The ICANN Empowered Community

ICANN59 At Large AFRALO ALS Capacity Building (Session 3)

Mary Wong, Senior Policy Director & Special Adviser for Strategic Policy Planning, ICANN

Agenda

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Overview

- Empowered Community

- Empowered Community Administration

- Decisional Participants

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Appendix

- Procedures for Approval Actions

- Procedures for Rejection Actions

- Procedures for Director Removal and Board Recall

- Procedures for Mediation, Community IRP and Reconsideration Requests
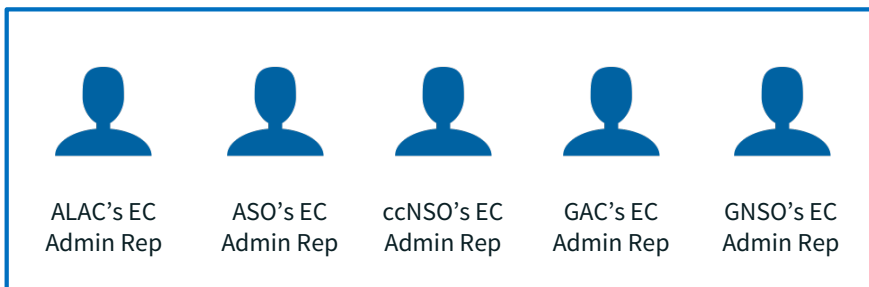
INTRODUCTION & OVERVIEW

- Empowered Community
- Empowered Community Administration
- Decisional Participants

Overview of the Empowered Community (1)

Empowered Community

ALAC	ASO	ccNSO	GAC	GNSO
Decisional Participant	Decisional Participant	Decisional Participant	Decisional Participant	Decisional Participant

Empowered Community Administration

ALAC's EC Admin Rep	ASO's EC Admin Rep	ccNSO's EC Admin Rep	GAC's EC Admin Rep	GNSO's EC Admin Rep

Overview of the Empowered Community (2)

Empowered Community

ALAC	ASO	ccNSO	GAC	GNSO
Decisional Participant	Decisional Participant	Decisional Participant	Decisional Participant	Decisional Participant

The Empowered Community is a nonprofit association consisting of the ALAC, ASO, ccNSO, GAC, and GNSO—each a Decisional Participant in the Empowered Community.

Its sole purpose is to exercise its rights and perform its obligations under the ICANN Bylaws.

Empowered Community Administration

ALAC's EC Admin Rep	ASO's EC Admin Rep	ccNSO's EC Admin Rep	GAC's EC Admin Rep	GNSO's EC Admin Rep

Overview of the Empowered Community (3)

Empowered Community

ALAC	ASO	ccNSO	GAC	GNSO
Decisional Participant	Decisional Participant	Decisional Participant	Decisional Participant	Decisional Participant

Empowered Community Administration

ALAC's EC Admin Rep	ASO's EC Admin Rep	ccNSO's EC Admin Rep	GAC's EC Admin Rep	GNSO's EC Admin Rep

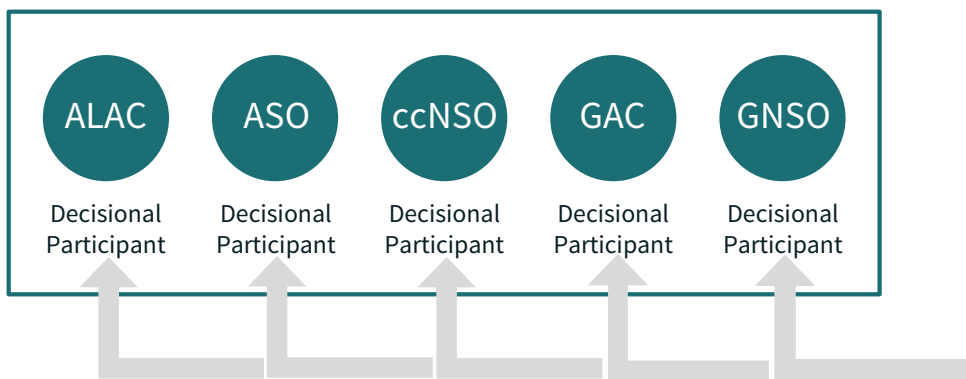Bylaws contain the Empowered Community powers and rights:
- Appoint and remove Directors
- Recall the entire Board
- Reject ICANN and IANA budgets, and ICANN operating and strategic plans
- Reject standard Bylaw amendments
- Approve fundamental Bylaw and Articles amendments, and asset sales
- Reject PTI governance actions
- Require the ICANN Board to review its rejection of IFR, special IFR, SCWG creation, and SCWG recommendation decisions
- Initiate community reconsideration request, mediation, or IRP
- Enforce its powers and rights in court

Overview of the Empowered Community (4)

Empowered Community

ALAC	ASO	ccNSO	GAC	GNSO
Decisional Participant	Decisional Participant	Decisional Participant	Decisional Participant	Decisional Participant

Empowered Community Administration

ALAC's EC Admin Rep	ASO's EC Admin Rep	ccNSO's EC Admin Rep	GAC's EC Admin Rep	GNSO's EC Admin Rep
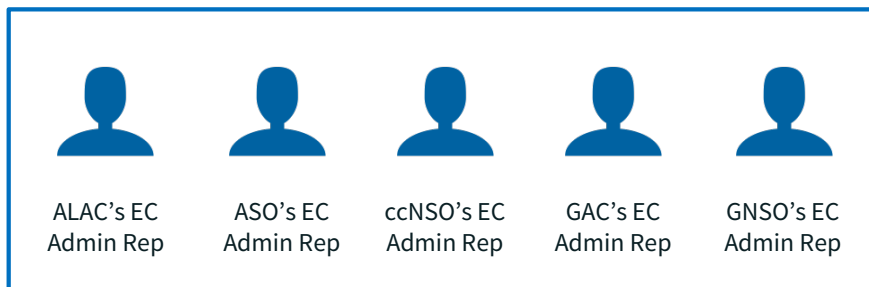
Each Decisional Participant shall adopt procedures for exercising the rights of the individual Decisional Participant.

