Staff Report of Public Comment Proceeding

Revisions to ICANN Expected Standards of Behaviors	
Publication Date:	11 July 2016
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Public Comment Proceeding			Important Information Links
Open Date:	16 May 2016		[Announcement](#)
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Staff Report Due Date:	09 July 2016		[View Comments Submitted](#)
			Expected Standards of Behavior

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Section I: General Overview and Next Steps

This public comment sought to obtain community input on the proposed revisions to ICANN's Expected Standards of Behaviors. ICANN staff summarized and forwarded the comments submitted through the public comment forum as of 25 June 2016, and submitted a final proposal to the ICANN Board for consideration during its meeting on the evening of 25 June 2016.

Section II: Contributors

At the time this report was prepared, a total of five community submissions had been posted to the forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
At-Large Advisory Committee	Alan Greenberg	ALAC
Business Constituency	Steve DelBianco	BC
Centre for Internet and Society	Vidushi Marda	CIS
Google	Jordyn A. Buchanan	
Non-Commercial Stakeholder Group	Marilia Maciel	NCSG
Registry Stakeholder Group	Stéphane Van Gelder	RySG
Root Sever System Advisory Committee	Tripti Sinha and Brad Verd	RSSAC

Individuals:

Name	Affiliation (if provided)	Initials
Jorge Cancio	N/A	JC
Ricardo Holmquist	ISOC member	RH
Chris LaHatte	Ombudsman	CL
Dr Eberhard W Lisse	Namibian Network Information Centre (Pty) Ltd	EL
Luc Seufer	Community Member	LS

Section III: Summary of Comments

General Disclaimer: This section intends to summarize broadly and comprehensively the comments submitted to this public comment proceeding but does not address every specific position stated by each contributor. The preparer recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

In general, most of the commenters were supportive of the proposed revisions of the Expected Standards of Behavior.

One individual community member agreed with the proposed modification; however added that the definition of harassment "should be limited to unwelcome hostile and wil[l]ful intimidating behaviors" to avoid confusion because of the diversity of the community.

Another suggested change was to the first two lines of the fourth bulleted paragraph: "Respect all members of the ICANN community equally and behave according to professional standards and demonstrate appropriate behavior."
[to]:
"Behave according to professional standards and demonstrate appropriate behavior, respecting all members of the ICANN community."

One commenter stated that while he thinks that current Expected Standards are not in need of revision, he is not opposed to the proposed revisions, per se, but thinks they need some refinements. Specifically, the commenter suggested that the reference to "professional standards" is not applicable, stating that "[g[enerally professional standards pertain only to a profession[s] regulated by STATUTE, such as Lawyer, Medical Practitioner but not Computer Scientist." The commenter went on to also state that: (i) the reference to "appropriate behavior" is vague; (ii) what is referenced to "unwelcome hostile or intimidating behavior" is poorly drafted; (ii) "Harassment" is characteristically repetitive; (iv) "Intimidation" is a particular, (differently) defined behavior, and thus the proposed revision does not achieve its purpose; and (v) he had "some serious issues with defining "speech" as even being possibly "intimidating". This commenter suggested some revisions were needed.

Another commenter notes its "extreme disappointment while noting that there is no indication of the intention to draft and adopt a dedicated anti - harassment policy. This commenter went on to specifically suggest that the terms "professional conduct" and "appropriate behavior" were vague and required more explanation, the revisions "fail to consider situations where some attempts or advances at communication, sexual or otherwise, occur," "[i]gnores complexity," and offers a "[s]uperficial understanding of harassment, sexual harassment."

Another group's comments, which were supported by an individual commenter, encourage ICANN "to continue to take the process further than the current proposed changes to the ICANN Expected Standards of Behaviors." The group suggested that "a simple statement of intention is not enough, and that an accompanying policy is needed to map out the implementation of these standards." The commenter stated specifically, "a guiding document is vital to the effectiveness of the revisions

proposed in the Expected Standards of Behavior. The document must include clear definitions of the different concepts mentioned, detailing the process for remediation. It must focus on the actual behavior of individuals as well as the general culture of inclusion we should have at ICANN." Three other commenters agreed that the revised Expected Standards of Behavior are a step in the right direction, but should be augmented by clear information on how violations will be addressed and who would address such violations.

Section IV: Analysis of Comments

General Disclaimer: *This section intends to provide an analysis and evaluation of the comments submitted along with explanations regarding the basis for any recommendations provided within the analysis.*

At the outset we note that one commenter has expressed disappointment that ICANN has given "no indication of the intention to draft and adopt a dedicated anti - harassment policy." This is not the case. In addition to revising the Expected Standards of Behavior, which was just one of the activities ICANN undertook to address this important issue, the ICANN Board has specifically directed the organization to work with the community the help develop an anti-harassment policy/procedure.

> Resolved (2016.05.15.05), the Board hereby directs the President and CEO, or his designee(s), to retain an expert, as appropriate, with experience in drafting and implementing relevant anti-harassment policies to assist in the development of a Community anti-harassment policy/procedure to be followed at ICANN Public Meetings, which could include items such as complaints handling and resolution and enforcement processes.

See https://www.icann.org/resources/board-material/resolutions-2016-05-15-en#1.d. As directed, the ICANN staff is in the process of doing precisely as the Board directed. That work is in progress and it is anticipated that a proposal will be provided to the community for further discussion in the coming weeks. It is anticipated that the proposal for discussion, and ultimately to be adopted, would provide for methods of how complaints should be handled and by whom.

The Expected Standards of Behavior are meant to be high level, and general statements about how ICANN participants should treat each other, and they are admittedly not meant to be formal policies of conduct with defined actionable consequences. We expect that many of the comments indicating that some of the terms contained in the revised Expected Standards of Behavior could be better defined or clarified are better addressed in the policy that is still under development, as commenters have suggested.

Further, given that the majority of commenters are generally supportive of the proposed changes to the Expected Standards of Behavior as posted for public comment, it is anticipated that the proposed revisions will be adopted, with perhaps just some slight modifications.

In terms of the comments about terminology, we note that some have suggested that certain definitions should be limited, while others suggest they should be expanded, partly due to cultural differences. It is well understood and expected that there are cultural differences among ICANN participants, and it is anticipated that any evaluation of conduct that might be challenged will

certainly take those differences into consideration. Trying to provide definitions in the Expected Standards of Behavior document, would be difficult at best and perhaps turn the document into something that it is not, as noted above. Accordingly, it does not seem necessary to change the definitions as suggested in Expected Standards of Behavior, particularly given that most commenters have supported the language as written, and given that we have a goal of ensuring a broad definition to support the view of zero tolerance for improper conduct.

In terms of the comment for re-ordering the first two sentences, it appears that generally the intent is the same, and so rather than revise what others have already reviewed and supported, language not be changed from what was posted for public comment.

We have made a minor revision for clarification, but the change was not meant to change the substance of what was posted for public comment.