.S.-based actuarial organizations when rendering actuarial services in the U.S. While these ASOPs are binding, they are not the only considerations that affect an actuary's work. Other considerations may include legal and regulatory requirements, professional requirements promulgated by employers or actuarial organizations, evolving actuarial practice, and the actuary's own professional judgment informed by the nature of the engagement. The ASOPs provide a basic framework that is intended to accommodate these additional considerations.

This introductory standard is effective for all actuarial services performed on or after June 1, 2013.

¹ The American Academy of Actuaries (Academy), the American Society of Pension Professionals and Actuaries, the Casualty Actuarial Society, the Conference of Consulting Actuaries, and the Society of Actuaries.

² These organizations adopted the *Code of Professional Conduct* effective January 1, 2001.

ASOP No. 1—March 2013Section 2. Definitions, Discussions, and Related Guidance

Each ASOP includes a list of definitions of certain terms used within it. With the exception of this Introductory ASOP, those terms are defined only for use in that particular ASOP, and the definitions can and do differ among ASOPs, reflecting different uses of language in various segments of the profession. Definitions and discussions included in this Introductory ASOP are intended to apply to all other ASOPs if the term is used in such ASOPs, unless the ASOP includes a specific definition of the term.

ASOPs frequently use terms that, while not defined within them, are integral to an informed reading of the ASOPs. Where terms are not defined or discussed within the ASOPs, the actuary is expected to interpret a term in a straight-forward manner, consistent with the common usage of the term. If an actuary has any questions about the meaning of a specific term, the actuary should consult the Actuarial Board for Counseling and Discipline (ABCD) for guidance.

Following are some common terms used in the ASOPs:

2.1 Terms of Construction

- a. *Must/Should*—The words “must” and “should” are used to provide guidance in the ASOPs. “Must” as used in the ASOPs means that the ASB does not anticipate that the actuary will have any reasonable alternative but to follow a particular course of action. In contrast, the word “should” indicates what is normally the appropriate practice for an actuary to follow when rendering actuarial services. Situations may arise where the actuary applies professional judgment and concludes that complying with this practice would be inappropriate, given the nature and purpose of the assignment and the principal’s needs, or that under the circumstances it would not be reasonable or practical to follow the practice.

Failure to follow a course of action denoted by either the term “must” or “should” constitutes a deviation from the guidance of the ASOP. In either event, the actuary is directed to ASOP No. 41, *Actuarial Communications*.

The terms “must” and “should” are generally followed by a verb or phrase denoting action(s), such as “disclose,” “document,” “consider,” or “take into account.” For example, the phrase “should consider” is often used to suggest potential courses of action. If, after consideration, in the actuary’s professional judgment an action is not appropriate, the action is not required and failure to take this action is not a deviation from the guidance in the standard.

- b. *May*—“May” as used in the ASOPs means that the course of action described is one that would be considered reasonable and appropriate in many circumstances. “May” in ASOPs is often used when providing examples (for example, factors the actuary may consider; methods that may be appropriate). It is not intended to indicate that a course of action is reasonable and appropriate in all circumstances, nor to imply that alternative courses of action are impermissible.

