

**LEGISLATION ADOPTED BY
THE HOUSE OF DELEGATES OF
METROPOLITAN SWIMMING, INC.**

SEPTEMBER 21, 1996

**To Replace in its Entirety
the Bylaws**

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**Bylaws of
Metropolitan Swimming, Inc.**

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3 **ARTICLE 1**

4 **NAME, OBJECTIVES, TERRITORY AND JURISDICTION**

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6 1.1 NAME - The name of the corporation shall be Metropolitan Swimming, Inc. (Metro).
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8 1.2 OBJECTIVES - The objectives and primary purpose of Metro shall be the education, instruction and
9 training of individuals to develop and improve their capabilities in the sport of swimming. Metro shall
10 promote swimming for the benefit of swimmers of all ages and abilities, in accordance with the
11 standards, rules, regulations, policies and procedures of FINA, USS, and Metro and its
12 Articles/Certificate of Incorporation.
13
14 1.3 GEOGRAPHIC TERRITORY - The geographic Territory of Metro is State of New York, south of,
15 and including, Sullivan, Orange and Dutchess Counties.
16
17 1.4 JURISDICTION - Metro shall have jurisdiction over the sport of swimming as delegated to it as a
18 Local Swimming Committee by USS to conduct swimming programs consistent with Metro's
19 objectives and those of USS and to sanction, approve, observe and oversee competitive swimming
20 events within the Territory and to conduct competitive swimming events within the Territory, its
21 Region and its Zone (as those terms are defined in Sections 703.3 and 704.2 of Part Seven. Metro shall
22 discharge faithfully its duties and obligations as a Local Swimming Committee of USS in accordance
23 with these Bylaws, the USS Code and all applicable policies and procedures.
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26 **ARTICLE 2**
27 **MEMBERSHIP**

- 28
29 2.1 MEMBERS - The membership of Metro shall consist of the following:
30
31 .1 GROUP MEMBERS - Group Members are organizations operating in the Territory which have,
32 upon application, been granted membership in USS and Metro and paid the fees established by
33 USS and Metro pursuant to Article 3. An organization may be denied membership by the
34 Membership/Registration Coordinator or the Board of Directors for failure to satisfy the criteria
35 for membership or for any reason for which a Group Membership could be terminated. Any
36 denial of membership may be appealed to the Board of Review. An organization's status as a
37 Group Member is subject to its continued satisfaction of the criteria for membership and
38 compliance with its responsibilities under these Bylaws, the USS Code, the rules, regulations,
39 policies, procedures and codes of conduct and ethics of Metro and USS and may be terminated
40 by a decision of the Board of Review or the National Board of Review. Except for Affiliated
41 Group Members, Group Members in good standing shall be entitled to participate in the
42 program of swimming conducted by Metro and competitions sanctioned or approved by USS, in
43 accordance with Section 9.2.
44
45 A Club Members - A Club Member is an organization which is in good standing as a Group
46 Member of Metro and USS, has athletes and coaches and participates in the sport of
47 swimming. All athletes and coaches of the organization must be Individual Members in
48 good standing of Metro and USS.
49
50 B Affiliated Group Members - An Affiliated Group Member is an organization which

1 supports the sport of swimming and the objectives and programs of Metro and USS,
2 which is in good standing as a Group Member of Metro and USS, but which does not
3 have athletes and coaches who all are Individual Members of Metro and USS.
4

5 .2 INDIVIDUAL MEMBERS - Individual Members are individuals involved in the sport of swimming
6 in the Territory who have, upon registration, been granted membership in USS and Metro and
7 paid the dues established by USS and Metro pursuant to Article 3. An individual may be denied
8 membership by the Membership/Registration Coordinator or by the Board of Directors for
9 failure to satisfy the criteria for membership or for any reason for which an Individual
10 Membership could be terminated. Any denial of membership may be appealed to the Board of
11 Review. An individual's status as an Individual Member is subject to the Individual Member's
12 continued satisfaction of the criteria for membership and compliance with the individual's
13 responsibilities under these Bylaws, the USS Code, the rules, regulations, policies, procedures
14 and codes of conduct and ethics of Metro and USS and may be terminated by a decision of the
15 Board of Review or the National Board of Review. Except for Affiliated Individual Members
16 and USS Life Members, Individual Members in good standing shall be entitled to participate in
17 the program of swimming conducted by Metro, and competitions sanctioned or approved by
18 USS, in accordance with Section 9.1.
19

20 A Athlete Members - An Athlete Member is an individual who participates or competes in
21 the sport of swimming and is in good standing as an Individual Member of Metro and
22 USS.
23

24 B Coach Members - A Coach Member is an individual, whether or not affiliated with a
25 Group Member, who has satisfactorily completed all safety and other training required by
26 Metro and/or USS and who is in good standing as an Individual Member of Metro and
27 USS. Any individual desiring to act in any coaching capacity at any competition
28 sanctioned by USS must be a Coach Member in good standing of Metro and USS.
29

30 C Active Individual Members - An Active Individual Member is an individual other than a
31 Coach Member or an Athlete Member who is a trainer, manager, official, meet director,
32 marshal, Board Member, At-Large House Member, officer, coordinator or committee
33 chairman or committee member of Metro or a Group Member Representative or alternate
34 and any other individual desiring to participate in the sport of swimming and who is in
35 good standing as an Individual Member of USS and Metro.
36

37 D Affiliated Individual Members - An Affiliated Individual Member is an individual
38 interested in the objectives and programs of Metro who resides, formerly resided, or
39 formerly participated in the sport of swimming in the Territory and who is in good
40 standing as an Individual Member of Metro and USS.
41

42 E USS Life Members - A Life Member is an individual who is a life member of USS and
43 who resides, and participated in the sport of swimming in the Territory and who is in
44 good standing as a member of Metro and USS.
45

46
47 .3 MEMBERSHIP A PRIVILEGE NOT A RIGHT - Membership in Metro and USS is a privilege and
48 shall not be interpreted as a right. Membership (including a USS Life Membership) may be
49 terminated by the Board of Review or the National Board of Review for any violation of a
50 member's responsibilities under Section 2.2, for any of the reasons set forth in Section 10.4.7.C
51 or for any other reason determined by the Board of Review or National Board of Review to be
52 in the best interests of the sport of swimming, USS or Metro.
53

