Complaint to IAB regarding IESG decisions

Daniel J. Bernstein, 2025-10-24

This is a complaint to the "Internet Architecture Board" (IAB) regarding five decisions identified below by the "Internet Engineering Steering Group" (IESG) within the "Internet Engineering Task Force" (IETF).

Let me be clear at the top about what's going on here:

- NSA is trying to buy IETF standardization of weakened cryptography. See https://blog.cr.yp.to/20251004-weakened.html for details.
- IETF management is non-consensually ramming a particular NSA-driven document through the IETF process; issuing fake claims of consensus; and making up a series of retroactive, ad-hoc, selectively enforced excuses to avoid addressing objections.
- As part of this, IETF management is violating one IETF promise after another. IETF management is also violating the requirements that antitrust law places upon standards-development organizations.

I have two independent grounds for requesting IAB attention to this matter. The first is the requirement in antitrust law for standards-development organizations to provide an appeals process (https://www.govinfo.gov/content/pkg/USCODE-2024-title15/html/USCODE-2024-title15-chap69-sec4301.htm). The second is BCP 9's authorization to lodge appeals with IAB regarding IESG actions. My understanding—please correct me if I'm wrong—is that, when IESG refuses to address the content of a complaint, IETF procedures don't allow an appeal to IAB regarding the content, but do allow an appeal to IAB regarding the refusal.

Regarding the requirements that antitrust law places upon standards-development organizations, IETF LLC has recently claimed (https://web.archive.org/web/20250920100747/https://mailarchive.ietf.org/arch/msg/mod-discuss/RlVhmm_KsAXkfZHzIi6tlr8b6X4/) that the requirements are merely "an optional liability-related safe harbor". For comparison, a 2020 statement https://web.archive.org/web/20250617062615/https://www.justice.gov/archives/opa/speech/file/1281926/dl from Deputy Assistant Attorney General Alexander Okuliar in the Antitrust Division of the United States Department of Justice discusses exactly the same requirements and says "From an antitrust perspective, these requirements are central". IETF LLC also admitted in https://web.archive.org/web/20220514032045/https://mailarchive.ietf.org/arch/msg/antitrust-policy/f1iHM9p8N-U8p_pXen2ruDqjPPQ/ that "we received private feedback from other lawyers that, from the perspective of antitrust litigators, our current processes and procedures would not provide strong mitigation of antitrust risk and that could only be achieved with a detailed compliance policy". IETF LLC's claims of safety under antitrust law are based on a fictional description of how IETF works, a series of promises that do not match reality; see Section 3.

This complaint integrates (1) the contents of my 2025-10-06 complaint to IAB, (2) my addendum filed 2025-10-14 with IAB, (3) my supplement filed 2025-10-16 with IAB, (4) further material regarding new IESG action on 2025-10-22, and (5) further explanatory material. As long as the previous filing dates are applied in case of any questions about how promptly something was filed, I'm fine with IAB taking the text here as superseding my 2025-10-06, 2025-10-14, 2025-10-16, and 2025-10-22 filings with IAB.

1 Notices

is "This document may not be modified, and derivative works of it may not be created, and it may not be published except as an Internet-Draft". See Section 9 for a review of the applicable IETF policy.

I'm fine with redistribution of *copies* of this document: e.g., feel free to post a copy of this PDF on IAB's web pages. The issue is with *modification*.

Motivation for prohibiting modifications. I had filed an earlier PDF, namely https://cr.yp.to/2025/20250501-bcp-79.pdf, with IESG. That document has a central diagram with two main items and various subitems.

IESG posted a *modified version* of the document, in particular destroying the structure of the central diagram. Eventually I noticed IESG's botched diagram and complained, and IESG fixed the diagram—but what other changes did IESG make? The bigger problem, before and after the fix, is that IESG placed a burden on the reader to (1) realize that something changed and (2) figure out what changed.

The issue here isn't whether something is stored in the IETF archives. The issue is IESG turning a simple situation of a single document into an unnecessarily complicated situation of (1) an original document and (2) an unauthorized IESG-modified version of the document. This is particularly inappropriate for appeal documents: IESG should be reporting and responding to *the appeal that was actually filed*, not an IESG-modified version of the appeal.

When someone volunteers text for an IETF standard, it is of course legitimate for IETF to insist on being allowed to modify that text. But if someone merely files a comment or objection or appeal then there is no legitimate reason for IETF to make such demands. IETF policy is completely clear in allowing opt-outs from modifications; see Section 9.

2 Sequence of events leading to this complaint

The chairs of IETF's "Working Group" (WG) for "Transport Layer Security" (TLS) incorrectly claimed WG consensus to "adopt" a particular document.

BCP 9 says "A person who disagrees with a Working Group recommendation shall always first discuss the matter with the Working Group's chair(s)". I discussed this matter with the WG chairs. The WG chairs stood by their decision and wrote that I "can appeal".

BCP 9 says "If the disagreement cannot be resolved in this way, any of the parties involved may bring it to the attention of the Area Director(s) for the area in which the Working Group is chartered". I filed a complaint https://cr.yp.to/2025/20250605-non-hybrid.pdf with the two "Area Directors" (ADs) for the "security area".

BCP 9 says "The Area Director(s) shall attempt to resolve the dispute". However, the ADs did not attempt to resolve the dispute.

One AD, Paul Wouters, sent email dated 12 Jun 2025 15:58:44 -0400 under a different subject line ("AD response to message on WG chair consensus call draft-connolly-tls- mlkem-key-agreement by D. J. Bernstein of 2025-06-05"), also not following IETF's standards for marking the message as a reply. The AD's email refused, for a variety of reasons, to "get to the content of the complaint (aka appeal)".

The other AD, Deb Cooley, never commented. Subsequent references to "the AD" are referring to Wouters.

Despite the AD's mislabeling of the email, I did see the email. I followed up by email dated 14 Jun 2025 01:15:38 -0000 (switching back to the original subject line while following IETF's standards for marking my message as a reply). I responded point by point to the AD's refusal to address the complaint, and I asked the AD to "please go ahead with answering the contents".

The AD did not respond.

BCP 9 authorizes appeals to IESG if "the disagreement cannot be resolved by the Area Director(s)". This provision is not obviously triggered by non-responsive ADs. On the other hand, it would clearly be improper to allow ADs to destroy the availability of subsequent appeal stages simply by not replying.

It is in any case clear that BCP 9 puts a two-month time limit on appeals. Shortly before that deadline, still having seen no answer from the AD, I filed an appeal https://cr.yp.to/2025/20250812-non-hybrid.pdf with IESG.

On 1 October 2025, without addressing the actual content of my complaint, IESG wrote that it "directs the appellant to file a valid complaint to the SEC ADs for consideration". IESG rejected one of the AD's excuses for not addressing my complaint, but supported another one.

On 6 October 2025, I filed a revised complaint https://cr.yp.to/2025/20251006-non-hybrid.pdf, in particular complying with all of the demands that I had seen from IESG at that point.

On 7 October 2025, the AD refused to process my complaint, claiming that "appeals must be in a specific format and this appeal does not conform to that so it will not be processed". The AD cited https://datatracker.ietf.org/doc/statement-iesg-statement-on-the-conflict-resolution-and-appeals-processes/. (Archived version: https://web.archive.org/web/20251007185906/https://datatracker.ietf.org/doc/statement-iesg-statement-on-the-conflict-resolution-and-appeals-processes/.)

