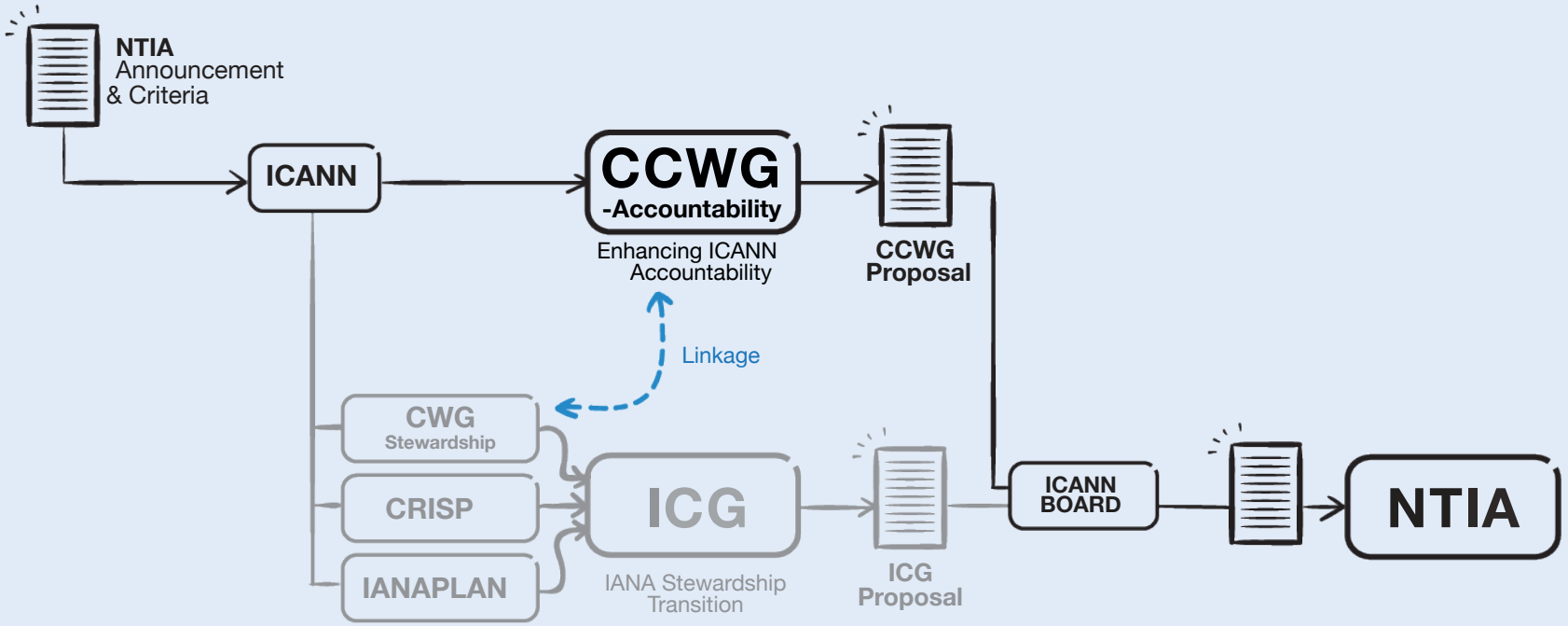
Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability)