1 2.2 MEMBERS' RESPONSIBILITIES

- 2
- 3 .1 COMPLIANCE - Each Group and Individual Member shall abide by the codes of conduct and
- 4 ethics, policies, procedures, rules and regulations adopted by USS and Metro, including its
- 5 obligations and responsibilities set forth in these Bylaws. Each Group and Individual Member
- 6 shall not take or allow to be taken, any action, or conspire with or instigate any other person to
- 7 take or allow to be taken, any action which could bring the sport of swimming, Metro or USS
- 8 into disrepute. By applying for and accepting membership in Metro and USS, each Individual
- 9 Member agrees to so abide and represents, except to the extent disclosed to Metro and USS, that
- 10 he or she has never been convicted of a crime involving sexual misconduct, child abuse,
- 11 violation of a law specifically designed to protect minors, or similar offenses, or to have been
- 12 found by a Board of Review or the National Board of Review to have committed actions which
- 13 would be the basis for a conviction and that she or he has never acted in a manner which might
- 14 bring into disrepute Metro, USS or the sport of swimming.
- 15
- 16 .2 RESPONSIBILITY FOR INFRACTIONS - A Group Member may be held responsible for infractions
- 17 of the policies, procedures, rules, regulations or codes of conduct or ethics adopted by USS or
- 18 Metro, including its responsibilities as set forth in these Bylaws. Infractions of a Group
- 19 Member include those committed or allowed to happen by its members, representatives,
- 20 officials or coaches or by athletes who are competing as representatives of the Group Member
- 21 or who are competing with the Group Member as unattached swimmers. Also included are
- 22 infractions committed or allowed to happen by a person instigated by the Group Member or
- 23 with whom the Group Member through any of those individuals conspired. Any Individual
- 24 Member may be held responsible for any infractions committed or that were allowed to happen
- 25 by the Individual Member. Also included are infractions committed or allowed to happen by a
- 26 person instigated by the Individual Member or with whom the Individual Member conspired.
- 27
- 28 .3 CLUB SAFETY COORDINATOR - Each Club Member shall appoint an Individual Member, who is
- 29 an adult, to be a Club Safety Coordinator. The Club Safety Coordinator shall be responsible for
- 30 disseminating safety education information received from USS and Metro to the Club Member's
- 31 athletes, coaches and other members and shall make recommendations to the Club Member
- 32 concerning safety policy and its implementation. The Club Safety Coordinator shall make any
- 33 reports requested by Metro's Safety Coordinator or required by USS and/or its insurance carrier.
- 34
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36 ARTICLE 3

37 DUES AND FEES

- 38
- 39 3.1 CLUB MEMBERS - Every Club Member shall pay an annual fee consisting of a national club fee
- 40 established by USS and a local club fee established by Metro, together with any other charges, fees,
- 41 etc. as may be established by Metro.
- 42
- 43 3.2 AFFILIATED GROUP MEMBERS - The Board of Directors shall establish the annual membership
- 44 fees and any other charges, fees, etc., for Affiliated Group Members.
- 45
- 46 3.3 ATHLETES - Each Athlete Member shall pay an annual fee consisting of a national fee established by
- 47 USS and a local fee established by Metro.
- 48
- 49 3.4 COACHES - Each Coach Member shall pay an annual fee consisting of a national fee established by
- 50 USS and a local fee established by Metro, together with any other charges, fees, etc. as may be
- 51 established by Metro.
- 52

1 3.5 ACTIVE INDIVIDUAL MEMBERS - Each Active Individual Member shall pay an annual fee
2 consisting of a national fee established by USS and a local fee established by Metro, together with any
3 other charges, fees, etc. as may be established by Metro.
4

5 3.6 AFFILIATED INDIVIDUAL MEMBERS - The Board of Directors shall establish the annual
6 membership fees and any other charges, fees, etc., for Affiliated Individual Members.
7

8 3.7 USS LIFE MEMBERS - The Board of Directors shall establish the annual or other membership fees, if
9 any, and any other charges, fees, etc., for USS Life Members.
10

11 3.8 SANCTION, APPROVAL AND OTHER FEES
12

13 .1 SANCTION AND APPROVAL FEES - The Board of Directors shall establish reasonable fees,
14 procedures, and documentation required of an applicant for a sanction or approval for, or
15 observation of, a swimming competition to be conducted within the Territory.
16

17 .2 SERVICE CHARGES - In addition to, or in place of, a sanction or approval fee, the Board of
18 Directors may establish a reasonable service charge consistent with the nature of the event. For
19 example, the service charge may be a flat amount, an amount related to the number of events
20 swum, the number of individual swims, the number of athletes entered, the cost of equipment
21 and pool time provided, a percentage of receipts or profits or a combination of one or more of
22 these or other bases.
23

24 .3 PAYMENT - Each applicant for a sanction, approval or observation shall submit with its
25 application the fees and any service charges specified by Metro. If any of the sanction or
26 approval fees or service charges are due at a time following the submission for sanction or
27 approval, the applicant shall promptly pay those fees or service charges to Metro when due in
28 accordance with Metro's fee schedule.
29

30 3.9 FAILURE TO PAY
31

32 .1 GROUP, COACH AND ACTIVE INDIVIDUAL MEMBER OBLIGATIONS - The failure of a Group
33 Member, Coach Member or Active Individual Member to pay dues, fees, service charges, fines
34 or penalties imposed by Metro or USS, within the time prescribed, as evidenced by a final
35 decision of the Board of Review or the National Board of Review or by a court of law, shall
36 preclude the delinquent member from (a) participating in events sanctioned or approved by USS,
37 (b) participating in any capacity in the affairs of USS, Metro or any other LSC or (c) serving as
38 a Club Safety Coordinator, Group Member Representative, coach, manager, official, trainer or
39 in any other capacity with any Club Member or with any group member of any other LSC.
40

