

2003 LEGISLATION AMENDMENT PROPOSALS

- L1 Add chapter heading “Organizing Principles” before the Preamble Legislation Committee

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ORGANIZING PRINCIPLES

PREAMBLE ...

MISSION STATEMENT OF UNITED STATES MASTERS SWIMMING...

GOALS AND OBJECTIVES ...

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601.1.3—Legislation Committee

Proposed changes to the Code of Regulations (~~Preamble, Mission Statement, Goals and Objectives, Organizing Principles~~, Glossary, Part 2: Administrative Regulations of Competition, Part 4: Athletes’ Rights, Hearings, and Appeals, Part 5: United States Masters Swimming, Inc., Organization and Bylaws, Part 6: Amendment Procedures, and Appendix D: Zone and LMSC Boundaries) shall be considered by the Legislation Committee for report and recommendation to the House of Delegates.

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601.4.3—Legislation

In odd-numbered years, the ~~Preamble, Mission Statement, Goals and Objectives, Organizing Principles~~, Glossary, ...

...

601.4.4.B ~~Organizing Principles, Glossary~~, Parts 1, 2, 3, 4, 5, and 6, and Appendix D, the ~~Preamble, Mission Statement, Goals and Objectives, and Glossary~~ may be amended by a ...

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Summary of Amendment Procedures

Legislation (~~Preamble, Mission Statement, Goals and Objectives, Organizing Principles~~, Glossary, Part 2, Part 4, Part 5, Part 6, and Appendix D)

Rationale: Add a chapter heading to eliminate a lot of tedious listing in Part 6.

- L2 Recognized Events p 14 Legislation Committee

Glossary

Recognized ~~Events Meet~~—a designated competition, demonstration, clinic or exhibition meet conducted by USMS, club members, individual members, or organizations other than USMS from which ~~swimmers~~ members may have their times accepted for recording purposes by USMS.

Rationale: Make the definition consistent with other references in the rulebook and allow LMSC’s and clubs to conduct recognized events.

- L3 Unattached swimmer definition p 14 Legislation Committee

Glossary

Unattached—an individual member who does not represent a USMS club of the corporation.

Rationale: Make the definition consistent with other references in the rulebook and less legalistic.

- L4 Differentiate registration from membership pp numerous Legislation Committee

Page 13 Glossary

Club—an organization or group of permanent character that is ~~registered with a member of the corporation~~ registered through its LMSC ...

Page 14 Glossary

Member—an individual, club, or organization that registered with the corporation through its LMSC...

~~Registered~~—enrolled as a member of the corporation and the LMSC.

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102.1.2—~~Those swimmers registered for Masters meets~~ USMS members may participate in non-USMS aquatic activities...

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102.9.4—On the relay card, relay teams must list the name of the ~~registered swim~~ club, the full name (as it appears on the USMS membership registration card), the age...

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104.5.4.A(1) USMS ~~membership registration~~ —USMS individual ~~membership registration~~ numbers and club names and abbreviations must be submitted on all entry forms together with entry times. “No time” for swimming events and “pending” for ~~membership registration~~ number will not be permitted...

104.5.4.A (3) Affiliation—A swimmer’s affiliation as stated on the entry form will apply throughout the meet. If the club on the entry form and the club listed in the USMS ~~membership registration~~ database do not match, the swimmer shall, prior to the first day of competition, submit a new USMS ~~membership registration~~ card showing the new affiliation...

104.5.4.B(5) Relay cards—On the relay card, relay teams must list the name of the ~~registered swim~~ club and the full name (as it appears on the USMS ~~membership registration~~ card) and the age of each relay member.

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105.1.4—Required Information ... all relay times must include the name of the ~~registered swim~~ club and the full name (as it appears on the USMS ~~membership registration~~ card), the age, and, for mixed relays, the gender of each swimmer. For all individual events, eligibility is based on current USMS ~~membership registration~~ as noted on the entry card...

Page 50

105.3.1—The fastest time by a USMS ~~registered swimmer~~ member in each event...

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105.4.1—Individual Recognition

The ~~registered~~ USMS ~~swimmer~~ member with the fastest listed time ...

105.4.2—Relay Recognition

The ~~registered~~ USMS ~~swimmer~~ member from each relay team...

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ARTICLE 201: ~~ATHLETE REGISTRATION MEMBERSHIP AND REPRESENTATION~~

201.1. ~~INDIVIDUAL MEMBERSHIP OF ATHLETES~~

All swimmers participating in events sanctioned by USMS must be members of ~~registered with~~ USMS or their nation’s recognized Masters swimming governing body.

