Dear OpenFabrics Alliance Members,

Late last week, the Board of Directors approved two motions pertaining to the development of two key governance documents, being the Alliance’s Bylaws and the accompanying Intellectual Property Rights Policy. The two motions triggered a one-month membership review of the current drafts of these two important documents.

The key text of the two motions as approved by the Board of Directors was as follows:

*IBM Motion: Begin a one-month membership review of the draft OFA Bylaws.*

*IBM Motion: Begin a one-month membership review of the draft IPR Policy.*

Both motions were passed unanimously by the members of the Board of Directors comprising a quorum at the meeting.

The slide deck containing the full text of the two motions including links to the two draft documents, as well as some useful background, can be found [here on the OFA’s publicly accessible website](https://downloads.openfabrics.org/WorkGroups/board/bylaws_and_policy/Adopted%20motions/V_Bylaws_MemberReview_2020_0821.pptx).

The minutes of the Board meeting at which these motions were discussed and adopted are available [here on the OFA’s publicly accessible website](https://downloads.openfabrics.org/WorkGroups/board/minutes_board/2020/OFABoardMinutes_20200819.docx).

I am writing this letter because the significance of the change that these two documents represent seems to call out for a little background and context to help you understand the purpose behind the re-writing of these two crucial documents. Since this effort began during my tenure first as Vice Chair and then as Alliance Chair, I volunteered to provide that context. This letter is not an official missive of the OFA leadership team, although I have agreed to undertake it at the request of the leadership team and with the team’s full knowledge and support.

**Background**

As most are aware, the OFA began its life in 2004 with the mission to develop and maintain what became known as the OpenFabrics Software Stack. Indeed, that mission, “…developing, maintaining, approving, testing, releasing … certain Open Source software that may be combined into a suite or stack known as an OpenFabrics software stack” is enshrined in the body of our existing Bylaws. Also included directly in the text of the Bylaws are certain requirements associated with Intellectual Property Rights pertaining to the maintenance of the stack in an OFA-supported and maintained repository. For reference, you can find a copy of the current Bylaws [here on the OFA website](https://downloads.openfabrics.org/WorkGroups/board/bylaws_and_policy/current_bylaws/ofa%20bylaws%20march%202011-1.pdf).

Over time as the open community began to actively embrace the RDMA technology that the OFA had championed and maintained since its inception, responsibility for maintaining and developing these technologies shifted from the OFA to the open community directly. Indeed, the software stack is now wholly maintained as independent open source project(s). One could reasonably say that the OFA’s child had grown up, moved away from home and is now living as an independent adult. In effect, the OFA’s original mission, to drive adoption of RDMA technologies, had been richly fulfilled.

As a side effect of this shift, it also became true that the OFA could no longer assert any particular Intellectual Property requirements, nor enforce them either on its members or on any other person or entity choosing to contribute to the new open source projects. That responsibility now lies with the duly authorized maintainer(s) of those projects.

**Developing a New Mission**

Our original mission having been fulfilled, the question became, “What should the OFA’s next mission become, how can we best deliver value to our members and the community they serve, and what sort of governance infrastructure would be needed to support that mission?” Following a lengthy period of discussion and debate the OFA arrived at a new mission statement, which reads,

*“The mission of the OpenFabrics Alliance (OFA) is to accelerate the development and adoption of advanced fabrics for the benefit of the advanced networks ecosystem.”*

Interestingly, this new mission is both a dramatic departure from our original objectives and yet can be properly seen as an extension of our original work. It gives the OFA broad latitude to pursue various projects and activities, all to the benefit of its members, and the networking community served by our members, but we are no longer restricted to supporting a single software stack or technology. This is very much in keeping with the work that the OFA has undertaken in the last several years. Indeed, it has dramatically shaped the contributions that the OFA and its members have made to advancing the state of high performance networking technologies *writ large* ranging from the types of working groups we support, how those working groups go about fulfilling their charters, and to the topics discussed at our annual workshops.

Importantly, since the mission no longer refers to a specific stack or project, it is clear that the Intellectual Properties Rights associated with this new mission would have to be substantially different from those memorialized in the existing Bylaws.

**Governance of the OpenFabrics Alliance**

Given this new mission, it quickly became clear that our original Bylaws were no longer a good fit. Hence, the initiative, now drawing to close, to create a new set of governance documents that would fully support our new mission. The draft works you are now being asked to review are the first fruits of that initiative. They are the result of the protracted and concerted efforts of a small team of volunteers, working with the knowledge and support of the OFA’s Board. This informal Bylaws team was open to participation by any interested member; its progress was carefully tracked throughout by the Board at key checkpoints along the way.

With the writing phase drawing to a close, and following a thoughtful review by the OFA’s outside counsel, a presentation was delivered to the Board describing at a high level these new draft documents. That slide deck is available [here on the OFA website](https://downloads.openfabrics.org/WorkGroups/board/bylaws_and_policy/OFA_governing_docs_2020_0806.pptx).

It describes our governance as consisting of two types of documents:

1. “Statutory documents” required by the California state laws governing non-profits like ours include:
	1. The Bylaws
	2. The Articles of Incorporation (‘the Articles’)
2. “Policy documents” which comprise a set of policies and procedures by which the OFA agrees to conduct its business. A non-exhaustive list includes:
	1. Intellectual Property Rights Policy – IPR Policy
	2. OFA Board Operating Policies governing day-to-day operating policies
	3. Membership Policy describing available classes of OFA membership
	4. Working Group Policy governing the creation and management of OFA working groups
	5. Other policies as needed.

These policy documents are not proscribed by California state law, but in certain respects they must be crafted in such a way as to be conformant with the relevant aspects of the law. Of particular concern in this regard is the IPR policy. This is the reason why the IPR Policy was drafted concurrently with the new Bylaws and why a review of both documents is being requested simultaneously.