41 .2 ATHLETE MEMBER OBLIGATIONS - The failure of an Athlete Member to satisfy any financial
42 obligations to USS, Metro or their former LSCs, within the time prescribed, as evidenced by a
43 final decision of the Board of Review, the National Board of Review or by a court of law, shall
44 preclude the delinquent member from (a) competing in any competition sanctioned by USS, (b)
45 obtaining an OVC or other reportable time achieved in events swum at any USS sanctioned,
46 approved or observed meet, (c) participating in any capacity in the affairs of USS, Metro or any
47 other LSC or (d) practicing, exercising or otherwise participating in the activities of any Group
48 Member or any group member of any other LSC.
49

50 .3 CLUB/INDIVIDUAL OBLIGATIONS - If a Club Member has secured a final court judgment or final
51 Board of Review or National Board of Review decision against an Individual Member for non-
52 payment of financial obligations owed to the Club Member, then until the decision or judgment
53 is satisfied, the Individual Member shall not (a) compete in any competition sanctioned by USS,

1 (b) obtain an OVC or other reportable time in events swum at any USS approved or observed
2 meet, (c) participate in any capacity in the affairs of USS, Metro or any other LSC or (d)
3 practice, exercise or otherwise participate in the activities of any Group Member or any group
4 member of any other LSC.
5

6 .4 INDIVIDUAL/CLUB OBLIGATIONS - If an Individual Member has secured a final court judgment
7 or a final Board of Review or National Board of Review decision against a Club Member for
8 non-payment of financial obligations (such as a refund of training fees) to the Individual
9 Member, then until the decision or judgment is satisfied, the delinquent or offending Club
10 Member shall be precluded from (a) participating in events sanctioned or approved by USS and
11 (b) participating in any capacity in the affairs of USS, Metro or any other LSC, including being
12 represented in the House of Delegates by its Group Member Representative.
13

14 .5 CONTINUED FAILURE TO PAY; TERMINATION OF MEMBERSHIP - Continued failure to pay, within
15 a reasonable period of time, as determined by the Board of Directors, the House of Delegates,
16 the Board of Review or the National Board of Review shall be cause for termination of
17 membership.
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20 ARTICLE 4

21 HOUSE OF DELEGATES

22
23 4.1 MEMBERS - The House of Delegates of Metro shall consist of the Group Member Representatives,
24 the Athlete Representatives, the Coach Representative, the Board Members designated in Section 5.1,
25 and the At-Large House Members.
26

27 .1 GROUP MEMBER REPRESENTATIVES - Each Group Member in good standing shall appoint from
28 its membership three (3) Group Member Representatives and one or more alternates for each.
29 The appointment shall be in writing, addressed to the Secretary of Metro and duly certified by
30 the chief executive officer or secretary of the appointing Group Member. The appointing Group
31 Member may withdraw one or more of its Group Member Representatives or one or more of its
32 alternates and substitute new Group Member Representatives or new alternates by written
33 notice, addressed to the Secretary of Metro and signed by the chief executive officer or secretary
34 of the appointing Group Member.
35

36 .2 AT-LARGE HOUSE MEMBERS - Up to ten (10) at-large members of the House of Delegates may
37 be appointed by the General Chairman with the advice and consent of the Board of Directors.
38 The At-Large House Members shall hold office from the date of appointment through the
39 conclusion of the annual meeting of the House of Delegates following such appointment or until
40 their successors are appointed to the House of Delegates.
41

42 .3 ATHLETE REPRESENTATIVES - Two (2) Athlete Representatives shall be elected, one each year
43 for a two-year term, or until their respective successors are elected. At the time of election, the
44 Athlete Representative must (a) be an Athlete Member in good standing; (b) be at least sixteen
45 (16) years of age or at least a sophomore in high school; (c) be currently competing, or have
46 competed during the three (3) immediately preceding years, in the program of swimming
47 conducted by Metro or another LSC; and (d) reside in the Territory and expect to reside therein
48 throughout at least the first half of the term. Election of Athlete Representatives shall be
49 conducted annually during Metro's short course age group swimming championship, or other
50 regularly scheduled meet designated by the Board of Directors. The balloting shall take place at
51 a meeting called for that purpose by the Senior Athlete Representative or the Athletes
52 Committee, or failing that, at a time and in a manner designated by the Board of Directors. The

1 Athlete Representatives elected shall be determined by a majority of the Athlete Members in
2 good standing present and voting who are thirteen (13) years of age or older.
3

4 .4 COACH REPRESENTATIVE - One Coach Representative shall be elected, in even numbered years
5 for a two-year term, or until a successor is elected. The election of the Coach Representative
6 shall be conducted during Metro's short course Senior Championships, at a meeting timely
7 called by the Coach Representative, the Coaches Committee or the Board of Directors, and
8 determined by a majority of the Coach Members in good standing present and voting or, failing
9 that, at a time and place and in a manner designated by the Board of Directors.
10

11 4.2 ELIGIBILITY - Only Individual Members in good standing shall be eligible to be elected or appointed
12 members of, to be heard at or to vote at the House of Delegates in any capacity. Members of the House
13 of Delegates must maintain their status as Individual Members in good standing throughout their terms
14 of office.
15

16 4.3 VOICE AND VOTING RIGHTS OF MEMBERS - The voice and voting rights of members of the
17 House of Delegates and of Individual Members shall be as follows:
18

19 .1 GROUP MEMBER REPRESENTATIVES, BOARD MEMBERS, THE ATHLETE REPRESENTATIVES, THE
20 COACH REPRESENTATIVE AND AT-LARGE HOUSE MEMBERS - Each Group Member, the Board
21 Members, the Athlete Representatives, the Coach Representative and the At-Large House
22 Members shall have both voice and one vote each in meetings of the House of Delegates.
23

24 .2 AFFILIATED GROUP MEMBER REPRESENTATIVES - Group Member Representatives of Affiliated
25 Group Members, unless entitled to vote under another provision of these Bylaws, shall have
26 voice but no vote in meetings of the House of Delegates and its committees.
27

28 .3 INDIVIDUAL MEMBERS - Individual Members who are not members of the House of Delegates
29 may attend open meetings of the House of Delegates and its committees and be heard in the
30 discretion of the presiding officer. Unless entitled to vote under another provision of these
31 Bylaws, Individual Members shall have no vote in meetings of the House of Delegates.
32