I asked various followup questions on 9 October 2025:

> Let me make sure I understand. You're refusing to obey RFC 2026's "shall attempt to resolve the dispute" requirement, and your reason is that I didn't use a "specific format" described in some IESG statement?
>
> Did IESG announce its statement for IETF consideration? When? Where? I certainly hadn't seen any such announcement when I prepared and filed my complaint.
>
> Maybe I missed an announcement, but if this is an _ex post facto_ rule ("now that you've done the work to file a revised complaint, we'll tell you about new rules that we just posted, and retroactively throw your complaint away on this basis, ha ha ha") then it's glaringly unethical.
>
> Beyond timeline questions, why exactly do you believe that you and/or the full IESG have authority to make exceptions to RFC 2026's "shall attempt to resolve the dispute" requirement?
>
> Also, you objected to my email normatively citing what you called "a remotely hosted PDF", but then you didn't answer my followup question: "For the record, is draft-ietf-tls-mlkem going to be banned because it normatively cites FIPS 203, which is a remotely hosted PDF?"
>
> I filed the actual content of my complaint more than four months ago. With all due respect: It looks terrible for an AD and IESG to have been making up retroactive, ad-hoc, selectively enforced excuses to not address the content of the complaint.

There was no response. My understanding was and is that the AD and IESG were threatening to not consider any further complaints regarding this matter unless I filed a revised complaint by 15 October.

On 13 October 2025, still with no reply from the AD, I filed a revised complaint, in particular complying with IESG's 1 October 2025 rules.

IETF's email system did not deliver the complaint to the TLS mailing list. I guessed that the issue was with the length of my email message. On 14 October 2025, I placed essentially the same contents at https://web.archive.org/web/20251014135826/https://cr.yp.to/2025/20251014-non-hybrid.md and sent a shorter message https://web.archive.org/web/20251022180158/https://mailarchive.ietf.org/arch/msg/tls/CZ_sHyGmczw_z1Df1oIeDbJMDCE/ with that URL. That message appeared promptly on the

TLS mailing list. The original message also appeared, after an 18-hour delay inside mail2.ietf.org (according to the Received lines in the message), as https://web.archive.org/web/20251022145833/https://mailarchive.ietf.org/arch/msg/tls/pxFgT-VA6hgdd-cAoIkA_7xS99Y/.

The AD sent email dated 14 Oct 2025 18:30:50 -0400 refusing to process the complaint: https://web.archive.org/web/20251022180454/https://mailarchive.ietf.org/arch/msg/tls/R5-GocD5agSk7w9Oy04r-14vQ1g/.

I sent email dated 15 Oct 2025 00:05:25 -0000 with clarification questions: https://web.archive.org/web/20251024101702/https://mailarchive.ietf.org/arch/msg/tls/VeCnN832SRXJB_P4oIYA2yNazhA/. There has been no reply from the AD.

I sent email dated 15 Oct 2025 19:21:15 -0000 complaining to IESG regarding the AD's refusal to process the complaint: https://web.archive.org/web/20251022144938/https://mailarchive.ietf.org/arch/msg/tls/lgTH_NZFfJxbsA0nfvvD7lRoukE/.

The WG chairs sent email dated 17 Oct 2025 14:57:53 -0700 announcing that they would censor my postings to the TLS mailing list "for 30 days due to disruptive behavior effective immediately". As a terminology note, meaning 1 from https://www.merriam-webster.com/dictionary/censor of the verb "censor" is "to examine in order to suppress (see suppress sense 2) or delete anything considered objectionable"; that's what the WG chairs have announced they would do to my messages, even though for some reason they didn't use the word "censor". The WG chairs did not explain what I was supposedly disrupting.

IESG sent subsequent email refusing to process my 15 October 2025 complaint to IESG. This refusal is covered in detail below.

3 Due process

A prominent statement "IETF Administration LLC Statement on Competition Law Issues" from IETF LLC (https://web.archive.org/web/20250528213926/https://www.ietf.org/blog/ietf-llc-statement-competition-law-issues/) claims that IETF complies with antitrust law.

The central requirements that antitrust law places upon SDOs (see https://www.govinfo.gov/content/pkg/USCODE-2024-title15/html/USCODE-2024-title15-chap69-sec4301.htm) are "openness, balance of interests, due process, an appeals process, and consensus". That's why IETF LLC, in claiming that IETF complies with antitrust law, writes the following:

- "IETF participation is free and open to all interested individuals." (That's the "openness" part.)
- "Participants engage in their individual capacity, not as company representatives. A wide range of perspectives is represented, reflecting interests from multiple industry sectors, academia, government and non-governmental organizations (NGOs), from around the globe." (That's the "balance of interests" part.)
- "IETF procedural rules, which include robust appeal options, are well-documented in public materials, and rigorously followed." (That's the "due process" and "appeals process" part.)
- "IETF activities are conducted with extreme transparency, in public forums. Decision-making requires achieving broad consensus via these public processes." (That's the "consensus" part.)

Of course, the law's requirements apply even to people who aren't aware of them; the typical phrasing for this is "ignorance of the law is no excuse".

Let's focus on IETF LLC's claim regarding due process: "IETF procedural rules, which include robust appeal options, are well-documented in public materials, and rigorously followed."

"Rigorously followed"? Really? Consider, for example, RFC 5378, which specifies "the IETF policies on rights in Contributions to the IETF". Instead of reading and rigorously following those policies, IETF management

makes up its own ad-hoc rules. See Sections 9 through 17 below.

As for "well-documented": I don't see a list of IETF policies. How can one claim that IETF procedural rules are "rigorously followed" if there isn't even a clear statement of which documents *are* the IETF procedural rules?

There are some "Administrative policies and procedures" listed in https://web.archive.org/web/20250518040804/https://www.ietf.org/administration/policies-procedures/. But this doesn't include, e.g., RFC 2277, "IETF Policy on Character Sets and Languages", which is explicitly an IETF policy and places various requirements upon IETF (e.g., "All protocols MUST identify, for all character data, which charset is in use"). It also doesn't include RFC 5378, which as noted above is also explicitly an IETF policy.

IETF policies aren't always explicitly labeled as policies. For example, RFC 2026, "The Internet Standards Process – Revision 3", has various requirements and in general *sounds* like a policy. Not having policies for standards development would be a bizarre situation for a standards-development organization, certainly a violation of due process. But RFC 2026 doesn't use the word "policy" except in one section stating a patent policy. The document doesn't have any other text clearly indicating that the document is binding.

Some RFCs are designated "informational". RFC 2026 defines an "informational" RFC as one that "is published for the general information of the Internet community, and does not represent an Internet community consensus or recommendation". IETF Executive Director Jay Daley wrote "RFC 9680 is not a policy but an informational document" so "there is no concept of 'violations of RFC 9680' " (https://web.archive.org/web/20250114162437/https://mailarchive.ietf.org/arch/msg/tls/RFEgRAMG0FtMBkrpbDKSecqfqZQ/). But is it safe to categorically conclude that "informational" RFCs are not binding upon IETF? If some "informational" RFCs are actually IETF policies, how exactly does one tell which ones? If some of the non-"informational" RFCs are IETF policies without being labeled as such (e.g., RFC 2026), how exactly does one tell which ones?

The lack of clarity here is prone to error, with some people ignoring rules while other people think those rules have to be followed. The lack of clarity is prone to abuse, with IETF management making up excuses to selectively ignore rules. The lack of clarity is a due-process violation. The lack of clarity sabotages appeal processes. The lack of clarity is a giant waste of time.

Fundamentally, it is not true that "IETF procedural rules, which include robust appeal options, are well-documented in public materials, and rigorously followed". My 2025-10-06 filing with IAB had title "Complaint to IAB regarding non-transparency", but the real problem here is broader than that: IETF management is arrogating to itself the power to do whatever it wants, never mind what the rules say.

4 Extreme transparency

Recall that IETF LLC says, as part of the same "IETF Administration LLC Statement on Competition Law Issues", that "IETF activities are conducted with extreme transparency, in public forums".

Part of what I complained to IESG about was ADs discussing appeals in secret. Secret discussions of how to handle an IETF appeal are certainly IETF activities and are certainly not conducted with extreme transparency.

