

Policy on Heads of Power

A visualisation approach

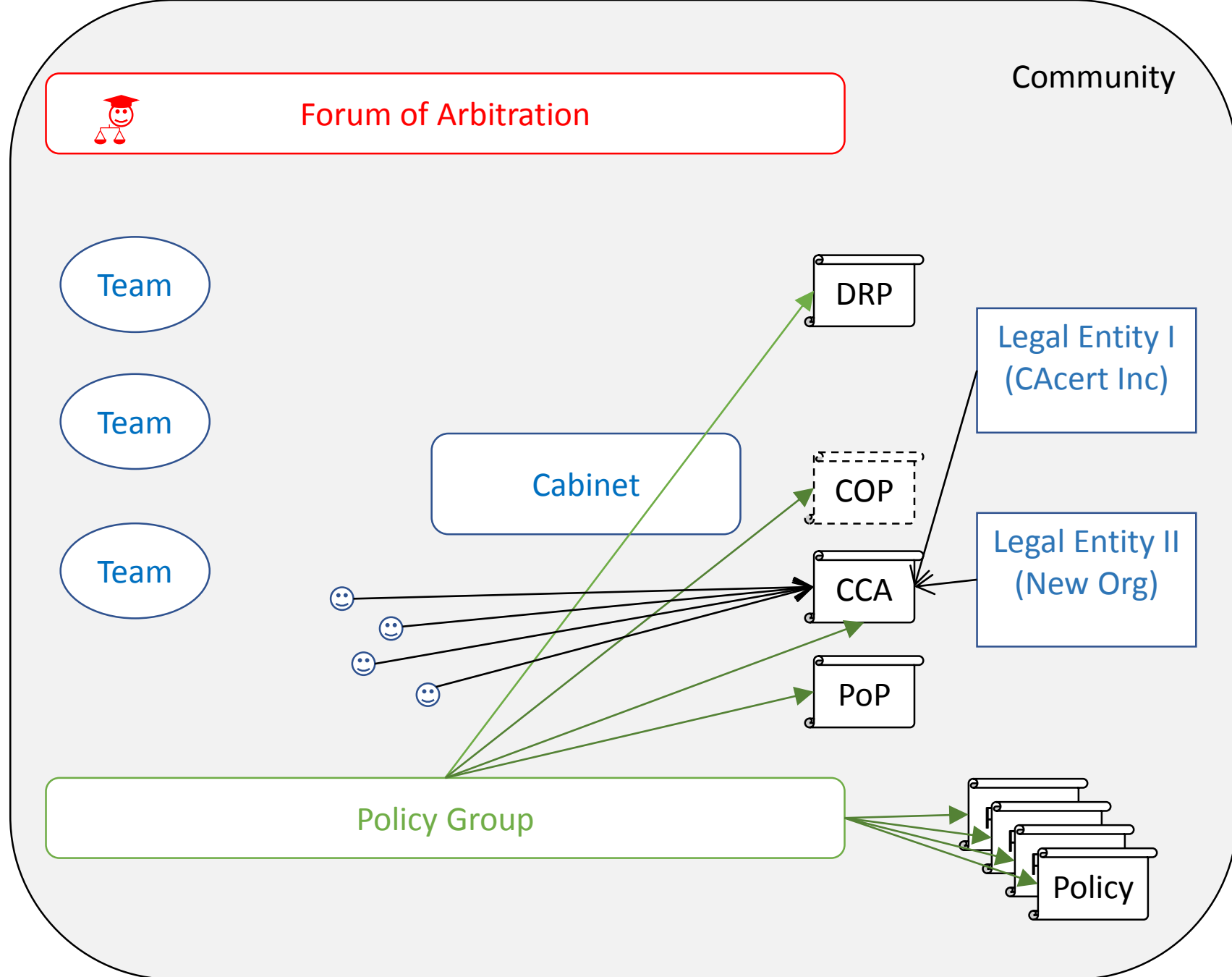
by Eva Stöwe

Vesion: 2017-01-05

1. Definitions

Within this policy the following terms are used:

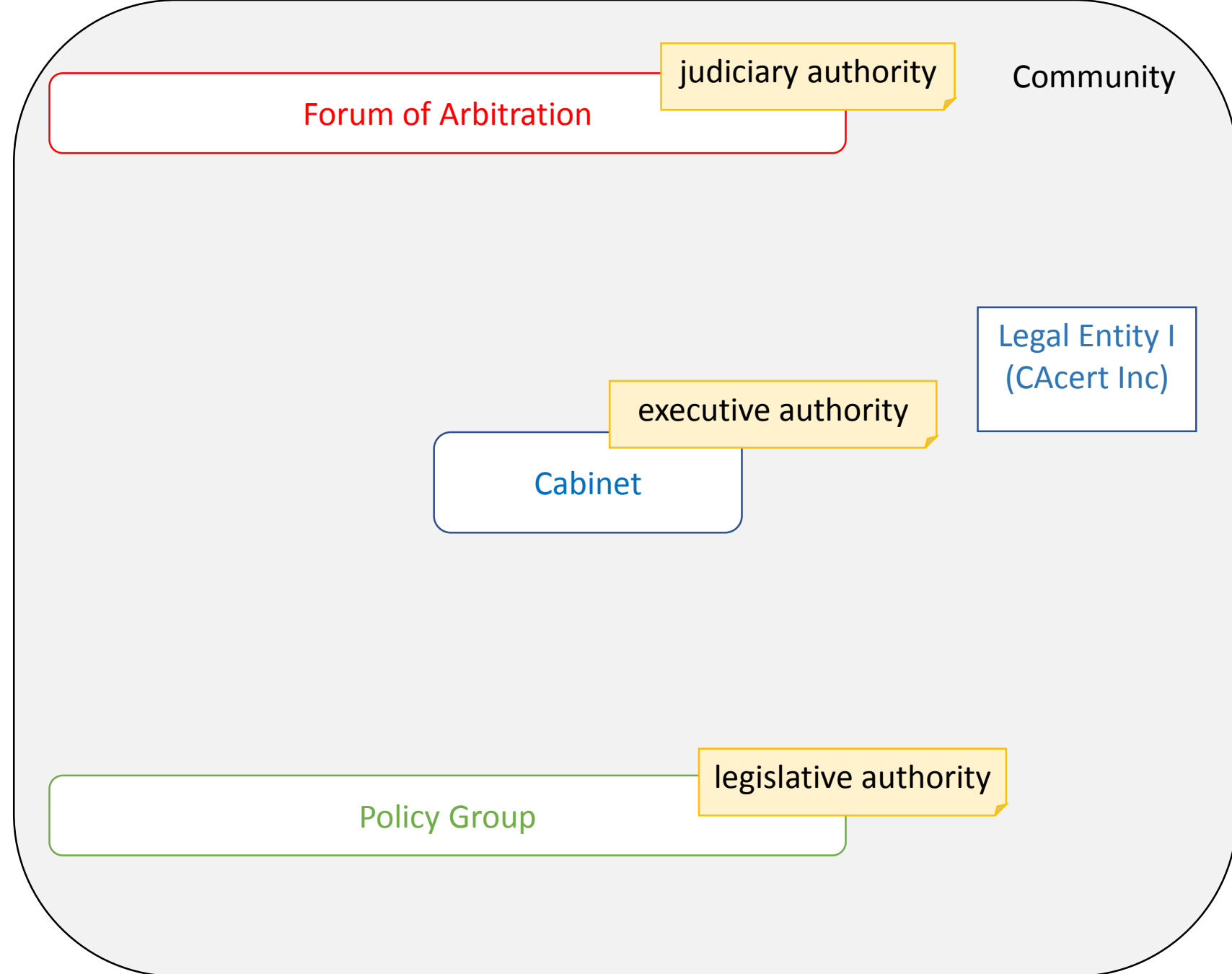
1. **Legal Entity:** The Legal Entity is any legal person that promises to provide the services of CAcert to the CAcert community based on the CCA (COD ##). Currently this is CAcert Inc.
2. **Community:** This is the CAcert Community of all members who agree to the CCA. The Legal Entity has to be a member of the Community.
3. **Policy Group:** Policy Group is the legislative authority of CAcert. It defines and controls the policies within CAcert. Details are defined in PoP (COD ##).
4. **Cabinet:** The Cabinet is the executive authority of CAcert. The Cabinet is responsible to both the Legal Entity and the Community for managing and running the services of CAcert. The Legal Entity delegates those tasks to the Cabinet.
5. **Arbitration:** (The Forum of) Arbitration is the judiciary head of CAcert. The Legal Entity and each member of the Community agree that Arbitration is the sole authority to decide on disputes within CAcert.
6. **The Arbitrator:** The Arbitrator is a member of Arbitration who has the authority to rules over disputes. Details are defined in DRP (COD ##).
7. **The teams:** The executive is organised in multiple teams.