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- 2.2 *Actuarial Services*—Professional services provided to a principal by an individual acting in the capacity of an actuary. Such services include the rendering of advice, recommendations, findings or opinions based on actuarial considerations.
- 2.3 *Actuarial Soundness*—The phrase “actuarial soundness” has different meanings in different contexts and might be dictated or imposed by an outside entity. In rendering actuarial services, if the actuary identifies the process or result as “actuarially sound,” the actuary should define the meaning of “actuarially sound” in that context.
- 2.4 *Deviation*—The act of departing from the guidance of an ASOP.
- 2.5 *Known*—ASOPs frequently refer to circumstances, factors, practices of the principal, or other items that are known to the actuary. In many cases, the actuary must rely upon the principal and others acting on the principal’s behalf to supply relevant information. Unless an ASOP clearly indicates otherwise, “known” means that the actuary had actual knowledge of the item in question at the time the actuary rendered actuarial services.
- 2.6 *Materiality*—“Materiality” is a consideration in many aspects of the actuary’s work. An item or a combination of related items is material if its omission or misstatement could influence a decision of an intended user. When evaluating materiality, the actuary should consider the purposes of the actuary’s work and how the actuary anticipates it will be used by intended users. The actuary should evaluate materiality of the various aspects of the task using professional judgment and any applicable law (statutes, regulations, and other legally binding authority), standard, or guideline. In some circumstances, materiality will be determined by an external user, such as an auditor, based on information not known to the actuary. The guidance in ASOPs need not be applied to immaterial items.
- 2.7 *Practical or Practicable*—ASOPs frequently call upon actuaries to undertake certain inquiries, perform certain analytical tests, or make disclosures if it is “practical” or “practicable” to do so. These terms are intended to suggest that all possible steps need not always be taken to complete an assignment. A professional assignment frequently requires the actuary to adopt a course of action that is likely to yield an appropriate result without being unnecessarily time-consuming, elaborate, or costly relative to the principal’s needs. Thus, it is appropriate for the actuary, exercising professional judgment, to decide that the circumstances surrounding a particular assignment are such that it would not be necessary to undertake a particular task. (Note: ASOPs commonly use “practical” and “practicable” interchangeably.)
- 2.8 *Principal*—A client or employer of the actuary.
- 2.9 *Professional Judgment*—Actuaries bring to their assignments not only highly specialized training, but also the broader knowledge and understanding that come from experience. For example, the ASOPs frequently call upon actuaries to apply both training and

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experience to their professional assignments, recognizing that reasonable differences may arise when actuaries project the effect of uncertain events.

- 2.10 *Reasonable*—In many instances, the ASOPs call for the actuary to take “reasonable” steps, make “reasonable” inquiries, select “reasonable” assumptions or methods, or otherwise exercise professional judgment to produce a “reasonable” result when rendering actuarial services. The intent is to call upon the actuary to exercise the level of care and diligence that, in the actuary’s professional judgment, is necessary to complete the assignment in an appropriate manner.

Because actuarial practice commonly involves the estimation of uncertain events, there will often be a range of reasonable methods and assumptions, and two actuaries could follow a particular ASOP, both using reasonable methods and assumptions, and reach different but reasonable results.

- 2.11 *Reliance*—Actuaries frequently rely upon others for information and professional judgments that are pertinent to an assignment. Similarly, actuaries often rely upon others to perform some component of an actuarial analysis. Accordingly, some ASOPs permit the actuary to rely in good faith upon such individuals, subject to appropriate disclosure of such reliance, if required by applicable ASOPs (for example, ASOP Nos. 23, *Data Quality*, and 41).
- 2.12 *Significance/Significant*—Significance can have different meanings. A result may be deemed to be statistically significant if it is determined that the probability that the result was produced by random chance is small. An event may be described as significant if the likelihood of its occurrence is more than remote. In addition, a result may be significant because it is of consequence. Other uses may be encountered in actuarial practice. The actuary should exercise care in interpreting or using these words.

Section 3. Purpose and Format of Actuarial Standards of Practice

- 3.1 The Purpose of ASOPs—ASOPs identify what should be considered, done, documented, and disclosed when rendering actuarial services.
- 3.1.1 The ASB promulgates standards for appropriate actuarial practice. In the course of developing or revising an ASOP, the ASB seeks the input of the actuarial profession and other interested parties. This process of exposure is intended to seek input on the effect that the proposed ASOP would have on the level of practice.
- 3.1.2 The ASOPs are not intended to shift the burden of proof or the burden of production during litigation, and deviation from one or more provisions of an ASOP should not, in and of itself, be presumed to be malpractice. ASOPs are intended for use by actuaries who are qualified to make use of them by virtue of having the necessary education and experience to understand and apply them (see Precept 2, Qualification Standards, of the Code). Other individuals should

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consider obtaining the advice of a qualified actuary before making use of, or otherwise relying upon, ASOPs.

