



Disclosure in the Real World

ASOP No. 41, Actuarial Communications, and Case Studies

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Disclaimer

Please note: The panelists' statements and opinions are their own and do not represent the official statements or opinions of the Actuarial Standards Board (ASB), or any other boards or committees of the Academy or any other actuarial organization, or the Joint Board for the Enrollment of Actuaries, nor do they express the opinions of their respective employers.





Code of Professional Conduct

Standards of practice and communications are aligned with the Code of Professional Conduct (“Code”). The Code contains principles for actuarial conduct that has been long recognized as the generally accepted standard for professional responsibility and ethics in the actuarial profession. Relevant definitions from the Code include:

Actuary: An individual who has been admitted to a class of membership to which the Code applies by action of any organization having adopted the Code.

Actuarial Communication: A written, electronic, or oral communication issued by an Actuary with respect to Actuarial Services.

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 upon actuarial considerations.





Intersection of Code and Actuarial Standards of Practice

Actuarial Communications and Disclosures

- Certain Precepts of the Code specifically reflect appropriate principles for an actuary to follow such as Precepts 4, 5, 6, and 8.
- Precept 3 of the Code in particular references that actuarial services shall be performed in accordance with applicable standards of practice.
- Of all of the actuarial standards of practice promulgated by the Actuarial Standards Board, ASOP No. 41 may arguably have the broadest application, and is a focal point of many requests for guidance made to the Actuarial Board for Counseling and Discipline.
- This webinar is intended to consider some ethical issues that surround actuaries as they conduct their services and the various rules and regulations designed to assist actuaries in this process.





Precepts of the Code on Communications

Communications and Disclosure:

PRECEPT 4. An Actuary who issues an Actuarial Communication shall take appropriate steps to ensure that the Actuarial Communication is clear and appropriate to the circumstances and its intended audience, and satisfies applicable standards of practice.

ANNOTATION 4-1. An Actuary who issues an Actuarial Communication shall ensure that the Actuarial Communication clearly identifies the Actuary as being responsible for it.

ANNOTATION 4-2. An Actuary who issues an Actuarial Communication should indicate the extent to which the Actuary or other sources are available to provide supplementary information and explanation.

❖Note also:

ASOP No. 41 – Section 3.1.2 – The actuary should take appropriate steps to ensure that each actuarial communication is clear and uses language appropriate to the particular circumstances, taking into account the intended users.





Precepts of the Code on Communications

Communications and Disclosure:

PRECEPT 5. An Actuary who issues an Actuarial Communication shall, as appropriate, identify the Principal(s) for whom the Actuarial Communication is issued and describe the capacity in which the Actuary serves.

❖ **Note also:**

ASOP No. 41 – Section 3.1.1 – The actuary should take appropriate steps to ensure that the form and content of each actuarial communication are appropriate to the particular circumstances, taking into account the intended user.

ASOP No. 41 – Section 3.1.4 – An actuarial communication should clearly identify the actuary responsible for it.





Precepts of the Code on Communications

Communications and Disclosure:

PRECEPT 6. An Actuary shall make appropriate and timely disclosure to a present or prospective Principal of the sources of all direct and indirect material compensation that the Actuary or the Actuary's firm has received, or may receive, from another party in relation to an assignment for which the Actuary has provided, or will provide Actuarial Services for the Principal....

❖Note also:

ASOP No. 41 – Section 3.4.2 – An actuary who is not financially, organizationally, or otherwise independent concerning any matter related to the subject of an actuarial communication should disclose any pertinent information that is not apparent.





Precepts of the Code on Work Product Control

Control of Work Product:

PRECEPT 8. An Actuary who performs Actuarial Services shall take reasonable steps to ensure that such services are not used to mislead other parties.

❖ **Note also:**

ASOP No. 41 – Section 3.7 – An actuarial document may be used in a way that may influence persons who are not intended users. The actuary should recognize the risks of misquotation, misinterpretation, or other misuse of such a document and should take reasonable steps to ensure that the actuarial document is clear and presented fairly....