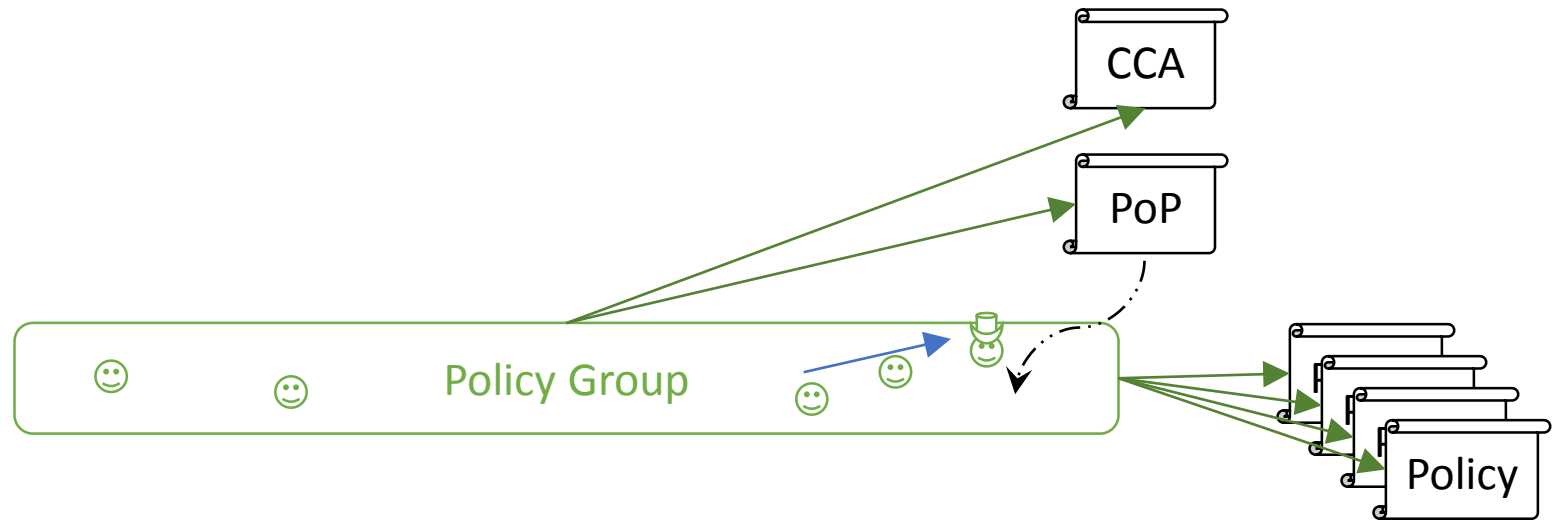
2. The three heads of power

The Legal Entity and the community agree that CAcert is governed by three heads of power which are:

- a. Policy Group as the legislative authority,
- b. Cabinet as the executive authority,
- c. Arbitration as the judiciary authority.