But IESG claims that it's okay for ADs to discuss appeals in secret. That's the first IESG decision that I am hereby appealing.

IESG doesn't claim that those discussions aren't IETF activities. IESG also doesn't claim that secret discussions are conducted with extreme transparency. Instead IESG claims that this IETF LLC statement isn't binding upon IETF:

> The appellant appears to interpret that text as normative guidance which
> requires any parties discussing their request to do so only in public forums,

> and prohibiting private discussion.
>
> The IESG is clarifying that this interpretation is incorrect. This blog post is a narrative summary of existing RFCs speaking in generalities, and provides no new normative guidance for the IETF. If there is specific concern about normative communication practices, please cite an appropriate RFC.

Surely the question of what constitutes an IETF policy cannot be determined by ad-hoc distinctions ("blog post", "narrative summary", etc.—never mind the question of whether, e.g., the statement "IETF participants have impersonal discussions" from BCP 54 counts as a "narrative summary"). If the claim here is that nothing can be an IETF policy unless it is an RFC, where is this "well-documented"?

(Meanwhile IESG seems to think that statements that it issued on 1 October 2025 and 22 October 2025—statements that certainly aren't RFCs—are IETF policy. See, e.g., the quotes in Section 17 below.)

Furthermore, whether or not the "IETF Administration LLC Statement on Competition Law Issues" is binding upon IETF, it's **false advertising** for IETF LLC to claim that "IETF activities are conducted with extreme transparency, in public forums" when the actual situation is that IESG members and other IETF LLC agents are habitually concealing portions of their IETF activities.

5 Record-keeping requirements

There is another reason that ADs are not allowed to discuss appeals in secret. RFC 2026, part of IETF BCP 9, includes the following record-keeping requirements:

> Each of the organizations involved in the development and approval of Internet Standards shall publicly announce, and shall maintain a publicly accessible record of, every activity in which it engages, to the extent that the activity represents the prosecution of any part of the Internet Standards Process. For purposes of this section, the organizations involved in the development and approval of Internet Standards includes the IETF, the IESG, the IAB, all IETF Working Groups, and the Internet Society Board of Trustees. ...
>
> The formal record of an organization's standards-related activity shall include at least the following:
>
> - the charter of the organization (or a defining document equivalent to a charter);
> - complete and accurate minutes of meetings;
> - the archives of Working Group electronic mail mailing lists; and
> - all written contributions from participants that pertain to the organization's standards-related activity.

ADs concealing their discussions of appeals are violating three parts of this: (1) the requirement for IETF and specifically IESG to maintain a "publicly accessible record" of "every activity in which it engages, to the extent that the activity represents the prosecution of any part of the Internet Standards Process"; (2) the specific requirement for this record to include "complete" minutes of meetings; and (3) the specific requirement for this record to include "all written contributions from participants that pertain to the organization's standards-related activity".

Note that AD discussions in person, over Zoom, etc. are "meetings", and AD email messages are "written contributions".

IESG has three answers to this, none of which stand up to examination.

First, IESG says that its "formal meetings" (including "official decisions") are recorded with published minutes. But RFC 2026 doesn't say "formal meetings"; it says "meetings". RFC 2026 makes no exceptions for informal meetings (or for IESG's "executive sessions"). Also, merely covering "decisions" means that the minutes aren't complete. (The word "minutes" means "the official record of the proceedings of a meeting"; see https://www.merriam-webster.com/dictionary/minute.) Furthermore, RFC 2026 includes "all written contributions". Saying that IESG makes *some* information publicly available is dodging the problem at hand, namely IESG hiding *other* information.

Second, IESG refers to text in RFC 3710 saying that records of IESG discussions "are not required to be made public". But RFC 3710 is merely an "informational" RFC, so how can it make exceptions to a standardization policy, RFC 2026? If the answer is supposed to be that RFC 3710 is actually a policy, then why is that answer different from the IETF LLC Executive Director writing that "RFC 9680 is not a policy but an informational document"? See Section 3.

Third, IESG refers to text in RFC 2026 saying that appeal bodies "have the discretion to define the specific procedures they will follow in the process of making their decision". But this general statement about appeal procedures doesn't override RFC 2026's specific record-keeping requirements, nor do IESG members have authority to declare that they will violate those requirements.

IESG concludes by claiming that "RFC 2026 prohibits appeals from being ignored and the outcomes of appeals from being kept secret; it does not require that every conversation be recorded or that every working-copy of an appeal response be made public" and that "the IESG (both jointly and individually) may conduct private discussions when working toward decisions, provided that the decisions themselves and their rationale are presented publicly". But this is out of whack with the clear text of RFC 2026's record-keeping requirements. IESG's conclusion is instead founded upon flawed excuses for ignoring those requirements.

For comparison, RFC 2418, part of BCP 25, says that "Working groups are typically created to address a specific problem"; allows "a sub-group of a working group to develop a proposal to solve a particular problem"; and explicitly authorizes such sub-groups to have "closed membership and private meetings", while constraining this by saying that the output of the sub-group "is always subject to approval, rejection or modification by the WG as a whole". This text illustrates—if we assume that RFC 2418, which is not labeled as "informational", counts as a policy—that IETF can have policies making exceptions to the RFC 2026 record-keeping requirements. But this exception is not applicable here: IESG is not a "working group" under RFC 2418; IESG was not "created to address a specific problem" under RFC 2418; IESG's handling of appeals is not developing "a proposal to solve a particular problem" under RFC 2418.

6 The dissemination requirement

It has been pointed out to me that there is another strong argument that IETF rules do not allow IESG to conceal its discussions of appeals. Here's the main point: IETF BCP 9, RFC 2026, "The Internet Standards Process – Revision 3", Section 10.2, says that "No contribution that is subject to any requirement of confidentiality or any restriction on its dissemination may be considered in any part of the Internet Standards Process". I'll go through the conditions below.

Part of the process. Are IESG's email messages deciding how to respond to appeals "part of the Internet Standards Process"? Yes. RFC 2026, Section 6, "The Internet Standards Process", includes an appeal process in Section 6.5 ("any of the parties involved may then appeal to the IESG as a whole"), and requires IESG to "attempt to resolve" the situation. IESG's email messages deciding how to do that are part of that process.

Restricted dissemination. When IESG keeps an email message secret, is it requiring the message to be "confidential", or placing a "restriction on its dissemination"? Yes, both parts. Regarding the second part, "restrict" means "to confine within bounds" (https://www.merriam-webster.com/dictionary/restrict); a "restriction" means "something that restricts". Secrecy is an example of something that confines

dissemination within bounds; secrecy is something that restricts dissemination; secrecy is a restriction on dissemination. If RFC 2026 had meant something narrower than "any restriction on its dissemination" (e.g., merely "any label stating Restricted Dissemination") then it would have said so.

It's interesting to note that an AD, quoting the same BCP 9 "restriction on its dissemination" provision, claimed regarding an appeal document that "due to your dissemination modifier, your PDF file cannot be considered a Contribution in any part of the Standards Process" (https://web.archive.org/web/20250714002707/https://mailarchive.ietf.org/arch/msg/tls/eSW2K3Ql1jzMcN-Aj1EYCGOLu9o/). The AD's position was later endorsed by IESG (https://web.archive.org/web/20251005202246/https://datatracker.ietf.org/group/iesg/appeals/artifact/146).

That document was in fact *public*, and what the AD calls a "dissemination modifier" was merely the following text: "I have recently become aware that IETF Administration LLC believes that it can force parties to trade away other rights in exchange for exercising their rights to appeal. Concretely, IETF Administration LLC appears to believe that it is free to post modified versions of complaints, and that it is free to falsely attribute those modified versions to the original author, without regard to copyright law, moral-rights law (e.g., integrity rights), fraud law, etc. To be clear, those beliefs are incorrect. I have never consented to, and do not consent to, any such trade."

