



ACTUARIAL STANDARDS BOARD

• EXPOSURE DRAFT •

**Actuarial Standard
of Practice
No. 41**

Actuarial Communications

**Comment Deadline:
December 31, 2008**

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

**Approved for Exposure by the
Actuarial Standards Board
September 2008**

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September 2008

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

FROM: Actuarial Standards Board (ASB)

SUBJ: Actuarial Standard of Practice (ASOP) No. 41

This document is an exposure draft of a proposed revision of ASOP No. 41, *Actuarial Communications*.

Please review this exposure draft and give the ASB the benefit of your comments and suggestions. Each written response and each response sent by e-mail to the address below will be acknowledged, and all responses will receive appropriate consideration by the drafting committee in preparing the final document for approval by the ASB.

The ASB accepts comments by either electronic or conventional mail. The preferred form is e-mail, as it eases the task of grouping comments by section. However, please feel free to use either form. If you wish to use e-mail, please send a message to **comments@actuary.org**. You may include your comments either in the body of the message or as an attachment prepared in any commonly used word processing format. **Please do not password protect any attachments.** Include the phrase “ASB COMMENTS” in the subject line of your message. Please note: Any message not containing this exact phrase in the subject line will be deleted by our system’s spam filter.

If you wish to use conventional mail, please send comments to the following address:

ASOP No. 41 Revision
Actuarial Standards Board
1100 Seventeenth Street, NW, 7th Floor
Washington, DC 20036-4601

The ASB posts all signed comments received to its website to encourage transparency and dialogue. Unsigned or anonymous comments will not be considered by the ASB nor posted to the website. The comments will not be edited, amended, or truncated in any way. Comments will be posted in the order that they are received. Comments will be removed when final action on a proposed standard is taken. The ASB website is a public website and all comments will be

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available to the general public. The ASB disclaims any responsibility for the content of the comments, which are solely the responsibility of those who submit them.

Deadline for receipt of responses in the ASB office: **December 31, 2008**

Background

The current version of ASOP No. 41 has been in effect for nearly six years, and applies to all U.S. actuaries in all areas of practice. During that time, the ASB has received several comments regarding a lack of clarity in the document and confusion in respect to its wording and structural arrangement. It is a priority for the ASB to make sure that all ASOPs are clear and unambiguous.

Accordingly, the ASB asked the General Committee to complete a thorough review of ASOP No. 41.

Key Changes

The ASB has clarified that an “actuarial report” is always an “actuarial communication” (although not every actuarial communication is an actuarial report). The determination of whether or not a communication is an actuarial report is based on content, not form. The ASB confirms that methods, procedures, assumptions, and data should be appropriately documented. When such documentation is incorporated within an actuarial communication, the communication becomes an actuarial report. In any case, the actuary should take steps to assure that the documentation is retained for a reasonable period of time.

The ASB is coordinating the proposed revision of ASOP No. 41 with its efforts to standardize the treatment of deviation among all ASOPs. The exposure of the proposed standardized deviation language produced several constructive comments that have been reflected in this exposure draft. A summary of all comments to the deviation exposure can be found in the concurrent final deviation document. As a result of these efforts, the ASB has restructured section 4 so that:

1. all required disclosure is listed in section 4; and
2. the treatment of deviations from the guidance of any ASOP (including situations where assumptions are not set by the actuary) is codified in this section 4.

Other significant changes from the existing ASOP No. 41 are as follows:

3. Reference to Prescribed Statements of Actuarial Opinion (PSAOs) has been removed.
4. Section 1.2 has been modified and expanded to improve clarity.

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5. Section 3 has been reorganized. Disclosure requirements have been moved to section 4.1, while additional guidance relating to disclosures remains in section 3.2.
6. Section 3.2.4 makes it clear that unless the actuary otherwise discloses, the actuary is responsible for all actuarial assumptions and methods utilized in producing the actuarial communication.

Throughout the text of the ASOP minor wording changes have been made to improve clarity.

Request for Comments

The ASB is issuing this revised version of ASOP No. 41 as an exposure draft to provide members of actuarial organizations governed by the ASOPs an opportunity to comment. While all comments will be considered by the committee, it is particularly interested in the following questions:

1. Do you believe it appropriate to require the actuary to be responsible for assumptions and methods used within an actuarial communication unless otherwise disclosed? Do you believe that this standard is the appropriate place to do that? Does this draft make this intent sufficiently clear?
2. This ASOP is titled “Actuarial Communications” even though it also addresses documentation. Does this create any confusion? If so, what would a better title be?
3. Does this draft make it sufficiently clear when the actuary should issue an actuarial report disclosing methods, procedures, assumptions, and data as opposed to issuing another form of actuarial communication that does not make these disclosures?
4. Are the added disclosure requirements in cases involving deviation clear and appropriate?