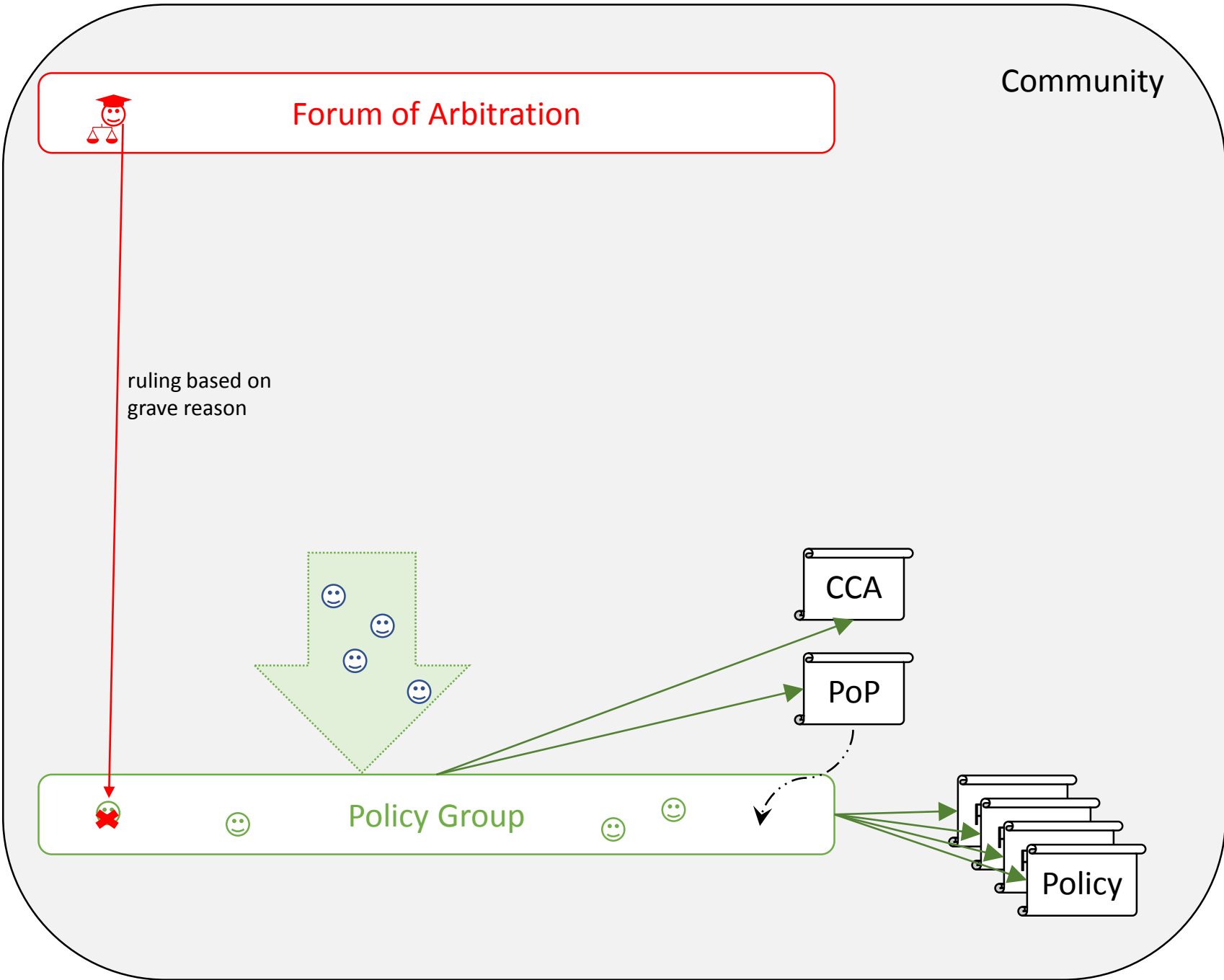
3. The legislative branch



3. The legislative branch

3.1. Policy Group

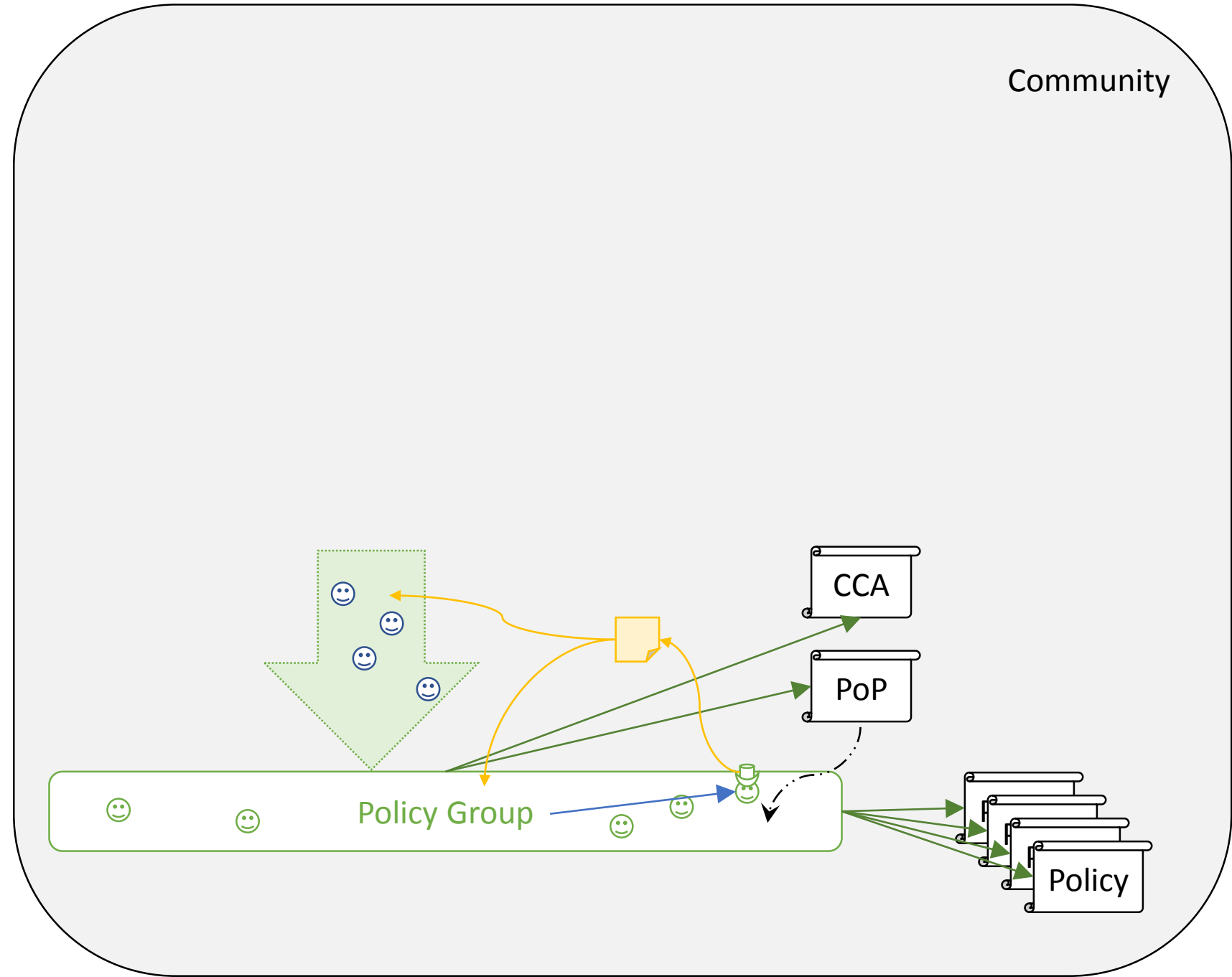
- 1. The Policy Group is formed around an open mailing list where all community members are invited to participate. The right to participate in motions on this list may only be denied to a member by an arbitration ruling for grave reasons.
- 2. The Policy Group is empowered to create all the policies of the community by a process defined and managed by Policy Group in its own guiding document, Policy on Policy (COD ##).
- 3. The Policy Group also defines the community by means of its management of the CAcert Community Agreement (COD ##), which is also a policy.



3. The legislative branch

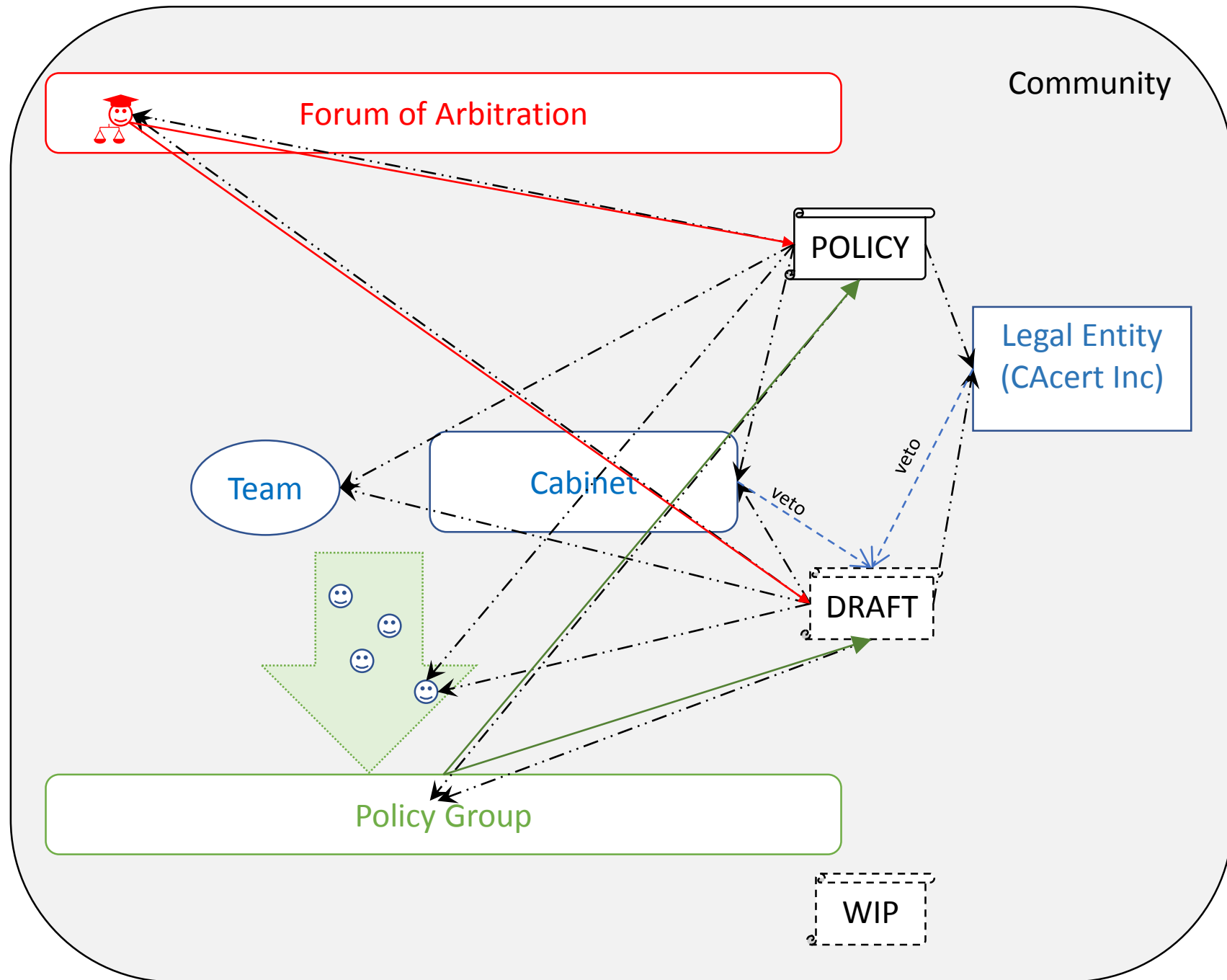
3.2. Policy Secretary (formerly Policy Officer)

1. The Policy Secretary (formerly „Policy Officer“) is chosen by the Policy Group. There are no powers to this role, just responsibilities: To encourage progress, marshal new policies, prepare texts, to manage and document the system of decision making.
2. The Policy Secretary must prepare an annual report to Policy Group and the community. The Policy Secretary may solicit help from any member or team to publish, maintain or organise policies as necessary.