ICANN54 Update

18 October 2015

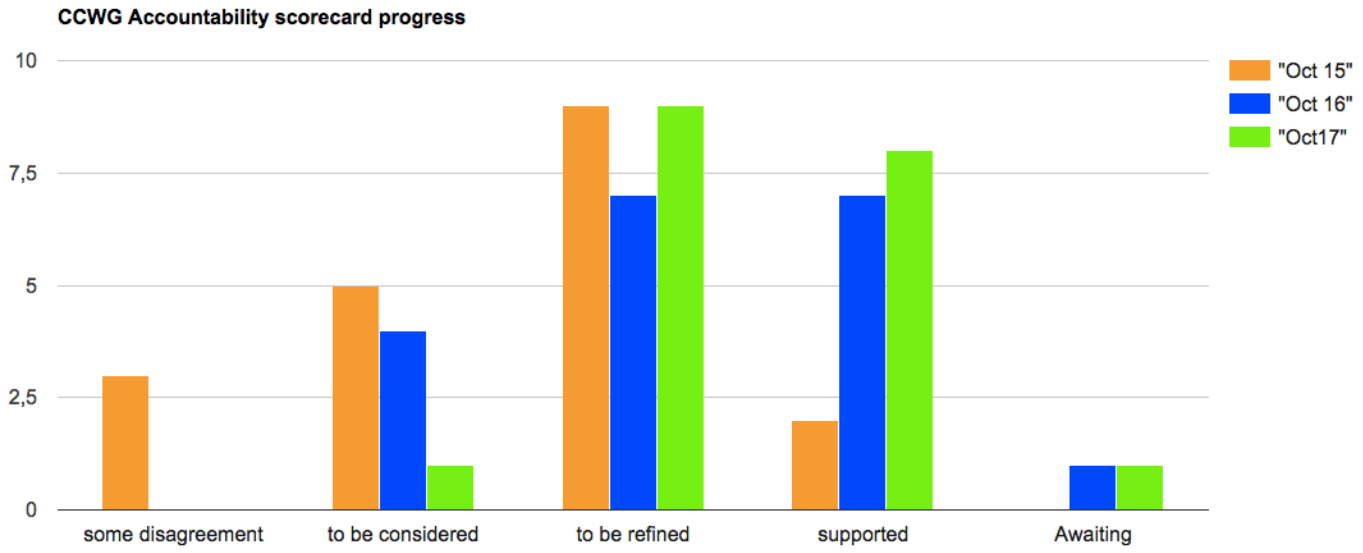
The Two-Track Parallel Process

Since the National Telecommunications and Information Administration (NTIA) announced their intent to transition stewardship of the IANA functions, the ICANN community has been working in a two-track parallel process. The ICG has finalized its Interim Draft IANA Stewardship Transition Proposal, and the CCWG-Accountability has finalized its 2nd Draft Proposal for Work Stream 1.



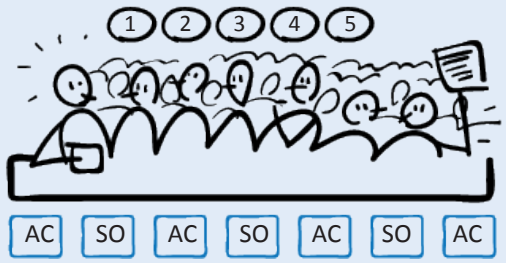
CCWG-Accountability Status

- 2nd Public Comment analysis completed
- Few, but important areas of concern
  - Reallocation/concentration of power,
  - inclusiveness of decision-making
  - Membership rights/risk of capture
- Lot of support in many areas, where only refinements
- Lot of progress



Building Blocks Supported with Some Refinements

The CCWG-Accountability has identified enhancements required to **those building blocks that would form the accountability mechanisms** required to improve ICANN's accountability.



REVIEW / REJECT

- BUDGET
- STRATEGY/OPS PLAN
- BYLAWS

REMOVE / RECALL

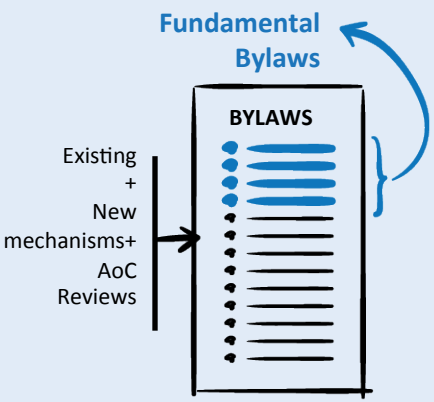
STRUCTURAL REVIEW
As Community accountability

The Empowered Community

refers to the powers that allow the community SOs & ACs to take action should ICANN breach the principles (i.e. the People).

ICANN Board

has the ultimate authority to approve or reject policy recommendations, developed by the SOs. ACs formally advise the ICANN Board on particular issues or policy areas (i.e. the Executive).



The Principles

guarantee the core mission, commitments and values of ICANN through its Bylaws (i.e. the Constitution).