201.1.2—Annual ~~Membership Registration~~

~~Individual membership~~ Athlete registration is for the period January 1 through December 31 of each year. Swimmers applying for ~~membership registration~~ for the following year on or after November 1 shall be issued a membership registration card valid from the registration date through December 31 of the following year...

201.1.3—One-Event Registration

An LMSC may offer a single-event registration that allows an athlete to participate in ONE event sanctioned by that LMSC. ~~Membership Registration~~ cards shall NOT be issued for one-event registration...

201.1.4—~~Membership Application Registration~~ Forms

A Membership application Registration forms — Individual membership application Athlete registration forms may be obtained from the registrar of the LMSC. The form, fully completed, shall be submitted with the applicable fee to the registrar of the LMSC, who shall issue a membership registration card.

B Liability release—All membership application registration forms shall contain the exact language of the liability release according to article 203.1. The language shall not be modified in any way.

201.1.5—~~Membership Registration~~ Fee

The annual ~~membership registration~~ fee is composed of the following elements:

201.2.1—There shall be only one USMS ~~membership registration~~ per individual permitted at any time.

201.2.3—A swimmer shall be ~~registered~~ in the LMSC in which the club being represented is located...

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201.2.4—An unattached ~~swimmer competitor~~ is an individual member who does not represent a USMS club a member ~~registered swimmer who represents no club.~~

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

201.2.7 ... written notice by the national ~~registrar office~~..

201.3.1—A ~~current~~ USMS ~~membership registration~~ card shall serve as a valid travel permit.

202.1. SANCTIONS

... All swimmers entered in sanctioned events shall be ~~registered with~~ USMS members, or shall have valid travel permits or their equivalents, or shall have other acceptable proof of current Masters membership swimming registration

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202.1.1.F(2) (2) All swimmers shall submit with their entries copies of their current ~~membership registration~~ cards or travel permits, or supply proof of current Masters ~~membership registration~~ acceptable to the LMSC; however, at the discretion of the meet director and exclusive of national championship meets, a swimmer may enter indicating “number pending,” as long as proof of ~~valid membership registration~~ is presented prior to the swimmer’s participation in the event.

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202.3. FITNESS EVENTS

...Participants shall be ~~registered with~~ USMS ~~members~~ or obtain a one-event registration...

203.1—All ~~individual membership application registration~~ 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 ~~registration membership~~ release shall be:

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301.2. MEMBERSHIP, REPRESENTATION REGISTRATION AND SANCTIONS

~~Membership, representation registration~~ and sanctions for long distance events ~~meets~~ shall be governed by...

301.2.2...Athletes holding both USMS and USA Swimming ~~memberships registrations~~ must declare their race affiliation, in writing, prior to the start of the meet.

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302.5.3—Rules Pertaining to Teams

A All team members shall be from the same USMS ~~registered~~ club

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303.9.1—Each swimmer’s name, age, gender, and ~~membership registration~~ number.

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305.8.1.B Swimmer’s name (as it appears on the USMS ~~membership registration~~ card)

305.8.2.B Team’s full name (~~as registered with~~ USMS club followed by blank, A, B, etc.)

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305.11.1—The highest ranking USMS ~~member registered swimmer~~ in each age group...

305.11.2—The meet director shall submit the name, age, club affiliation, time or distance, and USMS ~~membership registration~~ number for each competitor...

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501.1.3 ... and shall be coincident with the individual ~~membership registration~~ year...

501.1.4 ... and shall be coincident with the individual ~~membership registration~~ year...

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502.1. LMSC MEMBERSHIP

Each LMSC shall consist of individual members and club members ~~currently~~ registered through that LMSC.

502.3. ANNUAL MEETING

Each LMSC shall hold an annual meeting open to all individual members of ~~registered with USMS through~~ the LMSC.

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504.1.1—One member from each LMSC. If the LMSC has over 300 ~~individual members annual registrations~~, it is entitled to one additional member. For each additional 500 ~~individual members annual registrations~~, the LMSC is entitled to one more member in the House of Delegates. Figures shall be determined by the records of the national ~~office registrar~~ for the previous year or June 15 of the current year, whichever is the greater.

