

Public Comment Deadline: October 3, 2022

ASB Std 154, Standard for Training on Testimony for Forensic Biology

#	Section	Type of Comment	Comments	Proposed Resolution	Editor or Working Group Review	Additional info for rational for change-commenter
		(E-Editorial, T-Technical)				
8	Overall standard				Reject- No comment or proposed resolution	General concern with the law heavy components of this standard, will we need to become experts in the law or is the intent to have our counsel assist. Some of these standards are easy additions, however others required contact with our counsel office to provide reading material and links
9	entire	T	This standard should make reference to the ASTM standard on legal training that is in the works.		Reject- References to draft/unpublished documents cannot be included	
10	entire	T	This standard was written before the OSAC LTG created its views document on legal training and relates to much of the same material. This views document is being used as a guide by the ASTM task group on legal training. We hope it's helpful.		Reject- References to draft/unpublished documents cannot be included	
11	entire	T	Make clear that any legal training must be done in consultation with representatives from both prosecution and defense.		Reject-This is outside of the scope of the document who does the training	
12	3.9	T	I'm voting yes but I maintain that the definition of "grand jury" in 3.9 is misleading.	should be changed to something like this: "A group of citizens empaneled to investigate potential criminal conduct and/or determine whether probable cause exists to charge someone with a crime."	Accept- This is an editorial change.	
1	4.2.3.d	E	1) "or" at the end should be "and" 2) there are a lot of adjectives without a final noun at the end.	"...impact the analysis, interpretation, conclusions, testimony and legal proceedings of a case.	Accept with modification- "the" removed before analysis. Rejected changing "or" to "and" since each of the terms are individually critical.	
5	4.3.2b	E	Live observation or testimony review (e.g. transcripts, recordings) shall include different types of legal proceedings (e.g., bench trials, jury trials, depositions). NOTE The trainee can observe or review testimony provided by non-laboratory personnel (e.g., lay-witnesses), opening and closing arguments by both the prosecution and defense, and other court proceedings such as admissibility motions	Live observation or testimony review (e.g. transcripts, recordings) should include different types of legal proceedings (e.g., bench trials, jury trials, depositions). NOTE The trainee should observe or review testimony provided by non-laboratory personnel (e.g., lay-witnesses), opening and closing arguments by both the prosecution and defense, and other court proceedings such as admissibility motions	Reject- The standard specifically allows for the review of transcripts in lieu of live testimony. Depositions are only listed as "e.g." so if a jurisdiction does not use depositions they do not have to be reviewed. The note uses "can", which like "should" is not an imperative.	The opportunity to observe trials is often difficult for trainees in our laboratory system due to travel, limited opportunity, and the possibility of plea bargains. In addition, New York rarely has lab staff testify in depositions, as opposed to other states. During COVID, we had training classes that did not get the opportunity to see any courtroom testimony. Although this standard is clearly written for an ideal lab and training situation, it is often not the reality that occurs and would result in possible findings. By changing shall to should, it will provide labs with flexibility.
6	4.3.3d	E	work with attorneys to develop appropriate questions for direct examination;	provide attorneys with appropriate or possible questions for direct examination;	Reject- This document addresses the training of analysts. The requirement is to train analysts on how to work with attorneys to develop direct examination questions. Providing questions does not fulfill this training requirement.	We rarely if ever are asked to write questions with the attorneys, although we do have a list of suggested questions our analysts provide. I think the language needs to be less restrictive as this opportunity is truly out of our control.
2	4.3.4(b)	E	Consider changing "trier of fact" to judge and jury to accommodate intended audience.	"presenting the underlying scientific principles in such a manner that the judge or jury will understand the subject matter of the testimony;"	Accept with modification- "e.g., judge or jury" was added in parentheses.	
3	4.3.4(g)	T	It's important to also train analysts to know their limitations. They should be comfortable with stating that they do not know something	Add a statement about acknowledging and stating when something is outside their field of expertise and when they do not know the answer to a question.	Reject- Already covered under 4.2.3 c (5)	
7	4.4.2		The trainee shall successfully complete a knowledge-based test covering the critical information obtained during the training on testimony for forensic biology. The format of the test(s) shall be at the discretion of the DNA Technical Leader or their equivalent. The test(s) shall cover, at a minimum, the topics outlined in section 4.1 in this document.	I am still looking for clarification on the intent of this standard. If the trainee provides clear testimony as outlined in 4.2.3b and 4.2.3c1-2, does that fulfil <i>The trainee shall successfully complete a knowledge-based test covering the critical information obtained during the training on testimony for forensic biology in 4.4.2?</i> We are currently meeting the QAS standards (6.1.4 <i>Include an assessment of oral communication skills and/or a mock court and 6.3.1 Competency testing for a new analyst shall include a practical component, and written and/or oral components exercise.</i>)	Reject- No proposed resolution. It is up to the Technical Leader to determine the criteria to meet this requirement.	I am still looking for clarification on the intent of this standard. If the trainee provides clear testimony as outlined in 4.2.3b and 4.2.3c1-2, does that fulfil <i>The trainee shall successfully complete a knowledge-based test covering the critical information obtained during the training on testimony for forensic biology in 4.4.2?</i> We are currently meeting the QAS standards (6.1.4 <i>Include an assessment of oral communication skills and/or a mock court and 6.3.1 Competency testing for a new analyst shall include a practical component, and written and/or oral components exercise.</i>)
4	Annex	E	The following information provides a list of the literature resources that may assist the DNA Technical leader or designee in defining the breadth and scope of the materials to be reviewed by the trainee. This list is not meant to be all inclusive. A laboratory develops a list tailored to its specific needs. Updated references are added to the laboratory's list as needed. .	Remove 2nd period at end of paragraph	Accept- Thank you for catching that.	