

NCSG-EC Procedures for Review, Re-Categorization, and Removal of NCSG Membership Status

These Operating Procedures of the Noncommercial Stakeholder Group Executive Committee (NCSG-EC) should be read together with NCSG's Charter and are intended to supplement NCSG's Charter with respect to procedures for review, re-categorization, and removal of NCSG membership.

I. Reasons for Review and / or Removal of Membership

NCSG membership entails eligibility requirements and all NCSG members shall keep their membership current and accurate

A. Reasons that Pertain to All Types of Membership

Any NCSG Member shall have their NCSG membership reviewed and removed under any of the following circumstances:

1. Member determined by EC to be currently not eligible for NCSG membership under the category for which Member is admitted and / or any other claimed eligible category of membership.
2. Member found by EC to have engaged in serious misconduct related to Member's NCSG participation such as violations of NCSG's Principles for Members and Leaders as described in Section 1.2 of NCSG's Charter, or for violations of ICANN's Expected Standards of Behavior and Anti-Harassment Policies, or based on the recommendation of the ICANN ombudsman's office, or for intentionally providing false or misleading information in one's membership application that is considered material to the Member's eligibility or application, or for other misconduct related to a serious legal, civil, or criminal complaint against the Member.
3. Member Requests Removal of Self

B. Reasons that Pertain to Organizational Members

NCSG Member Organizations shall have their NCSG membership reviewed and removed as ineligible under the following circumstances:

1. Organization no longer exists, ceases to operate or otherwise function as a legal entity, or

2. Organization's individual representative(s) leave(s) the organization and the organization fails to replace representative(s) within 60 days after notice of pending removal is sent to Member via email to the email address on record with NCSG, or
3. Organizational Member is determined to be among an excluded category of ineligible organizations under NCSG's Charter. Categories of ineligible organizations under NCSG's Charter include political organizations; commercial organizations and associations that advocate for the benefit of commercial entities (even if they are non-profit in form); organizations already represented in ICANN through another Supporting Organization or GNSO Stakeholder group; organizations under contract or MoU with ICANN; government organizations or government departments, whether local, regional, or national; intergovernmental organizations whose membership primarily includes nation states, or
4. Organizational Member is determined to not meet eligibility requirements for NCSG membership. Pursuant to NCSG's Charter, only organizations meeting the following criteria are eligible for membership in the Stakeholder Group:
 - a) The organization is incorporated as a noncommercial entity (in countries that have a provision in their commercial code) or, if unincorporated, or if operating in a country without provisions for noncommercial incorporation, that operates on a not-for-profit basis primarily for noncommercial purposes, and
 - b) Be the exclusive user of at least one domain name for noncommercial purposes, and
 - c) Is engaged in online activities that are primarily noncommercial, and
 - d) In the case of a membership-based organization, (meaning organized as a membership-based organization under the applicable law as used in NCSG's Charter) the organization should not only be noncommercial itself, but should have a primarily noncommercial focus, and the membership should also be primarily composed of noncommercial members.

C. Reasons that Pertain to Individual Members

NCSG Individual Members shall have their NCSG membership reviewed and / or removed under the following circumstances:

1. Individual Member who does not support noncommercial public-interest positions in its advocacy within the Stakeholder Group, or

2. Depending on which category of eligible membership under section 2.2.5 of NCSG's Charter:
 - a) Individual Member admitted under first category and does not currently have the domain name registered that is used primarily for noncommercial uses; or
 - b) Individual Member admitted under the second category who has no registered noncommercial domain name but who is primarily concerned with noncommercial public interest aspects of policy in NCSG activity and is not represented at ICANN through another Supporting Organization or GNSO Stakeholder Group; or
 - c) Individual Member admitted under the 3rd category who was admitted as employee or member of large noncommercial organization and is not currently an employee or member of the organization; or
3. Death of Individual Member, based on information received by the Chair.

II. Initial Review of Membership Eligibility

A. Who can initiate removal or review of an NCSG Member?

1. Any member who no longer meets membership criteria under which that member is admitted, is obligated to notify NCSG-EC and resign membership, or if applicable, to request a change in membership status that corresponds to a different category of membership eligibility under NCSG's Charter.
 - a) To initiate the process for self-removal of membership, the Member requesting removal should notify the Chair via email with a request for removal from membership. Upon Chair's receipt of the Member's notification of removal and as soon as reasonably possible thereafter, the entire EC should be informed of the request for membership change via the EC email list or during an EC meeting, where it can be noted for the record that membership has been removed.
 - b) To initiate the process for self-recategorization of membership eligibility (i.e., to move from one category of eligible membership to another category of eligible membership), the Member requesting the self-recategorization shall notify the Chair via email with a Request for Review of membership eligibility. Together with the notification, the Member shall additionally provide information to the Chair that is sufficient to substantiate Member's claim regarding the new category of membership eligibility. Upon receipt of the notification and supporting information, the Chair shall add that Member request for self-recategorization of membership eligibility to the existing list of pending NCSG membership applications to be evaluated by the NCSG-EC in its regular due course.
2. Any NCSG member(s) in good standing (including members of the NCSG-EC) may request review of eligibility of another NCSG member pursuant to these operating procedures.

