

## **REQUIRED ZONE BOARD OF REVIEW PROCEDURES**

- 1.1 INTRODUCTION - USA Swimming, Inc. (“USA Swimming”) was organized as the National Governing Body for the sport of swimming under the Amateur Sports Act of 1978, as amended by the Ted Stevens Olympic and Amateur Sports Act (1998), both federal laws. These laws require USA Swimming to establish and maintain provisions for the swift and equitable resolution of all disputes involving any of its members. These Procedures, together with Section 602.2 and Article 609 of the Required LSC Bylaws, and the USA Swimming Rules and Regulations, are intended to provide a clear statement of member responsibilities, liabilities for infractions thereof, and a mechanism for resolving in an orderly and fair way all manner and kinds of disputes that may arise among its members in connection with the sport of swimming. Accordingly, USA Swimming requires each Zone to establish a Zone Board of Review to hear complaints, protests and appeals regarding the administration and conduct (including acts and failures to act) of the sport of swimming in the Zone, conduct that may violate the USA Swimming Code of Conduct or otherwise violate the policies, procedures, rules and regulations adopted by USA Swimming or the Zone, or conduct that may bring USA Swimming, the Zone, the respective LSC or the sport of swimming into disrepute. These Procedures, together with Part Four of USA Swimming Rules and Regulations, is intended to provide a uniform method of appeal from any decision, act or failure to act to which a member of the Zone or, where the conduct occurred in the Zone, another Zone (or LSC within another Zone) takes exception, and to provide an opportunity for a fair hearing before a group of independent and impartial people. These Procedures and Part Four of the Rules will be construed accordingly.
- 1.2 BOARD OF REVIEW ORGANIZATION -
  - .1 ESTABLISHMENT - The Board of Review for each Zone will be independent and impartial.
  - .2 MEMBERS - The Zone Board of Review will have at least twenty-five (25) regular members, comprised of at least two (2) members from each LSC within the Zone. The Zone Board of Review, and any panel hearing a case, will have a sufficient number of athlete members to constitute at least twenty percent (20%) of its membership. The Zone may increase the number of Zone Board of Review members by resolution but may only decrease the number of members upon the expiration of the term of office of any incumbent members. No hearing will proceed without the required athlete representation.
  - .3 ELECTION; TERM OF OFFICE; ELIGIBILITY -
    - A. Election - At its annual meeting each year, the Zone will elect the number of members of the Zone Board of Review required by Section 1.2.3B below.

- B. Term of Office - The term of office for Zone Board of Review members will be three (3) years [*initially, members will need to be assigned 1, 2 or 3 year terms*]. Terms will be staggered so that approximately one-third of the membership on the Zone Board of Review will expire each year. Each member will assume office immediately upon election and will serve until a successor takes office.
  - C. Eligibility - Each member of the Zone Board of Review will be an Individual Member of the Zone and USA Swimming. In no case will a Zone Director serve on the Zone Board of Review.
- .4 CHAIR ELECTED BY BOARD; OTHER OFFICERS - The Chair of the Zone Board of Review (the "Chair"), who must be a regular member, will be elected biennially by a majority vote of the members of the Zone Board of Review. The Chair will biennially appoint a Vice Chair and a Secretary of the Zone Board of Review, each of whom must be regular members.
  - .5 MEETINGS - The Zone Board of Review will meet for administrative purposes at least once biennially to elect the Chair, to adopt rules and procedures and to conduct other business as may be helpful or necessary to achieve the purposes of the Zone Board of Review and efficiently exercise its duties and powers. Other meetings may be called by the Chair or any three (3) regular members. When meeting for administrative purposes, those provisions of Article 607 that are specified in Section 607.18 of the Required LSC Bylaws will apply to the Zone Board of Review.
  - .6 PARTICIPATION THROUGH COMMUNICATIONS EQUIPMENT - Members of the Zone Board of Review may participate in a meeting or hearing of the Zone Board of Review, and any hearing may be conducted, in whole or in part, through conference telephone, video conferencing or similar equipment by means of which all persons participating in the meeting can hear each other at the same time. Participation by these means will constitute presence in person at such a meeting or hearing.
  - .7 QUORUM - A quorum for any administrative meeting of the Zone Board of Review will be fifty percent (50%) of its members, including athlete members.
  - .8 RESIGNATIONS - Any member of the Zone Board of Review may resign by orally advising the Chair or by submitting a written resignation to the Chair, the Zone Directors or the Zone Secretary specifying an effective date of the resignation. In the absence of a specified effective date, any such resignation will take effect upon the appointment or election of a successor.
  - .9 INCAPACITIES AND VACANCIES - Determination of Vacancy or Incapacity –
    - A. Office of Chair - In the event of a vacancy in the office of the Chair, or of the Chair's temporary or permanent incapacity, the Vice Chair will become the Acting Chair until an election can be held at a meeting of the Zone Board of Review to fill the remaining term, if any, of the former Chair, or until the Chair ceases to suffer from any temporary

incapacity. If the Chair is going to be absent from the Zone, the Chair may, but is not obligated to, designate the Vice Chair as Acting Chair for the duration of the absence.