33 4.4 DUTIES AND POWERS - The House of Delegates shall oversee the management of the affairs of
34 Metro and the establishment of policies, procedures and programs. In addition to the duties and powers
35 prescribed in the USS Code or elsewhere in these Bylaws, the House of Delegates shall:
36

37 .1 Elect the officers, members of the Board of Review and the committee chairmen and
38 coordinators listed in Section 6.1 in accordance with Sections 6.2 through 6.6;
39

40 .2 Elect alternates to the USS House of Delegates in accordance with section 502.2 of the USS
41 Code (see also Section 6.7.10.B);
42

43 .3 Elect the members of the Nominating Committee;
44

45 .4 Review, modify and adopt the annual budget of Metro recommended by the Board of Directors;
46

47 .5 Call regular and special meetings of the House of Delegates;
48

49 .6 Ratify or prospectively modify or rescind policy and program established by the Board of
50 Directors, except any action or authorization by the Board of Directors with respect to contracts
51 or upon which any person may have relied shall not be modified or rescinded;
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53 .7 Establish joint administrative committees, or undertake joint activities with other sports

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organizations where deemed helpful or necessary by Metro;

.8 Establish by resolution or the Metro Policies and Procedures Manual one or more committees of its members. The committees shall have the powers and duties specified in the resolution or the Metro Policies and Procedures Manual, which may include delegation of one or more of the powers and duties of the House of Delegates other than the powers to amend these Bylaws or remove Board Members and other elected officers;

.9 Amend the Bylaws of Metro in accordance with Section 11.3; and

.10 Remove from office any Board Members, members of the Board of Review, or committee chairmen or members or coordinators who have failed to attend to their official duties or member responsibilities or have done so improperly, or who would be subject to penalty by the Board of Review for any of the reasons set forth in Section 10.4.7.C. However, no Board Member, Board of Review member or elected committee chairman or coordinator may be removed except upon not less than thirty (30) days written notice by the Secretary or other officer designated by the House of Delegates specifying the alleged deficiency in the performance of member responsibilities or specific official duties or other reason. All notices and proceedings under this section shall be prepared, served and processed utilizing the procedures for a formal hearing pursuant to Section 10.6.1 to the extent applicable. Should the Board Member, Board of Review member or elected committee chairman or coordinator contest the alleged deficiency or other reason alleged in the notice, the House of Delegates shall hold a hearing at which the defendant shall have the same rights as if the hearing were to be conducted by the Board of Review pursuant to Article 10.

4.5 ANNUAL AND REGULAR MEETINGS - The annual meeting of the House of Delegates of Metro shall be held in the month of May of each year. Regular meetings of the House of Delegates shall be held in accordance with a schedule adopted by the House of Delegates or the Board of Directors.

4.6 SPECIAL MEETINGS - Special meetings of the House of Delegates may be called by the Board of Directors or the General Chairman. Should the Board of Directors or the General Chairman fail to call the annual or scheduled regular meetings or should a special meeting be appropriate or helpful, a meeting of the House of Delegates may be called by a petition signed by at least five (5) members of the House of Delegates.

4.7 MEETING LOCATION AND TIME - All meetings of the House of Delegates shall be take place at a site within the Territory or within a thirty-mile radius of Manhattan. The House of Delegates or the Board of Directors shall determine the location and time of all meetings of the House of Delegates.

1 4.8 NOMINATING COMMITTEE —
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- 3 .1 MEMBERS OF NOMINATING COMMITTEE; ELECTION - The Nominating Committee shall comprise
4 the Immediate Past General Chairman and not fewer than four (4) Individual Members elected
5 annually by the House of Delegates or the Board of Directors if the House of Delegates does not
6 act in a timely fashion to serve until their successors are elected. A number greater than four (4)
7 may be designated from time to time by either the House of Delegates or the Nominating
8 Committee. Each Nominating Committee member shall be a member of the House of Delegates
9 and no more than two (two-fifths if there are more than five (5) members of the Nominating
10 Committee) shall be Executive Committee members. Section 6.6.3 shall apply to members of
11 the Nominating Committee, but service as the immediate Past General Chairman shall not be
12 counted for that purpose. If any member of the Nominating Committee resigns or otherwise
13 becomes unable to participate in its affairs, the General Chairman, with the advice and consent
14 of the Board of Directors, shall appoint a successor to serve until the next meeting of the House
15 of Delegates.
16
- 17 .2 CHAIRMAN OF NOMINATING COMMITTEE - The Immediate Past General Chairman shall serve as
18 chairman of the Nominating Committee.
19
- 20 .3 DUTIES OF NOMINATING COMMITTEE - A slate of candidates for election as the officers,
21 committee chairmen or coordinators specified in Section 6.1 and the regular and alternate
22 members of the Board of Review to be elected at the next annual meeting shall be prepared by
23 the Nominating Committee. The Nominating Committee may in its discretion nominate a slate
24 of one person for each position to be filled or may nominate more than one candidate for one or
25 more of the positions. The Nominating Committee shall also nominate a slate of candidates for
26 the Nominating Committee to be elected at the last regularly scheduled meeting before the next
27 annual meeting of the House of Delegates.
28
- 29 .4 PUBLICATION OF NOMINATIONS - Nominations by the Nominating Committee shall be published
30 by distributing a slate of candidates together with the positions for which they have been
31 nominated to each member of the House of Delegates and to each Group Member not less than
32 twenty (20) calendar days prior to the election. This notice may be combined with the notice of
33 the meeting pursuant to Section 4.15.1 where convenient. See Section 16.1.5 for the methods
34 which may be used for the distribution.
35
- 36 .5 ADDITIONAL NOMINATIONS - Additional nominations may be made from the floor of the House
37 of Delegates by any member of the House of Delegates eligible to vote.
38
- 39 .6 MEETINGS AND NOTICES - Meetings of the Nominating Committee shall take place at a site
40 within the Territory when called by the Chairman or any three members of the Committee with
41 a minimum of six (6) days notice required. Pertinent provisions of Sections 7.5 through 7.11
42 and Section 16.1.5 also shall apply to the Nominating Committee's meetings and notices.
43
- 44 .7 QUORUM - A quorum for any meeting of the Nominating Committee shall consist of not fewer
45 than four (4) members. The committee shall act by a majority vote of its members voting in any
46 meeting at which a quorum is present.
47
48