Overview of the Empowered Community (5)

Empowered Community

ALAC	ASO	ccNSO	GAC	GNSO
Decisional Participant	Decisional Participant	Decisional Participant	Decisional Participant	Decisional Participant

Empowered Community Administration

ALAC's EC Admin Rep	ASO's EC Admin Rep	ccNSO's EC Admin Rep	GAC's EC Admin Rep	GNSO's EC Admin Rep

The Empowered Community Administration is the administrative body through which the Decisional Participants act collectively.
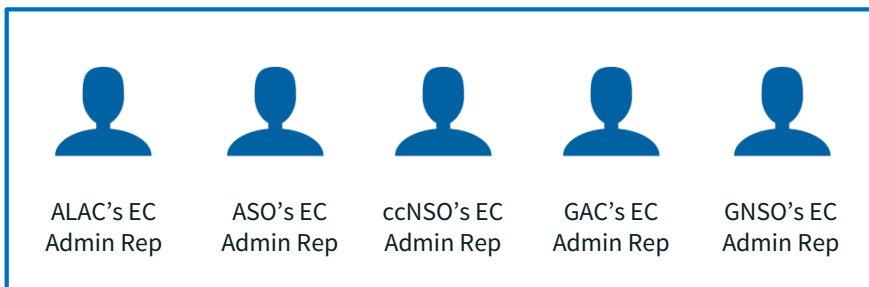
Overview of the Empowered Community (6)

Empowered Community

ALAC	ASO	ccNSO	GAC	GNSO
Decisional Participant	Decisional Participant	Decisional Participant	Decisional Participant	Decisional Participant

Empowered Community Administration

| ALAC's EC Admin Rep	ASO's EC Admin Rep	ccNSO's EC Admin Rep	GAC's EC Admin Rep	GNSO's EC Admin Rep

The individual representing a Decisional Participant acts solely as directed by the represented Decisional Participant and in accordance with processes developed by such Decisional Participant.

In representing the Empowered Community Administration, the representatives act as required for the Empowered Community to exercise its rights under the applicable procedures.
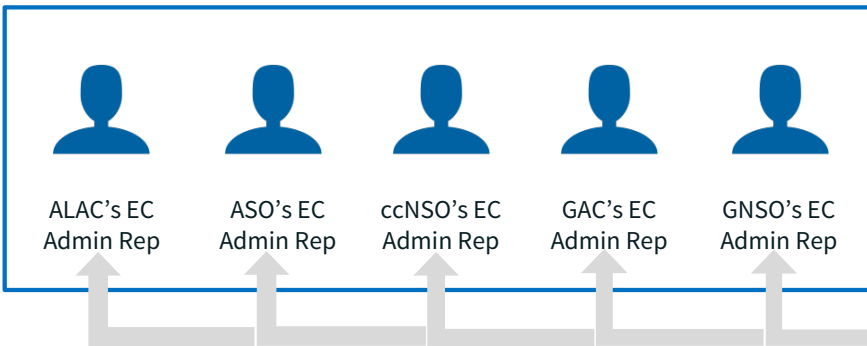
Procedures Each Decisional Participant Needs to Have in Place

- ⊙ Who can submit a petition, and what is the process for submission, to the Decisional Participant

- ⊙ How the Decisional Participant will determine whether to accept a petition

- ⊙ How the Decisional Participant determines whether to support or object to actions supported by another Decisional Participant

- ⊙ How the Decisional Participant notifies its constituents, the Empowered Community Administration, and ICANN, of relevant matters

- ⊙ How the Decisional Participant makes final decisions (e.g. who is the appropriate body that decides, what voting thresholds might apply) on actions required by the Bylaws

Role of the Empowered Community Administration

- ⊙ Receives and sends notifications

- ⊙ Moderates conference calls and community forums

- ⊙ Tallies decisions of Decisional Participants

- ⊙ Mediation
  - ○ Appoints representatives to represent the Empowered Community in mediation ("Mediation Admin")
  - ○ Selects slate of 5 potential mediators from Mediation Admin and Board Mediation Representatives

NOTE: The EC Administration is not responsible for monitoring activities, does not have decisional authority on behalf of the EC, and only needs to act when notified by either ICANN org, or a Decisional Participant.

EC Rights and Thresholds

Community Initiated Actions	ICANN Board Triggered Actions	Threshold for Community Forum	Threshold to Exercise EC Right
	• Fundamental Bylaw Amendments • Articles Amendments • Asset Sales	N/A	Support from 3 Decisional Participants and no more than 1 objection
	• PTI Governance Actions • IFR/Special IFR/SCWG Recommendation Decisions • SCWG Creation Decisions • ICANN/IANA Budgets • ICANN Operating and Strategic Plans • Standard Bylaws Amendments	Support from 2 Decisional Participants	Support from 4 Decisional Participants and no more than 1 objection
• NomCom Director Removal		Support from 2 Decisional Participants	Support from 3 Decisional Participants and no more than 1 objection
• SO/AC Director Removal		Majority within nominating SO/AC	¾ majority within nominating SO/AC to remove Director
• Board Recall		Support from 3 Decisional Participants	Support from 4 Decisional Participants and no more than 1 objection
• Mediation • Community IRP • Community Reconsideration		Support from 2 Decisional Participants	Support from 3 Decisional Participants* and no more than 1 objection

Ongoing: Fundamental Bylaw Amendment Process

Approval Action Board Notice – 7 days

ICANN Board approves amendment to Fundamental Bylaw (after public comment period has been held).

