

At-Large Workspace: Proposed Fundamentals Bylaws Changes to Move the Board Governance Committee's Reconsideration Process Responsibilities to Another Board Committee

Public Comment Close	Statement Name	Status	Assignee (s)	Call for Comments Open	Call for Comments Close	Vote Open	Vote Close	Date of Submission	Staff Contact and Email	Statement Number
10 May 2017	Proposed Fundamentals Bylaws Changes to Move the Board Governance Committee's Reconsideration Process Responsibilities to Another Board Committee	<div>ADOPTED</div> <div>13Y, 0N, 0A</div>	Leon Sanchez	04 May 2017	09 May 2017	10 May 2017	16 May 2017	10 May 2017	Steve Gwon steve.gwon@icann.org	AL-ALAC-ST-0517-02-01-EN

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- [Comments Forum](#)

Brief Overview

ICANN is posting for public comment proposed Fundamental Bylaws revisions that would move the Board Governance Committee's (BGC) responsibilities for the Reconsideration process as set forth under Article 4, Section 4.2 of the Bylaws to the Board Accountability Mechanisms Committee (BAMC). No other changes to the Reconsideration process are proposed or anticipated as a result of these Bylaws modifications.

Section I: Description, Explanation, and Purpose

The proposed Bylaws amendments posted for public comment are limited: to move the responsibility for oversight of ICANN's Reconsideration Request process, as set out in Article 4, Section 4.2 of the Bylaws, from the BGC to a new Board committee purpose-built for oversight of ICANN's accountability mechanisms. The new Board Committee would be called "Board Accountability Mechanisms Committee" and, like the BGC, would be formed solely of Board Directors and Liaisons. The proposed Bylaws amendments do not make any other changes to the Reconsideration Request process.

One of ICANN's key accountability mechanisms is the Reconsideration process, where injured parties can ask the Board to reconsider ICANN staff or Board actions. Currently, the BGC is delegated, through the ICANN Bylaws, the responsibility for reviewing and evaluating Reconsideration Requests. However, in the past several years, the BGC's work relating to Reconsideration Requests has increased significantly. As a result of the increased volume of Reconsideration Requests, the BGC was required to focus more of its time on Reconsideration Requests, taking away from the time the BGC had to focus on core governance duties. Under the new ICANN Bylaws (effective 1 October 2016), the Reconsideration process has been expanded and it is anticipated that the volume and complexity of accountability mechanisms filed, including Reconsideration Requests, will likely increase.

In order to maintain ICANN's commitment to accountability, the BGC recommended that its Reconsideration responsibilities be transferred to another committee of the Board, and that new committee can also be dedicated to the oversight of ICANN's other accountability mechanisms as deemed appropriate by the Board.

Under the Bylaws, Article 4, Section 4.2 is part of the "Fundamental Bylaws," the group of Bylaws that can only be amended if the ICANN Board and ICANN's Empowered Community approve. Posting the proposed revisions for public comment is a key part of the Fundamental Bylaws approval process.

Section II: Background

As part of its responsibilities, the BGC is tasked with "periodically review[ing] the charters of the Board Committees, including its own charter and work with the members of the Board Committees to develop recommendations to the Board for any charter adjustments deemed advisable." (BGC Charter, I. A, at <https://www.icann.org/resources/pages/charter-06-2012-02-25-en>) In this role, the BGC recommends that to enhance its own performance and focus on core governance activities, the Reconsideration responsibilities should be moved to a new committee dedicated to oversight of ICANN's accountability mechanisms. On 3 February 2017, the ICANN Board considered the BGC's recommendation and directed the initiation of the Fundamental Bylaws amendment process to allow for the ICANN community to consider these changes alongside the Board.