Deviations Unique to ASOPs

- The Precepts of the Code are guidance that actuaries must follow; there are no deviations allowed, however, ASOPs contain language that states you are still in compliance with an ASOP if you document how and why you deviated in accordance with Section 4.4 of ASOP No. 41.
- ASOP No. 41 - Section 4.4 states: “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 of [ASOP No. 41], 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 deviations.





JBEA Regulations and Standards of Performance

- The Joint Board for the Enrollment of Actuaries issues Regulations Governing the Performance of Actuarial Services Under the Employment Retirement Income Security Act of 1974 (20 CFR Part 901).
- An important aspect of core subject matter knowledge for Enrolled Actuaries (“EA”) includes observance of standards of performance including ethical standards for actuarial services.
- Section 901.20 described the EAs standards of performance and states in Section 901.20(b) : “*Professional duty.* (1) An enrolled actuary shall perform actuarial services only in a manner that is fully in accordance with all of the duties and requirements for such persons under applicable law and consistent with relevant generally accepted standards for professional responsibility and ethics.”





JBEA Regulations and Standards of Performance

- Actuarial communications and appropriate disclosures are an integral part, across all actuarial practice areas, including pension, as an important part of the standards of performance, standards of practice, and generally accepted standards of professional responsibility for the actuarial profession.
- Many of the concepts of disclosure set forth in ASOP No. 41 would also apply in the context of EA work, as further codified in Precepts of the Code set forth previously.





JBEA Regulations and Standards of Performance

- For example, Section 901.20(e) describes the manner and method of conveying assumptions similar to Section 3.4 of ASOP No. 41. Section 901.20(e) in particular states under Subsection (iii)(2) states: “An enrolled actuary shall include in any report or certificate stating actuarial costs or liabilities, a statement or reference describing or clearly identifying the data, any material inadequacies therein and the implications thereof and the actuarial methods and assumptions employed.”
- In connection with the topic of “ethics” in particular, most professions have devised a set of principles on which to turn for ethical dilemmas and the actuarial profession is not different. As such the primary focus on this webinar will be considering ethical issues and how to resolve them regardless of practice area.





When Is It an Actuarial Communication?

The gist of the term “Actuarial Communications” as it applies to practicing actuaries in the United States is as follows:

- When there is an actuarial opinion or finding
- That is communicated (including electronically) in writing or orally
- As a result of providing actuarial services
- Which services are provided to a principal (client or employer)
- By an individual acting in the capacity of an actuary





Generally NO





Actuarial Communication Content

- Appropriate form and content
- Clear, with appropriate language
- Provided in a reasonable time period
- Responsible actuary identified
- Include sufficient info on data, methods, assumptions so another actuary can assess reasonableness
- Communicate which documents comprise the report
- May limit report contents in “special circumstances”





Specific Circumstances

Section 3.3 Specific Circumstances—The content of an actuarial report may be constrained by circumstances. The actuary should follow the guidance of this standard to the extent reasonably possible within such constraints. When those constraints exist, it may be appropriate not to include some of the otherwise required content in the actuarial report. However, limiting the content of an actuarial report may not be appropriate if that report or the findings in that report may receive broad distribution.

If the actuary believes circumstances are such that including certain content is not necessary or appropriate, the actuary must be prepared to identify such circumstances and justify limiting the content of the actuarial report.





Disclosures

- Actuarial communications must include specified disclosures
- Disclosures include items such as:
 - intended user
 - scope and purpose
 - qualifications
 - cautions on risk and uncertainty
 - limitations or constraints
 - conflicts of interest
 - reliances/information supplied by others
 - the information date
 - subsequent events
- Applies to both internal and external communications





Example Case Study 1

- You are a consulting actuary
- You are completing a report for a small engagement for which the prior actuary completed the work for \$5,000 but did not complete several required ASOP disclosures
- The client doesn't want you to spend any extra time to do the work needed to complete all the required disclosures, and has definitively said he won't pay for it
- You estimate that the fees associated with the additional work are approximately \$1,000
- What should you do?