Rationale: *Make the language consistent between the rulebook and other USMS materials (LMSC handbook, application forms, membership cards, etc.) This also better differentiates registration, which is the act of registering to become a member, from membership.*

Note: *This is a “Proposed Amendment Requiring Action of More Than One Committee.” In accordance with article 601.4.4, the chair’s of Rules and Long Distance have been notified.*

L5 Allow centralized online registration p 61 Legislation Committee for the Database Task Force

201.1 ... All swimmers participating in events sanctioned by USMS must be ~~members of registered with~~ USMS ~~registered through their LMSC~~ or ~~members of~~ their nation’s recognized Masters swimming governing body

...

201.1.4.A ...The form, fully completed, shall be submitted with the applicable fee to the registrar of the LMSC ~~or an official designee of the LMSC~~, ...

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Rationale: *Add language to allow an LMSC to choose to participate in a centralized on-line individual member registration program. Centralized on-line registration does not exist today, however it is expected to be available in the near future. This proposed amendment allows to LMSC to choose to participate, once this capability is available.*

L6 Define club registration and membership pp 61-62 Legislation Committee

Add new 201.2 and renumber existing 201.2 and 201.3, and move 201.2.7 to 201.2.4

201.2. CLUB MEMBERS

Club members are organizations or groups of permanent character that registered with the corporation through its LMSC and that actively promote and participate in Masters swimming.

201.2.1—Annual Membership

Club membership is for the period January 1 through December 31 of each year. A club applying for membership on or after September 1 will receive membership valid through December 31 of the following year.

201.2.2—Club Membership Forms

Club membership forms may be obtained from the registrar of the LMSC. The form, fully completed, shall be submitted with the applicable fee to the registrar of the LMSC. The national office shall issue a certificate of club membership.

201.2.3—Membership Fee

The annual membership fee is composed of the following elements:

A A national fee established by the Board of Directors or the House of Delegates.

B A local fee established by the LMSC.

201.2.7—201.2.4— Changing LMSC affiliation

A club wishing to change its LMSC affiliation must approve such change by a majority vote of its general membership at a regular club meeting or at a special meeting called for that purpose, with the vote duly certified by the club's president and secretary. The transfer also must be approved by a majority vote of the officers of the club's current and proposed LMSCs. If approved, the transfer shall be effective 60 days after receipt of written notice by the national registrar office.

Rationale: *Add club registration and membership information, similar to individual registration and membership information.*

L7 Travel permits for foreign swimmers p 62 Legislation Committee

Page 13 Glossary

Foreign Swimmer—athlete member of a FINA Member country or swimming Federation, other than the corporation, who competes in USMS sanctioned events.

Page 62

201.3.3—All invitations to foreign swimmers to participate in USMS events shall only be extended by the USMS president or the president's designee.

Rationale: *Add new code to document our policy regarding who is allowed to extend an invitation to foreign swimmers and clean up the definition of foreign members. Invitations are not required for most foreign swimmers entering USMS events. However, a few foreign countries require their citizens to receive a formal invitation before they are allowed to enter the USA. In these cases the invitation must come from the president.*

L8 Allow nonconforming events at sanctioned events p 63 Legislation Committee

202.1.1.F(2) Add (2) and renumber existing (2) and (3) to (3) and (4)

Sanctioned events may include nonconforming swimming events. Nonconforming swimming events are events not defined in article 102.5-Events or that would typically result in the disqualification of participants as defined in 102.15-Disqualifications. USMS national records and Top Ten times shall not be maintained in nonconforming events.

Rationale: *Currently swims such as 25's, fin races, 100 relays, and other "fun" events fall into a gray area, since they are not included in 102-5 Events. The Rules Committee currently interprets 102-5 to be a non-inclusive list (meaning events not on the list can be swum). This amendment will clearly allow these types of events to be contested without invalidating the sanction.*

L9 Simplify/clarify language defining Recognized Events p 63 Legislation Committee

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202.2. RECOGNIZED EVENTS

Times achieved at recognized events may be considered for USMS national records and Top Ten times if ~~the event has been granted recognition and~~ a designated USMS observer is present and verifies in writing that the conduct of the competition conforms to the relevant USMS swimming rules and administrative regulations. USMS membership is not required for swimmers entered in recognized events. Times achieved by USMS members at events sanctioned...

Rationale: *Simplify the language, bring it in line with 202.1 Sanctioned Events, and clarify that USMS membership is not required.*

L10 Recognized Events pp. 63-64 Records and Tabulation Committee

202.2. RECOGNIZED EVENTS

... Times achieved at events sanctioned by USA Swimming or a FINA Member Federation-SCN, or at FINA championships, shall be considered for USMS national records and Top Ten times without formal application for recognition ...

