

AFRINIC Policy Development Appeal Committee Terms of Reference

Version 2

26 November 2017

1. Introduction

1.1. The **AFRINIC Policy Development Appeal Committee**, or the **Appeal Committee**, is a committee appointed by the AFRINIC Board, intended to adjudicate on appeals in terms of the Conflict Resolution section¹ of the AFRINIC Policy Development Process (PDP).² Any such appeal will involve a disagreement regarding the actions taken by the Chair(s) of the Policy Development Working Group (PDWG).

1.2. The Conflict Resolution section[1] of the Policy Development Process (PDP) requires that an Appeal Committee be appointed by the Board. It also requires a complainant to file an appeal with the Appeal Committee, within two weeks of the public knowledge of the decision under appeal.

1.3. This document sets out the processes and guidelines to be used for appointing an appeal committee. The guidelines will be updated when or if changes to the PDP make that necessary.

2. Composition

2.1. The committee shall be appointed by the Board and be composed of the following members:

¹ “Conflict Resolution”, section 3.5 of the AFRINIC Consolidated Policy Manual.

<https://www.afrinic.net/library/policies/1829-afrinic-consolidated-policy-manual#s3_5>.

² “The Policy Development Process (PDP)”, section 3 of the AFRINIC Consolidated Policy Manual. <https://www.afrinic.net/library/policies/1829-afrinic-consolidated-policy-manual#s3_0>.

- a) Seats 1 and 2: Two of the past chairs or past co-chairs of the AFRINIC policy development working group (PDWG).
- b) Seats 3, 4 and 5: Shall be selected from the AFRINIC community.

2.2. The following are not eligible for membership of the Appeal Committee:

- a) Employees of AFRINIC.
- b) Members of the AFRINIC Board of Directors.
- c) Current Chairs or co-chairs of the AFRINIC PDWG.

2.3. In the event that a member of the appeal committee is the author or co-author of a policy which becomes the subject of an appeal brought before this committee, any such member must recuse himself from the deliberations and must abstain from all votes taken by this committee in regards to such policy. If the committee or the board believe it necessary, the board shall appoint temporary replacement members to the committee based on the same eligibility requirements by which the affected members were appointed.

3. Selection Process

3.1. Ordinary Selection Process

3.1.1. For seats 1 and 2, the names of past chairs or co-chairs who served at least in that role for minimum of 2 public policy meeting (PPM) from the past 5 years shall be considered, and any who are ineligible shall be excluded. The Board shall then select among those left, they shall be approached, and if they consent then they will be appointed. Candidates later in the list will be considered and approached if earlier candidates decline the position. In the event that insufficient candidates consent, then the search will be widened to any time in the past.

3.1.2. For seats 3, 4, and 5, they shall be selected within the AFRINIC community, in a manner similar to selection of the AFRINIC community representatives in the NRO NC. Eligibility criteria shall include the following:

3.1.2.1 Be a member of the AFRINIC policy development working group

3.1.2.2 Must demonstrate to have participated in policy discussions on the rpd list or during the AFRINIC public policy meeting

3.1.2.3 Such participation in 3.1.2.2 above shall be those made earlier than 6 months from the date of call for nomination

3.2. Insufficient Candidates

3.2.1. In the event that insufficient candidates with the necessary qualifications are available and willing to serve for any particular seat, the Board shall fill that seat by appointing a person from the AFRINIC community.

3.3. Terms

3.3.1. The Board has the right to replace any or all Appeal Committee members at any time. Such decision of the Board must be by at least three-quarters of the Board

3.3.2. Every three (3) years, or more often at its sole discretion, the Board shall replace the entire Appeal Committee.

3.3.3. The board may review candidates appointed under section 3.1.1 and where applicable shall replace them with candidates fitting the criteria in section 3.1.1

3.3.4. In the event that an appeal is in progress at a time when the Board considers replacement of any or all Appeal Committee members, then the Board should delay any such replacement until such time as there is no appeal in progress; except that, if there continue to be appeals in progress after six (6) months, then the Board shall not delay any longer.

3.4. Filling of Vacancies

3.4.1. In the event of a resignation, or a Board decision to replace a member of the Appeal Committee, or any other reason for a vacancy, then a replacement member shall be selected by process described in 3.1 .