I look forward to the entertainment of seeing someone attempt to explain how a *publicly posted document* with this text regarding modifications is subject to a "restriction on its dissemination" while *secret email* is not subject to a "restriction on its dissemination".

Contributions. Are secret email messages "contributions"? Here there's a tension between two different dictionary meanings of "contribute": the broader meaning "to give or supply (something, such as money or time) as a part or share", and the narrower meaning "to supply (something, such as an article) for a publication".

RFC 2026 doesn't pin down which meaning it's using. I think most people would expect the second meaning in the context of a publisher such as a standards-development organization—a contribution would be some text supplied for a publication such as a standard.

However, RFC 2026 was updated by RFC 5378, which defines "Contribution" to include not just "any submission to the IETF intended by the Contributor for publication as all or part of an Internet-Draft or RFC" but *also* "any statement made within the context of an IETF activity", and in particular any statement addressed to "the IESG, or any member thereof on behalf of the IESG".

It's interesting to note that the same breadth was used by IETF LLC in https://web.archive.org/web/20251016074640/https://mailarchive.ietf.org/arch/msg/spasm/5C1_WjpQNeHKQf7ia15mxL2mVuk/ as part of claiming rights to post a mangled version of an appeal ("your [appeal] PDF was an IETF Contribution under BCP 78 and therefore the IETF has a license to use it in this way"). It's clear how broad the "Contribution" definition in RFC 5378 is.

Information. RFC 5378 also says "No information or document that is subject to any requirement of confidentiality or any restriction on its dissemination may be submitted as a Contribution or otherwise considered in any part of the IETF Standards Process".

It isn't explicit whether this overrides the RFC 2026 version of the requirement or merely supplements it, but either way the RFC 5378 version is even stronger than the RFC 2026 version. The RFC 5378 version forbids secret information from being provided as a "Contribution" in the first place; also, even if the information doesn't qualify as a "Contribution" for some reason, the information cannot be considered.

Summary. To summarize, the requirements quoted above forbid secret email to iesg@ietf.org from being considered as any part of the appeal process. Similar comments apply to any secret IESG discussions of other IETF standardization matters.

It's interesting to note that an AD quoting exactly the same provisions, but evidently not realizing the consequences, has publicly concluded in the same way that appeals subject to dissemination restrictions cannot be considered under BCP 9. See https://web.archive.org/web/20250714002707/https://mailarchive.ietf.org/arch/msg/tls/eSW2K3Ql1jzMcN-Aj1EYCGOLu9o/.

While the AD's focus was on a document *submitting* an appeal, nothing in the rules is specific to that. The same rules prevent IESG from considering any secret messages, including messages from IESG members—or from, e.g., the IETF LLC Executive Director, who keeps talking to IESG etc. about IETF standardization processes despite claiming that "IETF LLC has no role in the oversight or steering of the standards process".

The bigger picture. Unsurprisingly, the conclusion that secret email cannot be considered is consistent with RFC 2026 also requiring IESG to maintain a "publicly accessible record" of "every activity in which it engages, to the extent that the activity represents the prosecution of any part of the Internet Standards Process"; and in particular requiring "complete" minutes of meetings, along with "all written contributions from participants that pertain to the organization's standards-related activity".

What makes all of the rules fit together is understanding that secret IESG discussions were never permitted in the first place. One also sees this reflected in, e.g., IETF LLC's prominent statement that "IETF activities are conducted with extreme transparency".

IESG buried a note inside RFC 3710 claiming the right to have private discussions, but that's merely an Informational RFC. It's fascinating how the prominent advertising and rules are painting a coherent picture of extreme transparency, whereas IETF management's actual operations are sometimes applying the rules and sometimes ignoring the rules, depending on what rewards the companies in power.

7 Multiple ADs handling complaints

My original complaint was regarding an action within the "security area" of IETF, so I addressed the complaint to both of the security ADs, as per the following paragraph from RFC 2026: "If the disagreement cannot be resolved in this way, any of the parties involved may bring it to the attention of the Area Director(s) for the area in which the Working Group is chartered. The Area Director(s) shall attempt to resolve the dispute."

When a disagreement is brought to the attention of the two security ADs, this paragraph requires the two security ADs to "attempt to resolve the dispute". It appears that one of the security ADs, instead of attempting to resolve the dispute, dumped this matter entirely on the other AD.

IESG agrees that "both ADs Wouters and Cooley are ultimately responsible for managing the resolution of his complaint". However, IESG claims that it's acceptable for the ADs to "delegate this responsibility to one of the Area Directors". This claim is the second IESG decision that I am hereby appealing.

Delegation means that only one of the two ADs is attempting to resolve the dispute. This violates the requirement "The Area Director(s) shall attempt to resolve the dispute".

IESG doesn't claim that, when there are multiple ADs for the area, having only one of multiple ADs attempt to resolve the dispute complies with the requirement "The Area Director(s) shall attempt to resolve the dispute". Instead IESG claims that this requirement is overridden by three other pieces of text. Again IESG's claims don't stand up to examination.

First, IESG points to text in RFC 3710 saying that "most" functions are "delegated by the IESG" to a single AD. However, this doesn't say that *appeals* are delegated to a single AD, nor is there anything in RFC 2026 giving IESG any authority to make such a delegation. Furthermore, RFC 3710 is merely "informational", so it can't override an RFC 2026 requirement; see Section 5.

Second, IESG points to text in RFC 3710 saying that various decisions "can be appealed to the AD". But,

even if this means that an appeal is allowed to a single AD out of multiple ADs, it doesn't change the fact that parties can bring matters "to the attention of the Area Director(s) for the area in which the Working Group is chartered", and it doesn't change the RFC 2026 requirement that then "The Area Director(s) shall attempt to resolve the dispute". Furthermore, again, RFC 3710 is merely "informational".

Third, IESG again refers to text in RFC 2026 saying "At all stages of the appeals process, the individuals or bodies responsible for making the decisions have the discretion to define the specific procedures they will follow in the process of making their decision". But this doesn't override the requirement that "The Area Director(s) shall attempt to resolve the dispute". Furthermore, when RFC 2026 says "may bring it to the attention of the Area Director(s)", it doesn't say "appeal"—it reserves the word "appeal" for followup stages—so the text about "stages of the appeals process" isn't even relevant here.

To be clear, I don't think that having one of the two ADs violating "The Area Director(s) shall attempt to resolve the dispute" is as important as an AD violating transparency requirements. However, the other AD mishandled my complaint in various ways that would have been avoided if multiple people had taken responsibility for the results.

8 The AD stage in dispute resolution

BCP 9 specifies a process of *first* discussing disputes with WG chairs and, if this doesn't settle things, *then* bringing those disputes to the attention of ADs. As part of my 12 August 2025 filing with IESG, I reviewed in detail how an AD had disrupted the BCP 9 process after I had challenged a chair declaration of consensus to adopt a draft.

Without addressing the details of the disruption, IESG quoted RFC 2418 saying "the AD has the authority and the responsibility to assist in making those decisions at the request of the Chair or when circumstances warrant such an intervention". IESG concluded that the AD's behavior was not a "process failure".

This is the third IESG decision that I am hereby appealing. The decision should be reversed for the following reasons.

First, the circumstances warranted the AD *not* interrupting. I was asking the chairs why they had declared consensus. Instead of letting the chairs answer, the AD was jumping in, disrupting the BCP 9 process. See https://cr.yp.to/2025/20250812-non-hybrid.pdf for details.

Proper handling of appeals requires fully addressing the appeal content. IESG didn't do this. IESG claimed that the AD was trying to "save the appellant time, by providing the framing with which the responsible AD would process a possible appeal should one be received". This fails to address the facts at hand; it doesn't even acknowledge the basic point that BCP 9 specifies a different process.