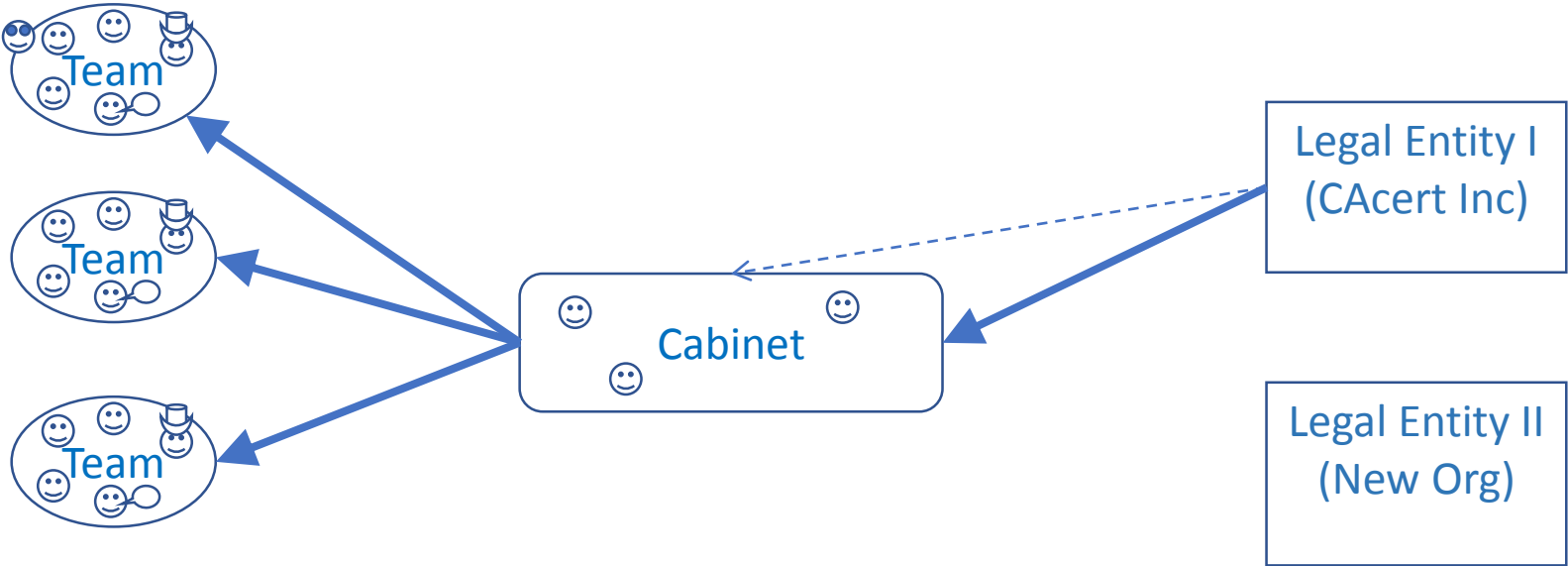


3. The legislative branch
 3.3. Controls over Policy Group

1. Policy Group must permit open entry to members of the community.
2. The policies and any change must go through a process of WIP, DRAFT and finally POLICY, with adequate times for review. Commentary must be accepted and minority demands for a vote should proceed on changes. Decisions are done with near consensus.
3. Policies are not in effect until DRAFT, at which time they become binding on the community. At the same time, their effect becomes subject to the rulings of Arbitration.
4. The executive maintains a veto over a DRAFT, for the strict purpose of not finding itself in default of its legal obligations.
 Hereby Cabinet maintains the right to veto over effects to the critical area, Cabinet and the teams.
 The Legal Entity maintains the right to veto over direct effects to the Legal Entity. A veto moves the DRAFT back to WIP.
 The veto does not apply to sections and the un-vetoed DRAFT remains binding on the Executive.
 Once in POLICY, the veto expires.