4. Working Methods

4.1. Appeals must be submitted in accordance with the process under “Filing an appeal” elsewhere in this document.

4.2. Any member of the Appeal Committee who has a conflict of interest with respect to an appeal shall recuse himself from considering that appeal. The Board shall appoint a temporary replacement for the purposes of considering the appeal in question, if possible such replacement shall be based on the same eligibility requirements by which the affected member(s) were appointed.

4.3. After receiving an appeal, the Appeal Committee shall publish a timeline for starting and completion of their work.

4.4. Should the Appeal Committee need more time, it shall make a request to that effect to the Board, with relevant reasons for extension.

4.5. The committee shall deliberate via email and/or teleconference.

4.6. The committee shall ensure that any appeal received is in line with the requirements of the Conflict Resolution section³ of the AFRINIC Policy Development Process.

4.7. The committee shall submit a report to the Policy Development Working Group, via the RPD mailing list <rpdpd@frinic.net>, containing its assessment of the facts put before it and its ruling on the grounds of appeal raised by the Appellant.

4.8. The appeal committee may direct that the PDP Chair(s) decision be remanded to the chairs for reconsideration, or that it be reversed, or that it be upheld. The committee must base such a decision on whether the PDP was followed and whether or not they believe that the chair's judgment of consensus or lack thereof was correct, based on the record as it exists on the RPD mailing list, in the videos and/or transcripts of any PDWG meetings.

4.9 The ruling of the appeals committee shall be final and binding on all concerned.

4.10. Appeals and reports of findings shall be published in the policy development section of the AFRINIC web site, in addition to their publication in the RPD mailing list. Such report, must include rationale for decisions made,

5. Filing an Appeal

5.1. Before an appeal is filed, the following conditions must be satisfied:⁴

- a) There must be an action taken by the Chair(s) of the PDWG.⁵
- b) The complainant must have a good faith belief that the Chair(s) ruling erred and is not in accordance with the PDP or is inconsistent with the actual level of consensus in the PDWG.

³ "Conflict Resolution", section 3.5 of the AFRINIC Consolidated Policy Manual.

<https://www.afrinic.net/library/policies/1829-afrinic-consolidated-policy-manual#s3_5>.

⁴ These conditions appear in the first paragraph of the "Conflict Resolution" section of the Policy Development Process

<https://www.afrinic.net/library/policies/1829-afrinic-consolidated-policy-manual#s3_5>.

⁵ "A person who disagrees with the actions taken by the Chair(s) ..."

- c) The complainant must discuss the matter with the Chair(s) of the PDWG and at least 3 other members of the PDWG. The complainant may hold these discussions in public on the RPD mailing list to engage the entire PDWG..⁶
- d) The discussion must fail to resolve the disagreement.⁷
- e) A failure to respond to or conclude discussions within one week of a request from a complainant by the Chair(s) shall be considered sufficient grounds under sections 5.1(c) and 5.1(d).

5.2 When a complainant decides to file an appeal, An appeal must include the following information:

- a) Brief description of the topic under appeal.
- b) Date of the appeal.
- c) Name and email address of complainant.
- d) The complaint must be supported by three (3) persons who have participated in the discussions relating to the matter under appeal.⁸ (That is, three (3) persons other than the complainant.)⁹ Said support must be expressed by an email message from each of the supporters to the Appeal committee. Each of these email messages must include a statement that the individual participated in discussions attempting to resolve the dispute and that those discussions failed to resolve the dispute.
- e) Date of the decision made by the Chair(s).
- f) Reference to an announcement of the decision which is being appealed. Such reference can be a recording url, rpd list url, or verbal quote of the Chair's decision during the public policy meeting
- g) Evidence of a failed attempt to resolve the disagreement through discussion.
- h) Any additional material the complainant feels is relevant to the situation and will assist the committee in its deliberations.
- i) The appeal must be filed no more than two weeks (14 calendar days) after the action that is being appealed.¹⁰

5.3 An appeal and any statements of support required under 5.2(d) shall be sent via email to the Appeal committee pdwg-appeal@afrinic.net . A copy of the appeal must also be mailed (in a separate message, not as a carbon copy or "CC") to the RPD mailing list rpdpd@afrinic.net.

⁶ "... shall discuss the matter with the PDWG Chair(s) or with the PDWG."

⁷ " If the disagreement cannot be resolved in this way ..."

⁸ "An appeal can only be filed if it is supported by three (3) persons from the Working Group who have participated in the discussions."

⁹ The term "supported by" implies that the supporters and the complainant are distinct persons.

¹⁰ "The appeal must be submitted within two weeks of the public knowledge of the decision."