49 4.9 MEETINGS OPEN; EXECUTIVE SESSIONS -
50

- 51 .1 HOUSE OF DELEGATES - House of Delegates meetings shall be open to all members of Metro
52 and USS. Issues pertaining to personnel, disciplinary action, legal, tax or similar affairs of
53 Metro shall be deliberated and decided in a closed executive session which only House of

1 Delegates members may attend. By a majority vote on a motion of a question of privilege, the
2 House of Delegates may decide to go into executive session on any matter deserving of
3 confidential treatment or of personal concern to any member of the House.
4

5 .2 HOUSE OF DELEGATES COMMITTEES - All meetings and deliberations of the Nominating
6 Committee shall be conducted in executive (closed) session. Meetings of all other committees
7 established by the House of Delegates shall be open to all members of Metro and USS unless
8 otherwise provided by the House of Delegates resolution creating the committee or by a vote of
9 the committee as provided by the rules of the Parliamentary Authority.
10

11 4.10 QUORUM - A quorum of the House of Delegates shall consist of twenty (20) percent of members
12 eligible to vote.
13

14 4.11 VOTING - Except as otherwise provided in these Bylaws or the Parliamentary Authority, all motions,
15 orders and other propositions coming before the House of Delegates shall be determined by a majority
16 vote. A motion or order calling for the removal of a member of the Board of Review pursuant to
17 Section 4.4.10, shall be determined by a two-thirds vote after at least thirty (30) days notice. See also
18 Section 11.3 regarding amendment of these Bylaws.
19

20 4.12 PROXY VOTE - Voting by proxy in any meeting of the House of Delegates shall not be permitted.
21

22 4.13 MAIL VOTE - Any action which may be taken at any regular or special meeting of the House of
23 Delegates, except elections, removals of Board Members, members of the Board of Review, elected
24 committee chairmen or coordinators and amendments of these Bylaws, may be taken without a
25 meeting. If an action is taken without a meeting, the Secretary, by first class mail, postage prepaid,
26 shall distribute a written ballot to every member of the House of Delegates entitled to vote on the
27 matter. The ballot shall set forth the proposed action, provide an opportunity to specify approval or
28 disapproval, and provide a reasonable time (but in no event less than the period specified in Section
29 4.15.1) within which to return the ballot to the Secretary. Action by written ballot shall be valid only
30 when the number of votes cast in favor of the proposed action within the time period specified
31 constitutes a majority of the votes entitled to be cast.
32

33 4.14 ORDER OF BUSINESS - At all meetings of the House of Delegates the following shall be included in
34 the order of business to the extent applicable. The order in which the various subjects are taken up may
35 be varied.
36

- 37 Roll Call
- 38 Reading, correction and adoption of minutes of previous meeting
- 39 Reports of officers
- 40 Reports of committees and coordinators
- 41 Presentation and approval of the annual budget
- 42 Presentation and approval of the annual audit pursuant to Section 0, when applicable
- 43 Unfinished (old) business
- 44 Elections
- 45 New business
- 46 Resolutions and orders
- 47 Adjournment

1
2 4.15 NOTICES
3

- 4 .1 TIME - Not less than twenty (20) days written notice shall be given to each member of the House
5 of Delegates and each Group Member for any annual, regular or special meeting of the House of
6 Delegates. See Section 16.1.5 for the various permitted forms of notice. Amendment of the
7 Bylaws shall require not less than thirty (30) days written notice.
8
9 .2 INFORMATION - The notice of a meeting shall contain the time, date and site. For special
10 meetings of the House of Delegates, the expected purpose (which may be general) of the
11 meeting shall be stated. If an expected purpose is the amendment of the Bylaws, a copy of the
12 proposed amendment shall be included in the notice. Failure to have included in the notice any
13 germane amendments subsequently adopted by the House of Delegates at the noticed meeting
14 shall not be the basis for any claim that the amendments as so adopted are invalid.
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18 **ARTICLE 5**
BOARD OF DIRECTORS
19

20 5.1 MEMBERS - The Board of Directors shall consist of the following officers, committee chairmen,
21 coordinators and representatives of Metro, together with those additional members designated in
22 Section 5.3:
23

- 24 .1 General Chairman
25 .2 Administrative Vice-chairman
26 .3 Senior Vice-chairman
27 .4 Age Group Vice-chairman
28 .5 Finance Vice-chairman
29 .6 Secretary
30 .7 Treasurer
31 .8 The Coach Representative
32 .9 The Athlete Representatives
33 .10 Safety Coordinator
34 .11 Technical Planning Chairman
35

36 5.2 AT-LARGE BOARD MEMBERS - This Section is reserved for future use.
37

38 5.3 EX-OFFICIO MEMBERS - The following persons shall be ex-officio members of the Board of
39 Directors during the time period in which they meet the defined status, with voice and vote:
40

- 41 .1 The Immediate Past General Chairman of Metro, if an Individual Member in good standing;
42 .2 Members of the USS Board of Directors who are Individual Members in good standing; and
43 .3 USS Committee Chairmen who are Individual Members in good standing.
44

45 5.4 LIMITATIONS - No more than three (3) members or coaches of any Club Member or Affiliated
46 Group Member shall serve on the Board of Directors at any time. This limitation shall be applied
47 separately as to Athlete Members and other Individual Members.
48