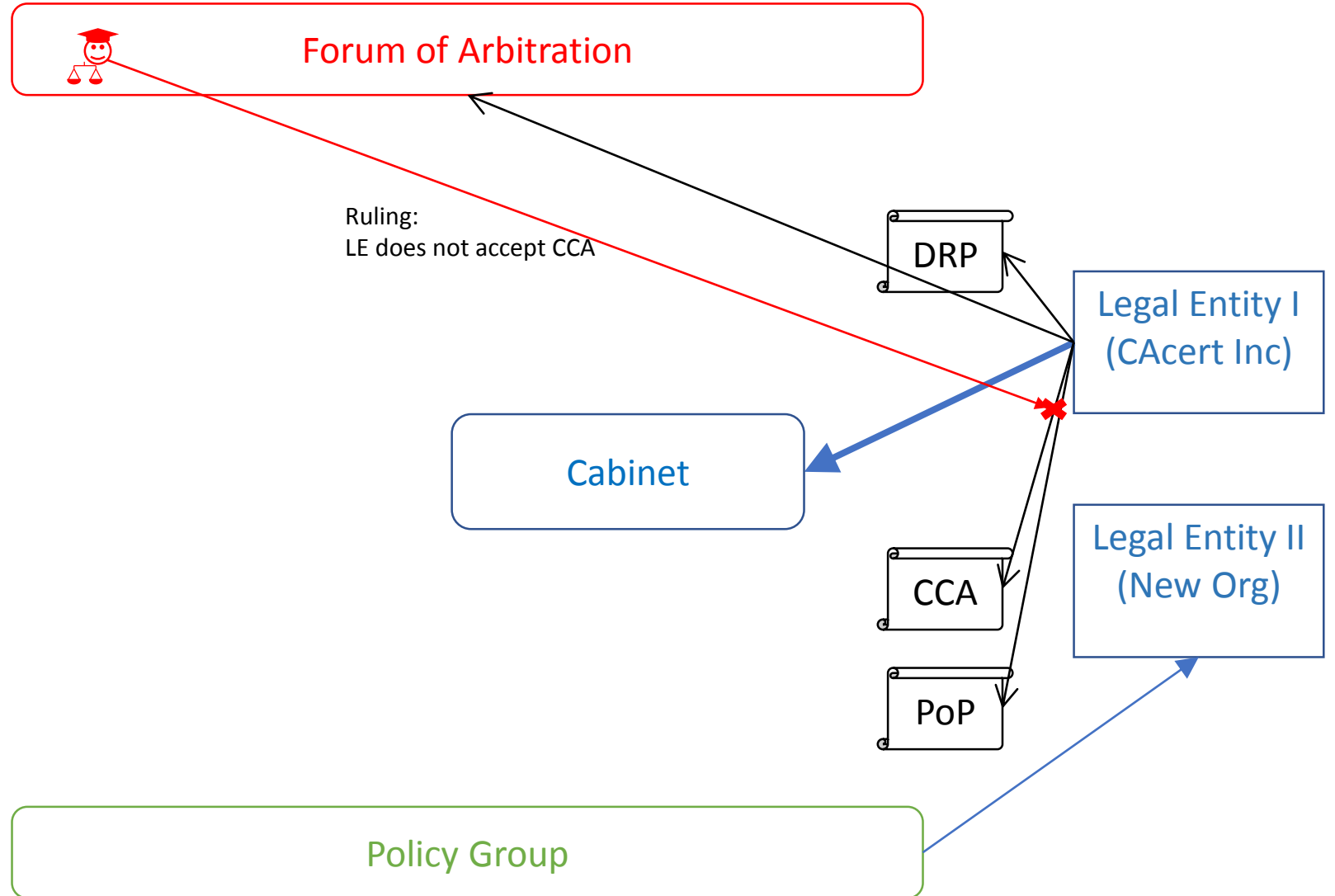
4. The executive branch



4. The executive branch

4.1. The Legal Entity

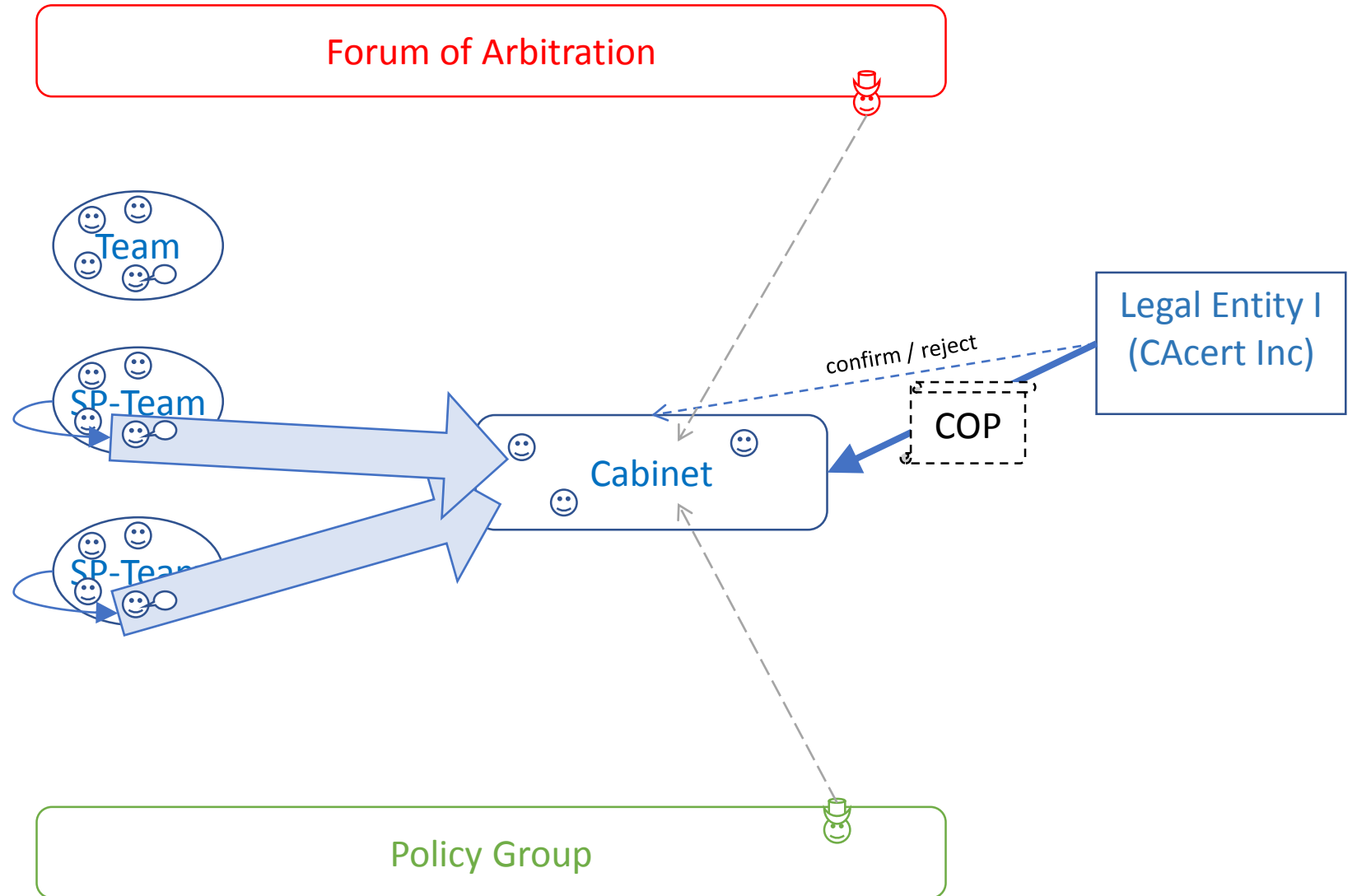
1. The Legal Entity agrees to accept CCA and PoP and DRP. It has to be a member of CAcert community. It agrees to submit all disputes regarding CAcert, members or the community to the Forum of Arbitration.
2. As long as this agreement exists, the Legal Entity may guide the Cabinet to manage CAcert and the CA on the executive level. Only the Forum of Arbitration may declare that the Legal Entity stops to agree to the named policies against the word of the Legal Entity.
3. Legal decisions and decisions about contracts and the global monetary decisions – as long as not placed in the hands of Arbitration by policy – are the authority of the Legal Entity by default. The Legal Entity may delegate parts of them to the Cabinet as seen fit.
4. Policy Group may replace, add or remove the Legal Entity.



4. The executive branch

4.2. The Cabinet

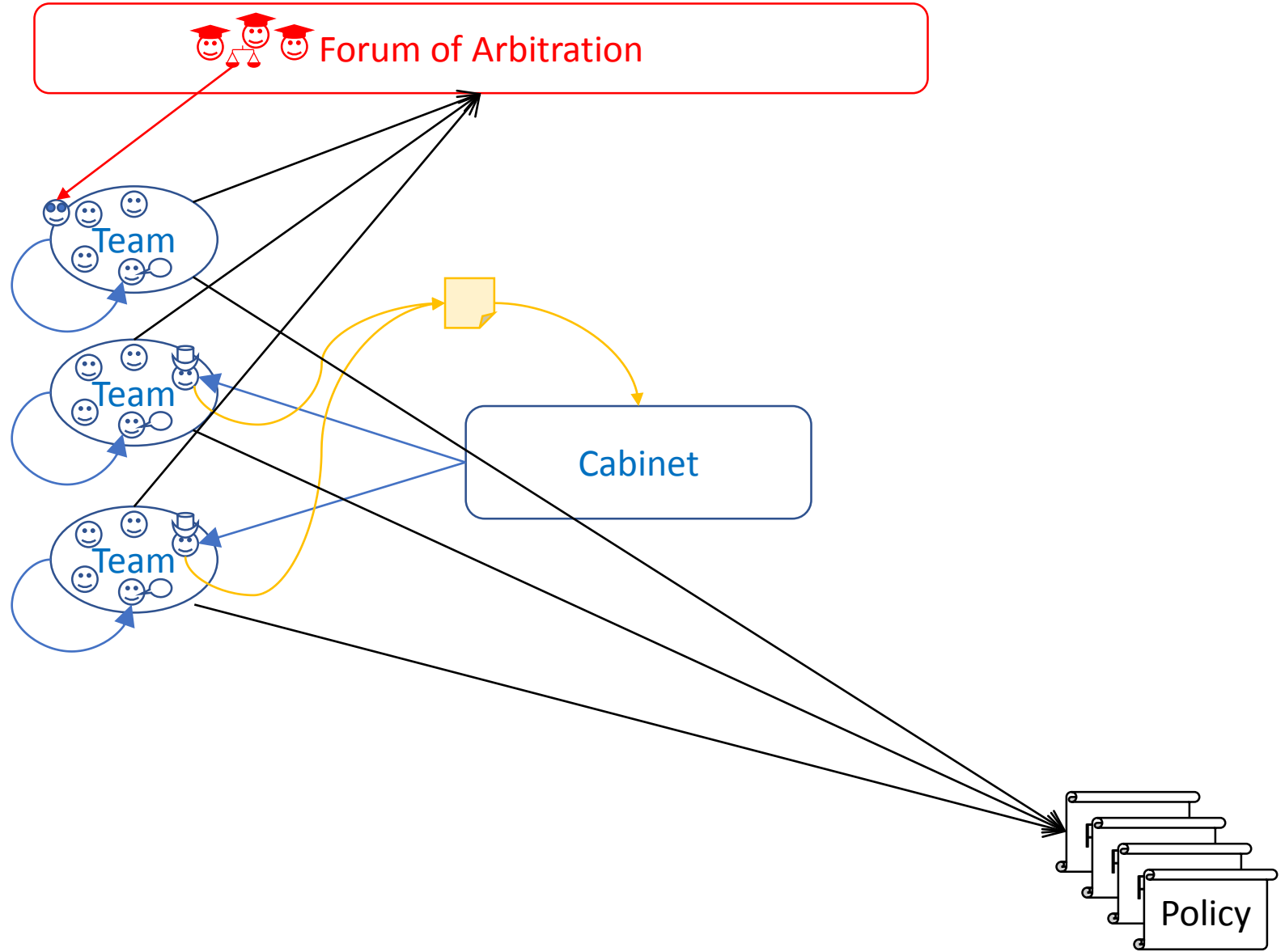
1. The Cabinet is responsible to the Community and to manage the CA and CAcert at the executive level.
2. The Cabinet consists of at least 3 community members who should be assurers. As long as there is no policy defined by Policy Group how the Cabinet is selected, the Legal Entity installs the Cabinet. Any such policy has to include that the Cabinet is confirmed by the Legal Entity. The Cabinet has to be confirmed or rejected in total. The confirmation has to be renewed every two years or when the majority of the regular members of the Cabinet is exchanged.
3. The speakers of the critical teams defined in Security Policy (COD ##) can be added to the Cabinet as additional Cabinet members by their teams if they are not already regular members of the Cabinet. Additional members of the Cabinet have all the rights of a regular member of the Cabinet but do not have a vote.
4. The Dispute Resolution Chair and the Policy Secretary have the right to be heard by the Cabinet as advisors, regarding the interests of the respective teams or groups. Their questions as advisors have to be answered by the Cabinet.