202.2.1.G. Recognition for any meets held outside the jurisdiction of USMS, and not sanctioned by a FINA Member Federation other than those organized under the auspices of FINA, shall be obtained from the Executive Committee.

Rationale: *This would remove the requirement for a designated USMS observer at sanctioned FINA Member Federation meets. These sanctioned meets follow the FINA rules and are eligible for World records and Top10 Times. They, therefore, should be eligible for USMS records and Top10 without the formal application for Recognition.*

L11 Clean up the definition of club members p 83 Legislation Committee

501.1. MEMBERSHIP CATEGORIES

The membership of United States Masters Swimming, Inc., hereinafter sometimes referred to as the corporation, shall consist of the following categories:

501.1.1— ~~Club members, - clubs that register with the corporation through an LMSC. which are swimming clubs for Masters swimmers. Every swimming club that competes in Masters swimming competition sponsored by the corporation shall register with the corporation through its respective LMSC.~~

501.1.2— Individual ~~members, - individuals~~ who register with the corporation through an LMSC.

501.1.3— Affiliate ~~members, which are~~ -organizations ...

501.1.4— Allied ~~members, which are~~ -organizations ...

Rationale: *Aligns the definition of club members with that of individuals, and cleans up inaccurate statements. Not all clubs are swimming clubs, for instance the Olympic Club could be considered an athletic club, club members compete, not the club, and the corporation sanctions and approves competitions we don't sponsor them.*

L12 Clarify mandatory membership of committee members p 83 Legislation Committee

501.2. Mandatory Memberships

All members of the following House of Delegates and Board of Directors and all members of any committee of the corporation shall hold an individual membership in the corporation.

501.2.1— House of Delegates and Board of Directors,

501.2.2— Standing and ad hoc committees of the corporation,

501.2.3— Officers and directors of each LMSC.

Rationale: *Clarify the mandatory membership of "committee of the corporation" to specifically define standing, adhoc, and Local Masters Swimming committees.*

L13 Eliminating the Zone Committee pp 84-89 SPMA

503.2. ZONE MEETINGS

.....forwarded to the Zone Committee chair-secretary.

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503.5. COMMUNICATIONS ZONE REPRESENTATIVES

Zone representatives shall enhance communications among the LMSCs to promote Masters swimming within the zones.

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~~507.2.2~~**503.5.1**—Zone representatives shall be elected in odd-numbered years at the zone meeting held in conjunction with the annual meeting of the House of Delegates. The term of office shall be 2 years.

~~507.2.3~~**503.5.2**—Zone representatives shall be residents of their respective zones.

~~507.2.4~~**503.5.3**—If a ~~permanent or temporary~~ vacancy in the position of zone representative occurs, the ~~Zone Committee chair~~ president shall consult with the chair of each LMSC in that zone and appoint a new or replacement zone representative, ~~with the concurrence of the USMS president.~~

~~507.2.5~~**503.5.4**— ~~Zone representatives~~ The committee shall enhance communications between the national office and LMSCs, and USMS committees and LMSCs to promote Masters swimming within the zones. ~~Zone representatives~~ The committee shall carry out the responsibilities assigned to ~~them~~ it by the policies of the House of Delegates, the president, the USMS Code of Regulations, and the stated need of the LMSCs.

504.1.4 –All zone representatives ~~members of the Zone Committee.~~

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505.1 POSITIONS

The elected officers of the corporation shall be a president, a vice president, a second vice president, a secretary, and a treasurer, ~~and a Zone Committee chair~~. No person may concurrently hold more than one such office.

505.2.1

...numbered years, ~~except the Zone Committee chair, who shall be elected in even numbered years.~~

505.2.3- The Zone Rules Committee shall act as...

Page 87

505.5.5—~~The second vice president~~ ~~Zone Committee chair~~ shall:

~~A~~—Conduct all meetings of the Zone Committee.

~~B~~—Carry out all responsibilities as assigned by the House of Delegates, the president, the USMS Code of Regulations, and the stated needs of the LMSCs.

Pages 88-89

Delete articles 507.2.1 and 507.2.6, move articles 507.2.2 – 507.2.5 to 503.5 and renumber 507.3 and 507.4

507.2. — ZONE COMMITTEE

507.2.1 — ~~The Zone Committee shall consist of the Zone Committee chair plus a representative from each zone elected by the delegates from each LMSC within that zone.~~

...

