
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 or 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 STANDARDS OF CONDUCT

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 sporting 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the privileges of others who share this mission; therefore, the privileges of membership and participation may be withdrawn or denied if the conduct of a member or prospective member is inconsistent with the mission of the organization or the best interest of the sport and those who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 COMPLIANCE WITH RULES AND REGULATIONS

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 ENFORCEMENT

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 unsporting conduct listed in article 402.4.

402.4 UNSPORTING CONDUCT

The following shall be considered unsporting conduct as it relates to Part 4:

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 meet personnel, 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 unsporting conduct listed in article 402.4.

403.2 JURISDICTION OF THE LMSC

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 and a pool of potential hearing panel members, all of whom shall be USMS members. The National Board of Review chair shall be appointed by the USMS president. The pool of potential hearing panel members shall be appointed by the chair. The Board of Directors shall approve the appointment of the chair and the pool of potential hearing panel members. The term of the chair shall be two 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 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 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 Open Water 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, and refund filing fees.

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:

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

403.6.5 Appoint a hearing panel, drawn from the hearing panel pool, consisting of not less than three members to conduct a formal hearing to decide a grievance or appeal.