4. The executive branch

4.3. The teams

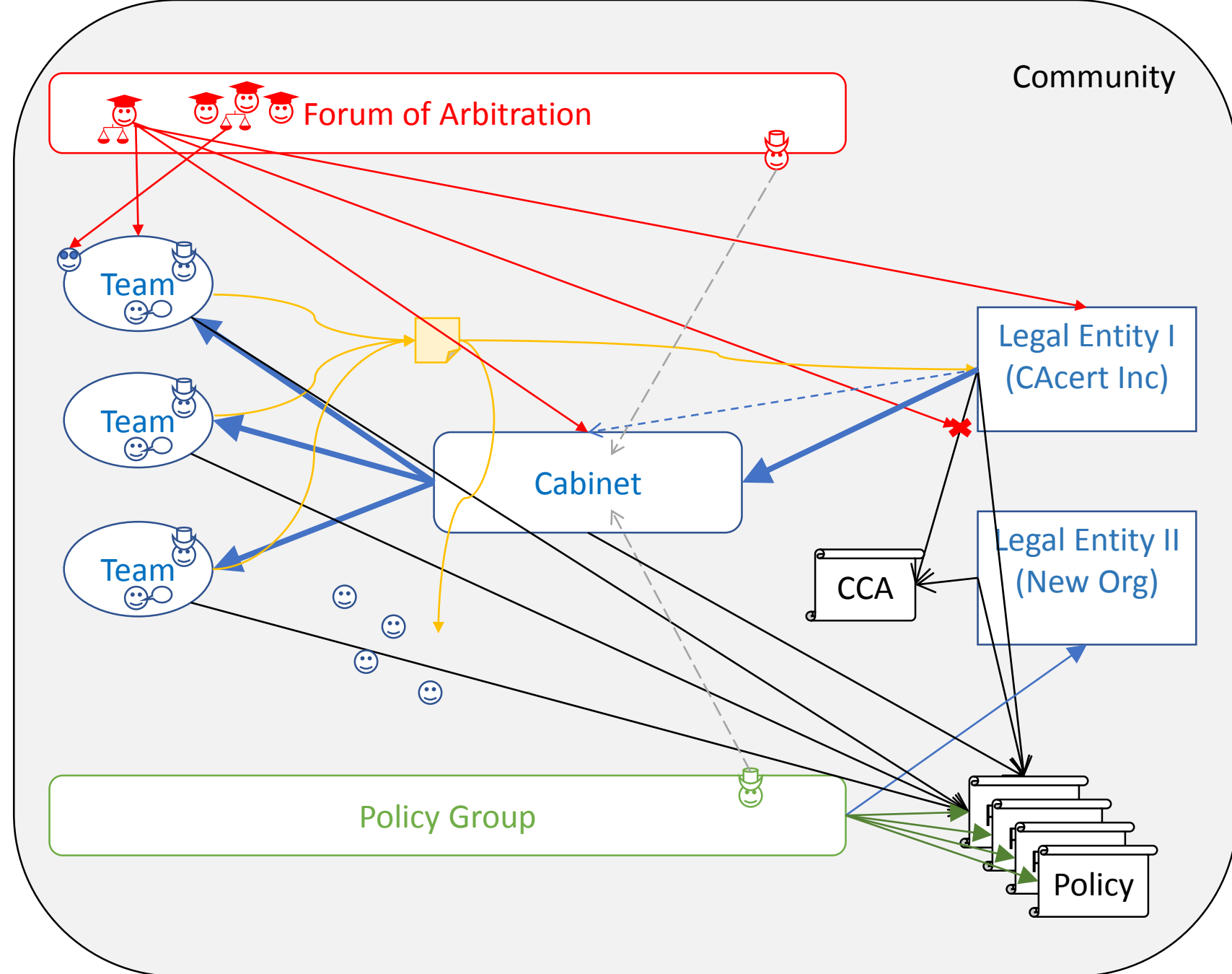
1. The executive is organised in multiple teams. They are coordinated by the Cabinet.
2. Within the boundaries of the policies, a team manages themselves by default. Each team may select a team speaker to speak for them before Cabinet, Arbitration and Community. A team is bound to follow the polices and reports to Cabinet and the Community.
3. Within the boundaries of the policies, the Cabinet may delegate the management of a team to an according officer. An officer reports to the Cabinet and is bound by it's decisions regarding that team.
4. Teams are bound to support Arbitration and to execute Arbitration rulings. In exceptional situations Arbitration may place a team under supervision of a member selected by Arbitration. For this the team and Cabinet have to get the chance to be heard and the confirmation of two additional Arbitrators or a ruling of the Arbitration Panel is necessary.



4. The executive branch

4.4. Controls over Executive Branch

1. All participants within the executive branch are bound by the policies as defined by Policy Group. They also are fully subject to Arbitration decisions.
2. Cabinet and teams have to report to the community and to the Legal Entity.
3. Teams have to follow motions of the Cabinet and directions of the Officer or Supervisor within the boundaries of the policies.
4. The Cabinet should follow the directions of the Legal Entity within the boundaries of the policies and should listen to the wishes and concerns of the community.