ICANN Secretary sends Approval Action Board Notice to EC Admin and Decisional Participants.

Community Forum Period – 30 days

EC Admin directs ICANN org to convene Community Forum (may also request to hold conference call prior to Community Forum).

ICANN org schedules conference call (if requested) and Community Forum.

ICANN org, SOs/ACs (including Decisional Participants) submit written views/questions to EC Admin with copy to ICANN Secretary.

EC Admin moderates conference call (if scheduled) and Community Forum. ICANN org staff and Board Directors attend to answer questions.

Decision Period – 21 days

Decisional Participants decide whether to (i) support amendment to Fundamental Bylaw; (ii) reject amendment to Fundamental Bylaw; (iii) abstain, and notify EC Admin with copy to ICANN Secretary.

EC Admin Notice – 24 hours

EC Admin tallies decisions from Decisional Participants. If 3 support and no more than 1 reject, send ICANN Secretary EC Approval Notice. If approval threshold not met, send ICANN Secretary Approval Process Termination Notice.

Just Triggered: Budget Rejection Action Process

Rejection Action Board Notice

ICANN Board approves the ICANN and IANA budgets.

ICANN Secretary sends Rejection Action Board Notice to EC Admin and Decisional Participants.

Petition Period – 21 days

In accordance with procedures of Decisional Participant, an individual may submit a petition.

Decisional Participant decides whether to accept petition. If accept, notify EC Admin and ICANN Secretary.

Support Period (7 days)

Petitioning Decisional Participant contacts EC Admin and other Decisional Participants to determine whether any other Decisional Participants support petition. If at least one other Decisional Participant supports, notify EC Admin and ICANN Secretary.

Community Forum Period – 21 days

EC Admin directs ICANN org to convene Community Forum (may also request to hold conference call prior to Community Forum).

ICANN org schedules conference call (if requested) and Community Forum.

ICANN org, SOs/ACs (including Decisional Participants) submit written views/questions to EC Admin with copy to ICANN Secretary.

EC Admin moderates conference call (if scheduled) and Community Forum. ICANN org staff and Board Directors attend to answer questions.

Decision Period – 21 days

Decisional Participants decide whether to (i) support petition; (ii) reject petition; (iii) abstain, and notify EC Admin with copy to ICANN Secretary.

EC Admin Notice – 24 hours

EC Admin tallies decisions from Decisional Participants. If 4 support and no more than 1 reject, send ICANN Secretary EC Approval Notice. If approval threshold not met, send ICANN Secretary Approval Process Termination Notice.

Engage with ICANN

Thank You and Questions

Reach us at:
Email: engagement@icann.org
Website: icann.org

ICANN

twitter.com/icann

facebook.com/icannorg

youtube.com/user/icannnews

linkedin.com/company/icann

soundcloud.com/icann

weibo.com/ICANNorg

flickr.com/photos/icann

slideshare.net/icannpresentations

APPENDIX

Procedures for Approval Actions

- Fundamental Bylaw Amendments

- Articles Amendments

- Asset Sales

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Approval Actions Procedures

TRIGGER: ICANN Board approves an Approval Action via resolution

ICANN Secretary sends Approval Action Board Notice to EC Admin and Decisional Participants

ICANN, SOs, ACs & EC Admin may send written views/questions

EC Admin holds conference call (if required) and Community Forum

EC Admin tallies decisions of Decisional Participants and notifies ICANN Secretary whether the required support threshold is met

Decisional Participants decide whether to support, object, or abstain from Approval Action, and notifies EC Admin

Approval Action Board Notice (7 days)

Approval Action Community Forum Period (30 days)