~~507.2.6 — The committee shall function as the Election Committee as described in article 505.2.3.~~

Rationale: *The Zone Committee is a largely political entity whose work primarily consists of running the elections every other year. Although some of the zones are active, they are still regional (and parochial) in scope. Eliminating the committee will not affect the operation of the zones, will assure even representation on the Board of Directors and Executive Committee, and may even free the zone representatives to do more work in their respective zones, rather than laboring over biannual elections.*

L14 Distribution of a balanced budget to the HOD p 86, 90 South Texas LMSC

Page 86

504.3.3—A written notice of all annual and special meetings of the House of Delegates, stating the time, place, proposed budget and preliminary agenda, shall be given to each member of the House of Delegates by mailing the same to each member's last known address at least 3 weeks prior to the meeting date.

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507.3.5 Add a new "E" and renumber "E" to "F"

E At least four weeks prior to the annual meeting of the House of Delegates, submit a proposed balanced budget to the secretary for inclusion in the notice referenced in 504.3.3.

~~EF~~ At each annual convention, ~~prepare the corporation's budget for the next fiscal period and submit same to the House of Delegates for approval.~~ report the proposed budget and prepare and report proposed budget changes to the House of Delegates for approval.

Rationale: *The purpose is to force the creation of a tentatively balanced budget far enough before the convention that delegates will have the opportunity to review and digest it. This amendment in no way requires that we pass or have a balanced budget at USMS only that we start from a balanced position.*

L15 Elect the Zone chair with all other officers p 86 Zone Committee

505.2. ELECTIONS AND TERM OF OFFICE

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505.2.1—All officers of the corporation shall be elected by the members of the House of Delegates at annual meetings held in odd-numbered years, ~~except for the Zone Committee chair, who shall be elected in even-numbered years~~. Elected officers shall hold office for 2 years or until their successors are elected and qualified.

Rationale: *Align the election of the Zone chair to match that of the other elected officers.*

L16 Elect officers every 4 years p 86 Pacific Northwest LMSC

505.2. ELECTIONS AND TERM OF OFFICE

505.2.1—All officers of the corporation shall be elected by the members of the House of Delegates at annual meetings held ~~in odd-numbered every four years, beginning in 2005~~, except for the Zone Committee chair, who shall be elected ~~in even-numbered every four years, beginning in 2004~~. Elected officers shall hold office for ~~2~~4 years or until their successors are elected and qualified.

505.2.2 – Each officer is eligible for election to the same office for ~~two one~~ terms. No person so elected for ~~two successive terms~~ is eligible for re-election to the same office until after the lapse of 2- 4 years following the term of office to which that person was last elected.

Rationale: *This proposal formally adopts the election standards used by the House of Delegates. Officers have always been re-elected with no opposition. Significant effort is devoted to “off-year” elections. This effort could be applied to more important tasks.*

L17 The national election process and Zone Comm. role p 86 Zone Committee

505.2. ELECTIONS AND TERM OF OFFICE

...

~~505.2.2— The current Election Operating Guidelines shall govern the nomination and election proceedings.~~

505.2.2~~3~~— Each officer is eligible for election to the same office for two terms. No person so elected for two successive terms is eligible for re-election to the same office until after the lapse of 2 years following the term of office to which that person was last elected.

~~505.2.3 The Zone Committee shall act as the Election Committee. The committee shall:~~

~~A — Develop and maintain election operating guidelines pertaining to the conduct of USMS national elections.~~

~~B — Accept nominations, qualify candidates, and present one or more candidates for each office to the national office by August 1 of the year in which elections are held.~~

~~C — Accept and qualify additional candidates nominated from the floor of the House of Delegates during the annual meeting.~~

~~D — Conduct election activities and voting during the annual meeting.~~

Rationale: *Reference the document that describes how our elections will be conducted and remove the process language from code. The procedures in the current 505.2.3 (to be deleted) are more clearly and completely defined in the EOG, therefore 505.2.2 was added to authorize use of the EOG. This proposal is submitted in conjunction with L18.*

L18 Voting quorum on the Board of Directors p 88 Legislation Committee

506.6. QUORUM

The presence of a majority of the directors with voting privileges shall constitute a quorum at any meeting of the Board of Directors.

Rationale: *Resolves the question of what effect our non-voting allied members have in establishing a quorum.*

L19 Voting privileges on the Board of Directors p 88 Legislation Committee

506.7. VOTING PRIVILEGES

Each member of the Board of Directors, except for the representatives of allied members, shall have one vote. There shall be no voting by proxy.