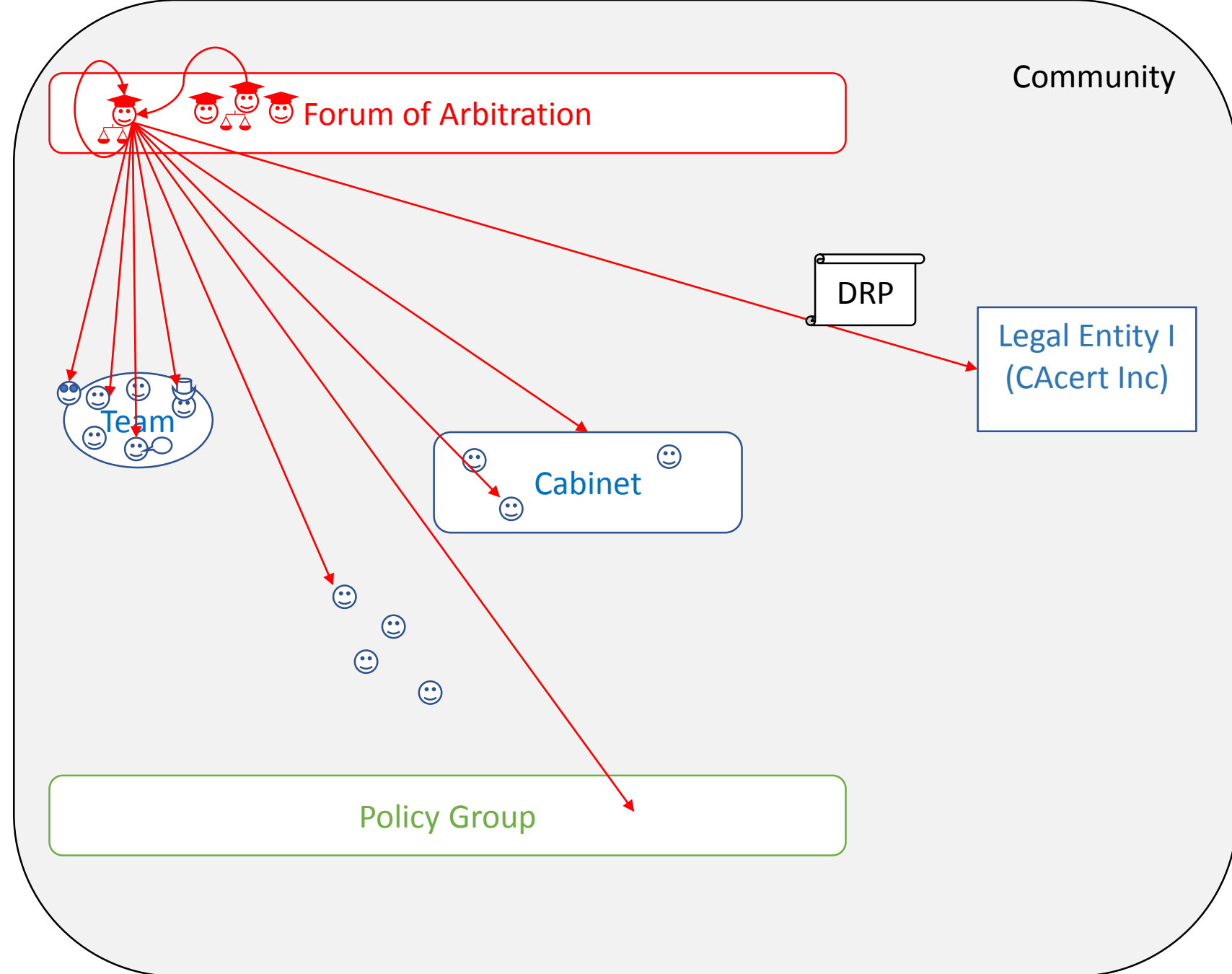
5. The judiciary branch



5. The judiciary branch

5.1. The Forum of Arbitration

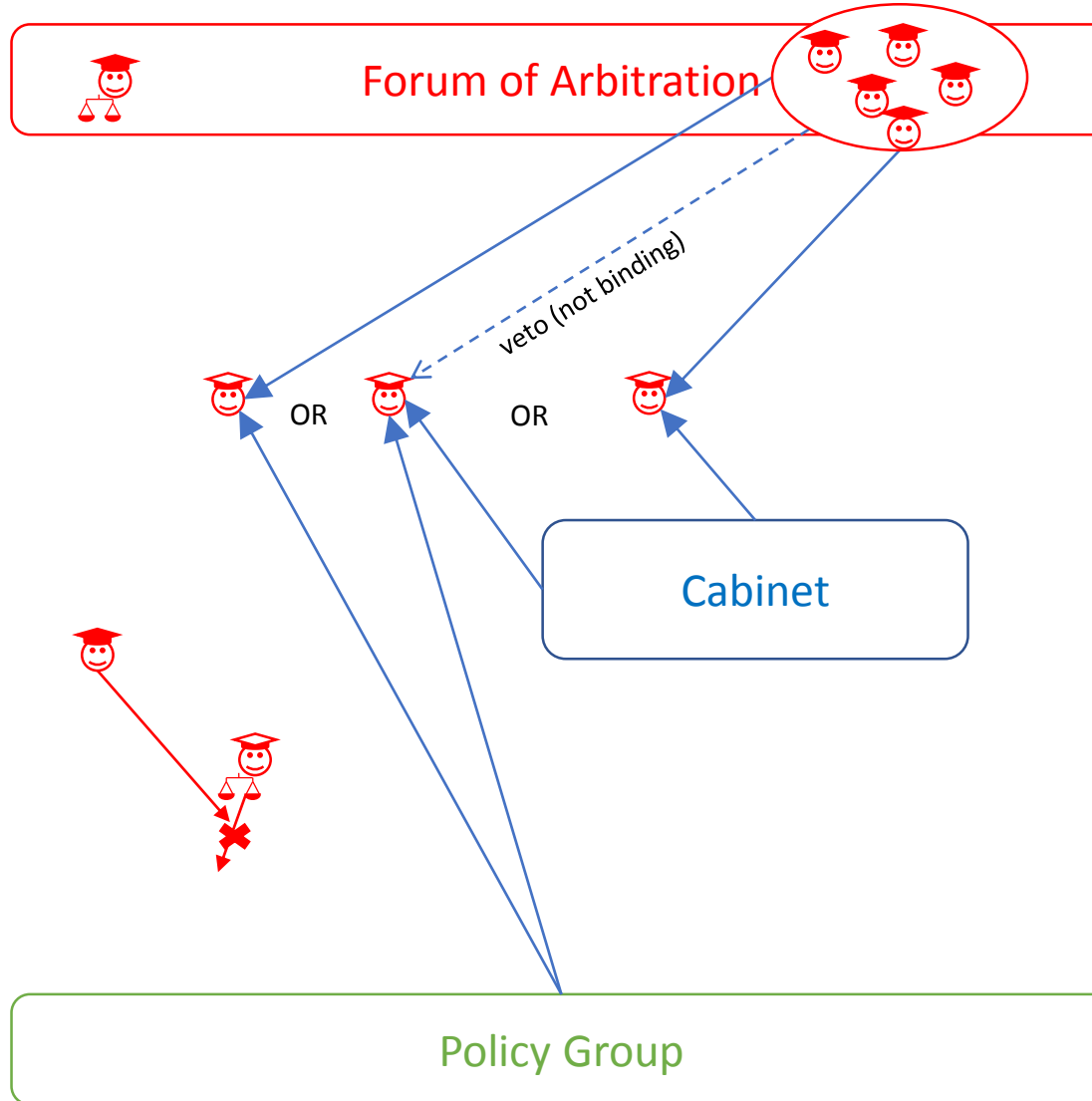
1. The Arbitrator is the deciding and ruling authority of the judiciary branch. The decisions of the Arbitrator of a duly filed case are binding and final to the involved parties, the members of the community and the legal entity and all persons acting within all three branches of CAcert. They may only be addressed by an appeal based on the requirements stated in DRP.
2. Appeals and possible sanctioning of arbitrators are handled by the arbitration panel. The Arbitration Panel can revert an arbitrator to training, override the DRC's direction on new cases, and can temporarily (maximum 3 months) freeze all new cases for an arbitrator.
3. Other affairs can be delegated to the arbitration panel for decision only by a policy or an arbitration ruling. This should be the exception.
4. The Arbitration Panel consists of three arbitrators. One of them has to be a senior arbitrator and chairs the panel.



5. The judiciary branch

5.2. Arbitrators

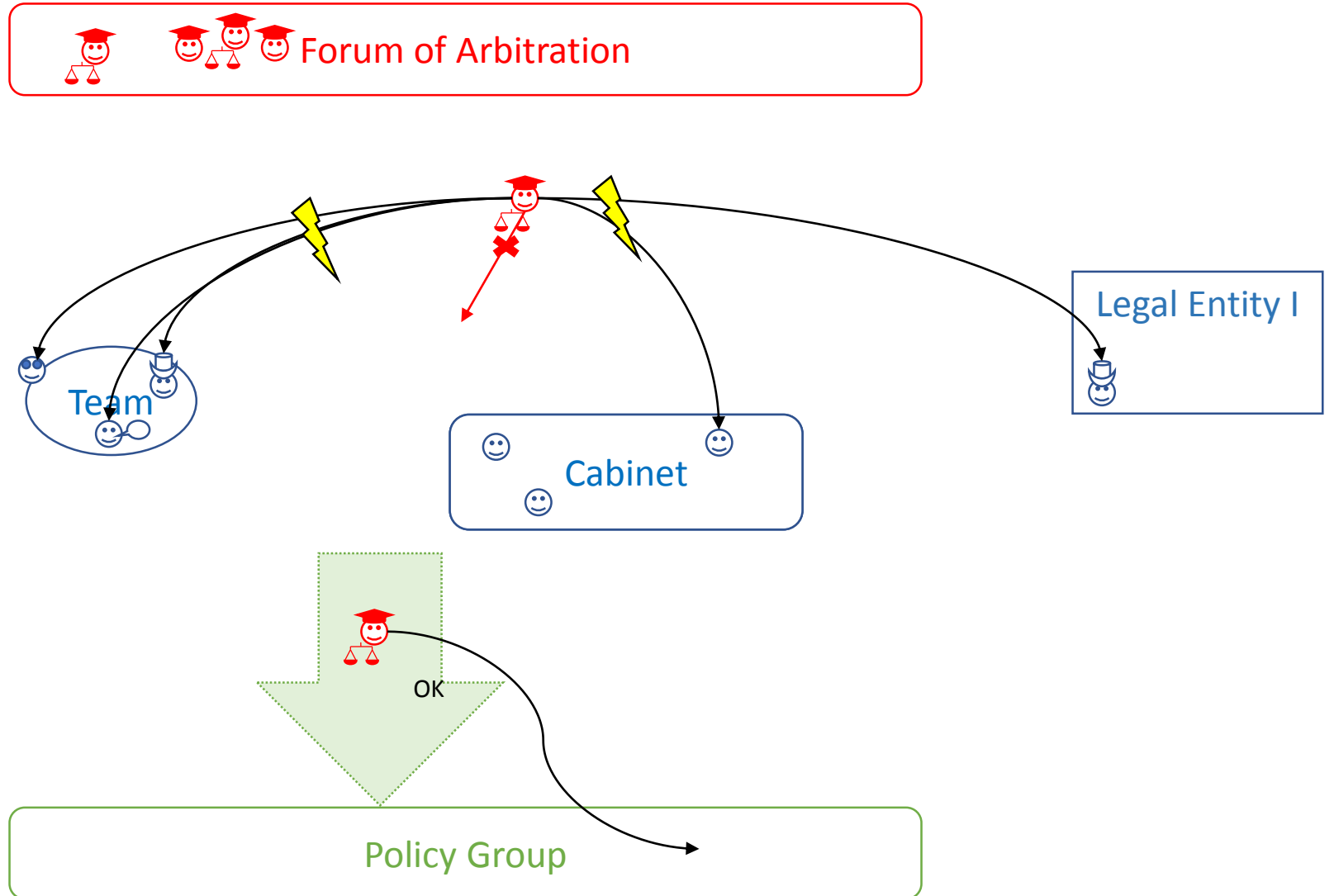
1. Arbitrators are experienced assurers in good standing within the community who are selected to handle cases under Dispute Resolution Policy.
2. Candidates for arbitrators are added by the decision of two out of Cabinet, Policy Group and Arbitration Group. Usually a candidate should be proposed by an arbitrator, accepted by Arbitration Group and confirmed by Cabinet. Arbitration Group may protest against a candidate, but if the other two heads insists on a candidate the candidate becomes an arbitrator.
3. The current list of arbitrators is accepted as grandfathered in.
4. Any new arbitrator starts as arbitrator in training. Arbitrators in training are supervised by a sitting senior arbitrator. The supervising arbitrator can overrule the decision of an arbitrator in training, if necessary. The reasons for such a decision have to be explained at least to the arbitrator in training and the affected parties. Details are defined by procedures under the control of Arbitration Group.