Second, regarding IESG's quote "the AD has the authority and the responsibility to assist in making those decisions at the request of the Chair or when circumstances warrant such an intervention": RFC 2418 explicitly says that this particular authority is only for decisions regarding "matters of working group process and staffing". The AD's disruption obviously went far beyond those limits.

For example, the AD claimed that "There are no known 'basic flaws' in pure ML-KEM", that "The additional security from hybrids comes at a complexity cost", that asking for an engineering justification for the draft was a "made up condition", etc. All of these quotes are from the same AD disruption, directly in reply to the first message where I was asking the chairs why they had claimed consensus.

These AD claims are not assisting the chairs in decisions regarding "working group process and staffing". These are *content* claims, an AD taking sides in favor of the *content* of the draft. The chairs weren't making a decision *regarding process* in the first place; they were making a decision *to adopt this draft*, supposedly following the processes that were already in place.

RFC 2418 requires WG decisions to have WG "rough consensus". There is a separate paragraph (which I'll quote below) giving chairs authority to make decisions regarding "process and staffing". Extending this

exception to cover *content* decisions would obliterate the WG's authority in favor of WG-chair authority.

For comparison, here's a 2014 quote from the chair of IETF subsidiary IRTF refusing to remove an NSA employee as co-chair of CFRG: co-chairs "perform the administrative functions of the group" and "are little more than group secretaries. Their ability to influence the technical work of the group is little different from that of any other group participant".

Here is the RFC 2418 paragraph that IESG misrepresented, misapplied, and failed to quote in full: "The Chair has the responsibility and the authority to make decisions, on behalf of the working group, regarding all matters of working group process and staffing, in conformance with the rules of the IETF. The AD has the authority and the responsibility to assist in making those decisions at the request of the Chair or when circumstances warrant such an intervention." This is separate from paragraphs describing the chair's responsibility to "ensure that the working group operates in an open and fair manner", to "determine if rough consensus has been reached", et al.

9 Modifications, part 1: the rules

BCP 78, "Rights Contributors Provide to the IETF Trust", says that it "details the IETF policies on rights in Contributions to the IETF".

Recall from Section 6 that the word "Contributions" has a remarkably broad definition, including not just "any submission to the IETF intended by the Contributor for publication as all or part of an Internet-Draft or RFC" but also "any statement made within the context of an IETF activity". This covers, for example, every email message sent to an IETF mailing list. BCP 78 has a separate, much narrower, definition of "IETF Documents" as "RFCs and Internet-Drafts that are used in the IETF Standards Process".

BCP 78 does *not* give IETF the right to modify all "Contributions". BCP 78 provides modification rights *by default* but also provides an opt-out procedure. Furthermore, in explanatory material, BCP 78 (1) explains the importance of modification rights specifically for "RFCs and Internet-Drafts that are used in the IETF Standards Process", and (2) gives examples of the value of the opt-out procedure.

Consider, e.g., RFC 5831, which describes "the Russian Federal standard hash function (GOST R 34.11-94)". The RFC is labeled as "Informational", not as an IETF standard. The RFC opts out of modifications: "This document may not be modified". The RFC is a "Contribution" but not an "IETF Document".

Details: The opt-out procedure in BCP 78. BCP 78, normative Section 5, "Rights in Contributions", in particular Section 5.3, "Rights Granted by Contributors to the IETF Trust", gives IETF the right to "modify or prepare derivative works (in addition to translations) that are based on or incorporate all or part of the Contribution, and to copy, publish, display, and distribute such derivative works, or portions thereof unless explicitly disallowed in the notices contained in a Contribution (in the form specified by the Legend Instructions)".

That last part—"unless explicitly disallowed in the notices contained in a Contribution (in the form specified by the Legend Instructions)"—is the opt-out procedure.

The parenthetical note "in the form specified by the Legend Instructions" does not limit the scope of the opt-out. It simply says that the opt-out has to use a particular "form".

Finding the required "form" requires tracing through a bit of a maze but is possible. BCP 78's list of definitions says that "Legend Instructions" means "the standardized text that is maintained by the IETF Trust and is included in IETF Documents and the instructions and requirements for including that standardized text in IETF Documents. The text and instructions are posted from time to time at http://trustee.ietf.org/license-info." This says three things:

- The "Legend Instructions" include "the standardized text that is maintained by the IETF Trust and

is included in IETF Documents". Note that this doesn't say that the text can't also be used in other "Contributions" (such as RFC 5831).

- The "Legend Instructions" also include "the instructions and requirements for including that standardized text in IETF Documents". This again says nothing to stop the text from being used in "Contributions" beyond "IETF Documents".
- The "Legend Instructions" are "posted from time to time at http://trustee.ietf.org/license-info".

The link http://trustee.ietf.org/license-info currently redirects to https://trustee.ietf.org/documents/trust-legal-provisions/. While that page doesn't say "Legend Instructions", it does include a statement "The standardized license text referred to in RFC 5378 is included in the Trust Legal Provisions, linked below."

Clicking on those "Trust Legal Provisions" and searching for "modifications" finds a statement that the situation that "the Contributor does not wish to allow modifications nor to allow publication as an RFC" must be expressed in the following form: "This document may not be modified, and derivative works of it may not be created, and it may not be published except as an Internet-Draft".

To summarize: BCP 78 has a modification right by default, but it also has an opt-out provision, which a document can invoke by saying "This document may not be modified, and derivative works of it may not be created, and it may not be published except as an Internet-Draft".

Details: BCP 78's rationale. BCP 78, informative Section 3, "Exposition of Why These Procedures Are the Way They Are", explains the grant of modification rights by saying that "The IETF needs to be able to evolve IETF Documents".

Notice that "IETF Documents" are narrower than "Contributions". BCP 78, Section 3, includes examples of this gap, such as the following: "IETF Documents frequently make normative references to standards or recommendations developed by other standards organizations. Since the publications of some standards organizations are not public documents, it can be quite helpful to the IETF to republish, with the permission of the other standards organization, some of these documents as RFCs so that the IETF community can have open access to them to better understand what they are referring to. In these cases, the RFCs can be published without the right for the IETF to produce derivative works."

Another example in BCP 78, Section 3, is "documents describing proprietary technologies". BCP 78 explains the value of opt-outs in this case as follows: "organizations that publish information about proprietary technologies are frequently not willing to have the IETF produce revisions of the technologies", but IETF "has historically encouraged organizations to publish details of their technologies, even when the technologies are proprietary, because understanding how existing technology is being used helps when developing new technology", so contributors "may withhold the right to produce derivative works other than translations".

These examples are not part of the rules per se—they are part of the "Exposition of Why These Procedures Are the Way They Are"—but these illustrate that IETF can consider and work with "Contributions" beyond "IETF Documents ("RFCs and Internet-Drafts that are used in the IETF Standards Process"), including "Contributions" that play a critical role for "RFCs and Internet-Drafts that are used in the IETF Standards Process". Meanwhile modification rights are required only for "RFCs and Internet-Drafts that are used in the IETF Standards Process".

10 Modifications, part 2: lack of notification of the rules

IETF prominently claims that "IETF participation is free and open to all interested individuals", that "Anyone can participate by signing up to a working group mailing list", and that all "official work" of a WG is carried out on the WG's mailing list. IETF LLC reported sending its 2024 survey to "all $\tilde{5}$3,000 addresses subscribed to IETF mailing lists". Far fewer people attend IETF meetings; the last number I heard was 1700.

I've proposed adding the following question to IETF LLC's next survey: "Did you know before now that, for any email you send to any IETF mailing list, even if you're merely commenting and not volunteering text for any IETF standards, IETF claims the right to modify your text in any way it wants, publish the modified text, misattribute to you things you didn't write, remove credit for things you did write, feed your text to AI engines for manipulation, and collect money for all of this, without asking you for any further permission, *unless* your email invokes the magic incantation from the buried Legend Instructions that IETF Chairs don't even know exist, a magic incantation that's allowed by IETF rules because IETF doesn't in fact need the rights that it's grabbing by default?"