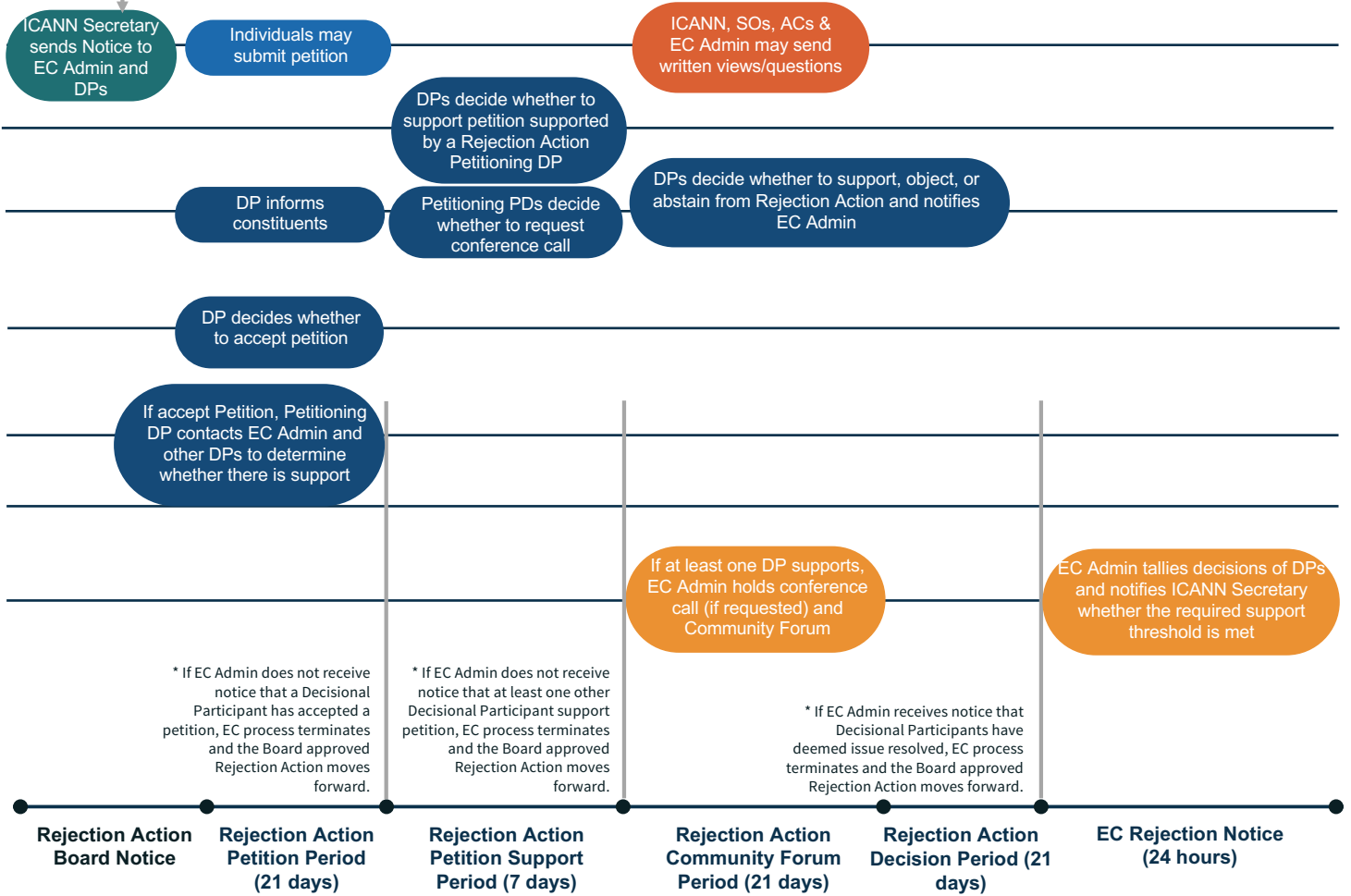**Approval Action Decision Period (21 days)**

EC Approval Notice (24 hours)

Procedures for Rejection Actions

- PTI Governance Actions

- IFR/Special IFR/SCWG Recommendation Decisions

- SCWG Creation Decisions

- ICANN/IANA Budgets

- ICANN Operating and Strategic Plans

- Standard Bylaws Amendments

ICANN

Rejection Actions Procedures

TRIGGER: ICANN Board Approves a Rejection Action via resolution

ICANN Secretary sends Notice to EC Admin and DPs

Individuals may submit petition

ICANN, SOs, ACs & EC Admin may send written views/questions

DPs decide whether to support petition supported by a Rejection Action Petitioning DP

DP informs constituents

Petitioning PDs decide whether to request conference call

DPs decide whether to support, object, or abstain from Rejection Action and notifies EC Admin

DP decides whether to accept petition

If accept Petition, Petitioning DP contacts EC Admin and other DPs to determine whether there is support

If at least one DP supports, EC Admin holds conference call (if requested) and Community Forum

EC Admin tallies decisions of DPs and notifies ICANN Secretary whether the required support threshold is met

* If EC Admin does not receive notice that a Decisional Participant has accepted a petition, EC process terminates and the Board approved Rejection Action moves forward.

* If EC Admin does not receive notice that at least one other Decisional Participant support petition, EC process terminates and the Board approved Rejection Action moves forward.

* If EC Admin receives notice that Decisional Participants have deemed issue resolved, EC process terminates and the Board approved Rejection Action moves forward.

Rejection Action Board Notice

Rejection Action Petition Period (21 days)

Rejection Action Petition Support Period (7 days)

Rejection Action Community Forum Period (21 days)

Rejection Action Decision Period (21 days)

EC Rejection Notice (24 hours)

Procedures for Appointing Directors

- NomCom-Nominated Directors

- SO/AC-Nominated Directors

ICANN

NomCom-Nominated Director Appointment Procedures

TRIGGER: At least 2 months before commencement of each annual meeting.

NomCom gives EC Admin written notice of its nomination of Directors for seats with terms beginning at the conclusion of the annual meeting

EC Admin gives ICANN Secretary written notice of designation of nominated Directors

ICANN Board appoints nominated Directors at the annual meeting

*Based on the 1 October 2016 Bylaws, *NO* changes are required to the NomCom internal selection processes. The only change is who is notified after selection.

SO/AC-Nominated Director Appointment Procedures

TRIGGER: At least 6 months before commencement of each annual meeting.

SO/AC entitled under the Bylaws to nominate a Director gives EC Admin written notice of its nomination for seats with terms beginning at the conclusion of the annual meeting

EC Admin gives ICANN Secretary written notice of designation of nominated Directors