- 3.1.3 The ASOPs are intended to provide guidance for dealing with commonly encountered situations. Actuaries in professional practice may also have to handle new or non-routine situations not anticipated by the ASOPs. In all situations, the actuary should exercise professional judgment in rendering actuarial services.
- 3.1.4 The ASOPs are principles-based and do not attempt to dictate every step and decision in an actuarial assignment. Generally, ASOPs are not narrowly prescriptive and neither dictate a single approach nor mandate a particular outcome. Rather, ASOPs provide the actuary with an analytical framework for exercising professional judgment, and identify factors that the actuary typically should consider when rendering a particular type of actuarial service. The ASOPs allow for the actuary to use professional judgment when selecting methods and assumptions, conducting an analysis, and reaching a conclusion, and recognize that actuaries can reasonably reach different conclusions when faced with the same facts.
- 3.1.5 There are situations where applicable law (statutes, regulations, and other legally binding authority) may require the actuary to deviate from the guidance of an ASOP. Where requirements of law conflict with the guidance of an ASOP, the requirements of law shall govern. The ASOPs provide guidance on this and other situations where the actuary deviates from the guidance of an ASOP (see section 4.5).
- 3.1.6 Unlike the ASOPs, which are binding upon actuaries, other actuarial literature provides information that an actuary may choose, but is not required, to consider when rendering actuarial services. For example, practice notes published by the Academy describe various methods actuaries may use, but do not establish standards of practice and are not binding upon actuaries. Similarly, research papers, learned treatises, study notes, actuarial textbooks, journal articles, and presentations at actuarial meetings can be informative, keeping the actuary abreast of developments as actuarial science evolves, but do not establish binding requirements upon the actuary.
- 3.1.7 Each ASOP has a specified effective date. Prior to that date, exposure drafts of the ASOP, and the ASOP itself from the date of its publication to its effective date, form part of the literature of the actuarial profession; actuaries may look to them at their discretion for advisory guidance. An ASOP is not binding until the effective date of the ASOP. Unless specified otherwise, in the case of a revision to an existing ASOP, the existing ASOP is binding until the effective date of the revised ASOP.

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- 3.2 The Format of ASOPs—Each ASOP document includes (1) a transmittal memorandum, (2) the ASOP itself, and (3) one or more supporting appendices.³ The transmittal memorandum and the appendices are not part of the ASOP and are nonbinding, but may be useful to the actuary in interpreting the standard.

Section 4. Compliance with ASOPs

- 4.1 ASOPs are binding upon actuaries. Failure to comply with an applicable ASOP results in a breach of the Code. Such breaches subject the actuary to the profession's counseling and discipline processes.
- 4.2 Actuaries should take a good faith approach in complying with ASOPs, exercising good judgment and professional integrity. It is not appropriate for users of ASOPs to make a strained interpretation of the provisions of an ASOP.
- 4.3 Actuaries should comply with those ASOPs that are applicable to the task at hand. However, not all ASOPs will apply. An ASOP should not be interpreted as having applicability beyond its stated scope and purpose. Actuaries are responsible for determining which ASOPs apply to the task at hand. If no ASOPs specific to the task are applicable, the actuary may, but is not required to, consider the guidance in related ASOPs. Most, but not all, ASOPs are task-specific, dealing with particular kinds of actuarial services. A few ASOPs, however, deal more broadly with particular aspects of many types of actuarial services (such as ASOP Nos. 23 and 41, and this Introductory ASOP).
- 4.4 When an actuary believes that multiple ASOPs have conflicting provisions when applied to a specific situation and none provide explicit guidance concerning which governs, the actuary should apply professional judgment and may wish to contact the ABCD for confidential guidance on appropriate practice.
- 4.5 The ASOPs make specific provision for those situations where the actuary is required to or deems it appropriate to deviate from one or more provisions of an ASOP. It is not a breach of an ASOP to deviate from one or more of its provisions if the actuary does so in the manner described in the ASOP, including making the disclosures related to the deviation as required in such ASOP and in ASOP No. 41.

³ With respect to how the ASOP document is organized, the current ASOP format differs from that of some earlier ASOPs, but all ASOP documents contain similar content, as described in the appendix 1 to this *Introductory ASOP*.

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Appendix 1

Background and Additional Information

Note: This appendix is provided for informational purposes, but is not part of the standard of practice and is nonbinding.

Clarification of Language

As the ASB revises ASOPs, it strives to improve clarity and consistency in language. For example, the 2010 update to ASOP No. 41, *Actuarial Communications*, included changes in definitions to be more consistent with those found in the *Code of Professional Conduct* (Code) and in the recently revised Qualification Standards, and also incorporated language to help create consistency in the treatment of deviation language within all ASOPs. Similarly, in this Introductory ASOP, a number of definitions and discussions of terms used in many of the ASOPs have been added and, where the terms added also appear in the Code, they have been made consistent. In addition, an effort has been made to replace undefined terms or phrases with phrases that include terms that are defined, discussed, or used in the Code.