3. ICANN's Ombudsman Office may also request a review of eligibility of an NCSG member pursuant to these operating procedures.

B. Process for Request for Review of Membership Eligibility

1. Request for Review of membership eligibility of a NCSG Member shall be filed by sending an email to the NCSG Chair providing notice of such request, together with any evidence supporting the Request or otherwise relevant to the issues under review. The Request shall state sufficient facts and argument that is supported by evidence which demonstrates that the Member under review is not currently eligible for NCSG membership under the category for which that Member is admitted (or any category of eligibility if applicable).
2. The Chair retains the right to decide in Chair's discretion if any Request for Review is frivolous or vexatious or otherwise totally lacking in merit and may summarily deny the Request on those grounds, provided that the Chair informs the EC of such a decision simultaneously with the Requester. Any Member of the EC may revive the summarily denied Request for Review for the next 14 days by notification of email to the EC email list requesting such revival.
3. Within 10 days of Chair's receipt of a valid (i.e., revived, non-frivolous, non-vexatious) Request for Review of membership, the Chair shall forward the Request for Review and any supporting documentation to the NCSG Member whose membership is under Review and shall request a response from the Member to be submitted to the EC within 21 calendar days from Member's notification of the Request. Simultaneous with Member's notification, the Chair shall also send the NCSG EC Members a copy of the Request for Review and any supporting documentation provided.
4. Notwithstanding the foregoing, the Chair retains discretion with respect to decisions about what information may be disclosed to Member based on confidentiality, privacy, retaliation, and other legitimate concerns. However, any member of the NCSG EC may dispute the decision to withhold certain information to Member and may call for a vote of the EC on this issue that shall over-rule the Chair's judgment upon reaching a two-thirds threshold, excluding the Chair in the vote.
5. EC Members shall investigate and evaluate the merits of any valid Request for Review of eligibility pursuant to the NCSG Charter and these Operating Procedures.
6. If Member's response is submitted in a timely manner, and review of eligibility is disputed by Member therein, an online (or telephonic) EC meeting will be called by the Chair to be held approximately 7-14 calendar days after the Member's response is received. During this meeting the EC will evaluate the merits of the request,

response, and any additional relevant information provided on the matter, and make a decision on the request. Any member of the EC may request that the Member whose eligibility is in question, the Requester, or any additional individual(s) with relevant information be allowed to participate at the EC meeting where the matter is to be decided. The Chair retains discretion with respect to the organization and chairing of the EC meeting where the matter is to be deliberated upon.

7. Member(s) who are the subject of the Request for Review and the Requester(s) shall be informed of the EC's initial decision via email from the Chair within one business day of the EC decision being taken, and the Chair shall also record the initial decision on the NCSG-EC email list within one business day of the EC decision being taken.

III. Appeal Decision to Entire NCSG Membership

A. Filing an Appeal of a Membership Decision of the EC

1. Any decision of the NCSG-EC regarding Requests for Reconsideration may be appealed by requesting a full vote of the NCSG membership, pursuant to NCSG Charter Section 2.4.2.1.
2. If at least 15 NCSG members in good standing and whose membership is not under review including at least one organizational and one individual member, request such an appeal, then the NCSG Executive Committee will first take the appeal under consideration.
3. The first NCSG Member listed on the appeal notice shall be considered the "lead appellant" and point of contact between the NCSG-EC and the NCSG Member appellants and shall have decisionmaking authority for the entire group of appellants in this matter.
4. Members have 7 days from the time the decision is posted to the NCSG-EC email list in which to lodge the appeal of the EC's decision.
5. Such notice shall be made by sending email notice of the appeal to the EC Chair together with any additional information and argument that appellants wish to be considered in the appeal.
6. The Chair shall simultaneously forward a duly filed notice of appeal with supporting information to the NCSG-EC email list and shall organize and hold EC discussions regarding the appeal as soon as practicable where the EC will reach a Final Decision on the appeal.

7. The Chair shall inform appellants on the outcome of EC's Final Decision regarding the appeal via email within one day of the decision being taken. The Chair shall also record the Final Decision on the NCSG-EC email list within one business day of the EC decision being taken.
8. If, after consideration of any documentation provided by those making the appeal, the NCSG-EC does not reverse its decision and the decision becomes final, the NCSG-EC and those making the appeal should attempt to negotiate a mutually agreeable solution. The NCSG Chair and the lead appellant shall undertake discussions via email, telephone, online meeting software, or something similar, to try to find a solution regarding the EC's Final Decision.
9. If the NCSG-EC and the appellants cannot reach a mutually acceptable agreement on the EC's Final Decision within the negotiation period of 30 days from the filing of the appeal, then an NCSG vote will be scheduled unless both parties agree to a single 30-day extension in the negotiation period, and such agreement shall be recorded on the NCSG-EC email list by the Chair within one business day of reaching the agreement to extend negotiations.
10. If the NCSG-EC and the appellants do reach a mutually acceptable agreement regarding the EC's Final Decision within the negotiation period, then the Chair will announce the agreement as a Revised Final Decision to the NCSG-EC and Membership email lists within one business day of reaching the agreement. A Revised Final Decision shall be considered final and unappealable and shall replace any earlier decision of the EC on the matter.