ICANN Board appoints nominated Directors at the annual meeting

*Based on the 1 October 2016 Bylaws, *NO* changes are required to the SO/AC internal selection processes. The only change is who is notified after selection.
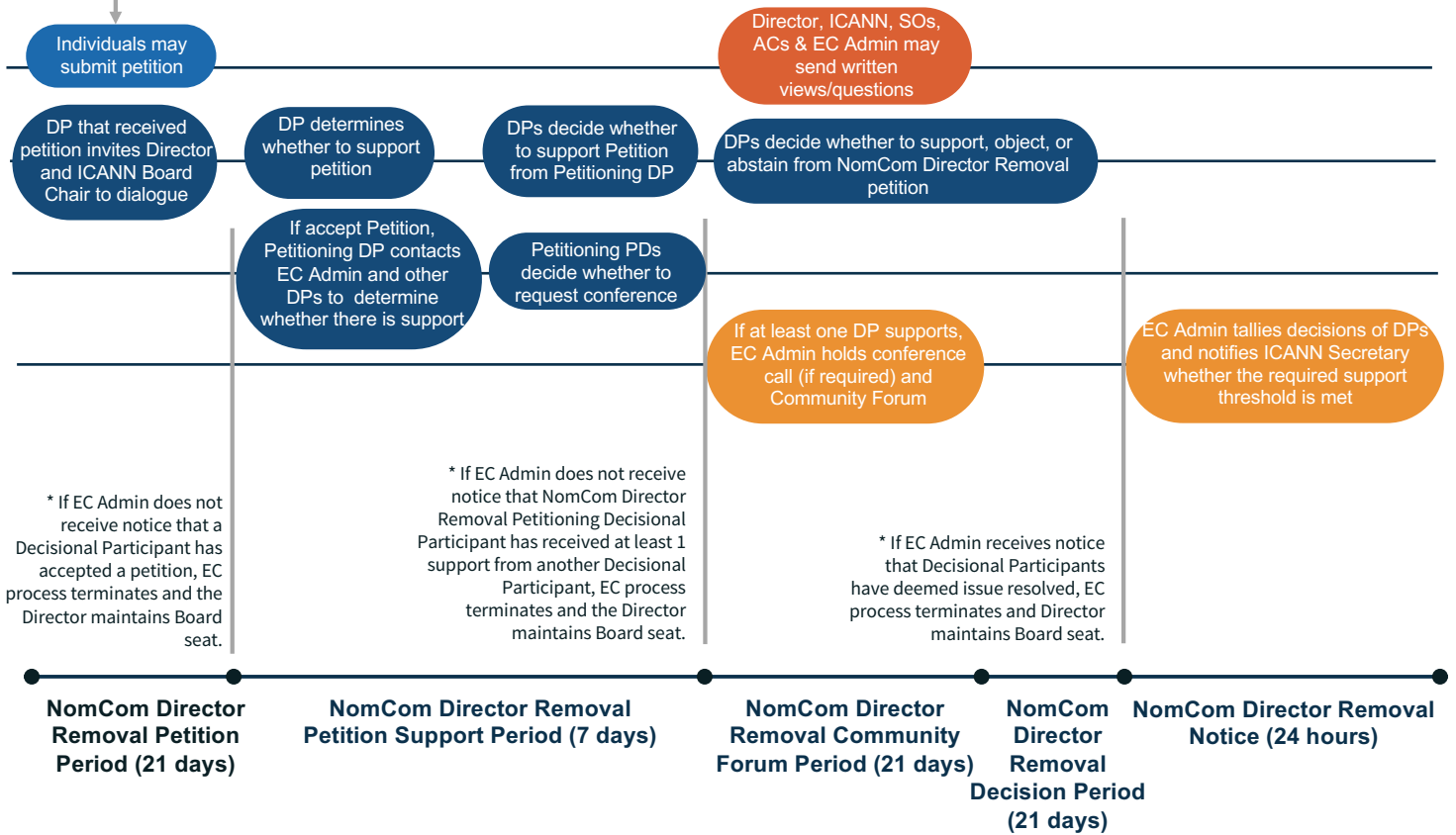
Procedures for Removing Directors and Recalling the Board

Nominating Committee Director Removal Procedures

TRIGGER: An individual submits a petition to a Decisional Participant seeking to remove a Nominating Committee Director

Individuals may submit petition

Director, ICANN, SOs, ACs & EC Admin may send written views/questions

DP that received petition invites Director and ICANN Board Chair to dialogue

DP determines whether to support petition

DPs decide whether to support Petition from Petitioning DP

DPs decide whether to support, object, or abstain from NomCom Director Removal petition

If accept Petition, Petitioning DP contacts EC Admin and other DPs to determine whether there is support

Petitioning PDs decide whether to request conference

If at least one DP supports, EC Admin holds conference call (if required) and Community Forum

EC Admin tallies decisions of DPs and notifies ICANN Secretary whether the required support threshold is met

* If EC Admin does not receive notice that a Decisional Participant has accepted a petition, EC process terminates and the Director maintains Board seat.

* If EC Admin does not receive notice that NomCom Director Removal Petitioning Decisional Participant has received at least 1 support from another Decisional Participant, EC process terminates and the Director maintains Board seat.

* If EC Admin receives notice that Decisional Participants have deemed issue resolved, EC process terminates and Director maintains Board seat.

NomCom Director Removal Petition Period (21 days)

NomCom Director Removal Petition Support Period (7 days)

NomCom Director Removal Community Forum Period (21 days)

NomCom Director Removal Decision Period (21 days)