Rationale: *Brings voting in meetings of the Board of Directors, in line with our House of Delegates and is consistent with other National Governing Bodies.*

L20 Zone committee vacancies p 89 Legislation Committee

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507.2. ZONE COMMITTEE

507.2.4—If a ~~permanent or temporary~~ vacancy in the position of zone representative occurs, ...

Rationale: *Remove superfluous language.*

L21 Define authority of Zone committee with EOG p 89 Zone Committee

507.2. ZONE COMMITTEE

507.2.6— The Zone Committee shall develop and maintain Election Operating Guidelines pertaining to the conduct of USMS national elections. The committee shall function as the Election Committee as described in article 505.2.3.

Rationale: *Rewrite 507.2.6 to better define the role of the Zone Committee in the election process. The detailed description of the Zone Committee's role is defined within the Election Operating Guidelines. This proposal is submitted in conjunction with L14.*

L22 Align/clarify authorities of Legislation, Rules and LD pp 90-91 Legislation, Long Distance, Rules

507.3.10—Legislation Committee

The Legislation Committee shall consist of the committee chair and two members from each zone. ~~The Legislation Committee shall maintain consistency within the Code of Regulations by initiating and considering proposed amendments to the code, in accordance with the provisions of Part 6: Amendment~~ The committee may initiate and shall consider proposed amendments, and shall report them, with the committee's recommendations, in the annual meeting of the House of Delegates, in accordance with the provisions of Part 6: Amendment Procedures. The committee may interpret and render opinions regarding any provision of the rules and regulations of USMS within the committee's jurisdiction as defined in Article 601.1.

...

507.3.11—Long Distance Committee

...The committee may initiate and shall consider proposed amendments, and shall report them, with the committee's recommendations, in the annual meeting of the House of Delegates, in accordance with the provisions of Part 6: Amendment Procedures. The committee shall maintain records and select the All-American Long Distance and Long Distance All-Star Teams. The committee may interpret and render opinions regarding any provision of the rules and regulations of USMS within the committee's jurisdiction as defined in Article 601.1.

...

507.3.19—Rules Committee

The Rules Committee shall consist of the committee chair and two members from each zone. The committee may initiate and shall consider proposed amendments, and shall report them, with the committee's recommendations, in the annual meeting of the House of Delegates, in accordance with the provisions of Part 6: Amendment Procedures. The committee may interpret and render opinions regarding any provision of the rules and regulations of USMS within the committee's jurisdiction as defined in Article 601.1.

Rationale: *These changes to the Rules, LD, and Legislation committee are to align the language for what the committees with respect to the amendment process and to include the obligation of reporting to the House of Delegates. The added last sentence provides the committee with the authority to do what they have been doing for years, in interpreting the rules providing opinions as requested by the Executive Committee and LMSCs.*

L23 Lower the majority needed to pass Emergency Amd. pp 96-97 Pacific LMSC

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601.4. ADOPTION OF PROPOSED AMENDMENTS

601.4.5 – Emergency Amendments

Emergency amendments (amendments not submitted in conformity with articles 601.4.1, 601.4.2, and 601.4.3) may be passed by a ~~nine-tenths~~ three-fourths (3/4) vote of the House of Delegates members present and voting...

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Summary of Amendment Procedures (*chart*)

*Emergency Amendments: by a ~~9/10~~ three-fourths (3/4) vote ONLY if properly submitted...

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Rationale: *The existing 90% majority needed to consider an amendment proposal in an "off" year is too restrictive. A super-majority of three-quarters is adequate to enable worthy amendment proposals to be considered, while limiting trivial amendment proposals that have little or no chance of passing.*

L24 Replace Part 4 p 77-81 Legislation Committee

Part 4: Athletes' Rights, Hearings, And Appeals

NOTE: The proposed amendment is presented without the underlines, which are proscribed in code. The amendment is a total replacement of the current code and therefore the underlines are implied. They have been removed to improve readability.

Delete all of Part 4, and replace with the following:

PART 4: PARTICIPATION, CONDUCT, HEARINGS, AND APPEALS

ARTICLE 401: PARTICIPATION

401.1. PROTECTION

USMS and its LMSCs shall respect and protect the opportunity of every eligible individual to participate in USMS administrative activities and sanctioned or recognized events.