NEW IRP

7+ MEMBER STANDING PANEL

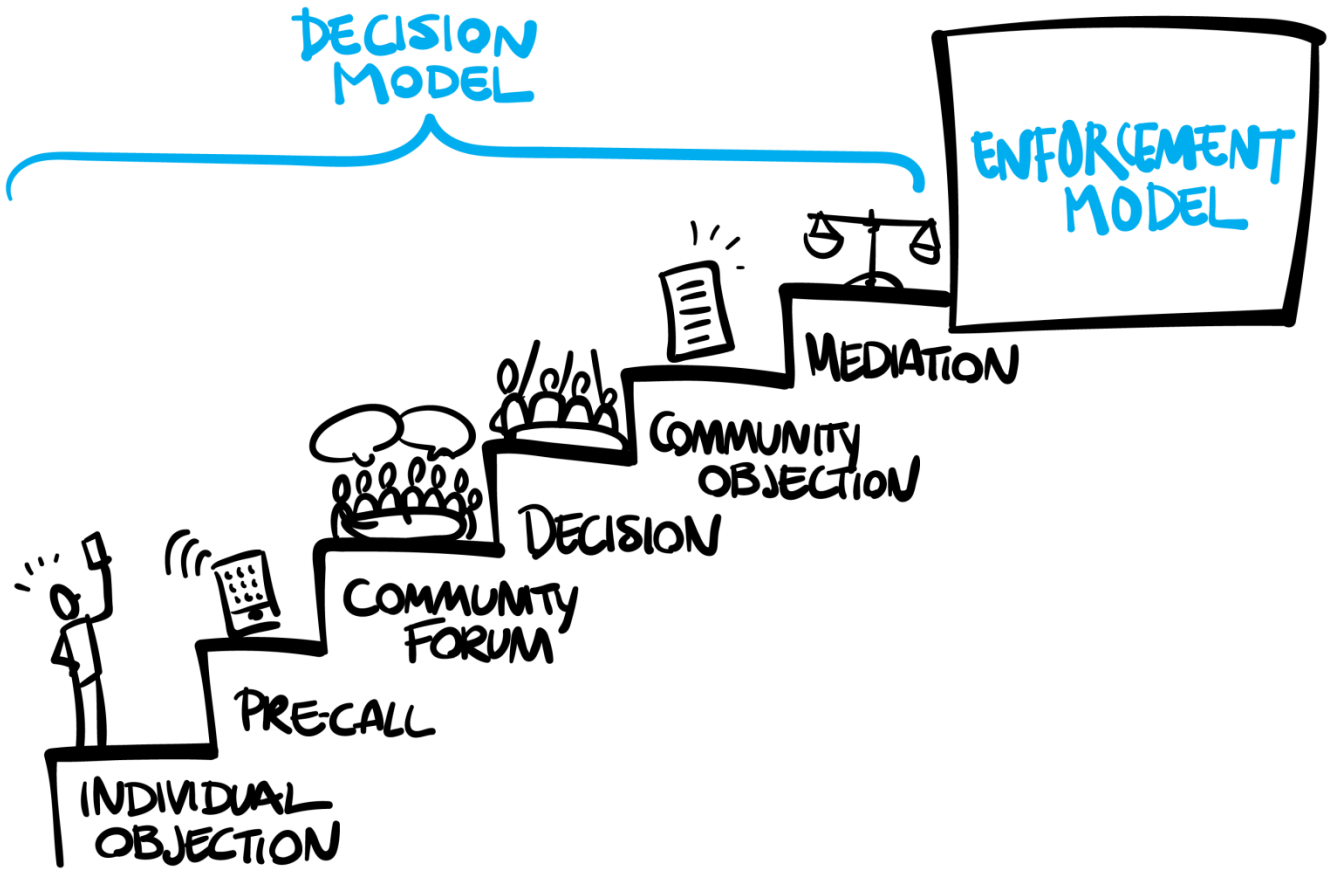
Independent Appeals Mechanisms

confers the power to review and provide redress, as needed (i.e. the Judiciary).

Key Features

- Avoid capture
- Avoid concentration/reallocation of power
- Be inclusive
- Make it efficient

Engagement / Escalation / Enforcement



Breakout Team Result: Discussion Model

Process Step	**Step 1 Individual Objection**	**Step 2: Pre-Call (remote)**	**Step 3: Community Forum (in-person)**	**Step 4: Decision to exercise the community power**
Community Power	Threshold to proceed to next step	Threshold to proceed to next step	Threshold to proceed to next step	Threshold to proceed to next step
Budget, Strategy, Operating Plan		**2** supporting SO/ACs	**3** supporting SO/ACs & No more than **1** objection for any SO/AC	**4** supporting SO/ACs & No more than **1** objection for any SO/AC
Fundamental By-Law changes	Not discussed, only addressed the Standard By-Law changes power			
Standard By-Law changes	Any individual can raise objection. 2 supporting SO/ACs need to formally petition		**2** supporting SO/ACs & No more than **1** objection for any SO or AC	**3** supporting SO/ACs & No more than **1** objection for any SO/AC
Remove individual Board member			**3** supporting SO/ACs & No more than **1** objection for any SO/AC	
Remove Entire Board				**4** supporting SO/ACs & No more than **1** objection for any SO/AC
IRP				**3** supporting SO/ACs & No more than **1** objection for any SO/AC
PTI				**4** supporting SO/ACs & No more than **1** objection for any SO/AC

Breakout Team Result: Enforcement Model

Scenario for Discussion:

The Board refuses to comply with an IRP decision.