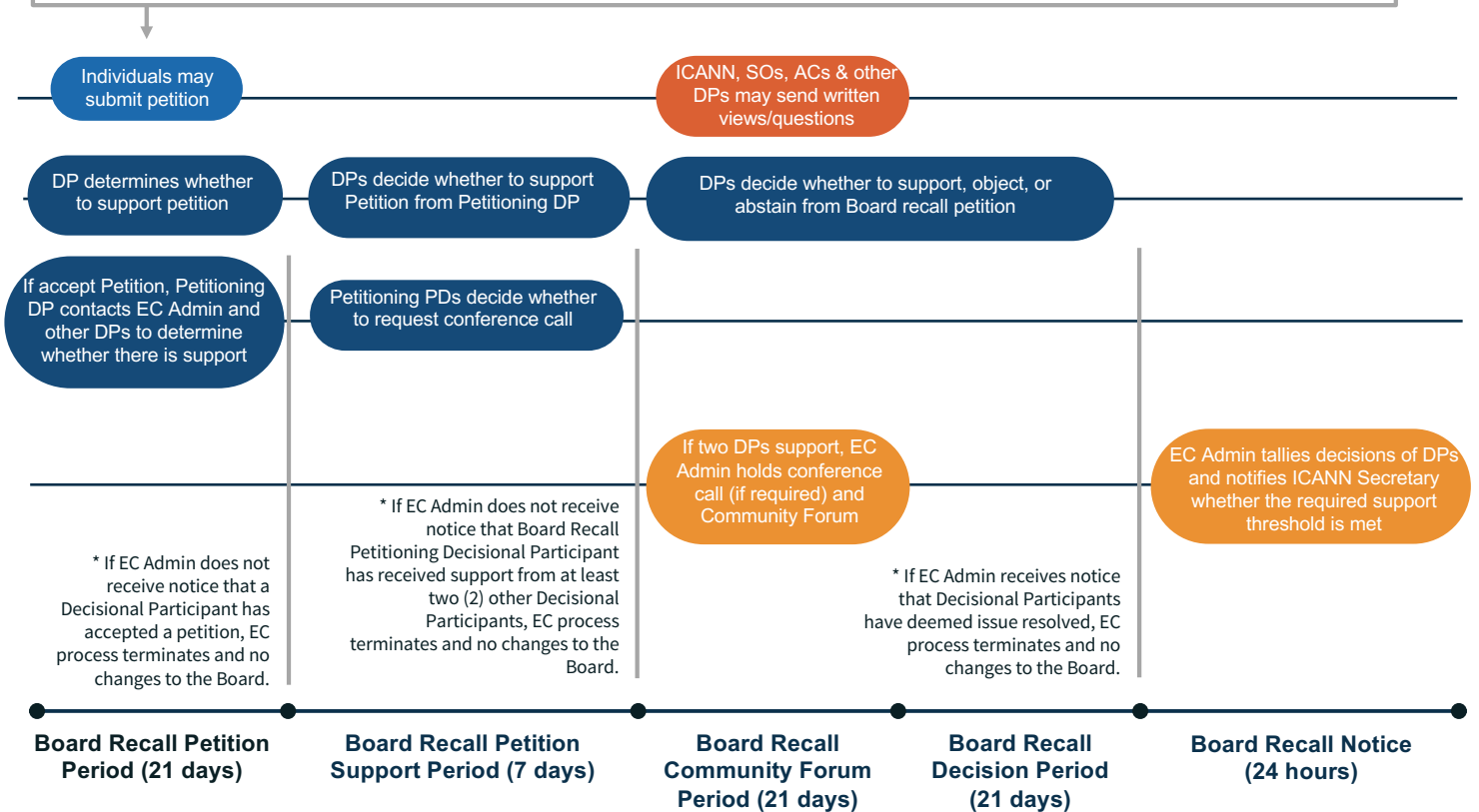**NomCom Director Removal Notice (24 hours)**

SO/AC Director Removal Procedures

🔴 TRIGGER: An individual submits a petition to the ASO, ccNSO, GNSO, or ALAC seeking to remove a Director nominated by these SOs and ALAC.

Individuals may submit petition

ICANN, org, ICANN Board, DPs may send written views/questions

If requested by the EC Admin, ICANN Secretary will open a comment period on the Director removal

DP that received petition invites Director and ICANN Board Chair to dialogue

DP determines whether to support petition

DP decides whether to support or object to SO/AC Director Removal petition

DP notifies EC Admin, Secretary and other SOs/Acs of decision

If DP accepts petition, EC Admin holds conference call (if required) and Community Forum

If Director is removed from office, EC Admin follows Board Vacancy Process

* If EC Admin does not receive notice that a Decisional Participant has accepted a petition, EC process terminates and the Director maintains Board seat.

* If EC Admin receives notice that Decisional Participants have deemed issue resolved, EC process terminates and Director maintains Board seat.

SO/AC Director Removal Petition Period (21 days)

SO/AC Director Removal Community Forum Period (21 days)

SO/AC Director Removal Comment Period (7 days)

SO/AC Director Removal Decision Period (21 days)

SO/AC Director Removal Notice (24 hours)

Board Recall Procedures

TRIGGER: An individual submits a petition to a Decisional Participant seeking to recall the Board.

Individuals may submit petition

ICANN, SOs, ACs & other DPs may send written views/questions

DP determines whether to support petition

DPs decide whether to support Petition from Petitioning DP

DPs decide whether to support, object, or abstain from Board recall petition

If accept Petition, Petitioning DP contacts EC Admin and other DPs to determine whether there is support

Petitioning PDs decide whether to request conference call

If two DPs support, EC Admin holds conference call (if required) and Community Forum

EC Admin tallies decisions of DPs and notifies ICANN Secretary whether the required support threshold is met

* If EC Admin does not receive notice that a Decisional Participant has accepted a petition, EC process terminates and no changes to the Board.

* If EC Admin does not receive notice that Board Recall Petitioning Decisional Participant has received support from at least two (2) other Decisional Participants, EC process terminates and no changes to the Board.

* If EC Admin receives notice that Decisional Participants have deemed issue resolved, EC process terminates and no changes to the Board.