Option 1: Complete the required disclosures, and write off the cost. Charge more next year or turn down the work

Option 2: Don't complete the disclosures. It wasn't done in the past, and these are "special circumstances" so it's ok

Option 3: Don't complete the required disclosures, and state in your report that you did not comply and the rationale





Example Case Study 2

- You are a Chief Actuary at a large insurance company
- You are presenting to the Board of Directors about the results of your annual reserving study, and your presentation includes all the required disclosures
- The person handling final presentation editing has cut your presentation down to 2 pages, since the Board has insisted that materials be shortened so they have time to digest everything
- Several of the required disclosures under ASOP 41 have been cut
- What should you do?

Option 1: Insist on retention of all disclosures, even if the Board won't be happy about it

Option 2: Leave the materials short, but make sure your verbal talking points include every missing one

Option 3: Make sure that the key disclosures for understandability are retained, and leave out the rest





Example Case Study 3

- You are working on an acquisition at a mid size insurer
- The deal is in the final stages of negotiation, and the CFO just emailed you asking for a quick and dirty adjustment to the purchase price if lapses on the purchased block are 10% higher than originally expected
- The analysis takes you a bit longer than an hour, but you have a result ready to send to him. You still need to reread the applicable ASOPs to make sure you've included all the required disclosures
- What should you do?

Option 1: Read through the applicable ASOPs and email the results with disclosures as soon as you can

Option 2: Email the results right away with the disclosures you think are needed for the CFO to use your result, follow up later with any remaining ones

Option 3: Email the result along with a web link to the ASOPs in case the CFO wants to read them





Example Case Study 4

- You like your day job, but for a little fun and extra cash, you provide fantasy baseball consulting to your friends
- You built a predictive model that uses a range of criteria to predict the performance of each player in each game. You use the model to help friends improve their fantasy baseball results
- They are your friends and you give them advice orally, so it would be weird to send them a report of your findings
- What should you do?

Option 1: This is not actuarial work, so a report is not needed

Option 2: All your friends are also Facebook friends, so put the disclosures there so anyone that wants them can see them

Option 3: Start sending the advice in a formal report by email, with required disclosures





Example Case Study 5

- You serve as the consulting actuary for the pension plan of Retiree City
- The city's manager has informed you that he will need you to increase the discount rate in the valuation by 1.5%. This will help bring the funding requirements in line with the city budget, and they are planning to do some asset reallocation that is probably going to increase the asset earnings anyway, so this higher rate should be reasonable
- You know that the higher rate does not comply with actuarial standards of practice
- What should you do?

Option 1: Refuse to do the work – either they allow you to use an assumption that meets ASOPs, or you don't work for them

Option 2: Perform the valuation at the higher rate and disclose that you disagree with the assumption

Option 3: Same as option 2, but you also run the valuation at a reasonable rate and disclose the results





Where To Go for Additional Guidance

- ABCD provides guidance to actuaries who ask for help in interpreting the Code including actuarial standards of practice (ASOPs).
- Requests for Guidance from an ABCD member
 - Individual ABCD member provide guidance to individuals confidentially.
 - Responses represent the individual ABCD member's considered opinion, not the views of the ABCD as a whole.
 - The ABCD also responds to requests for guidance from actuarial students and may respond to requests for information from others, such as users of actuarial services
- Most requests for guidance are made by e-mail or by phone to the ABCD office (guidance@abcdboard.org, 202.223.8196) or to an individual ABCD member (see <http://www.abcdboard.org/guidance/>).
- JBEA – for additional guidance on the 20 CFR Part 901 or other enrolled actuary inquiries you may contact the JBEA at <http://www.irs.gov/Tax-Professionals/Enrolled-Actuaries>.





Questions?