B. NCSG Membership Vote on EC Final Decision

1. The request for an NCSG membership vote on the EC's Final Decision regarding the appeal shall be made by the lead appellant sending an email notice of the request for membership vote to the EC Chair within 7 days after the negotiation period has ended.
2. The Chair shall simultaneously forward a duly filed request for membership vote to the NCSG-EC email list and to the NCSG membership list within two business days of Chair's receipt of the request.
3. Under the EC's supervision, the Chair shall organize and call for a special election among the NCSG membership to be scheduled as soon as practicable if the next regularly scheduled NCSG annual election is more than 8 months away. If the next regularly scheduled NCSG annual election is less than 4 months away, the appeal

will be included as a ballot item on the NCSG regularly scheduled annual election and a special election shall not be called for.

4. The appeal shall be included on the ballot as a yes or no referendum on the EC's Final Decision with a "no" vote meaning approval of the appeal of the EC's Final Decision and a "yes" vote meaning approval of the EC's decision.
5. For this type of appeal to succeed, the threshold of 60% of all of the NCSG members voting in the election must approve of the appeal in a full membership vote as defined in section 4.0 of NCSG's Charter.
6. In the event that the NCSG membership vote does not meet the threshold to appeal the EC's Final Decision, or in the event that the EC's Final Decision is not duly appealed in a timely manner, then the EC's decision shall be considered final and unappealable and shall be recorded by the Chair on the NCSG-EC email list and the NCSG membership list as soon as reasonably practicable.

V. General Provisions for NCSG Membership Review and Decisionmaking

A. NCSG Member Obligations

1. Members are expected to participate in good faith and cooperate with the NCSG-EC in its investigation and evaluation of member's eligibility and good standing.
2. Members have an affirmative obligation to notify NCSG-EC of any pertinent change of their NCSG membership status (including moving from one category of eligibility to another category of eligibility of NCSG membership) and to request EC review of the change of eligibility.
3. The Member email address provided by the NCSG Member to receive official NCSG communications shall be the email address utilized by NCSG-EC for any communications required under these procedures.

B. NCSG Membership Status Pending Evaluation

1. A Member whose application for self-recategorization of eligibility is pending shall have membership voting rights suspended pending the outcome of the EC's recategorization determination and any appeals.
2. A Member whose eligibility is under review based on the filing of a Request for Review by another shall continue to enjoy membership rights and privileges pending the outcome of the EC's initial decision on the Request for Review, which shall then

become determinative and in effect pending the outcome of any Final Decision that is not successfully appealed in a membership vote.

3. EC decisions shall remain in full force and effect pending the outcome of any appeal of the EC's decision to the membership.

C. EC Decision Making Over Membership Reviews

1. All decisions, communications, and evaluations made by the NCSG-EC regarding termination shall be done transparently to the extent reasonably possible (including publicly archived online record of the discussions and any decisions reached). Notwithstanding the foregoing, certain redactions and other protections for personal privacy and other legitimate concerns shall be invoked, where appropriate, in the publication or dissemination of this information at the discretion of the Chair.
2. NCSG Chair may appoint another NCSG-EC Member to serve as chair for these procedures regarding the evaluation and determination of Requests for Review of NCSG membership and may continue to participate in the EC discussion as a voting member in such case. The appointment may be for a specific duration or for the entire duration of the matter to be decided at the mutual agreement of the appointed and the appointing EC Members, and the terms of agreement shall be noted on the NCSG-EC email list for the record.
3. NCSG-EC Members who are also signatories on any Request for Review or who are the subject of a Request for Review shall recuse him or herself from the EC decision on that review of eligibility, and NCSG-EC Members so recused may be replaced by the appointing NCSG constituency with an "alternate representative" from within that constituency's membership for the sole purposes of that EC Request for Review decision.
4. NCSG-EC decisions regarding Requests for Review of membership (including but not limited to Initial and Final Decisions) are taken by an 80% threshold vote of NCSG-EC members (including any "alternate representatives" as defined in the preceding sub-section of these Operating Procedures, if applicable).
5. Possible EC decisions and remedies include but are not limited to: recategorization of membership, temporary suspension or permanent removal of any or all NCSG membership privileges including but not limited to participation rights in ICANN working groups, email lists, travel support, participation in leadership roles, and other NCSG or ICANN-related activities as determined at the discretion of the EC.

6. Any EC decision for membership recategorization, removal, suspension, restriction, or other NCSG membership decision additionally applies to Member's participation in any constituency within NCSG. Any such recategorization, removal, suspension or other decision regarding NCSG membership shall be immediately communicated by the Chair to the executive committees of the constituencies within the NCSG to which that Member held membership.
7. These operating procedures shall be repealed or amended in accordance with NCSG's Charter at any time by an 80% affirmative vote of the NCSG-EC, after consulting with the NCSG membership on the proposed changes via the NCSG membership email list and receiving no significant objections to the changes from the membership as determined by the Chair.