That's not free participation. It's participation at a price. But IETF doesn't actually notify participants regarding this price. On the contrary, it's striking how buried this copyright grab is, compared to IETF's prominent claims of openness etc. It's not plausible that most IETF participants are aware of this. I certainly wasn't: I was surprised to see IESG posting a mangled version of a document that I had filed (see Section 1), and I was even more surprised to see IESG claiming that it had the right to do this.

The opt-out provision is even more deeply buried. Even within the fraction of IETF participants who realize that there's a IETF copyright grab for all email in the first place, it's not plausible that most of them will have seen the opt-out text quoted in Section 9.

This month (October 2025) a former IETF chair wrote "it continues to puzzle me why anyone trying to contribute to the IETF standards process would send email to a WG with an added condition forbidding derivative works based on that email ... I see no reason why the IETF would suggest boilerplate text for such email". Evidently this former IETF chair was unaware that there is *already* official boilerplate to opt out of modifications.

Bizarre claims of awareness. I've seen a commentator claiming that "all participants are aware of the position on copyright". I'm told that, at meetings, IETF chairs briefly flash "Note Well" slides with hundreds of words of small text including links to many policies, one of those being "BCP 78 (copyright)". But, even for people who somehow notice this text, why would people think that a copyright policy is for *every email message sent to an IETF mailing list* rather than just for *text that people volunteer for IETF standards*? This defies common sense and is contrary to IETF's prominent claims of free participation.

I joined the IETF TLS mailing list in April 1999. Looking back at the lengthy welcome message for that list, I see the following note about copyright, a note that's in line with common sense and that definitely *doesn't* allow modifications of email: "Contributions to the IETF-TLS Working Group mailing lists imply license for the list to distribute these contributions to other members of the list and for the list to store the material in an archive accessible to the general public. However, in all other respects the author continues to control the copyright of each contribution." Anyway, I very much doubt that I looked at this note at the time.

Looking at the welcome message for an IETF WG list that I joined much more recently (May 2025), namely the MODPOD list, I see nothing whatsoever about a copyright grab: "Welcome to the 'Mod-discuss' mailing list! To post to this list, send your message to: mod-discuss@ietf.org You can unsubscribe or make adjustments to your options via email by sending a message to: mod-discuss-request@ietf.org with the word 'help' in the subject or body (don't include the quotes), and you will get back a message with instructions. You will need your password to change your options, but for security purposes, this password is not included here. If you have forgotten your password you will need to reset it via the web UI." That's the complete text, minus some line breaks.

11 Modifications, part 3: the 5 June 2025 situation

At the start of June 2025, I knew only a fraction of what's described in Sections 9 and 10 above, but I knew that it wasn't acceptable for IESG to have posted a mangled version of an earlier complaint. So I included a paragraph in my 5 June 2025 complaint regarding IETF management's belief "that it is free to post modified versions of complaints" etc. as a trade for allowing the complaints to be filed; I closed the paragraph by

saying that "I have never consented to, and do not consent to, any such trade."

The AD's message a week later contained a ludicrous claim that disallowing modified text "prevents me and others from discussing the content". I wrote "No, it does not" and gave one of the first examples that came to mind of why it does not. The AD did not respond.

For comparison, consider again the following example from BCP 78: "IETF Documents frequently make normative references to standards or recommendations developed by other standards organizations. Since the publications of some standards organizations are not public documents, it can be quite helpful to the IETF to republish, with the permission of the other standards organization, some of these documents as RFCs so that the IETF community can have open access to them to better understand what they are referring to. In these cases, the RFCs can be published without the right for the IETF to produce derivative works."

Does the disallowance of modified text for those other documents mean that IETF can't discuss the content of those documents? No, this doesn't pass the laugh test. This example from BCP 78 has IETF even *using* the content of those documents *normatively* inside IETF's standards.

BCP 9 says "The Area Director(s) shall attempt to resolve the dispute". It doesn't make an exception for disputes presented as documents that exercise their opt-out rights under BCP 78, nor does it give ADs or IESG authority to make any such exception.

12 Modifications, part 4: the 1 October 2025 situation

On 1 October 2025, the IESG made a much bigger fuss about the same paragraph from my 5 June 2025 complaint, declaring on the basis of that paragraph that my complaint was "invalid".

IESG characterized the AD as having issued just two objections to my complaint, one being that I was using "filtered email" (IESG rejected the AD's position here) and the other being a supposed "Conflict between statements in the referenced PDF and the terms of the IETF Note Well".

Regarding the second point, IESG quoted specifically the paragraph at issue, and falsely described the paragraph as saying that I don't "consent to the rights granted to the IETF under BCP 78". IESG continued by falsely describing my paragraph as "repudiating the rights granted the IETF under BCP 78", falsely claiming that this "creates ambiguity about whether the PDF was a Contribution", falsely claiming that the text says it *isn't* a "Contribution", falsely claiming that I had refused to grant the "rights required by BCP 78", falsely claiming that I had claimed to "reserve a privilege in the Contribution", and issuing a ridiculous accusation that I had "knowingly violated the requirements of BCP 78".

IESG's position here is fundamentally wrong. BCP 78 *does not* demand modification rights; on the contrary, it explicitly allows opt-outs from modifications. See Section 11 above.

13 Modifications, part 5: the 6 October 2025 situation

To move things along, in the 6 October 2025 version of my complaint, I explicitly excluded the paragraph that IESG had complained about. I had found the buried Legend Instructions in the meantime, and invoked the official opt-out procedures: "On 1 October 2025, IESG wrote that it 'directs the appellant to file a valid complaint to the SEC ADs for consideration'. My understanding is that IESG's reason for declaring my complaint to the ADs invalid is that (1) my complaint to the ADs included some comments regarding the merits of IETF Administration LLC's belief that it can force parties to trade away other rights in exchange for exercising their rights to appeal and (2) IESG believes that the specifics of the comments are contrary to IETF's copyright policy. So, regarding #1, I'll refrain from repeating the specifics here, and I'm hereby excluding those specifics from this complaint. Regarding #2, I'm fine with IETF redistributing *copies* of this complaint. This complaint has no requirements of confidentiality, and no restriction on its dissemination. Regarding IETF claiming the right to prepare *derivative works* 'unless explicitly disallowed

in the notices contained in a Contribution (in the form specified by the Legend Instructions)', I'm hereby explicitly disallowing this. Regarding the 'form' of disallowing this, my understanding is that 'Legend Instructions' currently refers to the portion of https://web.archive.org/web/20250306221446/https://trustee.ietf.org/wp-content/uploads/Corrected-TLP-5.0-legal-provsions.pdf saying that the situation that 'the Contributor does not wish to allow modifications nor to allow publication as an RFC' must be expressed in the following form: 'This document may not be modified, and derivative works of it may not be created, and it may not be published except as an Internet-Draft'. So I'm hereby including that expression as part of this complaint."

At this point I was following not just the actual IETF rules but also every demand that I had seen from IESG. I hadn't seen the new demands that IESG had posted on 1 October 2025. As far as I know, IESG hasn't announced those demands anywhere for IETF consideration.

I later saw that IESG had buried a link to its 1 October 2025 demands inside part of what it had sent me, namely "In accordance with the IESG Statement on Norms and Practices of the Conflict Resolution and Appeals Process, Dan Bernstein has until 14 days from this response to resubmit this complaint to the Security ADs". I assessed 14 days as being enough time; I had no reason to imagine that this link was to a newly posted IESG statement placing further constraints on appeals, nor did IESG give me any sort of warning of this. IESG's failure to provide adequate notification is a due-process violation, and is contrary to IETF LLC's claim that IETF procedural rules "are well-documented in public materials".