- B. Presiding Officer - In the event of the death, resignation or permanent incapacity of a Presiding Officer, the Chair will appoint another member of the Zone Board of Review or an attorney to serve until the completion of the hearings assigned to that Presiding Officer. Generally that event and appointment should have no impact on those pending hearings other than delay for the benefit of the new Presiding Officer. The Chair or the new Presiding Officer may make such other orders as are in the interests of fairness, justice and the sport of swimming. In the case of a temporary incapacity of a Presiding Officer, the Chair will have discretion regarding appointment of a new Presiding Officer, a delay of the hearing or such other order as may serve the interests of fairness, justice and the sport of swimming.
  - C. Other Members - In the event of a death, resignation or permanent incapacity of a member of the Zone Board of Review, the Zone Directors will appoint an Individual Member to serve as a Board of Review member until the next regularly scheduled meeting of the Zone. In the event of a temporary incapacity, the Zone Directors will designate another member to act for the incapacitated member for the duration of the incapacity. If there are no members available to serve, the Zone Directors will appoint one or more Individual Members to serve as alternate members to serve until the next regularly scheduled meeting of the Zone.
  - D. Determination of Vacancy or Incapacity - The determination of when a position on the Zone Board of Review becomes vacant or a member becomes incapacitated or should be removed for cause will be within the discretion of the Zone Board of Review. The determination as to when the Chair is temporarily incapacitated or should be removed for cause will be made within the discretion of the Zone Board of Review.
- .10 SUBSTITUTIONS FOR MEMBERS - In the event that a member of the Zone Board of Review or a Presiding Officer is unable or unwilling to promptly act for any reason, recuses herself or himself or is disqualified in any particular circumstance, the Chair (or, if the person so unable or unwilling to act or recused or disqualified is the Chair, the Vice Chair; or failing that, the Zone Directors) will appoint another member or, if none of the other members is available, a disinterested Individual Member to act in the member's place and stead in respect of that circumstance.
- .11 ADVICE; ATTORNEY AS PRESIDING OFFICER -
- A. Legal and Other Advice - Where appropriate or helpful, the Chair or Presiding Officer may consult the USA Swimming General Counsel, the Chair of the USA Swimming Rules and Regulations or Officials

Committees or of the Bylaws Subcommittee or an attorney (who need not be a member of the Zone, USA Swimming or the Zone Board of Review) retained by the Zone Board of Review or the Chair regarding any issue raised by a proceeding.

- B. Attorney as Presiding Officer - The Zone Board of Review or the Chair may retain an attorney (who need not be a member of the Zone, USA Swimming or the Zone Board of Review) to act as Presiding Officer at any hearing where it is appropriate or helpful. A Presiding Officer who is not a Board of Review member may not participate in the deliberations of the Zone Board of Review or have a vote.
- C. Attorney's Fees and Expenses - Prior to retaining an attorney on any basis requiring the payment of fees to the attorney (the payment of expenses to an attorney providing services at no charge (*pro bono publico*) will not be considered as a payment of fees for this purpose), the Chair or the Presiding Officer will consult with the Zone Directors and the USA Swimming General Counsel. The Zone Secretary is authorized and directed to pay any fee and expenses charged by the attorney and approved by the Chair.

### 1.3 GENERAL -

- .1 ADMINISTRATIVE POWERS - The Zone Board of Review will have the powers and the duty to:
  - A. administer and conduct the affairs and achieve the purposes of the Zone Board of Review,
  - B. establish policies, procedures and guidelines,
  - C. elect the Chair in accordance with Section 1.3.4,
  - D. elect or provide for the appointment of other officers, agents, committees or coordinators to hold office for terms, and to have the powers and duties, specified,
  - E. call regular or special meetings of the Zone Board of Review,
  - F. retain attorneys, agents and independent contractors and employ those persons which the Zone Board of Review may determine are appropriate, necessary or helpful in the administration and conduct of its affairs, and
  - G. take such action as may otherwise be appropriate, necessary or helpful in the administration and conduct of its affairs, the achievement of its purposes and the efficient exercise of its duties and powers.

- .2 RULE MAKING POWERS - The Zone Board of Review will have the power and the duty to promulgate reasonable rules and procedures, consistent with the Corporation laws applicable to the Zone or the applicable LSC, with respect to any matter within its jurisdiction or appropriate, necessary or helpful in the administration and conduct of its affairs.
- .3 EXERCISE OF POWERS AND DECISIONS - Except for authority and power granted to the Chair or the Presiding Officer, the exercise of the authority and powers of the Zone Board of Review and the decision of matters which are the subject of a hearing will be decided by a majority vote of the panel or the regular membership of the Zone Board of Review. The views of any dissenters will be included in the record of the proceeding if requested by the dissenters. The exercise of the Zone Board of Review's authority and power will lie solely in its discretion and the interests of justice and the sport of swimming. However, the Zone Board of Review will exercise its power in response to a timely Petition filed with it, subject, in appropriate circumstances, to the power and discretion of the Chair or Presiding Officer to dismiss a Petition with permission to refile for a stated period. In connection with any preliminary investigation, the Chair or Presiding Officer may offer the services of a Board of Review member or an Individual Member designated for such purposes by the Board of Review or the respective LSC, to act as a mediator or similar position under other alternative dispute resolution mechanisms.
- .4 TIMELINESS OF PETITION - The Zone Board of Review need not exercise its jurisdiction with respect to a Petition the subject matter of which occurred, or concerns or is founded on events which occurred, more than ninety (90) days prior to the date the Petition is received (as determined under Article 406.1 of the USA Swimming Rules and Regulations). A determination not to exercise its jurisdiction as a result of the untimeliness of a Petition may be the subject of an appeal to the National Board of Review pursuant to Article 408 of the USA Swimming Rules and Regulations.
- .5 FILING FEES - The Zone may impose a schedule of generally applicable fees to be collected at the time a Petition or Request for Formal Hearing following an Emergency Hearing is filed with the Zone Board of Review. *[The filing fee should not exceed \$50-\$100.]* If, on its own initiative or upon written request, the Zone Board of Review determines it to be in the interest of justice and the sport of swimming, the filing fee may be waived on a case-by-case basis.