The ASB reviewed the draft at the September 2008 board meeting and approved its exposure.

General Committee of the ASB

| | |
|-------------------------------|------------------------|
| Thomas K. Custis, Chairperson | |
| Michael S. Abroe | Eric P. Lofgren |
| Charles A. Bryan | William J. Schreiner |
| Peter Hendee | Chester J. Szczepanski |

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Actuarial Standards Board

Stephen G. Kellison, Chairperson
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David R. Kass Lawrence J. Sher

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.

ACTUARIAL STANDARD OF PRACTICE NO. 41

ACTUARIAL COMMUNICATIONS

STANDARD OF PRACTICE

Section 1. Purpose, Scope, Cross References, and Effective Date

- 1.1 Purpose—This actuarial standard of practice (ASOP) provides guidance to actuaries with respect to actuarial communications.
- 1.2 Scope—This standard applies to actuaries issuing actuarial communications (including actuarial reports) within any practice area. This standard does not apply to communications that may refer to actuarial services but do not include an actuarial opinion or other actuarial findings (for example, brochures, fee quotes, or invoices).

If the actuary departs from the guidance set forth in this standard in order to comply with applicable law (statutes, regulations, and other legally binding authority), or for any other reason, the actuary should refer to section 4 regarding deviation.

Law, regulation, or another profession's standards may prescribe the form and content of a particular actuarial communication (such as a preprinted government form). In such situations, the actuary should comply with the guidance in this standard to the extent possible while complying with the applicable law, regulation, or standard.

This standard establishes minimum requirements for organizing and completing actuarial communications, including those that may be required by the *Qualification Standards* or by other ASOPs. If such other guidance contains communication requirements that are additional to or inconsistent with this standard, the requirements of such other guidance supersede the requirements of this ASOP. However, any disclosures or additional communication requirements imposed by this standard, which are not inconsistent with such other guidance, should be included in the actuarial communication.

- 1.3 Cross References—When this standard refers to the provisions of other documents, the reference includes the referenced documents as they may be amended or restated in the future, and any successor to them, by whatever name called. If any amended or restated document differs materially from the originally referenced document, the actuary should consider the guidance in this standard to the extent it is applicable and appropriate.

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- 1.4 Effective Date—This standard will be effective for any actuarial communication dated three months after approval of this document.

Section 2. Definitions

The terms below are defined for use in this actuarial standard of practice.

- 2.1 Actuarial Communication—A written, electronic, or oral communication issued by an actuary with respect to actuarial services.
- 2.2 Actuarial Findings—The results of professional services provided to a principal by an individual acting in the capacity of an actuary (including commentary on another actuary’s work). Such services include providing advice, conclusions, statements of actuarial opinion, other opinions, or recommendations, based upon actuarial considerations.
- 2.3 Actuarial Report—A formal means of conveying the actuary’s findings that records and communicates the actuary’s methods, procedures, assumptions, and data. Unless so designated by the actuary, communications such as the following are not actuarial reports:
- a. transcripts or summaries of an oral communication of actuarial findings;
 - b. internal communications, for example within a company, organization, firm, or government agency; and
 - c. communications, during the course of an assignment, among those providing actuarial services.
- 2.4 Intended Audience—The persons to whom the actuarial communication is directed and those with whom the actuary intends to communicate. Unless otherwise specifically agreed, the principal is always a member of the intended audience. Other persons or organizations, such as regulators, policyholders, plan participants, investors, or others, may be designated by the principal, with consent of the actuary, as members of the intended audience.
- 2.5 Other User—Any user of an actuarial communication who is not a principal or member of the intended audience.
- 2.6 Principal—A client or employer of the actuary. In situations where the actuary has both a client and an employer, as is common for consulting actuaries, the facts and circumstances will determine which is the principal. When the actuary is issuing actuarial communications directly to the external client, the client will generally be the principal. When the actuary is working in an internal capacity and someone other than the actuary is communicating the results of the actuary’s work to the client (for example, where such communication by others

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is primarily concerned with nonactuarial matters), the actuary's employer will generally be the principal. In this latter case, any actuary who subsequently communicates to the client will be guided by this standard.