401.2. PARTICIPATION

No member of USMS, nor any organization associated with USMS, may deny or threaten to deny any eligible individual the opportunity to participate in USMS administrative activities and sanctioned or recognized events, without just cause. It is not a violation of this article to restrict an individual's eligibility based on one or more of the following:

401.2.1—The individual's age.

401.2.2—Membership in the organization that is conducting the event.

401.2.3—Qualifying times.

Any member or eligible individual who alleges that the opportunity to participate has been denied or is about to be denied by an individual or organization associated with USMS shall follow the procedures set forth in article 102.16.2 or article 403, as applicable, to seek redress for the alleged violation of opportunity.

ARTICLE 402: CONDUCT OF MEMBERS

402.1.—The mission of USMS is to promote fitness and health in adults by offering and supporting Masters swimming programs. The opportunity to participate in Masters swimming is made possible by USMS. Members accept that this opportunity to participate is a privilege and as such shall conduct themselves with integrity and in a sportsmanlike manner. In matters relating to Masters swimming, members shall respect and protect the privileges of others who share this mission, therefore the privileges of membership and participation may be withdrawn or denied if the conduct of a member or prospective member is inconsistent with the mission of the organization or the best interest of the sport and those who participate in it.

402.2.—It shall be the responsibility of all members to comply with the rules and regulations of USMS and the applicable rules, constitution, and bureau decisions of FINA.

402.3.—Any prospective member may be denied membership, and any member may be denied membership, censured, placed on probation, suspended, fined, or expelled from USMS if such member engages in any unsportsmanlike conduct listed in paragraph 402.4.

402.4.—The following shall be considered unsportsmanlike conduct:

402.4.1—Violation of the opportunity to participate, as set forth in article 401.

402.4.2—Discrimination in violation of article 501.3.

402.4.3—Any act of fraud, deception, or dishonesty in connection with any USMS related activity.

402.4.4—Any nonconsensual physical contact, obscene language or gesture, or other threatening language or conduct directed toward a meet official, in connection with a USMS event.

402.4.5—Any act, conduct, or omission that is detrimental to the image or reputation of USMS, an LMSC, or the sport of swimming.

402.4.6—Aiding or abetting another to engage in any of the foregoing violations.

ARTICLE 403: HEARINGS AND APPEALS

403.1. GENERAL JURISDICTION

As provided herein, USMS may deny membership, censure, place on probation, suspend, fine, or expel any member or any person participating in the affairs of USMS who has engaged in any of the unsportsmanlike conduct listed in article 402.4.

403.2. JURISDICTION OF THE LMSC

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Disputes arising within a single LMSC and not brought by USMS shall be filed directly with such LMSC and handled pursuant to LMSC rules and procedures. Any appeal of the LMSC's decision shall be made to the National Board of Review.

403.3. NATIONAL BOARD OF REVIEW

The National Board of Review shall be composed of a chair appointed by the USMS president and hearing panel members appointed by the chair of the National Board of Review. The Executive Committee shall approve the appointment of the chair. The term of the chair shall be 2 years, with no limit to the number of terms of service.

403.4. JURISDICTION OF THE NATIONAL BOARD OF REVIEW

403.4.1—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 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.

403.4.2—The National Board of Review has appellate jurisdiction to hear appeals of LMSC decisions.

403.4.3—Matters of jurisdiction to the National Board of Review shall be initiated by a written grievance served upon the USMS president accompanied by the filing fee. Within the written grievance, the party filing the grievance (grievant) must name all parties against which the grievance is filed (respondents). Instructions on how to file a grievance may be obtained from the National Office administrator.

403.5. AUTHORITY OF THE NATIONAL BOARD OF REVIEW

The National Board of Review, through its hearing panels, in hearing grievances and appeals of LMSC decisions has the authority to:

403.5.1—Impose and enforce penalties for any violation of the rules and regulations, administrative or technical, of USMS.

403.5.2—Determine the eligibility and right to participate of any member or individual.

403.5.3—Vacate, modify, sustain, reverse, or stay any decision or order, properly submitted for review, or remand the matter for further action.

403.5.4—Investigate any alleged election impropriety.

403.5.5—Interpret any provision of the rules and regulations of USMS, with the exception of the rules of competition, which the National Board of Review shall defer to the USMS Rules (Part 1) or Long Distance (Part 3) Committees.

403.5.6—Review any revocation, suspension, reinstatement of membership, or challenge to the granting or denial of membership.

403.5.7—Issue such interim orders as may be necessary pending a final decision of the National Board of Review.