Board Recall Petition Period (21 days)

Board Recall Petition Support Period (7 days)

Board Recall Community Forum Period (21 days)

Board Recall Decision Period (21 days)

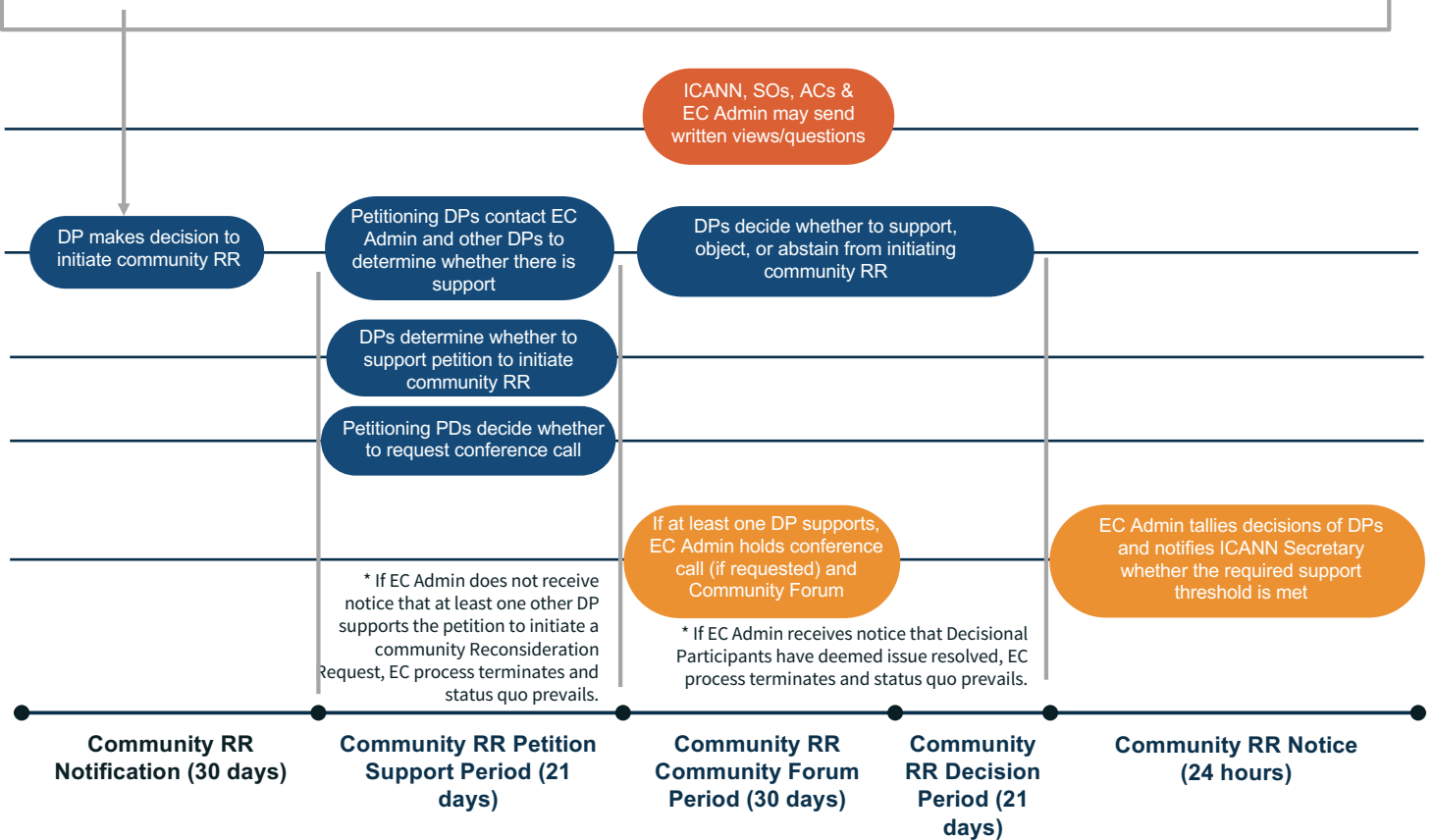**Board Recall Notice (24 hours)**

Procedures to Initiate Mediation, Community IRP or Reconsideration Request

ICANN

Scope of Community Reconsideration Request

- Board or staff actions/inactions that contradict ICANN's mission, commitments, core values or established policies.

- Actions or inactions of the Board or staff without consideration of material information, except where the Request could have submitted but did not submit the information for the Board's or staff's consideration at the time of the action or inaction.

- Actions or inactions of the Board or staff as a result of the Board or staff's reliance on false or inaccurate relevant information.

- Not within scope:
  - Disputes relating to ccTLD delegations/transfers
  - Disputes relating to Internet numbering resources
  - Disputes relating to protocol parameters