**The Draft Bylaws**

The [slide deck](https://downloads.openfabrics.org/WorkGroups/board/bylaws_and_policy/OFA_governing_docs_2020_0806.pptx) goes on to provide a sort of informal users’ guide to the new draft Bylaws which are structurally quite different from the existing Bylaws. There are three essential reasons why this is true.

First, as mentioned above, the existing document embeds the OFA’s intellectual property rights policy in the body of the Bylaws, making it difficult to adapt the policy as needed in order to keep it in sync with modern laws and the OFA’s current objectives. OFA’s outside counsel advised us that normal procedure is to capture such IPR policies in a separate policy document that can be easily maintained by the Board to fit changing circumstances over time without requiring a painful modification of the Bylaws themselves.

Second, the existing Bylaws failed to clearly address the notion of so-called ‘statutory membership’ as described in California state law and thus created some confusion in assigning roles, rights and responsibilities to our Promoter Members and to the Board of Directors.

Third, many operating policies, such as rules covering so-called ‘good standing’ had been enshrined in the body of the existing Bylaws making it difficult to adapt our normal operating policies over time as needed.

For these three reasons, the decision was taken that the most expeditious course of action was to simply re-write and replace the existing Bylaws with a new, streamlined version to address each of these three areas of concern. The result is contained in the new draft Bylaws which you are being asked to review. Early attempts were made to modify the existing Bylaws to address these concerns, but those attempts were not successful.

A helpful way to consider the new Bylaws is to see them as structured to uniquely treat three distinct group of actors, being

1. Statutory members as defined in the context of California state law (“Promoter Members”)
2. Board of Directors
3. Officers

The rights and responsibilities of each of the three groups are clearly defined in the new Bylaws with specific roles and methods assigned to each in conformance with California law. Attention was paid in drafting the new draft to ensure that these role, rights and responsibilities are non-overlapping.

In addition, most policy issues have been removed from the Bylaws document with the expectation that they will be enshrined in a set of policy documents as described earlier. This is designed to make it easier for the Board of Directors to manage the affairs of the corporation without requiring a change to the Bylaws to do so. A good example of this was the decision to move definitions of classes of membership, (other than the statutory members as required by California law), from the Bylaws and instead enshrine them in a new policy document. That policy is currently under development and will be considered by the Board of Directors for adoption at an upcoming meeting. There are quite a few other examples. The net result is that the scope of the draft is limited largely to those topics which are required by California state law, reserving other topics for inclusion in a set of policies.

**Intellectual Property Rights Policy**

A word about the proposed IPR Policy document is in order. This policy is crafted in such a way to support two distinct types of activities in which the routinely OFA engages. Those are:

1. Collaborations with the open community, and
2. Creation of works the copyright of which is solely owned by the OFA, i.e. so-called ‘Works of Authorship”.

The first item is a recognition of the open environment in which the OFA finds itself, and its decision in 2018 to be a fully ‘open’ organization. It is intended to enable the OFA to support working groups and activities that are directly related to open source developments. For that reason, it prescribes IPR policies consistent with standard, open source practice while still allowing the OFA to initiate its own open source projects. In the latter case, the OFA retains the right to establish at inception appropriate licensing and copyright management mechanisms for projects which it launches.

The second item is designed to protect materials created by the OFA, or on behalf of the OFA, and in which the OFA wishes to hold copyright indefinitely. Examples of this potentially include marketing materials or training programs or materials developed by the OFA.

The guiding principle behind this draft of the IPR policy is to make the policy as relaxed as possible while allowing the OFA to participate harmoniously with the open community and allowing us to protect intellectual property which truly belongs to the OFA.

**Review Process**

Although not officially part of the motion adopted by the Board that triggered the current member review, we are requesting that all members use the following process to return comments on the two documents. The purpose is to simplify the process of collecting comments and integrating them into a final draft.

1. Please return your comments either as:
	1. A separate WORD document, or
	2. As comments to the draft itself using Microsoft WORD’s commenting facility.
2. The resulting document, whether a standalone document or a commented version of the draft, should be named by appending your company’s name as a suffix to the filename:
	1. e.g. OFA\_Bylaws\_DRAFT\_05AUG\_2020\_companyname.docx
	2. Post the resulting file to the OFA Boardplus mailing list: OFA\_Boardplus@lists.openfabrics.org
	3. If you are not subscribed to that mailing list, you may instead send the file to press@openfabrics.org for posting to the mailing list.
3. Each member company or organization is requested to combine its comments into a single response representing the combined comments from your entire organization.
	1. Please do not send your comments in an email
4. All comments are public, in keeping with the OFA’s policy of openness.
5. Please return your comments by close of business on 9/17/2020. If needed, this deadline can be extended.

**Next Steps**

The projected timeline for completing and adopting the Bylaws and IPR Policy is as follows:

1. 8/20/2020 – Member review begins
2. 9/17/2020 – Member review ends, comments due by close of business.
3. 10/8/2020 – Final draft presented for review and discussion by the Board (via the XWG)
4. 10/15/2020 – Final vote to adopt

Again, this is a speculative timeline; it can be modified as needed. The important thing is to get this right.

**Metrics for Final Adoption**

Consistent with the OFA’s current Bylaws, an affirmative vote of two-thirds of Directors in office will ultimately be required to adopt the final Draft.

Further questions or comments on the background provided here, or the process going forward, should be posted to the OFA\_Boardplus@lists.openfabrics.org mailing list.

Thank you in advance for your attention. I am looking forward to your careful review and successful conclusion to this daunting, but completely necessary task.

With kind regards,

-Paul Grun

Former Chair, OpenFabrics Alliance