

## ASTTBC Apprehension of Bias POLICY

<b>Policy Subject</b>	ASTTBC Apprehension of Bias Policy
<b>Policy Section</b>	
<b>Policy Number</b>	
<b>Approving Authority</b>	ASTTBC Board
<b>Revision</b>	V1.0
<b>Approved Date</b>	January 19, 2023
<b>Responsible Officer</b>	Registrar
<b>Next Policy Review Date</b>	TBD

### 1.0 REASON FOR POLICY

- 1.1 ASTTBC is committed to carrying out its activities under the *PGA* and other applicable enactments in a manner that maintains the confidence and trust of its registrants, the public and the government. Members of ASTTBC’s Board and Committees, including any qualified individual appointed to assist the Board or a Committee in carrying out their statutory duties, must act with integrity and adhere to the highest ethical standard at all times.
- 1.2 Decisions of the Board and Committees must be consistent with the principle of natural justice. Accordingly, Board and Committee members, including any qualified individual appointed to assist the Board or a Committee in carrying out their statutory duties, must perform their duties without bias and avoid situations where their deliberations could lead to a reasonable apprehension of bias.
- 1.3 The Board is collectively responsible for:
  - (a) adopting a policy and procedures on apprehension of bias; and
  - (b) reviewing the procedures of this policy regularly to ensure they adequately meet policy objectives.

### 2.0 APPLICABILITY

This policy applies to:

- (a) all members of the Board, the Credentials Committee, the Investigations Committee, the Audit and Practice Review Committee, the Nominations Committee, and the Discipline Committee, including any qualified individual appointed to assist the Board or a Committee in carrying out their statutory duties, to identify and address situations where bias exists or may be apprehended with respect to any quasi-judicial function of the Board or a committee.

### 3.0 POLICY STATEMENTS

#### 3.1 Definitions

3.1.1 For the purposes of this policy:

- (a) “Bias” means a predisposition of mind where a Board or committee member, including any qualified individual appointed to assist the Board or a Committee in carrying out their statutory duties, while performing ASTTBC functions in a particular case, and due to
- i. prejudice, or
  - ii. personal interests, or
  - iii. other irrelevant or inadmissible factors,

Could be unable to exercise their judgement fairly and impartially in the case;  
and

- (b) An “apprehension or bias” or “apprehended bias” occurs when the circumstances would permit a reasonably well-informed and fair-minded person to conclude a reasonable likelihood of bias exists.

*Common law definition applies*

3.1.2 “Bias” has been defined by the courts as “a leaning, inclination, bent or predisposition towards one side or another or a particular result” [1]

3.1.3 The test for a “reasonable apprehension of bias” has been set out as “what would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude? Would they think that it is more likely than not that the [board member], whether consciously or unconsciously, would not decide fairly?” [2]

### 4.0 Policy Statement:

#### 4.1 Identifying an apprehension of bias

4.1.1 For clarity, an apprehension of bias may arise in diverse situations, including the following circumstances:

- (a) a decision-maker may demonstrate they have prejudged an issue;
- (b) a decision-maker may demonstrate that they are not open to persuasion; or
- (c) a decision-maker may show partiality to one party through hostility, or by ignoring evidence, or by dismissing evidence with insufficient reason

4.1.2 Board and committee members, including any qualified individual appointed to assist the Board or a Committee in carrying out their statutory duties, must make every reasonable effort to avoid conduct which could reasonably lead to an apprehension of bias

## **4.2 Disclosure of bias**

- 4.2.1 In the event of a Board member becoming cognizant of facts, which could support an apprehension of bias, the member shall:
- (a) immediately recuse themselves; or
  - (b) disclose the potential or actual apprehension of bias with sufficient information to the Registrar and/or the Board Chair, and seek and follow their direction; and
  - (c) subject to the direction of the Registrar or Chair,
    - i. refrain from discussing, voting on, or taking any action with respect to any matter in which they may have a potential or actual apprehension of bias,
    - ii. remove themselves from the meeting if and when deemed appropriate; and
    - iii. refrain from attempting to exert any personal influence with respect to the matter being addressed.
- 4.2.2 In the event of a committee member becoming cognizant of facts, which could support an apprehension of bias, the member shall:
- (a) immediately recuse themselves; or
  - (b) disclose the potential or actual apprehension of bias with sufficient information to the Registrar and/or the Committee Chair, and seek and follow their direction; and
  - (c) subject to the direction of the Registrar or Chair,
    - i. refrain from discussing, voting on, or taking any action with respect to any matter in which they may have a potential or actual apprehension of bias,
    - ii. remove themselves from the meeting if and when deemed appropriate; and
    - iii. refrain from attempting to exert any personal influence with respect to the matter being addressed.
- 4.2.3 In the event a qualified individual appointed to assist the Board or a Committee in carrying out their statutory duties becoming cognizant of facts which could support an apprehension of bias, the member shall:
- (a) immediately recuse themselves; or
  - (b) disclose the potential or actual apprehension of bias with sufficient information to the Registrar and/or the Board/Committee Chair, and seek and follow their direction; and
  - (c) subject to the direction of the Registrar or Board/Committee Chair,
    - i. refrain from discussing or taking any action with respect to any matter in which they may have a potential or actual apprehension of bias,
    - iii. refrain from attempting to exert any personal influence with respect to the matter being addressed.

- 4.2.4 If, on a Board or committee member or any appointed qualified individual's own assessment, or on determination of the Board or a committee, and whether on the application of one or more parties to a proceeding or otherwise, the circumstances are found to give rise to an apprehension of bias on the part of the member, the member must withdraw from acting with respect to the matter, unless the Board or committee, and the parties in the proceeding if applicable, are fully informed of the facts and waive the right to object.
- 4.2.5 All Board or committee members, including any qualified individual appointed to assist the Board or a Committee in carrying out their statutory duties, shall not initiate or accept any direct communications with applicants or respondents which could, by virtue of content or manner of communication, give rise to an apprehension of bias. Board or committee members communicating with applicants or respondents as part of a financial, business, professional, or social relationship are responsible for being aware that such a relationship may give rise to a conflict of interest or an apprehension of bias.

[1] *Wewaykum Indian Band v. Canada*, 2003 SCC 45

[2] *Committee for Justice and Liberty v. National Energy Board*, [1978] 1 SCR 369 at para 394

<b>I acknowledge that I have read and understood ASTTBC's Apprehension of Bias Policy and agree to conduct myself in accordance with it.</b>
Signature:
Name:
Date: