

This report is divided into four sections: those reported favorably (recommended) by the Legislation Committee, those reported favorably as amended (recommended) by the Legislation Committee, those not reported favorably (not recommended) by the Legislation Committee, and those that required the action of both the Legislation and Rules Committees.

I. The following proposals were reported out favorably by the Legislation Committee. They require a simple majority of the HOD to pass.

LEGISLATION PROPOSALS

L 6 Glossary page xiv Rules Committee Modify

Member—an individual, club or organization that registered with USMS through an LMSC.

L 24 203.3.3 page 59 Board of Directors Modify

203.3.3 Fees Sanctions may be subject to an insurance surcharge, as determined by the Board of Directors or the House of Delegates.

RATIONALE: This proposal was adopted by the Board January 21, 2013, in response to unanticipated drastic increases in liability insurance costs. In full accordance with the Boards power to exercise the emergency power to adopt or suspend any swimming rule (Part 1 or Part 3) or administrative regulations of competition (Part 2), the president provided a detailed report of the action to the HOD as per 506.3.9. The action taken under this emergency provision shall be effective until the next meeting of the House of Delegates; therefore it must be voted on by the HOD to be in effect beyond this year.

L 29 204.1 page 60 Board of Directors Modify

204.1 Release

All individual membership application forms and sanctioned entry forms shall include a liability release. The liability release shall be signed by the person registering or entering. The language of the membership liability release shall conform to the language and format specified by USMS policy. ~~be: “I, the undersigned participant, intending to be legally bound, hereby certify that I am physically fit and have not been otherwise informed by a physician. I acknowledge that I am aware of all the risks inherent in Masters swimming (training and competition), including possible permanent disability or death, and agree to assume all of those risks. AS A CONDITION OF MY PARTICIPATION IN THE MASTERS SWIMMING PROGRAM OR ANY ACTIVITIES INCIDENT THERETO, I HEREBY WAIVE ANY AND ALL RIGHTS TO CLAIMS FOR LOSS OR DAMAGES, INCLUDING ALL CLAIMS FOR LOSS OR DAMAGES CAUSED BY THE NEGLIGENCE, ACTIVE OR PASSIVE, OF THE FOLLOWING: UNITED STATES MASTERS SWIMMING INC., THE LOCAL MASTERS SWIMMING COMMITTEES, THE CLUBS, HOST FACILITIES, MEET SPONSORS, MEET COMMITTEES OR ANY INDIVIDUALS OFFICIATING AT THE MEETS OR SUPERVISING SUCH ACTIVITIES. In addition, I agree to abide by and be governed by the rules of USMS.”~~
204.1.1 The language of the entry release may be modified as described in article 202.1.1A(1).
204.1.2 For open water events, the following statement shall be added to the end of the release: ~~“Finally, I specifically acknowledge that I am aware of all the risks inherent in open water swimming and agree to assume those risks.”~~

Related housekeeping:

201.1.4 Membership Application Forms...

B Liability release—All membership application forms shall contain the ~~exact~~ language of the liability release as stated in USMS policy. ~~according to article 204.1. The language shall not be modified in any way.~~

202.1.1 Sanction Requirements...

202.2.A (1) The entry forms shall contain the language of the liability release as stated in USMS policy. ~~articles 204.1 and 204.1.2. The language may only be modified by naming the sanctioning LMSC, sponsoring USMS club(s) and/or additional insured(s) following “UNITED STATES MASTERS SWIMMING INC.”~~ All swimmers, before participating, shall have signed the liability release.

203.3.3 Entry Forms and Programs

A The entry forms shall contain the language of the liability release as stated in USMS policy. ~~article 204. The language may only be modified by naming the sanctioning LMSC(s), sponsoring USMS club(s) and/or additional insured(s) following “UNITED STATES MASTERS SWIMMING INC.”~~ All swimmers, before participating, shall have signed the liability release.

301.4 Liability Release

Entry forms shall contain the ~~exact~~ language of the liability release as stated in USMS policy. ~~according to article 204.~~

RATIONALE: USMS should be able to change the language of its liability release in response to legal developments and the advice of counsel. Having the liability release in code makes it difficult to make such changes and makes the language subject to the votes and requisite compromises of a large House of Delegates. Some may argue that the release needs to be in the rule book for easy access to LMSCs and event hosts who need to refer to the language for entry forms and paper registration forms. However, this can be accomplished by putting on the USMS website or in some other place that does not require legislation for annual changes.

Similarly, requirements and variances, such as added language for open water releases and allowances to modify the release to add certain parties, can be stated somewhere other than in code. If this is done, these items can be removed from articles 204.1.1, 204.1.2, 202.1.1, and 203.3.3. Moreover, the liability release information on the USMS website can be used to set forth additional requirements that support the validity of the release and its conspicuousness, such as minimum point size, separation of the release from other language, and a prohibition on adding additional items (e.g. photographic releases) to the liability waiver.

L 31 402.4 page 84 **Board of Directors** **Add and Renumber**

402.4 UNSPORTING CONDUCT

.....
402.4.8 Causing a credible and material risk to the safety of USMS members or others who may be present during USMS activities. A lifetime ban, declaration of permanent ineligibility, or permanent resignation of membership from a member organization of United States Aquatic Sports may be considered as evidence of a violation of this article 402.4.8.

RATIONALE: This provision allows an action to be brought under Part 4 if a person’s participation in USMS creates a material safety risk to others, including a person who has been banned by a USAS organization. This provision does not create an automatic ban from USMS for someone who has been banned from a United States Aquatic Sports (“USAS”) organization because a banned person may not necessarily create a material safety risk by participating in USMS activities, such as swimming in a swim practice with other adults. But it recognizes that there may be circumstances where the severity of the violation for which a person was banned from a USAS organization or the type of activity in which

the person engages while participating in USMS (e.g. coaching) may create a material safety risk for USMS members or others who may be present during the USMS activity.

Other articles that would require changing in order to maintain consistency

403.4 JURISDICTION OF THE NATIONAL BOARD OF REVIEW

403.4.1 The National Board of Review has original and exclusive jurisdiction to hear:

.....

B Any complaint of violation of article 402.4.4, providing false information, or article 402.4.8, causing a credible and material risk to safety.

L 35 403.4.1 page 84 **Board of Directors** **Modify**

403.4.1 Because certain disputes are most appropriately heard at the national level, the ~~The~~ National Board of Review has original and exclusive jurisdiction to hear:

A Any complaint from members of USMS where more than one LMSC is involved.

B Any complaint of violation of article 402.4.4, providing false information.

C Any complaint initiated by USMS.

Upon a majority vote of the Executive Committee, the National Board of Review may be assigned exclusive and immediate jurisdiction at any stage of any matter within the purview of this article 403 to serve the best interests of Masters swimming.

Rationale: This explains why the NBR has "exclusive jurisdiction" in specific matters.

L 36 403 page 84 **Board of Directors** **Modify**

403.4.3

a. Matters of jurisdiction to the National Board of Review shall be initiated by a written grievance filing made in accordance with the National Board of Review procedures. served upon the National Office accompanied by the filing fee. The written grievance shall set forth all parties against which the grievance is filed (respondents) and shall state the grounds for the grievance, citing factual and legal issues in as much detail as possible. Instructions on how to file a grievance may be obtained from the National Office.

b. Requests to the National Board of Review for review of LMSC decisions shall be initiated by a written request for review filed in accordance with the National Board of Review procedures.

403.7.2 The petition for appeal shall be served upon the National Office in accordance with the National Board of Review procedures. within 30 days of the postmark date of the mailing of the LMSC's written decision and shall be accompanied by the filing fee. The petition shall set forth the grounds for appeal, citing factual and legal issues in as much detail as possible.

403.8 Hearing Panel Procedure

If, pursuant to the authority in article 403.6, the chair chooses to appoint a hearing panel to decide a dispute matter, the National Board of Review procedures shall govern the process for submissions and scheduling, and the conduct of any hearing. A written decision shall be rendered by the hearing panel. following procedure shall be used:

403.8.1 The chair shall set a hearing date, which shall be 50 to 75 days from the postmark date of mailing the notice of hearing.

403.8.2 The chair shall mail the notice of hearing, together with a copy of the written grievance received by the National Office, to the respondents.

~~403.8.3~~ The respondents shall have 30 days from the postmark date of mailing to submit a written response to the charges. The response shall be mailed to the chair and the grievant.