5. The judiciary branch

5.2. Arbitrators

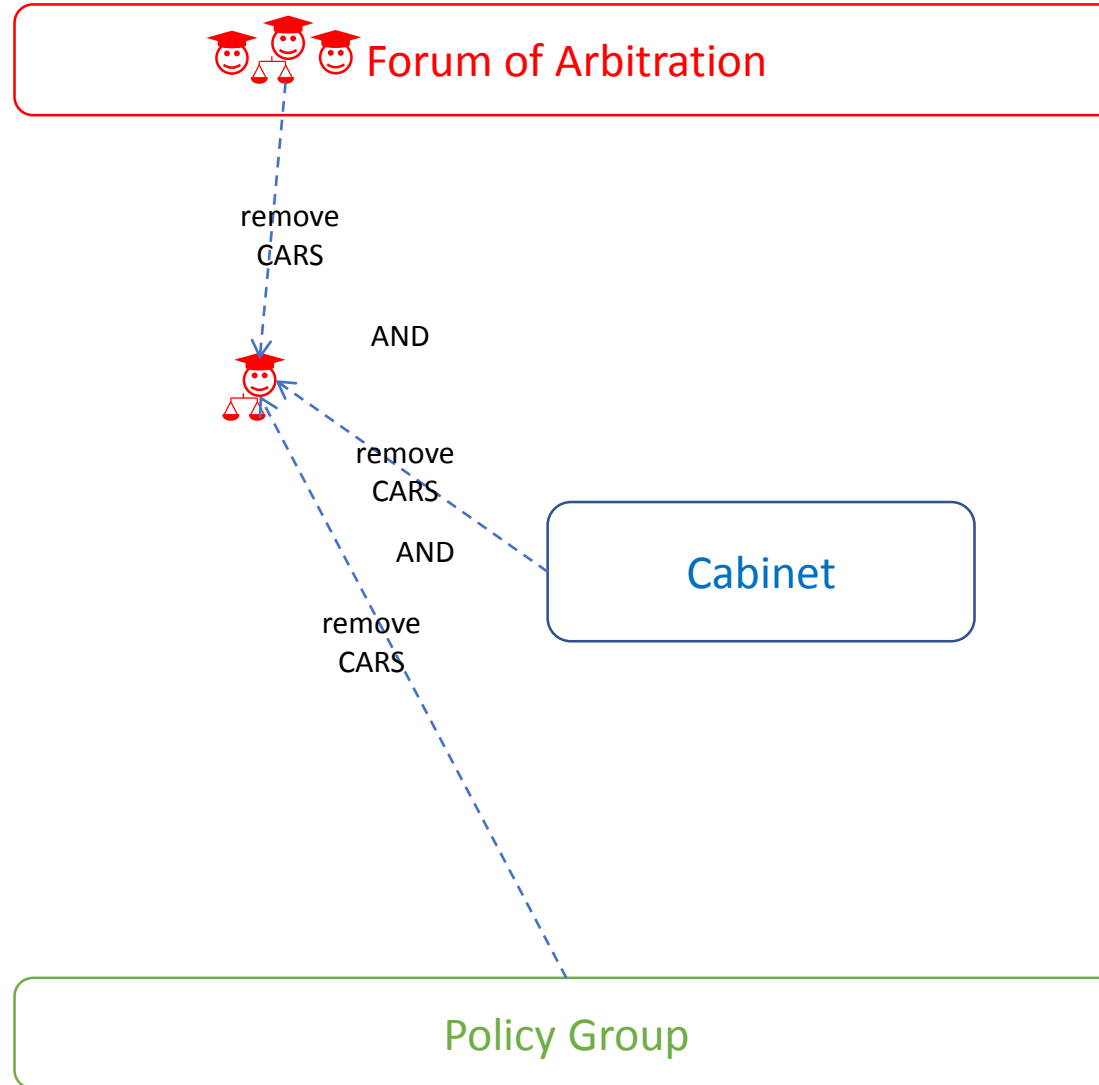
- An arbitrator who takes over any of the following roles becomes inactive and stays inactive until resignation of either the conflicting role or arbitrator:
 - cabinet member
 - speaker, officer or supervisor of a team
 - any other comparable position within the executive branch, the legal entity or any organisation that may have some influence over decisions within the executive branch
- An inactive arbitrator may not take over new cases or do any material decisions in running cases as arbitrator.
- Participation on any level within the legislative branch is possible for an arbitrator as that participation is a members right. Possible conflicts of interest have to be declared. And cases with possible conflicts of interest with activities of the arbitrator within the legislative branch may not be handled by the arbitrator.



5. The judiciary branch

5.2. Arbitrators

- 6. Arbitrators may declare themselves to be inactive or in training. The arbitration panel may revert an arbitrator in training. The arbitration panel may declare an arbitrator to be
- 7. An arbitrator can only be permanently retired from the list of arbitrators against his will by decision of the panel, by concurrence of the board, and by a majority vote on Policy Group. As the subject matter is serious, all those voting must deliver a CARS to the effect that they have informed themselves of the issues. Members who are not able to provide a CARS are excluded from such decisions. .



5. The judiciary branch

5.3. The Arbitration Group

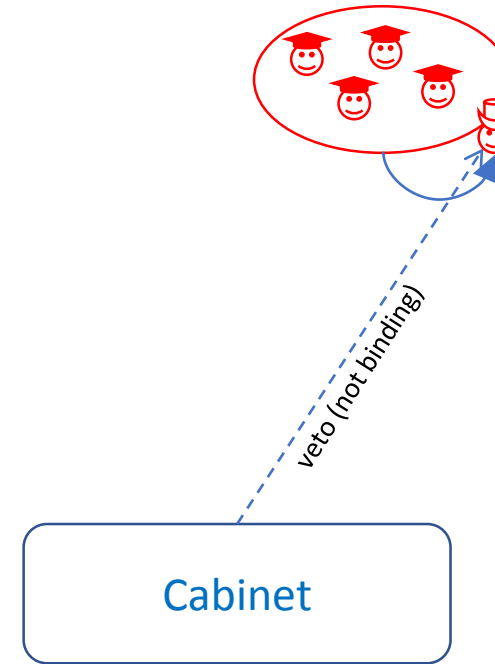
1. The Arbitration Group manages the affairs of the arbitrators as long as not defined by a policy or under the authority of the Dispute Resolution Chair.
2. The arbitration group consists of all arbitrators. The Dispute Resolution Chair and case managers can be invited.
3. If in doubt only votes of active arbitrators count for decisions of Arbitration Group.



5. The judiciary branch

5.4. The Dispute Resolution Chair (formerly Dispute Resolution Officer)

1. The Dispute Resolution Chair (DRC) is selected and installed by Arbitration Group. The Cabinet may veto against the choice of the Arbitration Group. Arbitration Group then has to re-start the selection decision but is not bound by the veto.
2. The DRC is tasked to manage cases, Case Managers and the selection of arbitrators for a case as defined in the Dispute Resolution Policy. The DRC should listen to concerns of the Cabinet and the arbitrators.
3. The DRC has no right to interfere with the direction of running cases. If a case is stalled the DRC may ask for the reasons.



5. The judiciary branch

5.5. Controls over Arbitration

1. The major control over the Forum of Arbitration is the Dispute Resolution Policy, which is created, authorised and distributed by Policy Group under its processes. The DRP rules over Arbitration Forum in its entirety. It must cite back to the Arbitration Act as a general label for every country's act, and it must seek to protect all members against the attacks of any aggressor.
2. The only control over the Forum of Arbitration for the executive branch is limited to the process of appointing of an arbitrator. This control may not be waved and has ot be done with all seriousness. After this the control of the executive branch is limited to appeals, disputes or participation within the process of removal of an arbitrator.
3. The basic control over the arbitrator are
 - the necessity to be appointed to case based on a duly filed dispute
 - the requirement to act transparent under the full name,
 - to be monitored by the other arbitrators as well as the community and
 - the conscience of the arbitrator.
4. Grave issues with the decisions of the Arbitrator can be addressed via an appeal as defined in Dispute Resolution Policy.