- 2.7 **Statement of Actuarial Opinion**—An opinion expressed by an actuary in the course of performing actuarial services and intended by that actuary to be relied upon by the person or organization to which the opinion is addressed.

Section 3. Analysis of Issues and Recommended Practices

- 3.1 **General Requirements for Actuarial Communications**—The completion of a specific actuarial engagement or assignment typically requires significant and ongoing communications between the principal and the actuary regarding the following: the scope of the requested work; the methods, procedures, assumptions, and data, and other information required to complete the work; and the development of the actuarial communication of the actuary's work product. The requirements of this standard should be applied to the cumulative communications with respect to each specific engagement or assignment so that all of the communications, taken together, satisfy this standard even though individual communications may not.
- 3.1.1 **Form and Content**—The actuary should take appropriate steps to ensure that the form and content of the actuarial communication are clear and appropriate to the particular circumstances, taking into account the intended audience. Information included in previous actuarial communications that is available to the intended audience may be incorporated by reference into an actuarial communication issued under this standard.
- 3.1.2 **Timing of Communication**—The actuary should issue an actuarial communication within a reasonable period following completion of the actuarial analysis underlying the engagement or assignment, unless other arrangements, mutually satisfactory to the parties, have been made.
- 3.1.3 **Communication of Significant Actuarial Findings**—Actuarial findings that the actuary considers to be significant should be formally presented. This presentation should be an actuarial report unless the actuary judges it to be inappropriate.
- 3.1.4 **Actuarial Report**—In addition to the actuarial findings, an actuarial report should identify the methods, procedures, assumptions, and data used by the actuary with sufficient clarity that another actuary qualified in the same practice area could make an objective appraisal of the reasonableness of the actuary's work as presented in the actuarial report. To the extent the methods, procedures, assumptions, and data used have been described in a previous actuarial report that is available to the intended

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audience, the actuary may incorporate this information by reference into the actuarial report.

3.1.5 Other Considerations in Determining the Need for Producing an Actuarial Report—In addition to the actuary’s perception of the significance of the actuarial findings, factors to consider in determining the need for producing an actuarial report include legal or regulatory requirements, the complexity of the actuarial engagement or assignment, and relevant communication guidance in other ASOPs.

3.2 Requirements for Disclosures Within an Actuarial Communication—Consideration of disclosure items is an important part of the preparation of any actuarial communication. The actuary should review the complete list of required disclosure items included in Section 4 of this ASOP. Further discussion regarding some of these disclosure items follows:

3.2.1 Identification of Responsible Actuary—The actuary issuing an actuarial communication should ensure that the actuarial communication clearly identifies the actuary as being responsible for it whenever that responsibility is not apparent. When two or more individuals jointly issue a communication (at least some of which is actuarial in nature), the communication should identify all responsible actuaries. The name of an organization with which each actuary is affiliated also may be included in the communication, but the actuary’s responsibilities are not affected by such identification. Unless the actuary judges it inappropriate, the actuary issuing an actuarial communication should also indicate the extent to which the actuary is available to provide supplementary information and explanation.

3.2.2 Conflict of Interest—An actuary who is not financially, organizationally, or otherwise independent concerning any matter related to the subject of an actuarial communication should disclose in the actuarial communication any pertinent information that is not apparent. This includes any situation where the actuary acts, or may appear to be acting, as an advocate. However, applicable financial disclosure is limited in accordance with Precept 6 of the *Code of Professional Conduct* to sources of material compensation that are known to or are reasonably ascertainable by the actuary.

3.2.3 Reliance on Other Sources for Data and Other Information—An actuary who makes an actuarial communication assumes responsibility for it except to the extent the actuary disclaims responsibility by stating reliance on other sources. Reliance on other sources means making use of those sources without assuming responsibility for those sources. An actuarial communication making use of any such reliance should define the extent of reliance, for example by stating whether or not checks as to reasonableness have been applied. An actuary may rely upon other sources for information except where limited or prohibited by applicable standards of practice or law or regulation. Further guidance on when such reliance is appropriate, and what the

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actuary's responsibilities are when such reliance is stated, is found in ASOP No.23, *Data Quality*.