- 1 5.5 VOICE AND VOTING RIGHTS OF BOARD MEMBERS - The voice and voting rights of Board
 2 Members and Individual Members shall be as follows:
 3 1
 4 .1 BOARD MEMBERS - Each Board Member shall have both voice and vote in meetings of the
 5 Board of Directors and its committees.
 6
 7 .2 INDIVIDUAL MEMBERS - Individual Members who are not Board Members may attend open
 8 meetings of the Board of Directors and its committees and be heard in the discretion of the
 9 presiding officer. Unless entitled to vote under another provision of these Bylaws, Individual
 10 Members shall have no vote in meetings of the Board of Directors or its committees.
 11
 12 5.6 DUTIES AND POWERS - The Board of Directors shall act for Metro and the House of Delegates
 13 during the intervals between meetings of the House of Delegates, subject to the exercise by the House
 14 of Delegates of its powers of ratification or prospective modification or rescission, except that it shall
 15 not remove a Board Member, a Board of Review member or other person elected by the House of
 16 Delegates or amend these Bylaws. In addition to the powers and duties prescribed in the USS Code or
 17 elsewhere in these Bylaws, the Board of Directors shall have the power and it shall be its duty to:
 18
 19 .1 Establish and direct policies, procedures and programs for Metro;
 20
 21 .2 Oversee the conduct by the officers and staff of Metro of the day-to-day management of
 22 the affairs of Metro;
 23
 24 .3 Provide advice and consent to appointments proposed by the General Chairman that
 25 require advice and consent under these Bylaws or the Metro Policies and Procedures
 26 Manual;
 27
 28 .4 Cause the preparation and presentation to the House of Delegates of the annual budget of
 29 Metro and make a recommendation to the House of Delegates concerning the approval or
 30 disapproval thereof;
 31
 32 .5 Receive presentation of the annual audit report pursuant to Section 8.5 and make a
 33 recommendation to the House of Delegates concerning the approval or disapproval
 34 thereof;
 35
 36 .6 Call regular or special meetings of the Board of Directors or the House of Delegates;
 37
 38 .7 Admit eligible prospective Group Members and Affiliated Individual Members;
 39
 40 .8 Retain such independent contractors and employ such persons as the Board shall
 41 determine are necessary or appropriate to conduct the affairs of Metro;
 42
 43 .9 Appoint other officers, agents, committees, or coordinators, to hold office for the terms
 44 specified. These appointees shall have the authority and perform the duties as provided
 45 in these Bylaws, the Metro Policies and Procedures Manual or as may be provided in the
 46 resolutions appointing them, including any powers of the Board of Directors as may be
 47 specified, except as may be inconsistent with any other provision of these Bylaws. To the
 48 extent not provided elsewhere in these Bylaws, the Board of Directors may delegate to
 49 any officer, agent, committee, or coordinator the power to appoint any such subordinate
 50 officers, agents, committees, or coordinators and to prescribe their respective terms of
 51 office, authorities and duties; and
 52
 53 .10 Remove from office any officers, committee chairmen, committee members or

1 coordinators of Metro who were not elected by the House of Delegates and who have
2 failed to attend to their official duties or member responsibilities or have done so
3 improperly, or who would be subject to penalty by the Board of Review for any of the
4 reasons set forth in Section 10.4.7.C. No officer, committee chairman, or coordinator
5 may be removed without receiving the thirty (30) days written notice specifying the
6 alleged deficiency in the performance of the member's responsibilities under these
7 Bylaws, the member's official duties or other reasons. All notices and proceedings under
8 this section shall be prepared, served and processed utilizing the procedures for a formal
9 hearing pursuant to Section 10 6.1 to the extent applicable. Should the officer, committee
10 chairman, committee member, or coordinator contest the alleged deficiency or other
11 reason set forth in the notice, the Board of Directors shall hold a hearing at which the
12 member shall have the same procedural rights as if the hearing were to be conducted by
13 the Board of Review pursuant to Article 10.
14

15 .11 May not override policy or program established by the House of Delegates unless the
16 vote reflects a two-thirds or greater majority.
17

18 5.7 EXECUTIVE COMMITTEE -
19

20 .1 AUTHORITY AND POWER - The Executive Committee shall have the authority and power to act
21 for the Board of Directors and Metro between meetings of the Board and the House of
22 Delegates.
23

24 .2 MEMBERS - The members of the Executive Committee shall be the General Chairman, who shall
25 act as chairman, Administrative Vice-chairman, Senior Vice-chairman, Age Group Vice-
26 chairman, Treasurer, Senior Athlete Representative, Coach Representative, and Secretary.
27

28 .3 MEETINGS AND NOTICE - Meetings of the Executive Committee shall be held at any time or
29 place within the Territory when called by the General Chairman or any three (3) members of the
30 Committee with a minimum of three (3) days notice required. Pertinent provisions of Sections
31 7.5 through 7.11 and Section 16.1.5 shall apply to the Executive Committee meetings and
32 notices.
33

34 .4 QUORUM - A quorum of the Executive Committee shall consist of four (4) members of the
35 Committee.
36

37 .5 REPORT OF ACTION TO BOARD OF DIRECTORS - At the next regular or special meeting of the
38 Board of Directors the Executive Committee shall make a report of its activities since the last
39 Board of Director's meeting for ratification or prospective modification or rescission, provided,
40 however, that any action of the Executive Committee upon which a third party may have relied
41 (*e.g.*, by signing, or authorizing the signing of a contract) may not be modified or rescinded by
42 the Board of Directors or the House of Delegates.
43

44 5.8 MEETINGS OPEN; EXECUTIVE (CLOSED) SESSIONS - Board of Directors and Executive
45 Committee meetings shall be open to all members of Metro and USS. Matters relating to personnel,
46 disciplinary action, legal, taxation or similar affairs shall be deliberated and decided in a closed exe-
47 cutive session which only Board Members or Executive Committee members, respectively, are entitled
48 to attend. By a majority vote on a motion of a question of privilege the Board of Directors or the
49 Executive Committee may decide to go into executive session on any matter deserving of confidential
50 treatment or of personal concern to any member of the Board of Directors or the Executive Committee.
51

52 5.9 PARTICIPATION THROUGH COMMUNICATIONS EQUIPMENT - Members of the Board of
53 Directors or the Executive Committee may participate in meetings of the Board of Directors or the

1 Executive Committee through conference telephone or similar equipment by means of which all
2 persons participating in the meeting can hear each other at the same time. Participation by such means
3 shall constitute presence in person at a meeting.
4

5 5.10 REGULAR MEETINGS - Regular meetings of the Board of Directors shall be held in accordance with
6 a schedule adopted by the Board of Directors. Cancellation may occur by vote at the immediately
7 preceding Board of Director's meeting or by decision of the General Chairman if exigent safety reasons
8 pertain.
9

10 5.11 SPECIAL MEETINGS - Special meetings of the Board of Directors may be called by the General
11 Chairman. Should the Board of Directors or the General Chairman fail to call regular meetings or
12 should a special meeting be appropriate or helpful, a meeting of the Board of Directors shall be called
13 at the written request of any three (3) Board Members.
14