~~403.8.4~~ The grievant shall have 10 days from the postmark date of mailing of the response to submit a written rebuttal. The written rebuttal shall be mailed to the chair and the respondents.

~~403.8.5~~ At the hearing panel's discretion, a decision may be rendered based solely on the written submissions. A written decision shall be mailed to the parties and shall inform the parties that an appeal to the Board of Directors is available.

~~403.8.6~~ Conduct for all hearings shall be in accordance with the National Board of Review Procedures.

~~403.8.7~~ A written decision shall be rendered by the hearing panel and shall be mailed to the parties within seven days after the hearing. The written decision shall set forth the right of appeal.

403.9 Appeal to the Board of Directors

Any person directly affected by the National Board of Review's decision may appeal to the Board of Directors for review of any decision of the National Board of Review within 30 days of the postmark date of the mailing of the National Board of Review's written decision, in accordance with National Board of Review procedures.

~~403.9.1~~ The petition for appeal shall be served upon the National Office and shall be accompanied by the filing fee. The petition shall set forth the grounds for appeal, citing factual and legal issues in as much detail as possible.

~~403.9.2~~ The USMS president and National Board of Review chair shall select, from the Board of Directors, a board panel chair and four additional board panel members to hear the appeal.

~~403.9.3~~ The National Office shall send a copy of the petition for appeal to the respondent and all members of the board panel. The respondent shall then have 30 days from the postmark date of mailing of the petition to file a written response with the board panel chair and the grievant. The board panel chair may decrease or increase the time limits for any of the foregoing, upon request of either party on a showing of good cause.

~~403.9.4~~ The board panel may assess costs and fees against any or all named parties.

~~403.9.5~~ The review by the board panel shall be on the basis of the record from the National Board of Review and written briefs and shall not include new evidence. However, by majority vote, the board panel may decide to take new evidence and hear testimony.

~~403.9.6~~ The board panel shall render a final and binding decision within 75 days from the appeal filing date. A and a written decision shall be sent to all parties.

Rationale: This proposal will take the operational processes out of the Rules and put them into the NBR procedures which will be approved by the Board of Directors and then posted on the USMS website so they are accessible to all. The basic structure (NBR chair and NBR Committee, jurisdiction) and basic procedural requirements should still be in the Rules. The operational processes (time frames, page length of filings, filing fees) should be in the procedures, so that they can be changed as needed (but only with Board of Directors approval).

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|-------------|----------------|---------|---------------------------|---------------|
| L 42 | 403.8.7 | page 86 | Board of Directors | Delete |
|-------------|----------------|---------|---------------------------|---------------|

~~403.8.7~~ ...The written decision shall set forth the right of appeal.

Rationale: The current process already provides for an appeal to the Board (see Rules in Legislative Proposal L-36).

| | | | | |
|-------------|----------------|---------|---------------------------|---------------|
| L 45 | 403.9.1 | page 87 | Board of Directors | Modify |
|-------------|----------------|---------|---------------------------|---------------|

403.9.1 ... The petition shall set forth the grounds for appeal, citing specific facts ~~factual and legal issues in as much detail as possible~~. The petition shall not include new evidence that was not part of the record from the National Board of Review.

Rationale: Focus appeals to the BOD on reasons why the appellant believes the NBR decision is in error under USMS Rules.

L 46 403.9.5 page 87 **Board of Directors** **Modify**

403.9.5 The review by the board panel shall be on the basis of the record from the National Board of Review and written briefs ~~and shall not include new evidence~~. ~~However, by majority vote, the~~ The board panel may decide in its sole discretion to take new evidence and hear testimony.

Rationale: Eliminate contradictory statements.

L 48 502.10 page 92 **LMSC Development Committee** **Modify**

502.10 LMSC MINIMUM Standards

Each LMSC shall meet ~~minimum~~ required standards established by the USMS Board of Directors and published in the *USMS Policy Manual*.

Rationale

The LMSC Minimum Standards policy as approved by the House of Delegates in 2009 included two related sections: required standards and suggested standards. The intent was to have the required standards be the minimum level of service the LMSCs should be providing and meeting. But because both are included in the policy, it is more accurate to refer to the entire policy as LMSC Standards and clarify the rule that only the required standards are those that shall be met.

Other articles affected by this change needing amendments

~~507.1.6~~ ~~LMSC DEVELOPMENT COMMITTEE~~—The LMSC Development Committee shall work to strengthen LMSC governance and operations by providing educational opportunities and mentoring for LMSC boards and officers. The committee shall provide support for LMSCs. The committee shall review and identify LMSCs that are not meeting LMSC ~~minimum~~ required standards as defined by the Board of Directors and assist them in achieving compliance. ...

L 57 601.2.3 page 107 **Long Distance & Open Water Committees** **Modify**

601.2.3 Submission Deadline—The deadline for changes submitted by an LMSC to the chair of the LMSC Development Committee is February 1. Proposed changes to the *USMS Code of Regulations and Rules of Competition* by an LMSC must be submitted to the chair of the Legislation, Long Distance or Rules Committee not later than July 10 to be considered as described in articles 601.4.1, 601.4.2 and 601.4.3.

601.2.4 Submissions After the Deadline— The Board of Directors, Executive Committee or standing committees of the House of Delegates may propose changes to the USMS code after July 10. Such proposed changes shall be considered by the committee of jurisdiction as emergency amendments as described in article 601.4.6, unless the committee of jurisdiction, at the annual meeting, determines by two-thirds vote that the proposed changes should not be considered as emergency amendments. Such proposed changes will be amended in accordance with the voting requirements in articles 601.4.1, 601.4.2 or 601.4.3, as applicable.

***Rationale:** This amendment splits a long article into its component parts. Having the vote taken at convention gives the proponents an opportunity to speak to their proposal in person and takes into consideration that there can be legitimate reasons why a proposal may be made after July 10.*

L 58 601.2.3 page 107 **Rules Committee** **Modify**
601.2.3 Submission Deadline—The deadline for changes submitted by an LMSC to the chair of the LMSC Development Committee is February 1 to be considered as described in article 601.4.4. Proposed changes to the *USMS Code of Regulations and Rules of Competition* by an LMSC must be submitted to the chair of the Legislation, Long Distance or Rules Committee not later than July 10 to be considered as described in articles 601.4.1, 601.4.2 and 601.4.3. The Board of Directors, Executive Committee or standing committees of the House of Delegates may propose changes to the USMS code after July 10. Such proposed changes shall be considered by the committee of jurisdiction as emergency amendments as described in article 601.4.6, unless the committee of jurisdiction determines by two-thirds vote that the proposed changes should not be considered as emergency amendments. Such proposed changes will be amended in accordance with the voting requirements in articles 601.4.1, 601.4.2 ~~or~~ 601.4.3, or 601.4.4 as applicable.

Rationale: Parallel language (end of first sentence) to that in the end of the second sentence, and add 601.4.4 to the voting requirements in the last sentence for the LMSC Development Committee.

L 59 601.3 page 108 **Long Distance & Open Water Committees** **Modify**

601.3 Modification of Proposed Amendments

Proposed amendments may be modified in any manner by the Legislation, LMSC Development, Long Distance, Rules Committee or House of Delegates, where appropriate, while under consideration by said body. Such modification must be germane to the subject matter and intent of the proposed change. Such modification by the Legislation, LMSC Development, Long Distance or Rules Committee requires a majority vote. Such modification by the House of Delegates requires a two-thirds vote.

***Rationale:** Modifying proposed amendments should be done in committee where there is adequate time to thoroughly discuss and debate the merits of the modification. The nature and rules of our House of Delegates do not lend themselves to a complete investigation of the ramifications of new amendments. By raising the voting requirements in the House, more of these modifications should be addressed in committee.*

L 62 601.2.3 page 107 **Legislation Committee** **Modify**

601.2.3 Submission Deadline—The deadline for changes submitted by an LMSC to the chair of the LMSC Development Committee is February 1. Proposed changes to the USMS Code of Regulations and Rules of Competition by an LMSC must be submitted to the chair of the Legislation, Long Distance or Rules Committee not later than July 10 to be considered as described in articles 601.4.1, 601.4.2 and 601.4.3. The Board of Directors, Executive Committee or standing committees of the House of Delegates, may propose changes to the USMS code after July 10. Such proposed changes shall be considered ~~untimely by the committee of jurisdiction as emergency amendments as described in article 601.4.6, unless the committee of jurisdiction determines by two-thirds vote that the proposed changes should not be considered as emergency amendments.~~ Untimely proposals can be considered timely by a two-thirds vote of the committee of jurisdiction. Timely proposed changes will be amended in accordance with the voting requirements in articles 601.4.1, 601.4.2 or 601.4.3 as applicable. Untimely proposed changes shall be considered as emergency amendments and will be amended in accordance with the voting requirements in article 601.4.6.

Rationale: This article has been misinterpreted in the past due to the language. This is to clarify the current operating procedure.

I. The following proposals were reported out favorably by the Legislation Committee as AMENDED. They require a simple majority of the HOD to pass.

L 15 201.3.4 page 54 **Rules Committee**

201.3.4 An unattached swimmer is an individual member who does not represent a USMS club, is registered with the club Unattached through an LMSC. Swimmers registered with the club Unattached shall not compete in relays or score club points in competition. Competing while registered with the club Unattached shall not be considered as representing a club for purposes of 201.3.5.

Rationale: Conform to and make effective the date that FINA proposed change MSW 6.2 becomes effective, should it pass the FINA Congress in July. To clarify that all current rules regarding unattached will continue to function as previously interpreted.

L 16 201.3.5 page 54 **San Diego/Imperial** **Modify**

201.3.5 A swimmer shall not represent any club in competition for 60 consecutive days before transferring affiliation to another club, unless this transfer takes place at the time of annual registration. A swimmer may declare unattached status at any time without written application. A swimmer intending to compete in an event after declaring unattached status shall notify the LMSC registrar of the declaration of unattached status prior to the event. The registrar shall change the club affiliation of the swimmer to the club Unattached and note the effective date.

Rationale: For swimmers entering events after declaring unattached status, documentation is necessary for meet directors, Top 10 recorders, and registrars to be able to accurately reflect swimmer affiliation in event results/Top 10/records, etc., and to be able to verify swimmer compliance with the 60 day unattached period prior to a new club being represented.

L 21 202.1.1 A (3) page 55 **Records and Tabulation Committee** **Modify and renumber**

(3) Meet information shall include ONE of the following statements:

(a) The length of the competition course without a bulkhead is in compliance and on file with USMS in accordance with articles 105.1.7 and 107.2.1.

(b) The length of the competition course has been measured and is NOT in compliance with USMS articles 105.1.7 and 107.2.1: times achieved in the meet will NOT be eligible for USMS Top 10 and Records.

(c) The length of the competition course is not on file with USMS. Eligibility of times achieved in this meet will be contingent upon pool length measurement and approval with USMS ; if bulkheads are present, their placement must also be confirmed by measurements at the meet. (USMS articles 105.1.7 and 107.2.1).

(d) The length of the competition course is in compliance and on file with USMS in accordance with articles 105.1.7 and 107.2.1, but as a bulkhead course, is subject to length confirmation. Eligibility of times for USMS Top 10 and Records will be contingent on verification of bulkhead placement.

L 27 203.3.3C page 59 **Long Distance & Open Water Committees** **Modify**

C ~~In the event of a dual sanction, entry forms and programs must identify the other sanctioning~~

body. An event securing sanctions from more than one governing body shall identify all sanctioning bodies on entry forms, programs and results.

Rationale: This proposal prepares the way and process for potential multiple sanctions of an event under article 203.1.1C.

L 32 402.4.5 page 84 **Southern Pacific LMSC**
Modify

402.4.5 Any nonconsensual physical contact, obscene language or gesture, or other threatening language or conduct directed toward ~~meet personnel~~ volunteers or staff, in connection with a USMS event.

Rationale: Remove word “meet” to allow all event types, add “staff” to recognize both paid and unpaid event workers.

Modify

L 34 403.4 page 84 **Board of Directors** **Add**

403.4 National Board of Review Procedures (New paragraph, renumber subsequent paragraphs)
The Board of Directors shall adopt and maintain National Board of Review procedures. These procedures shall set forth the process that will be used for matters filed with the National Board of Review including how disputes and appeals shall be filed, timing for each aspect of the National Board of Review hearing and appeal process, fees, structure of hearing panels, conduct of panel hearings, and notifications to the parties. The National Board of Review procedures shall be made publicly available and shall be updated on a periodic basis.

Rationale: Code should state clearly that there shall be NBR Procedures and that the Board of Directors is responsible for establishing them. While the Board of Directors may delegate the creation and updating of the procedures to others, such as the NBR chair or a task force, it should be stated in code that the procedures are the Board’s responsibility. The procedures should also be made publicly available, which may mean posting on the USMS website today, but could take some other form in the future.

L 38 403.6 page 85 **Board of Directors** **Modify**

403.6 Authority of the National Board of Review Chair

With regard to matters within the original or appellate jurisdiction of the National Board of Review, the National Board of Review chair ~~has the authority to~~ must take one or more of the following actions when reviewing a matter:

Rationale: We want to be sure that the NBR chair has the right to take any of these actions, but is required to pick at least one of them (e.g., refer an appeal of an LMSC decision back to the LMSC, or start an investigation prior to a hearing in a dispute). We believe that in almost every case, there will be a hearing, but before there is a hearing, the NBR chair has the authority to ask for further materials or begin an investigation if the NBR chair believes that the materials submitted are insufficient to make an informed decision.

L 55 507.1.9 page 101 **Long Distance & Open Water Committees** **Modify**

507.1.9 Open Water Committee—The Open Water Committee shall promote the development of and

participation in open water swimming. The committee shall develop educational resources for open water participants and event directors. The committee, with input from the Long Distance Committee, shall prepare guidelines pertaining to the management of USMS open water swimming for approval by the Board of Directors. The committee shall increase awareness about open water swimming and identify opportunities to promote USMS. The committee shall consist of the committee chair and sufficient members to execute the committee function. The Long Distance Committee chair shall be an ex officio member of the committee.

Rationale: Reflects the division of labor between the Open Water and Long Distance Committees on development of the Open Water Guide to Operations.

Change required to Article 301.2.1. Since the current rule assigns the OWGTO to the LDC and the OWC is managing the OWGTO, an amendment to article 301.2.1 is necessary and would fall under Proposed Amendments Requiring Action of More Than One Committee (601.4.5).

AND

301.2.1 Open Water Guide to Operations ~~The Long Distance Committee, with input from the Open Water Committee, shall develop and maintain a USMS Open Water Guide to Operations. An Open Water Guide to Operations (OWGTO) shall be developed and published for the use of USMS open water officials and event hosts.~~ The manner of implementation, governing policies and management of the rules applying to open water swims shall be contained in this guide.

Rationale: Brings this rule into alignment with the proposed amendment of article 507.1.9 (OWC definition).

I. The following proposals were NOT reported out favorably by the Legislation Committee. They require a 2/3 majority of the HOD to pass.

L 5 Glossary page xiii **Rules Committee** **Modify**

Forward Start—an entry made from a platform or deck while facing the course or a start made while in the water either facing the course or not facing the course.

L 17 201.3.6 Page 55 **Board of Directors** **Modify**

201.3.6 All applications for changes of membership (including transfers) must be accompanied by a reasonable fee to be determined by USMS ~~and the LMSC in which the swimmer will register for change of membership.~~

L 19 202.1.1A(1) page 55 **Long Distance & Open Water Committees** **Modify**

(1) The entry forms shall contain the language of the liability release as stated in articles ~~204.1 and 204.1.2~~ 204. ~~The language may only be modified by naming the sanctioning LMSC, sponsoring USMS club(s) and/or additional insured(s) following “UNITED STATES MASTERS SWIMMING INC.”~~ All swimmers, before participating, shall have signed the liability release.

Rationale: Housekeeping. (Consolidation. This language belongs in article 204, and should be deleted from the current articles 202.1.1A(1), 203.3.3A, & 203.3.3B).

L 23 202.1.1F(3) page 56 **Long Distance Committees** **Modify**

F All sanctioned events are subject to the following conditions:

(3) Sanctioned events may include nonconforming swimming events so long as they are

conducted in a safe manner. Nonconforming swimming events are events not defined in article 102.5 or 307.2.2.G-J, or that would typically result in the disqualification of participants as defined in article 102.13. USMS records and Top 10 times shall not be maintained in nonconforming events except for initial distances and relay leadoff split times for distances that are also events defined in article 102.5.

Rationale: Clarify that long distance events conducted in pools (i.e., one hour, 5 & 10-km and 3000 & 6000-yd postal events) are conforming events for purposes of sanctioning and are therefore eligible for USMS records.

L 25 203.3.3A page 59 **Long Distance & Open Water Committees** **Modify**

A The entry forms shall contain the language of the liability release as stated in article 204. ~~The language may only be modified by naming the sanctioning LMSC(s), sponsoring USMS club(s) and/or additional insured(s) following “UNITED STATES MASTERS SWIMMING INC.”~~ All swimmers, before participating, shall have signed the liability release.

Rationale: Housekeeping. (Consolidation. Language from 202.1.1A(1), 203.3.3A, & 203.3.3B belongs in article 204, and should be deleted from the current articles listed above).

L 26 203.3.3B page 59 **Long Distance & Open Water Committees** **Modify**

B ~~Event~~ Entry forms, and programs, and results must bear the statement “Sanctioned by (LMSC name) for USMS Inc. Sanction Number: _____.”

Rationale 1: Housekeeping (consistent language)

Rationale 2: It would be very helpful to swimmers, not to mention Records and Top 10 recorders, to have full information (sanction number, swimmer affiliation and age, pool compliance, etc.) contained in the results.

L 28 204.1 page 60 **Long Distance & Open Water Committees** **Modify**

204.1 RELEASE

All individual membership application forms and sanctioned entry forms shall include a liability release. The liability release shall be signed by the person registering or entering. The language of the membership release shall be:

“I, the undersigned participant, intending to be legally bound, hereby certify that I am physically fit and have not been otherwise informed by a physician. I acknowledge that I am aware of all the risks inherent in Masters swimming (training and competition), including possible permanent disability or death, and agree to assume all of those risks. AS A CONDITION OF MY PARTICIPATION IN THE MASTERS SWIMMING PROGRAM OR ANY ACTIVITIES INCIDENT THERETO, I HEREBY WAIVE ANY AND ALL RIGHTS TO CLAIMS FOR LOSS OR DAMAGES, INCLUDING ALL CLAIMS FOR LOSS OR DAMAGES CAUSED BY THE NEGLIGENCE, ACTIVE OR PASSIVE, OF THE FOLLOWING: UNITED STATES MASTERS SWIMMING INC., THE LOCAL MASTERS SWIMMING COMMITTEES, THE CLUBS, HOST FACILITIES, EVENT MEET SPONSORS, EVENT OR MEET COMMITTEES OR ANY INDIVIDUALS OFFICIATING AT THE EVENTS OR MEETS OR SUPERVISING SUCH ACTIVITIES. In addition, I agree to abide by and be governed by the rules of USMS.”

Rationale: Housekeeping (consistent language): USMS now uses the terms “event” and “events” to define sanctioned open water events. Sanctioned pool events refer to “meet committee” and “meet officials”.

L 30 **204.1.1** page 60 **Long Distance & Open Water Committees** **Modify**

~~204.1.1 The language of the entry release may be modified as described in article 202.1.1A(1). The language of the entry release may only be modified by naming the sanctioning LMSC, sponsoring USMS club(s) and/or other additional insured(s) following “UNITED STATES MASTERS SWIMMING INC.”~~

Rationale: Housekeeping. (Consolidation. This language is taken from 202.1.1A(1), 203.3.3A, & 203.3.3B. It belongs in article 204, and should be deleted from the current articles listed above).

L 33 **402.4.6** page 84 **Southern Pacific LMSC** **Delete**

~~402.4.6 Any nonconsensual sexual conduct, pattern of unwelcome sexual advances or other inappropriate sexually oriented behavior or action by a USMS member toward a member or any other person participating in any capacity whatsoever in the affairs or activities of USMS.~~

Rationale: This section attempts to put certain civil or criminal behavior under the control and purview of USMS. It asks USMS to enforce a set of behaviors that are beyond the scope and ability of USMS to reasonably act or respond. Any infraction of this section is more appropriately handled by local law enforcement agencies.

L 37 **403.4.4** page 85 **Southern Pacific LMSC** **Add**

403.4.4 Third-party complaints shall not be considered for review.

Rationale: The fact that someone can now initiate a complaint against someone with whom they have never spoken should not be, by any standard, allowable. All of the complaints and/or grievances should be between two parties, with the Board of Review acting as arbiter.

Modify the term “Third-party”

L 39 **403.6.2** page 86 **Southern Pacific LMSC**
Modify

~~403.6.2 Dismiss a grievance or appeal determined to be without merit, with the concurrence of the USMS president-Board of Directors.~~

Rationale: An agreement between two parties is not enough detachment to create a failsafe. If the grievance was filed against either the NBR chair or president, or both, there is no way properly to handle it as currently written.

L 40 **403.7.2** page 86 **Southern Pacific LMSC**
Modify

~~403.7.2 The petition for appeal shall be served upon the National Office within 30 days of the postmark date of the mailing of the LMSC’s written decision. Such decision shall be transmitted from the LMSC to petitioner by mail, electronic mail or other traceable media, as agreed to by both petitioner and LMSC in advance. The petitioner is solely responsible for giving accurate information for notification to be served.~~

The petition and shall be accompanied by the filing fee. The petition shall set forth the grounds for appeal, citing factual and legal issues in as much detail as possible. The National Office shall report any such petition, with date of receipt, to the Board of Directors.

Rationale: There has already been at least one petition that has been accepted by the NBR that did not comply with the 30-day rule and the date of petition has never been revealed. Part of the problem is that the petitioner gave the LMSC an incorrect street address. This change will make future attempts to foil the system for personal gain more difficult.

L 44 403.8.11 page 87 **Southern Pacific LMSC** **Add**

403.8.11 The chair shall file monthly reports with the Board of Directors of USMS. These reports shall include at least: a) names of parties to grievance/appeal, b) subject of grievance/appeal, c) stage of hearings (i.e., how far along is the hearing process).

Rationale: There has been more than one grievance that has lasted over one year. This is not fair to either party or USMS. If the BOD is notified of the progress, there is more incentive to keep the grievance/appeal moving through its process and not be left to stagnate, wither, or be forgotten.

L 47 403.10 page 87 **Southern Pacific LMSC**
Modify

403.10 Documentation

The National Office shall maintain a permanent file of all physical evidence and written decisions pertaining to any matter that was reviewed by the National Board of Review or the Board of Directors pursuant to Part 4. That file shall be retained for at least 10 years after the date of any final decision or withdrawal of any matter brought under Part 4. The files shall be made available to any member wishing to examine them.

Rationale: USMS has no need to keep any of the decisions secret from its members.

L 50 506.1.2 and 506.7.1 page 96 and 98 **Southern Pacific LMSC**
Modify

506.1.2 The nonvoting members of the Board of Directors shall consist of the executive director, legal counsel, ~~all past presidents not already voting members~~, a representative of each allied organization (as approved by the Board of Directors), and a representative from USA Swimming.

506.7 Permanent Committees of the Board page 98 add new, renumber.

506.7.1 Advisory committee - The Advisory Committee shall assist the Board by offering considered advice on topics referred to them by the Executive Committee or Board of Directors. It may also examine current and proposed projects for comment or make proposals for USMS projects. The committee shall only be composed of past presidents willing and able to participate. The current president may appoint a chair from the group.

Rationale: The past presidents, while having a wealth of knowledge, are better suited to perform in an advisory role in order to avoid unforeseen or inappropriate influence on Board activity. Their presence on the Board not only can intimidate the members and activities of the Board, it can also inhibit the learning capabilities of the current president, who needs to perform in a leadership role, not that of a student.

I. The following proposal required the action of both the Legislation and Rules Committees and was NOT reported out favorably by the either committee. They require a 2/3 majority of the HOD to pass.

L 60 601.5

page 109

Officials Committee

Modify

601.5 Effective Date

Unless otherwise specified, all changes to Part 1 of these rules and regulations approved as prescribed shall become effective on ~~January 1~~ March 1 of the year following their adoption, unless otherwise specified at the time of adoption. All other amendments to these rules and regulations approved as prescribed shall become effective on January 1 of the year following their adoption unless otherwise specified at the time of adoption.

Other Articles affected:

Part 1
SWIMMING RULES

All provisions under Part 1: Swimming Rules, unless otherwise specified, are effective beginning ~~January~~ March 1, 2013, and until changed. Rules in effect on the first day of a meet shall govern throughout the meet.

Rationale: Our current date of January 1 for Part 1 changes is not easily enforced as the hard copy of the rule book is not typically available on that date. Changing the effective date to March 1 for Part 1 changes gives us plenty of time to have the printed rule book in our hands and enough time for implementation before we get into championship meets, i.e. not changing rules just prior to a national championship.