14 Modifications, part 6: AD denial

The AD falsely claimed that my new complaint contained "language indicating you are not accepting rights and obligations under the IETF Standards Process BCP9"; that this was "personal boilerplate that is an inappropriate attempt to modify the IETF Standards Process specified in BCP9"; that I was "repeating the exact behaviour that prevented me from processing your message on the first attempt"; that I was "instigating others to violate the IETF Standards Process"; that this was "Disruptive Behaviour"; etc. The AD also quoted IESG writing "it is a claim that the appellant has not and does not consent to the rights granted to the IETF under BCP 78".

Back in June, I didn't know about and wasn't using the official IETF text to opt out of modifications, so it takes readers some effort to see that IESG's characterizations of the text were fundamentally wrong. But that changed with my 6 October 2025 complaint. I *am* using the official IETF text to opt out of modifications. This makes it much easier for readers to see that the AD is wrong. What the AD calls "personal boilerplate" is opt-out text straight from the IETF Trust.

The claim that BCP 78 requires modifications is flatly wrong. The claim that disallowing modifications violates the "IETF Standards Process" is a fabrication by the AD, and is again contradicted by a case explicitly considered in BCP 78, namely an IETF standard normatively citing an RFC that does not allow modifications. BCP 78 requires modification rights only for "RFCs and Internet-Drafts that are used in the IETF Standards Process", not for other "Contributions".

In email to ietf@ietf.org dated 8 Oct 2025 09:52:03 -0400, in response to Simon Josefsson saying "This makes it clear to me that there is a BCP78-blessed process to submit valid IETF Contributions (including appeals, or even this e-mail) that opt out from granting IETF the right to derive works from the contribution", the AD claimed that "If you read RFC5378 /carefully/" then an opt-out is "inappropriate and meaningless" (https://web.archive.org/web/20251023001639/https://mailarchive.ietf.org/arch/msg/ietf/CgC9g_y1y5f3JQeMz_y9u2zMBxk/).

The AD's argument consists of quoting opt-out *examples* from BCP 78 and falsely portraying those *examples* as being a limit on the entire opt-out *procedure*. One easy way to see that this is wrong is to observe that the AD's quotes are from BCP 78, Section 3, "Exposition of Why These Procedures Are the Way They Are", which BCP 78 explicitly labels as being merely an "informative" section regarding "rationale". Various other sections are explicitly labeled as normative; this includes, in particular, the opt-out procedure in Section

5.3, which applies to the entire "modify or prepare derivative works" clause, not just in the limited cases contemplated by the AD. (See also Section 17 below.)

There was at the same time a sideshow of the AD complaining that my 6 October 2025 complaint hadn't followed IESG's new 1 October 2025 demands. As noted above, the AD didn't answer any of my questions about this; but, after taking the time to read through IESG's 1 October 2025 demands, I filed a revised complaint complying with those demands.

This still didn't stop the AD from complaining: "You keep addressing your message to both Security ADs". But this is clearly authorized by BCP 9. IESG's new rules say that one "should" send an "appeal" to the "responsible AD", but also says that "Complainant(s) may send an appeal to all the AD(s) for an Area". It is inappropriate for the AD to issue neverending complaints about something that's indisputably authorized.

15 Modifications, part 7: AD refusal to address the 13 October 2025 complaint

The AD claims that my complaint "still contains a disclaimer that attempts to modify the IETF Standards Process" and that "your current process modifier boilerplate cannot be valid in any stretch of interpretationi" [sic]. Along with making these claims, the AD cites and partially quotes previous AD refusals to handle previous versions of my complaint.

As far as I can tell, this is the AD's entire rationale at this point for refusing to handle my complaint, and the AD's objection is solely to the following text from the complaint: "This document may not be modified, and derivative works of it may not be created, and it may not be published except as an Internet-Draft. That sentence is the official language from IETF's 'Legend Instructions' for the situation that 'the Contributor does not wish to allow modifications nor to allow publication as an RFC'."

(I followed this by being explicitly permissive regarding copies: "I'm fine with redistribution of copies of this document; the issue is with modification" and "I'm fine with this document appearing on the list, obviously." While the AD hasn't pinpointed the text that the AD is objecting to, it would make no sense whatsoever for the AD to object to a sentence adding further permissions, nor do I see how this can fit the AD's "disclaimer"/"process modifier" description, nor do I see anything else in my complaint that could possibly fit that description.)

Regarding the text "This document may not be modified, and derivative works of it may not be created, and it may not be published except as an Internet-Draft": It is again wrong for the AD to attribute this boilerplate to me (the AD wrote "your current process modifier boilerplate"). This is the *official IETF text for opting out of modifications*.

My second sentence—"That sentence is the official language from IETF's 'Legend Instructions' for the situation that 'the Contributor does not wish to allow modifications nor to allow publication as an RFC'."—is an indisputably correct description of the source. Given that the AD, a former IETF chair, et al. are in denial regarding the availability of this opt-out, identifying the source is important.

It is similarly wrong for the AD to claim that this "attempts to modify the IETF Standards Process". This isn't modifying the process; it's exercising an opt-out procedure explicitly provided by BCP 78.

Because the copyright situation was buried and the opt-out provisions were even more buried, my complaint back in June wasn't using the official opt-out text. Some people exploited this to accuse me of violating rules; this accusation distracted attention from the topic of my complaint. But that game is over now. Everyone can see that I'm using the official opt-out text.

16 Modifications, part 8: AD violation of the rules

BCP 9 requires ADs to "attempt to resolve the dispute". It does not give individual ADs, or IESG as a whole, *any* authority to make exceptions to this.

IESG has repeatedly referred to BCP 9 providing discretion to define "the specific procedures they will follow in the process of making their decision". This is about defining *specific* procedures that *they* will follow. This doesn't give those bodies discretion to violate BCP 9's mandate to "attempt to resolve the dispute". This also doesn't give those bodies discretion to impose rules on appellants, or to use the threat of throwing complaints away as an end-run procedure to force appellants to follow IESG's dictates.

What's next: "ADs shall discard any appeals that they do not wish to process"? How about "ADs shall discard any appeals not accompanied by $10000 payments to the AD"? This is just IESG exercising its discretion to define rules, right? No, it's IESG refusing to follow a perfectly clear requirement from BCP 9.

Saying that individual ADs and/or IESG are allowed to invent their own exceptions from BCP 9's "attempt to resolve the dispute" requirement is tantamount to saying that the requirement doesn't exist. Nice fiction for the people in charge, but that's simply not what BCP 9 says.

In this Whac-A-Mole game of people coming up with excuses for not processing my complaint, the only excuse that is actually coming *from IETF policy* is the quote of BCP 9, RFC 2026, Section 10.2, "Confidentiality Obligations", stating "No contribution that is subject to any requirement of confidentiality or any restriction on its dissemination may be considered in any part of the Internet Standards Process". But my complaints have no requirements of confidentiality and no restrictions on dissemination.

In my 15 October 2025 complaint to IESG, I quoted the part of IESG's 1 October 2025 statement saying that a decision "not to process an appeal may be appealed per the conflict resolution and appeals processes of Section 6.5 of RFC2026". I asked IESG to (1) overturn the AD's refusal to process the complaint, (2) instruct the AD to "attempt to resolve the dispute" as already required by BCP 9, and (3) apologize for the AD having *obviously* violated IETF policy.

17 Modifications, part 9: IESG violation of the rules

IESG, having received a valid appeal under BCP 9, was obliged at that point (15 October 2025) to "review the situation and attempt to resolve it in a manner of its own choosing". Furthermore, antitrust law requires an appeals process. Unfortunately, in violation of BCP 9, IESG has not attempted to resolve the situation. This is the fourth IESG decision that I am hereby appealing.