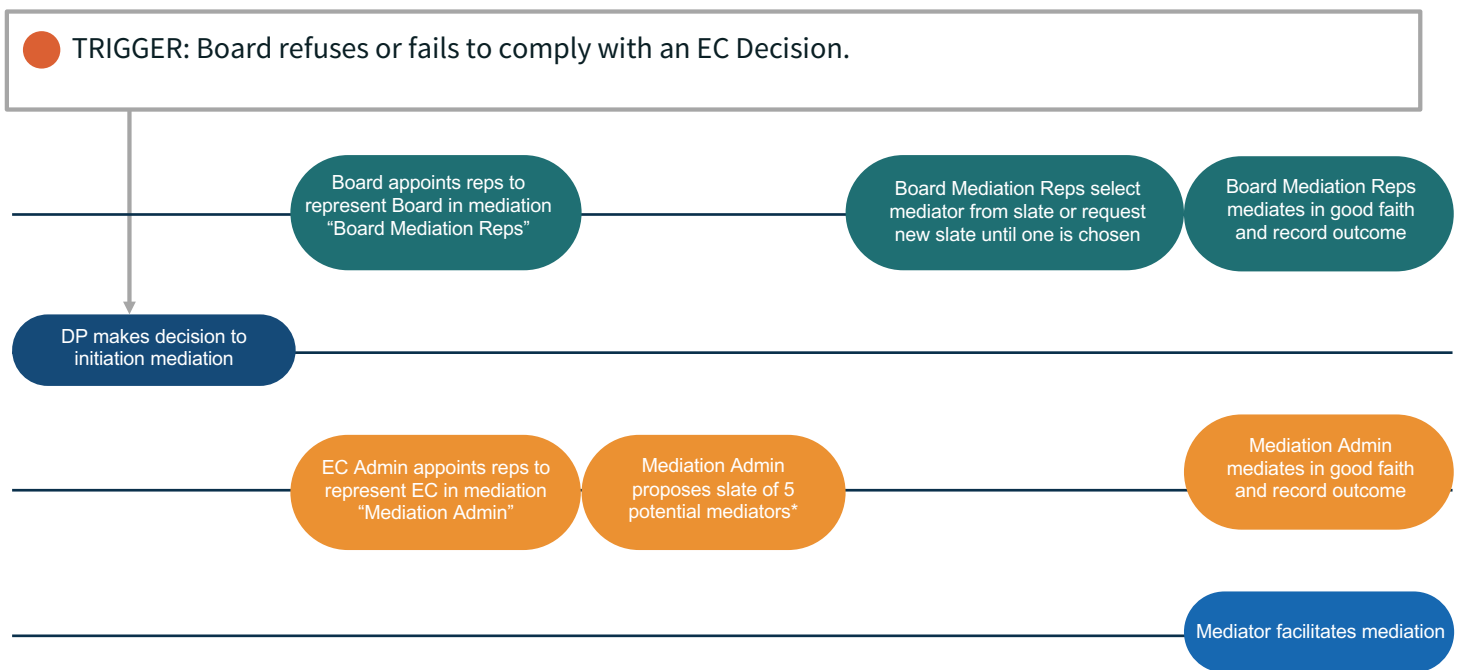# Community Reconsideration Request Procedures

● TRIGGER: Board or staff actions/inactions that are within the scope of community reconsideration requests.

ICANN, SOs, ACs & EC Admin may send written views/questions

DP makes decision to initiate community RR

Petitioning DPs contact EC Admin and other DPs to determine whether there is support

DPs decide whether to support, object, or abstain from initiating community RR

DPs determine whether to support petition to initiate community RR

Petitioning PDs decide whether to request conference call

If at least one DP supports, EC Admin holds conference call (if requested) and Community Forum

EC Admin tallies decisions of DPs and notifies ICANN Secretary whether the required support threshold is met

* If EC Admin does not receive notice that at least one other DP supports the petition to initiate a community Reconsideration Request, EC process terminates and status quo prevails.

* If EC Admin receives notice that Decisional Participants have deemed issue resolved, EC process terminates and status quo prevails.

Community RR Notification (30 days)

Community RR Petition Support Period (21 days)

Community RR Community Forum Period (30 days)

Community RR Decision Period (21 days)

Community RR Notice (24 hours)

Mediation

- A required step before Community IRP

- May be triggered if the Board refuses or fails to comply with an EC Decision
  - EC Approval Notice
  - EC Rejection Notice
  - NomCom Director Removal Notice
  - SO/AC Director Removal Notice
  - EC Board Recall Notice
  - Rejects or does not take action consistent with a final IFR/Special IFR/SCWG recommendation or SCWG creation recommenation

- Board shall be deemed to have refused or failed to comply with an EC Decision if Board has not complied with EC Decision within 30 days of being notified of the EC Decision.

Mediation Procedures

TRIGGER: Board refuses or fails to comply with an EC Decision.

Board appoints reps to represent Board in mediation "Board Mediation Reps"

Board Mediation Reps select mediator from slate or request new slate until one is chosen

Board Mediation Reps mediates in good faith and record outcome

DP makes decision to initiation mediation

EC Admin appoints reps to represent EC in mediation "Mediation Admin"

Mediation Admin proposes slate of 5 potential mediators*

Mediation Admin mediates in good faith and record outcome

Mediator facilitates mediation

*Board Mediation Representatives may recommend potential mediators for inclusion on the slate. Mediation Admin shall not unreasonably decline to include mediators recommended by Board Mediation Representatives.

Community IRP

- ⊙ Scope of Community IRP:

  - ○ Board or staff actions/inactions that violated ICANN's Articles or Bylaws

- ⊙ Community IRP must be preceded by mediation

- ⊙ Community IRP must be triggered within 80 days of conclusion of mediation

Community IRP Procedures

TRIGGER: Board or staff actions/inactions that are within the scope of community IRP and were not resolved through mediation.

ICANN, SOs, ACs & DPs may send written views/questions

DP makes decision to initiate Community IRP

DPs determine whether to support petition to initiate Community IRP

DPs decide whether to support, object, or abstain from initiating Community IRP

Petitioning DPs contact EC Admin and other DPs to determine whether there is support

Petitioning PDs decide whether to request conference call

If at least one DP supports, EC Admin holds conference call (if requested) and Community Forum

EC Admin tallies decisions of DPs and notifies ICANN Secretary whether the required support threshold is met

* If EC Admin does not receive notice that at least one other Decisional Participant supports the petition to initiate a community IRP, EC process terminates and status quo prevails.

* If EC Admin receives notice that Decisional Participants have deemed issue resolved, EC process terminates and status quo prevails.

Community IRP Notification (80 days)

Community IRP Petition Support Period (21 days)

Community IRP Community Forum Period (30 days)

Community IRP Decision Period (21 days)

Community IRP Notice (24 hours)