- 3.2.4 Responsibility for Assumptions and Methods—A member of the intended audience of an actuarial communication will generally expect that the assumptions and methods employed in preparing the actuarial findings within an actuarial communication were selected and endorsed by the actuary. The actuary should disclose where this is not the case. The appropriate disclosure depends upon how the assumption or method was selected.
- a. If the assumption or method is specified by applicable law (statutes, regulations, and other legally binding authority), the actuary should include the disclosures identified in section 4.2. These disclosures should be made even if the actuary believes the assumption or method is reasonable for the purpose of the communication.
 - b. If the assumption or method is selected by another party under the authority of an applicable law, the communication should include the disclosures identified in section 4.3.1 unless the actuary believes that all such assumptions and methods used for a particular communication are reasonable and appropriate.
 - c. In all other situations, the actuary is responsible for all assumptions and methods utilized in the preparation of a communication unless the actuary prominently discloses otherwise within the communication by including the disclosures identified in section 4.3.2.
- 3.3 Oral Communications—When the actuary is providing oral communication (for example, testimony in a regulatory, judicial, or legislative environment), the actuary's ability to satisfy the requirements of this standard may be limited by the constraints of the forum. When providing oral communication, the guidance in this standard nevertheless applies to the actuary to the extent practicable in the particular circumstances.
- 3.4 Reconciliation of Material Differences—If a later actuarial communication produced by the same actuary for the same assignment includes materially different results or expresses a different opinion from the former communication, the actuary should reconcile the differences. The later communication should make it clear that the earlier results or opinion are no longer valid and why they have changed. If the later communication is oral, the actuary should follow-up with a document that clarifies the reason for the changes.
- 3.5 Responsibility to Other Users—An actuarial communication may be used in a way that may influence persons who are not part of the intended audience. The actuary should recognize the risks of misquotation, misinterpretation, or other misuse of such communication and

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should take reasonable steps to ensure that the actuarial communication is clear and presented fairly. To help prevent misuse, the actuary may include language in the actuarial communication that may limit its distribution to other users, for example, by stating that it may only be provided to such parties in its entirety or only with the actuary's consent.

Nothing in this standard creates an obligation for the actuary to communicate with any person other than the intended audience.

- 3.6 Documentation—The actuary should create records and other appropriate documentation supporting all actuarial findings within an actuarial communication. If the actuarial findings were presented orally, the documentation should include a clear statement of the findings that were presented. To the extent practicable, the actuary should take reasonable steps to ensure that this documentation will be retained for a reasonable period of time (and no less than the length of time necessary to comply with any statutory, regulatory, or other requirements). The actuary need not retain the documentation personally; for example, the actuary's employer may retain it. Such documentation should identify the methods, procedures, assumptions, and data used by the actuary with sufficient clarity that another actuary qualified in the same practice area could evaluate the reasonableness of the actuary's work. Unless the actuary has issued an actuarial report that reasonably satisfies the need for documentation, such documentation should also be available to the principal.

Section 4. Communications and Disclosures

- 4.1 Disclosures—The actuarial communication should disclose the following information unless it is inappropriate to do so:
- a. the principal(s) for whom the actuarial findings are made;
 - b. the scope and intended purpose of the engagement or assignment;
 - c. any limitations or constraints on the use or applicability of the actuarial findings contained within the actuarial communication;
 - d. the actuary who is responsible for the actuarial communication (see section 3.2.1);
 - e. any actual or apparent conflict of interest of which the actuary is aware that is not readily apparent to the intended audience (see section 3.2.2); and
 - f. any information which has a material impact on the actuarial findings on which the actuary relied and for which the actuary does not assume

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responsibility (see section 3.2.3).

- 4.2 Certain Assumptions or Methods Prescribed by Law—Where any material assumption or method was prescribed by applicable law (statutes, regulations, and other legally binding authority) the actuary should disclose the following in the actuarial communication:
- a. the purpose of the actuarial communication and, if appropriate, a statement that the communication should not be relied upon for any other purpose;
 - b. the applicable law under which the communication was prepared;
 - c. that certain assumptions or methods are prescribed by the applicable law; and
 - d. that the communication was prepared in accordance with the applicable law.

If the actuarial communication is in a prescribed form that does not accommodate these disclosures, the actuary should make this disclosure in a separate communication (such as a cover letter) to the principal requesting that both communications be disseminated together where practicable.

- 4.3 Responsibility for Assumptions and Methods—If, for a given assignment, the actuary does not take responsibility for all assumptions and methods used to complete the assignment (other than those covered by section 4.2), then the actuary should disclose certain information as outlined below depending on the circumstances of the particular assignment. Further guidance on which disclosures are applicable is found in section 3.2.4.