IESG's excuse for this violation consists of new, retroactively applied, IESG dictates announced on 22 October 2025. IESG labeled its new dictates as an "IESG Statement on Clarifying Derivative Works Rights" (https://web.archive.org/web/20251022155305/https://datatracker.ietf.org/doc/statement-iesg-statement-on-clarifying-derivative-works-rights/).

As we'll see from the details, "clarifying" is a ludicrously inaccurate description of these new dictates. Of course, if IESG were to *admit* that these are new dictates then everyone would immediately see how improper it is for IESG to use these dictates as an excuse to not process a complaint filed before the dictates were issued.

Furthermore, IESG's dictates have effects beyond simply refusing to process my 15 October 2025 complaint: the dictates are much broader violations of BCP 78. The decision to issue those dictates is the fifth IESG decision that I am hereby appealing.

Misrepresenting BCP 78. IESG starts with the following false claims regarding BCP 78: "RFC 5378 is clear that derivative rights for a Contribution can only be withheld when the Contribution is an IETF Document, and only then in narrow circumstances. In all other circumstances, notices that claim that derivative

rights are being withheld for a Contribution are not conformant to IETF policies."

IESG's argument for this is a remarkable pile of errors. IESG's conclusion is completely out of whack with the actual text of BCP 78.

The starting problem is that IESG ignores BCP 78's clear statement that Section 5 is **normative** while Section 3 is merely **informative**. Here's the critical sentence on this point from BCP 78: "Sections 1, 2, 5, and 6 of this document are normative, the other sections are informative."

An informative section cannot override a normative section. Section 3 is merely *explaining why the procedures are the way they are*, as the title of Section 3 says: "Exposition of Why These Procedures Are the Way They Are". Of course, IESG also fails to quote the title.

IESG ignores the actual text of the modification provision—and the procedure to opt out from modifications—from the **normative** Section 5.3, "Rights Granted by Contributors to the IETF Trust". Recall that this text gives IETF the right to "modify or prepare derivative works (in addition to translations) that are based on or incorporate all or part of the Contribution, and to copy, publish, display, and distribute such derivative works, or portions thereof unless explicitly disallowed in the notices contained in a Contribution (in the form specified by the Legend Instructions)".

IESG quotes **examples** from BCP 78's **informative** Section 3, and then fabricates an opt-out procedure that is *limited* to those examples:

- IESG fabrication, part 1: "Three narrow exceptions to granting this right are defined Section 3.3 of RFC 5378".
- IESG fabrication, part 2: "Section 5.3(c) of RFC 5378 describes how the derivative work license can be withheld through the use of conforming Legend Instructions in the context of the narrow exemptions of Section 3.3."
- IESG fabrication, part 3: "This section does not permit the application of Legend Instructions to any other kind of IETF Contribution."

IESG is, of course, unable to quote any text from BCP 78 (RFC 5378) supporting this IESG fabrication—because there is no such text in BCP 78. The actual opt-out provision is clear and does not have IESG's fantasy limitation.

IESG also quotes a further part of BCP 78's **informative** Section 3 explaining that "IETF needs to be able to evolve IETF Documents in response to experience gained in the deployment of the technologies" etc. Recall that BCP 78 defines "IETF Documents" as "RFCs and Internet-Drafts that are used in the IETF Standards Process". This doesn't say that IETF needs to be able to "evolve" other comments, objections, etc.; on the contrary, IESG posting a mangled version of a complaint that I had filed (see Section 1) had nothing whatsoever to do with BCP 78's rationale for allowing modifications. In any event, Section 3 of BCP 78 does not limit Section 5 of BCP 78.

IESG doesn't even manage to describe Section 3 accurately. IESG fails to note that BCP 78 gives informative examples that *don't* fit within IESG's top-line fabrication ("RFC 5378 is clear that derivative rights for a Contribution can only be withheld when the Contribution is an IETF Document"). Consider again BCP 78 explaining the value of allowing opt-outs to be able to publish RFCs on non-standard proprietary technologies: these RFCs are not "IETF Documents" ("RFCs and Internet-Drafts that are used in the IETF Standards Process"). And, of course, IESG also fails to address previous opt-out examples such as RFC 5831—which withholds modification rights and is not an "IETF Document".

IESG paints a bizarre picture of BCP 78 for some reason demanding modification rights for practically all email sent to IETF mailing lists while *not* demanding modification rights for some specific types of RFCs and Internet-Drafts used in the IETF Standards Process. Does this mean someone would be able to file an appeal *without* modification rights by posting the appeal as an Internet-Draft and making sure to include a description of a proprietary technology? Anyway, these claims are divorced from what BCP 78 actually says.

Ignoring notices. After its top-line misrepresentation of BCP 78, IESG issued the following edicts: "Any notices in conflict with IETF policies shall be ignored in a Contribution. Any process owner required to handle a Contribution with such a notice can require the notice be removed."

In context, the first sentence is demanding that BCP 78 opt-outs be ignored. But BCP 78 says that it specifies "the IETF policies on rights in Contributions to the IETF". BCP 78 doesn't give IESG any authority to deviate from that, nor does IESG cite any authority for IESG to issue orders on this topic.

(For comparison, recall IESG writing "please cite an appropriate RFC" in response to my complaining about IESG violating IETF LLC's promises. Now IESG issues dictates without citing an appropriate RFC.)

The "required" part of the second sentence appears to be alluding to the BCP 9 requirements to attempt to resolve disputes. But BCP 9 doesn't give IESG any authority to put limitations on this.

Threatening list bans. IESG continued as follows: "Repeated inclusion of such notices may be considered a disruption and moderated per RFC 2418/RFC 3934 and the IESG Statement on Disruptive Posting." This is threatening 30-day bans of WG participants who exercise their BCP 78 opt-out rights. Note that RFC 3934 allows bans only for actions "disruptive to the WG process"; using this to terrorize people into not exercising their opt-out rights is a glaring abuse of RFC 3934.

Before issuing its dictates, IESG sent email dated 20 Oct 2025 10:53:18 -0700 requesting that I allow IESG to modify the text of my 15 October 2025 appeal. IESG's email pretended that IESG wasn't allowed to post *copies*; gave no reason that I should allow *modifications*; and ignored my clear statement "I'm fine with redistribution of copies of this document; the issue is with modification". IESG also wrote "The IESG wants to get to the substance of your appeal", another example of something that doesn't pass the laugh test, although this sort of thing isn't so funny when IESG is issuing threats.

18 Requested actions

I request the following IAB actions.

Please reverse IESG's decision that it's okay for ADs to discuss appeals in secret. All such discussions have to be public, as required by the clear text of BCP 9 and by IETF's promises of "extreme transparency". See Section 4, Section 5, and Section 6.

Regarding the BCP 9 paragraph "If the disagreement cannot be resolved in this way, any of the parties involved may bring it to the attention of the Area Director(s) for the area in which the Working Group is chartered. The Area Director(s) shall attempt to resolve the dispute", please reverse IESG's decision to partially evade this by allowing multiple ADs for the WG area to "delegate this responsibility to one of the Area Directors" (IESG's wording). See Section 7.

Regarding the earlier BCP 9 requirement "A person who disagrees with a Working Group recommendation shall always first discuss the matter with the Working Group's chair(s)", please reverse IESG's decision that the AD's disruption of this process was permitted by IESG's out-of-context "assist" quote. See Section 8.

Regarding the subsequent BCP 9 requirement for IESG to "review the situation and attempt to resolve it in a manner of its own choosing", please reverse IESG's decision to violate this, and please instruct IESG to retract the "IESG Statement on Clarifying Derivative Works Rights". See Section 9 through Section 17.

Finally, regarding IETF LLC's claim that "IETF procedural rules, which include robust appeal options, are well-documented in public materials", please explain which of the documents cited above are part of the "IETF procedural rules", and please explain how a reader was supposed to be able to figure this out.