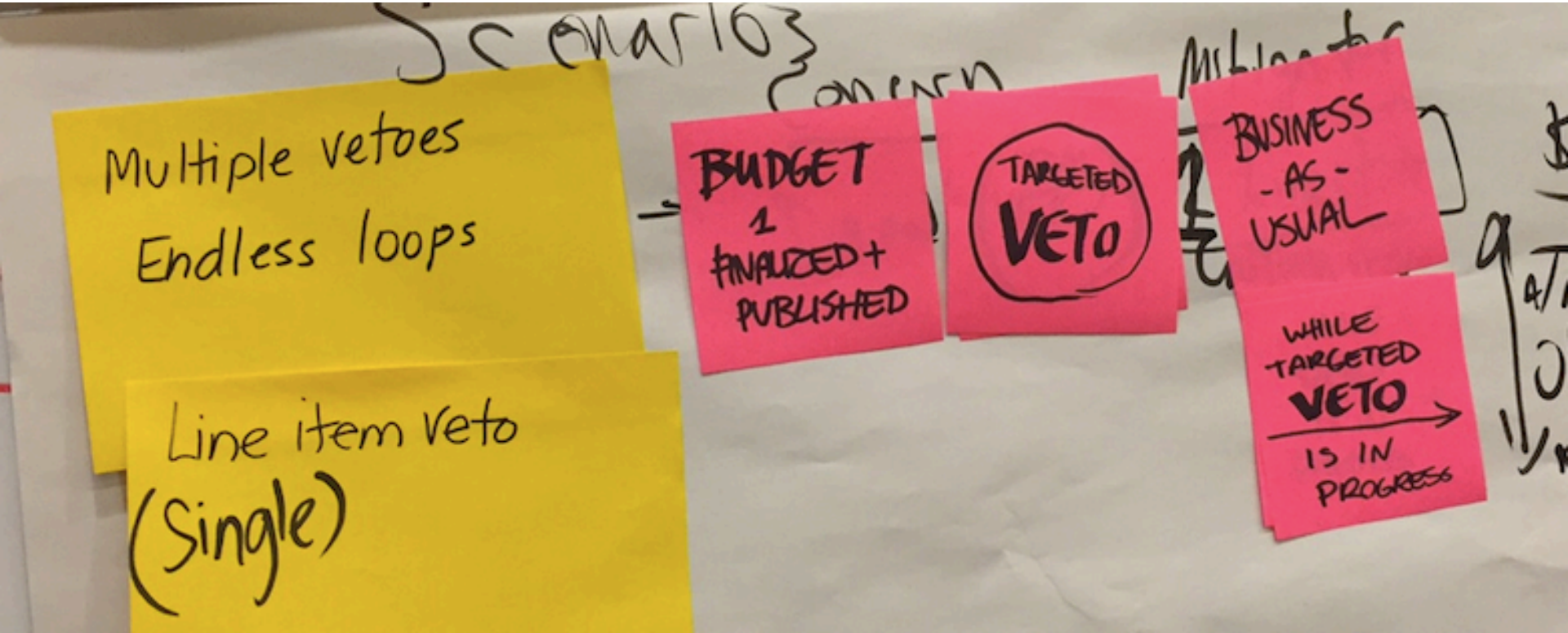
Single Designator	Single Member
Both models provide legal "personhood" standing.	
IRP enforcement option is the same in both models – **Go to Court**.	
In either model, fiduciary duties limit the scope of what can be arbitrated in an IRP setting.	
The scope of available arbitration is limited by The Board's fiduciary duty, which cannot be arbitrated.	The scope of available arbitration is wider, but must be documented as a *reserved power* for the Member.
Both models have the ultimate option to Remove a Board Member or the Entire Board.	