- 4.3.1 Certain Assumptions or Methods Selected by an Empowered Other Party—Where any material assumption or method was selected by a party other than the actuary, and that party is empowered to select assumptions or methods by applicable law, the actuary should disclose the following in the actuarial communication:
- a. the purpose of the actuarial communication and, if appropriate, a statement that the communication should not be relied upon for any other purpose;
 - b. the party with legal authority that set the assumption or method;
 - c. any assumption or method that was set by such party pursuant to applicable law;
 - d. if applicable, that the assumption or method significantly conflicts with what, in the actuary’s professional judgment, would be reasonable for the purpose of the actuarial communication; and

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- e. if applicable, that the actuary did not evaluate the assumption or method for reasonableness for the purpose of the actuarial communication.

If the actuarial communication is in a prescribed form that does not accommodate these disclosures, the actuary should make this disclosure in a separate communication (such as a cover letter) to the principal requesting that both communications be disseminated together where practicable.

4.3.2 Required Disclosures if the Actuary Disclaims Responsibility for Any Assumption or Method in Any Other Situation—Where the actuary disclaims responsibility for any material assumption or method in any situation not covered under section 4.2 or 4.3.1, the actuary should prominently disclose the following in the actuarial communication:

- a. the purpose of the actuarial communication and, if appropriate, a statement that the communication should not be relied upon for any other purpose;
- b. the assumption or method for which the actuary disclaims responsibility;
- c. the source of the assumption or method, why the actuary used that source, and, if applicable, a statement that the actuary has relied on the expertise or knowledge of another party for the assumption or method; and
- d. if applicable, that the assumption or method significantly conflicts with what, in the actuary’s professional judgment, would be reasonable for the purpose of the actuarial communication.

If the actuarial communication is in a prescribed form that does not accommodate these disclosures, the actuary should make this disclosure in a separate communication (such as a cover letter) to the principal requesting that both communications be disseminated together where practicable.

4.4 Deviation From the Guidance of an ASOP—If, in the actuary’s professional judgment, the actuary has deviated materially from the guidance set forth in an applicable ASOP, other than as covered under sections 4.2 or 4.3, the actuary can still comply with that ASOP by providing an appropriate statement in the actuarial communication with respect to the nature, rationale, and effect of such deviation. The actuary should also be prepared to explain the deviation to the actuarial profession’s disciplinary bodies.

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Appendix 1

Background and Current Practices

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

Background

The current version of ASOP No. 41, adopted in March 2002, was adapted from and superseded Interpretative Opinion No. 3, *Professional Communications of Actuaries*. Interpretive Opinion No. 3 was itself adopted by the American Academy of Actuaries in 1981. The 2002 version of ASOP No. 41 conformed to the format adopted by the Actuarial Standards Board in May 1996 for all actuarial standards of practice, and while this standard generally followed Interpretative Opinion No. 3, it also expanded upon, clarified, and eliminated portions of that opinion. Additionally, this standard offered guidance to complement the requirements imposed by the *Code of Professional Conduct*. It was drafted and is still intended to help actuaries apply the *Code of Professional Conduct* when making professional communications (by written, electronic, or oral means) to clients, employers, regulators, policyholders, pension plan participants, investors, and other users of actuarial services.

This revision has used definitions that are consistent with those found in the *Code of Professional Conduct* and in the recently revised *Qualification Standards for Actuaries Issuing Statements of Actuarial Opinions*. This revision also incorporates language in section 4 that is the foundation of the ASB's new approach to creating consistency in the treatment of deviation language within all ASOPs.

It should be noted that all recorded forms of communication (including—but not limited to—paper, email, voice mail, audio or video recordings, slides, photographs, electronic presentations, websites, etc.) are generally considered records of such communications and are, therefore, discoverable in legal proceedings.

Current Practices

Actuaries are currently guided by the *Code of Professional Conduct*, by ASOP No. 41, and by other actuarial standards of practice, depending on the nature of the work at hand.

Actuarial communications may be made available to a variety of users of actuarial work products including clients, employers, regulators, shareholders, and policyholders, as well as external audiences such as the general public. Actuarial communications may be delivered in many forms, including written, electronic, or oral; and may stand alone or be part of a broader pattern of communication. In preparing and conveying actuarial communications, actuaries seek to

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satisfy their responsibility to their principals, for example, clients or employers, while being mindful of the potential impact of their communication upon other parties.