Role and Scope of ASOPs

The Introductory ASOP has been revised to clarify the role and scope of ASOPs. While ASOPs are binding on actuaries rendering actuarial services in the U.S., the Introductory ASOP now more directly acknowledges that actuaries are subject to a range of requirements and considerations that may affect how they do their work. These include legal and regulatory requirements, their employer's peer review or other quality assurance processes and policies, continuing education requirements, the Code, and the actuary's own professional and ethical standards. Because the ASOPs are not overly prescriptive and allow for disclosed deviations, the ASOP framework is designed to accommodate the actuary's judgment in providing high-quality actuarial services and acting with integrity. The Academy's Council on Professionalism publishes advisory Applicability Guidelines to assist actuaries in identifying the ASOPs that may be relevant.

Development of ASOPs

Proposals for developing new ASOPs and revising existing ones come from a variety of sources, such as individual actuaries, actuarial firms, professional committees, the ABCD, the ASB committees, and the ASB itself. If it accepts a proposal, the ASB assigns it to the appropriate committee or task force to begin the project.

The process of developing a new ASOP or revising an existing ASOP usually begins with the identification of practices that the ASB believes are appropriate to the proper performance of a

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particular type of actuarial service. After reviewing the current range of practices, the ASB determines whether it is appropriate under the circumstances to develop a new or revise an existing ASOP to reflect emerging issues in actuarial practice, recent advancements in actuarial science, or for other reasons.

Organization of ASOPs

The ASB strives to organize all ASOPs in a similar fashion to the extent feasible. The ASOP document includes a transmittal memorandum, the ASOP itself, and appendices. The transmittal memorandum provides brief background information and a description of the key issues related to the development or revision of the ASOP. The appendices (1) provide additional background and historical issues, (2) describe current or alternative practices, and (3) summarize the major issues raised in the exposure process and their disposition by the drafting committee. Additional appendices may also contain supporting documents, bibliographies, or illustrative examples.

Each ASOP contains four sections. Except for this Introductory ASOP, the sections are organized as follows:

- The first section summarizes the scope, cross references, and effective date of the ASOP.
- The second section defines or discusses certain terms used within the ASOP.
- The third section provides an analysis of issues and recommended practices.
- The fourth section addresses communications and disclosures.

The scope identifies the intended application of the ASOP to the work of the actuary. In some instances, the actuary serves as an advisor to a principal and does not actually make decisions or take actions on the principal's behalf. In those instances, the ASOP may indicate in its scope to what extent the ASOP addresses the actuary's role in advising the principal. However, the ASOPs are not intended to make the actuary responsible if the principal acts contrary to the actuary's advice.

The Analysis of Issues and Recommended Practices section is organized into major topics or issues, or major tasks involved in rendering actuarial services within the ASOP's scope. Emphasis is placed on providing the actuary with an appropriate analytical framework for completing an assignment that is within the scope of the ASOP.

Communications or disclosures pertinent to the subject of the ASOP and applicable limitations are identified in the Communications and Disclosures section and in ASOP No. 41. Where appropriate, reference may be made to applicable provisions of the Code. This section also includes a description of what an actuary should do when, in the actuary's professional judgment, a deviation from the guidance in the ASOP is deemed to be appropriate.

ASOP No. 1—March 2013**Appendix 2****Comments on the Exposure Draft and Responses**

The exposure draft of the Introductory ASOP was issued in December 2011 with a comment deadline of May 31, 2012. Thirteen comment letters were received, some of which were submitted on behalf of multiple commentators, such as by firms or committees. For purposes of this appendix, the term “commentator” may refer to more than one person associated with a particular comment letter. The General Committee of the Actuarial Standards Board carefully considered all comments received, and the ASB reviewed (and modified, where appropriate) the changes proposed by the General Committee.

Summarized below are the significant issues and questions contained in the comment letters and the responses.

The term “reviewers” in appendix 2 includes the General Committee and the ASB. Also, unless otherwise noted, the section numbers and titles used in appendix 2 refer to those in the exposure draft.