The Reconsideration Request process was previously handled by a committee separate from the Board Governance Committee, a Reconsideration Committee. After a significant drop-off in volume of Reconsideration Requests, and in an effort to streamline the Board's committee work, on 7 November 2008, the Board dissolved the Reconsideration Committee and moved the responsibilities to the BGC. (<https://www.icann.org/resources/board-material/prelim-report-2009-02-03-en#7>.) The ICANN Bylaws were updated on 3 February 2009, after a public comment period, to reflect that move to the Board Governance Committee. (<https://www.icann.org/resources/board-material/prelim-report-2009-02-03-en#7>.) Since the introduction of the New gTLD Program in 2012, the volume of Reconsideration Requests has increased exponentially. For example, more Reconsideration Requests were received in 2016 alone (14) than were received in the five years (nine requests between 2003-2008) before the Reconsideration Request responsibilities were moved out of the Reconsideration Committee. Information on all Reconsideration Requests submitted to ICANN is available at <http://www.icann.org/resources/pages/accountability/reconsideration-en>.

Section III: Relevant Resources

The proposed revisions to Article 4, Section 4.2 of the ICANN Bylaws are available [here](#) [PDF, KB].

If the proposed Fundamental Bylaws change is approved, two other documents will need to be created or modified:

- The Board Governance Committee [charter](#) will need to be modified to remove the Reconsideration Responsibilities; and
- A charter for the Board Accountability Mechanisms Committee will need to be developed, at minimum setting out the purpose and scope of handling the Reconsideration process as is currently found in the BGC charter.

For information, draft documents showing those proposed modifications are provided:

- [Draft revised BGC charter](#) [PDF, KB]
- [Draft Board Accountability Mechanisms Committee charter](#) [PDF, KB]

Section IV: Additional Information

If, after public comment, the Board approves these proposed Fundamental Bylaws amendments, the Empowered Community will then have an opportunity to consider whether it supports the amendments. If there are no delays or extensions to the public comment proceeding, the timing will allow for the Empowered Community to host a Community Forum on the amendments during ICANN's 59th public meeting in Johannesburg, South Africa (June 2017).

Information on the Empowered Community can be found at [Article 6](#) of the ICANN Bylaws, and information on the Fundamental Bylaws Approval Process can be found at [Annex D](#), Article 1 of the ICANN Bylaws.

Section V: Reports

Staff Contact

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FINAL VERSION TO BE SUBMITTED IF RATIFIED

The final version to be submitted, if the draft is ratified, will be placed here by upon completion of the vote.



AL-ALAC-ST-0517-02-01-EN.pdf

FINAL DRAFT VERSION TO BE VOTED UPON BY THE ALAC

The final draft version to be voted upon by the ALAC will be placed here before the vote is to begin.

The At-Large Advisory Committee (ALAC) welcomes the opportunity to comment on the Proposed Fundamental Bylaws Changes to Move the Board Governance Committee's Reconsideration Process Responsibilities to Another Board Committee and hereby submits its comments to help in this process:

1. The ALAC recognizes the effort made to carry out this first use of the Empowered Community powers in an open and inclusive manner by calling for input from the different Supporting Organizations and Advisory Committees that form ICANN;
2. Recognizing the power the Board has to establish Committees as it believes will best suit the Board's needs, the ALAC would like to have a deeper knowledge on the scope of the proposed new Committee as the draft Charter leaves room for ambiguity.

In consideration of the aforementioned recognitions, the ALAC would like to request a more complete draft Committee Charter in order to better understand how this would impact ICANN's overall activity and the impact it could have on end users.

FIRST DRAFT SUBMITTED

The first draft submitted will be placed here before the call for comments begins.

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1. The ALAC recognizes the effort made to carry this first use of the Empowered Community powers in an open and inclusive manner by calling for input from the different SO/ACs that form ICANN;
2. Recognizing the power the Board has to establish Committees as it believes will best suit the Board's needs, the ALAC would like to have a deeper knowledge on the scope of the proposed new Committee as the draft Charter leaves room for ambiguity.

In consideration of the aforementioned recognitions, the ALAC would like to request a more complete draft Committee Charter in order to better understand how this would impact ICANN's overall activity and the impact it could have on end users.