403.5.8—Require the production of any available evidence bearing on an alleged violation.

403.5.9—Take testimony from witnesses.

403.5.10—Transcribe the National Board of Review hearings.

403.5.11—Assess costs and fees against one or more parties.

403.6. AUTHORITY OF THE NATIONAL BOARD OF REVIEW CHAIR

With regard to matters of original jurisdiction of the National Board of Review and appeal of LMSC decisions to the National Board of Review, the National Board of Review chair has the authority to:

403.6.1—Initiate an investigation into the alleged misconduct, as described in a written grievance or appeal.

403.6.2—Dismiss a grievance or appeal determined to be without merit, with the concurrence of the USMS president.

403.6.3—Refer a grievance or an appeal of an LMSC decision back to the LMSC.

403.6.4—Mediate, or delegate the mediation of, a grievance or appeal.

403.6.5—Appoint a hearing panel consisting of not less than three USMS members to conduct a formal hearing to decide a grievance or appeal.

403.6.6—Suspend the member who is the subject of the grievance, pending the outcome of the National Board of Review hearing. Any such suspension must be merited by the severity of the alleged misconduct and requires the concurrence of the USMS president. A member so suspended has the right to file a written request with the National Board of Review to conduct its hearing and publish its decision within 21 days. The respondent and the grievant shall be notified of the suspension when the matter is referred to the National Board of Review.

403.6.7—Decrease or increase the time limits for any hearing or appeal upon the written request of either party, upon showing of good cause.

403.7. APPEAL OF LMSC DECISION TO THE NATIONAL BOARD OF REVIEW

403.7.1—Decisions rendered by an LMSC may be appealed to the National Board of Review.

403.7.2—The petition for appeal shall be served upon the USMS president 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.

403.7.3—In appeals from LMSC decisions, the National Board of Review chair shall exercise the authority detailed in article 403.6.

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 matter, the 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.

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403.8.2—The chair shall mail the notice of hearing, together with a copy of the written grievance received by the USMS president, 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 policies and procedures of the National Board of Review. The grievant and respondents shall be provided copies of these policies and procedures by the chair.

403.8.7—A written decision shall be rendered by the hearing panel and shall be mailed to the parties within 7 days after the hearing. The written decision shall set forth the right of appeal.

403.8.8—Upon the request of either party for good cause shown or the determination of the hearing panel, the hearing may be held in private.

403.8.9—The hearing panel shall have the authority to stay the enforcement of its decision during the time allowed for appeal of the decision, with the decision going into effect automatically if no timely appeal is filed.

403.8.10—All mailings and other correspondence from the grievant, respondent, and any witnesses shall be made as prescribed by the chair.

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.

403.9.1—The petition for appeal shall be served upon the USMS president 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 eight additional board panel members to hear the appeal.

403.9.3—The USMS president 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 written decision shall be sent to all parties.

403.10. DOCUMENTATION

The National Office administrator shall maintain a permanent file of all physical evidence and written decisions pertaining to any matter that is reviewed by the Executive Committee or its designee, 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.

403.11. FILING FEE

The Board of Directors shall establish fees for filing grievances with the National Board of Review and for filing appeals with the National Board of Review and the Board of Directors.

403.12. RECOGNITION AND ENFORCEMENT

Final decisions rendered by the National Board of Review or the Board of Directors pursuant to Part 4 shall, when applicable, be recognized and fully enforced.

Rationale: *The current Part 4 defines a complicated process of hearings and appeals that is administered by the same group as those making many of the decisions (the Executive Committee). The new Part 4 establishes a more straightforward process, led by an independent group to hear and decide grievances. The new Part 4 also better identifies the opportunities that USMS provides to our members. It also more clearly describes sportsmanlike conduct.*

New Part 4	Old Part 4
<i>Membership and participation is a privilege</i>	<i>Membership and participation is a right</i>
<i>Conduct of Members</i>	<i>No guidelines for the conduct of our members</i>
<i>Defined grounds for filing a grievance</i>	<i>Ill-defined grounds for filing a grievance</i>
<i>Original jurisdiction of local grievances is now with the LMSC</i>	<i>Grievances had to be filed nationally before they could be delegated to the LMSC</i>
<i>Constructed in a linear fashion</i>	<i>Difficult to follow</i>
<i>National Board of Review created with the sole purpose to handle grievances. Removes conflict of interest from EC and frees it up to run USMS</i>	<i>Primarily the EC dealt with Part 4 grievances</i>

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