Community Decision Making

- No voting
- All parts of the Community are part of the decision making
- No legal incorporation / personhood needed
- We are moving to consensus-based decision making

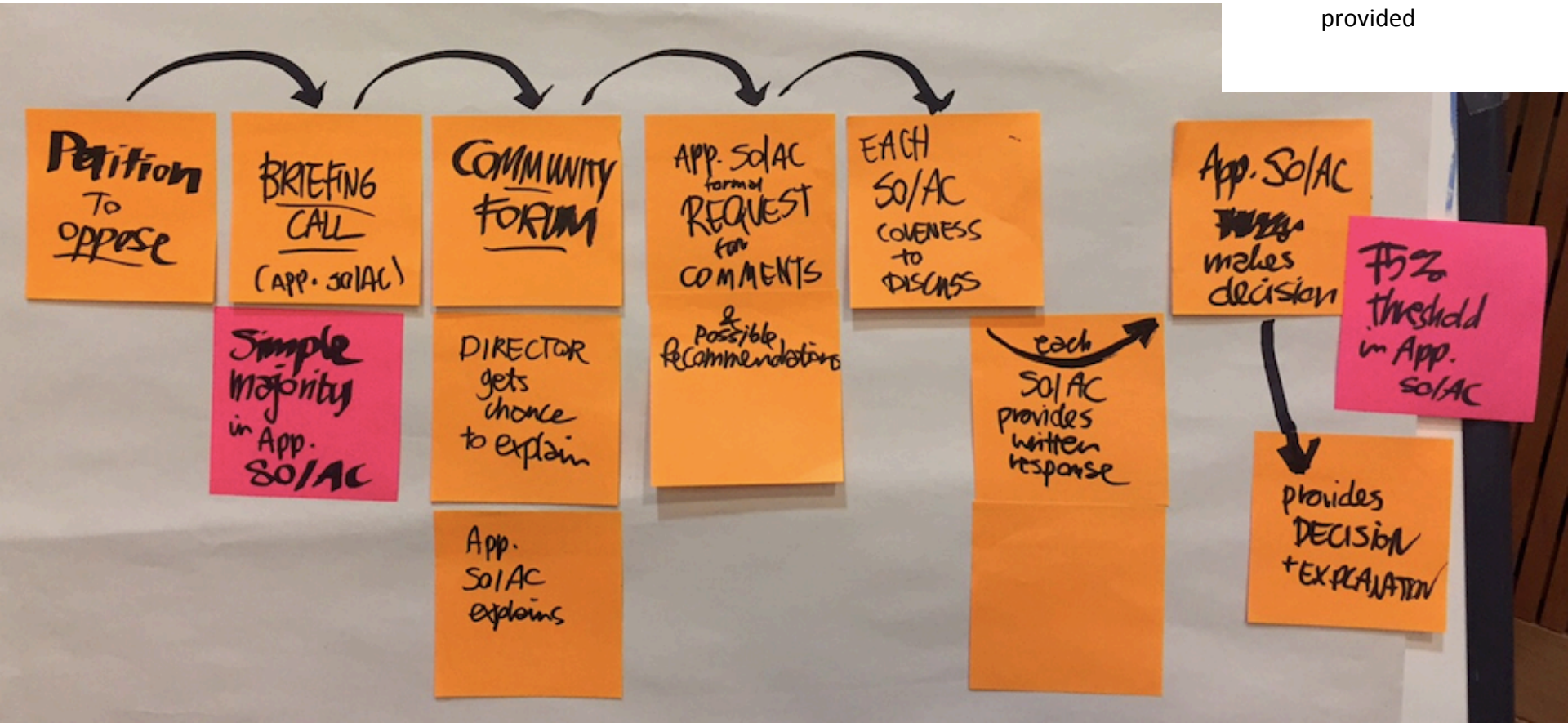
Breakout Team Result: Budget / Activity Veto

- Consider **targeted veto** where specific sections of a budget will be addressed instead of multiple sections
- Need to determine how that would work with ICANN finance – Xavier (CFO) exploring a possible **budget reference** where special initiatives and initiatives required to maintain operations will be separated
- Raises question of how will the **quarterly reporting** be handled



Breakout Team Result: Remove Individual Board Member

Petition to Oppose	Briefing Call	Community Forum	Request for Comments	SO / ACs Discuss	SO / ACs Decisions	App. SO/AC Decides
App. SO/AC initiates process	Simple majority in App. SO/AC	Both sides get chance to explain their perspective		Convenes own process to discuss	Written responses delivered	75% Threshold in App. SO/AC Decision & explanation provided



Takeaway messages

CCWG-Accountability will ensure:

- The community as a whole will be the decision maker (for community empowerment)
- No concentration of power with a few interest groups
- All components of the Community can join regardless of their status
- Maximum inclusiveness
- Least risk of capture