15 5.12 QUORUM - A quorum of the Board of Directors shall consist of a majority of the members.
16

17 5.13 VOTING - Except as otherwise provided in these Bylaws, in particular 5.6.11, or the Parliamentary
18 Authority, all motions, orders and other propositions coming before the Board of Directors shall be
19 determined by a majority vote.
20

21 5.14 PROXY VOTE - Voting by proxy in any meeting of the Board of Directors or the Executive
22 Committee shall not be permitted.
23

24 5.15 ACTION BY WRITTEN CONSENT - Any action required or permitted to be taken at any meeting of
25 the Board of Directors or the Executive Committee may be taken without a meeting if all the Board
26 Members or Executive Committee members entitled to vote consent to the action in writing and the
27 written consents are filed with the records of the respective meetings. These consents shall be treated
28 for all purposes as votes taken at a meeting.
29

30 5.16 MAIL VOTE - Any action which may be taken at any regular or special meeting of the Board of
31 Directors, except elections, advice and consent to the General Chairman's appointments, or removals of
32 officers, committee chairmen and members, may be taken without a meeting. If an action is to be taken
33 without a meeting, the Secretary, by first class mail, postage prepaid, shall distribute a written ballot to
34 every Board Member entitled to vote on the matter. The ballot shall set forth the proposed action,
35 provide an opportunity to specify approval or disapproval, and provide a reasonable time (but in no
36 event less than the period specified in Section 5.17) within which to return the ballot to the Secretary.
37 Action by written ballot shall be valid only when the number of votes cast in favor of the proposed
38 action within the time period specified constitutes a majority of the votes entitled to be cast.
39

40 5.17 NOTICES -
41

42 .1 TIME - Not less than six (6) days notice shall be given to each Board Member for any annual,
43 regular or special meeting of the Board of Directors. Separate notices need not be given for
44 regular meetings that are designated in these Bylaws or otherwise scheduled and noticed well in
45 advance. (See Section 16.1.5 for the various permitted forms of notice and the consequences
46 thereof.)
47

48 .2 INFORMATION - The notice of a meeting shall contain the time, date and site and in the case or
49 special meetings, the expected purpose, which may be general.
50

51 5.18 ORDER OF BUSINESS - At all meetings of the Board of Directors the following shall be included in
52 the order of business to the extent applicable. The order in which subjects are taken up may be varied.

- 1
- 2 Roll Call
- 3 Reading, correction and adoption of minutes
- 4 Report of Executive Committee
- 5 Reports of officers
- 6 Reports of committees and coordinators
- 7 Presentation of the annual budget and adoption of recommendation to the House of Delegates
- 8 Presentation of the annual audit report pursuant to Section 8.5 and adoption of its
- 9 recommendation to the House of Delegates
- 10 Advice and Consent to Appointments
- 11 Unfinished (old) business
- 12 New business
- 13 Approval of applications for Group Membership and Affiliated Individual Membership
- 14 Elections
- 15 Resolutions and orders
- 16 Adjournment
- 17
- 18

19 **ARTICLE 6**
20 **OFFICERS**

- 21
- 22 6.1 ELECTED OFFICERS AND COMMITTEE CHAIRMEN — The officers,, committee chairmen and
- 23 coordinators who shall be elected by the House of Delegates are:
- 24
- 25 .1 General Chairman
- 26 .2 Administrative Vice-chairman
- 27 .3 Finance Chairman
- 28 .4 Senior Vice-chairman
- 29 .5 Age Group Vice-chairman
- 30 .6 Secretary
- 31 .7 Treasurer
- 32 .8 Technical Planning Chairman
- 33 .9 Safety Coordinator
- 34
- 35 6.2 ELECTIONS - The House of Delegates, at its annual meeting, shall elect the General Chairman, the
- 36 Administrative Vice-chairman, the Secretary, the Finance Vice-chairman, and the Senior Vice-
- 37 chairman in even-numbered years; and the Age Group Vice-chairman, the Treasurer, the Technical
- 38 Planning Committee Chairman, the Safety Coordinator and the regular and alternate members of the
- 39 Board of Review in odd-numbered years. The House shall also elect annually the individual members
- 40 of the Nominating Committee.
- 41
- 42 6.3 ELIGIBILITY — Only Individual Members in good standing shall be eligible to hold office and must
- 43 maintain their eligibility throughout their term of office.
- 44
- 45 6.4 DOUBLE VOTE PROHIBITED - An Individual Member entitled to vote in the House of Delegates by
- 46 virtue of holding a position in Metro may not also vote as a Group Member Representative in the
- 47 House of Delegates.
- 48
- 49 6.5 OFFICES COMBINED OR SPLIT -
- 50
- 51 .1 OFFICE HELD BY TWO PERSONS - Any office other than General Chairman, Finance Vice-
- 52 chairman and Treasurer, may be held jointly by two Individual Members. This may be

1 accomplished by the Nominating Committee nominating two Individual Members to serve as
2 co-officers or by the House of Delegates electing two at the time of election. In the case of the
3 Administrative Vice-chairman, the House of Delegates at the time of election shall designate
4 one to be the successor to the General Chairman; if no such designation is made, then the person
5 with the longer tenure in such office or as a Board Member shall serve as the successor.
6

- 7 .2 OFFICES COMBINED - Any office other than General Chairman may be combined with any other
8 office except that the offices of Finance Vice-chairman and Treasurer may not be combined.
9 This may be accomplished by the Nominating Committee nominating a single Individual
10 Member to serve simultaneously as two officers or by the House of Delegates so electing at the
11 time of election.
12

13 6.6 TERMS OF OFFICE —
14

- 15 .1 TERM OF OFFICE - The terms of office of all elected members of the Board of Directors shall be
16 two years.
17
18 .2 COMMENCEMENT OF TERM - Each person elected to a position shall assume office upon election
19 and shall serve until a successor is chosen.
20
21 .3 CONSECUTIVE TERMS LIMITATION - Except for the Secretary, Treasurer, Technical Planning
22 Committee Chairman, or Safety Coordinator, no Individual Member who has been elected by
23 the House of Delegates and served four successive years shall be eligible for re-election to the
24 same position until a lapse of two years. A portion of any term served to fill a vacancy in the
25 position shall not be considered in the computation of this successive terms limitation.
26