GENERAL COMMENTS	
Comment	A number of commentators indicated that the Introductory ASOP needs a number (for example, ASOP No. 0 or ASOP No. 1) so that actuaries understand that it is an ASOP that contains guidance.
Response	The reviewers agree and numbered the Introductory ASOP as ASOP No. 1. The previous ASOP No. 1, <i>Nonguaranteed Charges or Benefits for Life Insurance Policies and Annuity Contracts</i> , has been renumbered as No. 2, since ASOP No. 2, <i>Recommendations for Actuarial Communications Related to Statements of Financial Accounting Standards Nos. 87 and 88</i> , was repealed in March 2011.
Comment	One commentator suggested moving the general deviation language from ASOP No. 41, <i>Actuarial Communications</i> , to the Introductory ASOP, and having ASOP No. 41 deal only with deviations related to communication of results.
Response	The reviewers believe ASOP No. 41 is an appropriate vehicle for guidance on communicating deviation from any ASOP, because ASOP No. 41 applies to actuaries issuing actuarial communications within any practice area. As a result, no change was made.

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SECTION 1: OVERVIEW	
Comment	Some commentators believed that the sentence “Each of these organizations requires its members, through its <i>Code of Professional Conduct</i> ⁴ (Code), to observe ASOPs when rendering actuarial services in the United States,” contradicts the Code because it is incomplete (i.e. the sentence doesn’t mention that actuaries must also under the Code satisfy standards of practice in a non-U.S. jurisdiction where they render services).
Response	The reviewers disagree and made no change. The reviewers believe the statement is accurate as written, and is not inaccurate merely because it does not also describe Code requirements that relate to actuarial standards of practice that exist in other jurisdictions in which the actuary may render actuarial services.
Comment	One commentator suggested revising the sentence “Each of these organizations requires its members, through its Code ⁵ , to observe ASOPs when rendering actuarial services in the United States,” to match the wording in the Code by replacing “observe” with “satisfy applicable.”
Response	The reviewers made the suggested change but note that the Code uses both terms in the discussion of this topic.
Comment	One commentator indicated that the sentence “The ASOPs provide a basic framework that will typically accommodate these additional considerations.” should be revised to read “The ASOPs provide a basic framework that should accommodate these additional considerations.”
Response	The reviewers agree and made the following change: “The ASOPs provide a basic framework that is intended to accommodate these additional considerations.”
SECTION 2: DEFINITIONS, DISCUSSIONS, AND RELATED GUIDANCE	
Comment	One commentator suggested that the definition of Deviation (“The act of departing from the guidance of an ASOP.”) in ASOP No. 41 also be included here.
Response	The reviewers agree and added the definition.
Section 2.1, Terms of Construction	
Comment	One commentator asked whether the Committee meant “under ordinary circumstances” rather than “under the circumstances” in “ <i>Must</i> —“Must” as used in the ASOPs means that, under the circumstances, the actuary has no reasonable alternative but to follow a particular course of action.”
Response	The reviewers disagree that “under ordinary circumstances” was intended, but note that changes made to the section should eliminate potential confusion.

⁴ These organizations adopted the *Code of Professional Conduct* effective January 1, 2001.

⁵ These organizations adopted the *Code of Professional Conduct* effective January 1, 2001.

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Comment	<p>Many comments were received with respect to the terms “must,” “should,” and “should consider,” as follows:</p> <ul style="list-style-type: none"> • Commentators indicated that, because failure to follow a “must” or a “should” statement both constitute a deviation requiring disclosure, the distinction between the two terms was not clear. • Commentators objected to the concept that failure to comply with a “should” statement constitutes a deviation that must be disclosed under ASOP No. 41. These commentators indicated that failure to follow a “should” statement had not previously been understood to be a deviation requiring disclosure, so that ASOPs were in effect being retroactively changed, and actuaries should be afforded an opportunity to comment on the use of the word should in the various ASOPs in that light. • A commentator questioned whether a definition of “should consider” was needed. • A commentator requested that the ASOP specifically indicate that it does not create a duty to document actions considered but not taken and the reasons therefor.
Response	<p>To assist in reviewing the comments, the reviewers analyzed the use of the terms “should,” “should consider,” and “must” in the various ASOPs, and reached the following conclusions:</p> <ul style="list-style-type: none"> • In order to better contrast the meaning of “must” versus “should,” the definitions have been combined into a single “Must/Should” discussion that defines each term and highlights the distinction between the terms. • The Introductory ASOP reaffirms that a failure to follow a “should” statement constitutes a deviation. • The reviewers agree that a definition of “should consider” is not needed. The terms “must” and “should” are generally followed by an action (for example, “disclose” or “document”). When the term “should consider” is used, the action to be performed (or to be disclosed as a deviation if not performed) is to consider something. Thus, there is no need to separately define “should consider.” The revised ASOP makes clear that if the actuary considers something the ASOP indicates he or she should consider, but determines that the item being considered is inappropriate or impractical, the actuary has complied with the guidance and there is no deviation to be disclosed. • Because the ASOP does not indicate that actions considered but not taken (and the reasons therefor) must be disclosed, the reviewers do not believe it is necessary for the ASOP to indicate that they need not be disclosed. Thus, no changes have been made in response to this comment.

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Comment	A commentator requested that a statement “Failure to follow the course of action which follows ‘may’ does not constitute a deviation” be added.
Response	Because the ASOP does not suggest that failure to follow the course of action that follows “may” constitutes a deviation, the reviewers do not believe it is necessary for the ASOP to indicate that it would not be a deviation. Therefore, no change was made in response to this comment.
Section 2.2, Actuarial Services	
Comment	A commentator indicated that “actuarial services” is defined in ASOP No. 41 and questioned whether the definition should be in two ASOPs. In addition, a commentator suggested a small change in the definition in the Introductory ASOP to match the definition in the Code (i.e., change “on” to “upon” in “Such services include the rendering of advice, recommendations, findings or opinions based on actuarial considerations.”). Other commentators suggested adding “but are not limited to” after “Such services include” in the sentence above.
Response	<p>Because the term actuarial services is applicable to all ASOPs and used in nearly all of them, the reviewers decided that including the definition in the Introductory ASOP is appropriate. The reviewers also made the indicated change (i.e. “on” to “upon”) to match the definition in the Code (which also appears in ASOP No. 41).</p> <p>The reviewers decided not to add “but are not limited to” to the definition. The revised definition matches the definition in the Code. In addition, the reviewers believe the list of services in the definition to be illustrative rather than comprehensive.</p>
Section 2.3, Actuarial Soundness	
Comment	A commentator suggested that a statement be added indicating that “actuarial soundness” is not an actuarial concept, but is a concept imposed by outside entities. In addition, another commentator requested that the ASOP indicate that the term “actuarial soundness” only needs to be defined once in an actuarial communication. A third commentator indicated that in property and casualty ratemaking the term “actuarial soundness” is well defined by the Casualty Actuarial Society’s ratemaking principles, and should not need to be defined in an actuarial communication.
Response	The reviewers agree that the concept of actuarial soundness might be imposed by an outside entity and added a statement to that effect. However, the reviewers do not believe it is necessary to explicitly state that actuarial soundness need not be defined multiple times in a single actuarial communication, and no change has been made in this regard. With respect to the third comment, no change was made. The reviewers note that ASOP No. 41 already provides that an actuarial communication can direct the reader to information provided in other documents and thus an actuary can direct the reader to the “actuarial soundness” definition intended.

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Section 2.4, Known	
Comment	One commentator indicated that the third sentence in this discussion, which reads “The actuary cannot reasonably be expected to act based on information that was not provided” could be interpreted to excuse an actuary from making reasonable inquiries to try to obtain information.
Response	The reviewers do not believe the sentence added anything to the discussion and deleted the sentence. This should avoid the potential misinterpretation.
Section 2.5, Materiality	
Comment	There were a number of comments on this section: <ul style="list-style-type: none"> • A commentator suggested that the ASOP not define material since “materiality” standards are normally imposed by others, and where they aren’t there isn’t a difference between significance and materiality. The commentator suggested using the materiality definition to define significant instead. • A commentator indicated that the statement “The provisions of ASOPs need not be applied to immaterial items” was somewhat circular, because an actuary would need to apply the ASOP to determine that an item is immaterial and that the ASOP allows it to be disregarded. • A commentator indicated that information should be required to be disclosed to allow others to make an assessment of the reasonability of the decision to exclude items as immaterial.
Response	The reviewers note that the words “material” and “materiality” are used in a number of ASOPs and, therefore, retaining the discussion is appropriate. The reviewers disagree with the other two comments.
Section 2.6, Practical or Practicable	
Comment	One commentator wanted to add the statement “No ASOP requires the actuary to perform a task that in the actuary’s professional judgment is impractical based on the needs of and contractual relationship with the principal.” Another commentator wanted the terms “practical” and “reasonable” and the difference between them clarified further.
Response	The reviewers consider the proposed statement overly broad and note that deviation from the guidance in an ASOP is permitted when appropriate, with disclosure in accordance with ASOP No. 41. Therefore, no changes were made in response to the first comment. In general, the reviewers believe that the term “practical” applies to a process while “reasonable” applies to a result, and changes were made in the discussion of “reasonable” to make that clear.

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Section 2.8, Professional Judgment	
Comment	A commentator suggested that the phrase “recognizing that reasonable differences may arise when actuaries project the effect of uncertain events” in this discussion also belonged in the discussion of reasonable.
Response	The reviewers agree and added the sentence “Because actuarial practice commonly involves the estimation of uncertain events, there will often be a range of reasonable methods and assumptions, and two actuaries could follow a particular ASOP, both using reasonable methods and assumptions, and reach different but reasonable results” to the discussion of reasonable.
Section 2.9, Reasonable	
Comment	A commentator felt that the discussion should focus on “the act of reasoning or reaching conclusions based on supported evidence, logical argument and actuarial judgment,” which the commentator believes would better parallel the usage in other ASOPs. Another commentator suggested avoiding the use of the stem “reason” or “reasonable” in the discussion.
Response	The reviewers do not agree. As mentioned above, the reviewers believe that the discussion of reasonable should focus on producing a reasonable result, and the discussion was modified to accomplish this by adding to the discussion “to produce a ‘reasonable’ result when rendering actuarial services.”
Section 2.11, Significance/Significant	
Comment	There were several comments on this discussion, primarily indicating that there was not a clear distinction between the terms material and significant.
Response	The reviewers note that there are several different common uses of the word significant, and different usages are used in different ASOPs. Section 2.11 was intended as a discussion of the various ways in which the term is used, rather than a definition. The discussion was expanded to include an additional common usage (“An event may be described as significant if the likelihood of its occurrence is more than remote.”). With the changes to the wording for both “materiality” and “significance/significant,” the reviewers believe there is a clearer distinction between the two terms.

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<u>SECTION 3. PURPOSE AND FORMAT OF ACTUARIAL STANDARDS OF PRACTICE</u>	
Comment	A commentator indicated that the placement of this section within the body of the Introductory ASOP is inconsistent with the Introductory ASOP itself being an ASOP, because there is nothing in this section that an actuary must understand or do. The commentator suggested moving this section to the appendix or another document.
Response	The reviewers note that the Introductory ASOP is unique and can have a different structure from the other ASOPs. The reviewers decided to leave this within the body of the Introductory ASOP to ensure it received appropriate visibility.
Section 3.1.2	
Comment	A commentator believed the term “production in litigation” should have been “results in litigation” in the sentence “ASOPs are not intended to shift the burden of proof or production in litigation, and failure to satisfy one or more provisions of an ASOP should not, in and of itself, be presumed to be malpractice.”
Response	The reviewers changed the wording to clarify that a deviation from a standard should not result in the presumption of malpractice.
Comment	A commentator believed that the sentence “Other individuals should consider obtaining the advice of a qualified actuary before making use of, or otherwise relying upon, ASOPs” should be replaced with “ASOPs should not be used or relied upon by those who are not actuaries.”
Response	The reviewers disagree and made no change.
Section 3.1.4	
Comment	A commentator wanted to add “generally” before “not narrowly prescriptive,” and “typically” before “neither dictate” in the following sentence “The ASOPs are not narrowly prescriptive and neither dictate a single approach nor mandate a particular outcome.” Another commentator noted that some sections of ASOPs are prescriptive.
Response	The reviewers agree that adding “generally” to the sentence is appropriate and made the change but do not believe the addition of “typically” would enhance the understanding.

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Comment	A commentator suggested that the sentence “For example, because actuarial practice commonly involves the measurement of uncertain events, there will often be a range of reasonable assumptions, and two actuaries could follow a particular ASOP, both using reasonable methods and assumptions, and reach different but reasonable results” be moved into the discussion of reasonable.
Response	The reviewers agree and moved the sentence (with minor wording changes).
Section 3.1.5	
Comment	A commentator thought that this point (that an actuary may deviate from an ASOP to comply with applicable statutes, regulations or other binding authority) was better explained in other ASOPs and that the language should be modified.
Response	The reviewers believe the language is clear and consistent with the Code, and therefore made no change.
Section 3.1.6	
Comment	A commentator suggested that the word “might” be changed to “may” in the sentence “Unlike the ASOPs, which are binding upon actuaries, other actuarial literature provides information that an actuary might choose, but is not required, to consider when rendering actuarial services.”
Response	The reviewers agree and made the change.
Section 3.1.7	
Comment	A commentator suggested this section be revised to indicate that early adoption of the revised Introductory ASOP is permitted.
Response	The reviewers believe that there is nothing in this revised Introductory ASOP that would result in noncompliance with the current Introduction to the ASOPs. Therefore, no change was made.
SECTION 4: COMPLIANCE WITH ASOPS	
Section 4.1	
Comment	A commentator found this confusing, saying that you can deviate from an ASOP if you disclose the deviation, so failure to comply with an ASOP is not a breach of the Code. Another commentator suggested adding information to further clarify that deviations, with appropriate disclosures, are permitted.
Response	The reviewers note that the deviation from the guidance in an ASOP and disclosing the deviation is not a failure to comply with the ASOP, as discussed in section 4.5. Accordingly, no substantive changes were made in response to these comments, although the second sentence in this section was simplified.
Comment	Some commentators believe this section belongs in the appendix, not the body of the ASOP, because it doesn’t tell the actuary to do anything.
Response	Failure to comply with the ASOPs results in a breach of the Code. The reviewers believe this is an important point that belongs in the body of the Introductory ASOP. Therefore, no change was made.

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Comment	A commentator suggested adding “may” before “subject the actuary” in the sentence “Such breaches subject the actuary to the profession’s counseling and discipline processes.”
Response	The reviewers note that a breach subjects the actuary to ABCD processes, even though it may not result in ABCD action. Therefore, no changes were made.
Section 4.2	
Comment	A commentator believes that the sentence “It is not appropriate for users of ASOPs to make a strained interpretation of the provisions of an ASOP “ is not needed because the point is covered by the first sentence, and also indicated that an undefined term like “strained” should not be used.
Response	The reviewers believe the second sentence differs from the first and decided against deleting it.
Section 4.3	
Comment	A commentator suggested that the word “relevant” be replaced with “applicable” in the sentence “Actuaries should comply with those ASOPs that are relevant to the task at hand; not all ASOPs will apply.” because the Code doesn’t use the word “relevant,” it uses “applicable.”
Response	The reviewers agree with replacing “relevant” with “applicable” and made that change.
Comment	A commentator suggested that the following sentence be deleted: “An ASOP should not be interpreted as having applicability beyond its stated scope and purpose” because the commentator believes it discourages an actuary from looking at ASOPs applicable to similar issues when there is no ASOP directly applicable, which the commentator believes to be a good practice that should not be discouraged.
Response	The reviewers believe that clearly defined applicability is important and does not discourage other uses. Therefore, the sentence was not deleted.
Comment	A commentator questioned whether the actuary has unfettered discretion to come to a conclusion about which ASOPs apply, even though the ASOPs may seem to suggest otherwise, and whether the actuary’s determination was open to challenge.
Response	The reviewers do not agree that the section suggests that the actuary has unfettered discretion and, therefore, made no change.
APPENDIX 1: BACKGROUND AND ADDITIONAL INFORMATION	
Role and Scope of ASOPs	
Comment	A commentator objected to the use of the phrase “to better define” in the first sentence.
Response	The reviewers agree and replaced the phrase “to better define” with “to clarify” in the first sentence.

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<p>Comment</p>	<p>A commentator indicated that the sentence below belongs in the body of the ASOP, not in appendix 1, because the commentator believes it is requiring the actuary to do something.</p> <p style="padding-left: 40px;">“Because the ASOPs are not overly prescriptive, and allow for disclosed deviations, the ASOP framework is designed to accommodate the actuary’s providing high quality actuarial services and acting with integrity, taking all appropriate considerations into account.”</p>
<p>Response</p>	<p>The reviewers do not believe this sentence adds any guidance and, therefore, made no change.</p>

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