27 6.7 DUTIES AND POWERS — The duties and powers of the officers and other Board Members shall be
28 to attend and participate in all meetings of the House of Delegates and the Board of Directors and as
29 follows:
30

- 31 .1 GENERAL CHAIRMAN: The General Chairman shall oversee and have general charge of the
32 management, business, operations, affairs and property of Metro, and general supervision over
33 its officers and agents; shall call meetings when and where deemed necessary; shall preside at
34 all meetings; and, except as otherwise provided in these Bylaws and with the advice and consent
35 of the Board of Directors, shall appoint committee chairmen and members for standing and
36 special committees or coordinators as may be necessary to permit Metro to effectively,
37 efficiently and economically conduct its affairs. The General Chairman shall report to the Board
38 of Directors all matters within the General Chairman's knowledge that the Board of Directors
39 should consider in the best interests of Metro.
40
41 .2 SECRETARY: The Secretary, or a delegate, shall be responsible for keeping a record of all
42 meetings of the House of Delegates and Board of Directors, conducting official correspondence,
43 issuing meeting and other notices and making such reports to USS as are required by Article 8
44 of these Bylaws and shall perform the other duties incidental to the office of Secretary. The
45 Secretary, or the staff of Metro's permanent office, shall be custodian of the records of Metro,
46 and attest the execution of all duly authorized instruments. The Secretary shall cause to be kept
47 at Metro's permanent office copies of all minutes, official correspondence, meeting and other
48 notices, and any other records of Metro.
49
50 .3 TREASURER: The Treasurer shall be the principal receiving and disbursing officer of Metro.
51 Except as otherwise directed by the Finance Vice-chairman, the Finance Committee or the
52 Board of Directors, the Treasurer shall receive all moneys, incomes, fees and other receipts of
53 Metro and pay all bills, salaries, expenses and other disbursements approved by an authorized

1 officer, committee chairman, coordinator, the Finance Vice-chairman, the Finance Committee,
2 the Board of Directors or the House of Delegates, or required to be paid pursuant to Section
3 10.3.12 When authorized by the Board of Directors, income and expenses may be received and
4 paid by a division, officer, committee or coordinator, provided that the division, officer,
5 committee or coordinator promptly submits to the Treasurer an itemized report, duly attested by
6 the division, officer, committee chairman or coordinator and either within the approved budget
7 of such division, officer, committee or coordinator, or authorized by the Board of Directors or
8 the House of Delegates. The Treasurer shall be a member of the Finance Committee but may
9 not be its chairman. The Treasurer shall issue a monthly report listing the current budget
10 variances by line item, all receipts, all expenditures and the current fund and account balances
11 for the preceding month and for the fiscal year to date, together with such other items as the
12 Finance Vice-chairman, the Finance Committee, the General Chairman or the Board of
13 Directors may direct. The Treasurer shall:

- 14
15 A have charge of and supervision over and be responsible for the funds, moneys, securities,
16 corporate seal and other financial instruments of Metro;
- 17
18 B cause the moneys, securities and other financial instruments of Metro to be deposited in
19 the name and to the credit of Metro in such institutions as shall be designated in
20 accordance with Section 6.11 or to be otherwise invested as the Finance Vice-chairman,
21 the Finance Committee or the Board of Directors may direct;
- 22
23 C cause to be appropriately segregated and accounted for any endowment funds,
24 scholarship or award funds and any similar special purpose funds or accounts;
- 25
26 D cause the funds of Metro to be disbursed by checks or drafts, automated debits or wire
27 transfers upon the authorized depositories of Metro, and obtain and preserve proper
28 vouchers for all moneys disbursed;
- 29
30 E cause to be kept in the safe-keeping of the Treasurer correct books of account and other
31 financial records of all its affairs and transactions and such duplicate books of account as
32 the Board of Directors, the Finance Vice-chairman, the Finance Committee or the
33 Treasurer shall determine. The Treasurer's custody of the books and records shall be as a
34 fiduciary for Metro and custody and fiduciary state shall end when the Treasurer leaves
35 office and passes them on to the successor Treasurer;
- 36
37 F upon request and at reasonable hours cause such books or duplicates thereof to be
38 exhibited to any member of the Board of Directors and upon application and at
39 reasonable hours cause the monthly financial reports and the annual audited financial
40 statement to be exhibited to any member of Metro or USS;
- 41
42 G cause Metro to be in compliance with the requirements of Section 8.4;
- 43
44 H have the power to require from the officers, committee chairmen, coordinators, staff or
45 agents of Metro reports or statements giving such information as the Treasurer may
46 determine to be appropriate or helpful with respect to any and all financial transactions of
47 Metro;
- 48
49 I cause the annual audit of accounts of Metro to be performed, and cause the preparation
50 and timely filing of all required federal, state and local tax returns, and other financial and
51 tax reports with the applicable government official, and forward a copy of the annual
52 financial statement and audit report and any federal tax return to the Secretary for
53 submission to the Board of Directors and USS national headquarters in accordance with

1 Sections 8.2 and 8.3;

2
3 J have the power to appoint one or more assistant treasurers and delegate to them one or
4 more of the Treasury functions, or parts thereof; and

5
6 K in general, perform all the other duties incident to the corporate treasury function.
7

8 .4 ADMINISTRATIVE VICE-CHAIRMAN: The Administrative Vice-chairman shall conduct meetings
9 in the absence of the General Chairman and, at the request of the General Chairman or in the
10 event of the disability of the General Chairman, shall perform all of the duties of the General
11 Chairman, and when so acting shall have all of the powers of the General Chairman. (See
12 Section 6.9.) The Administrative Vice-chairman shall chair, and have general charge of the
13 business, affairs and property of the division that administers Metro business and affairs. The
14 Administrative Vice-chairman shall aid in the development of policy and the coordination of the
15 activities of the officers and committees within the division internally and with other divisions,
16 committees and coordinators. The Administrative Division shall be responsible for the creation
17 and maintenance of Metro's Policies and Procedures Manual. The Administrative Vice-
18 chairman serves a liaison to the Athlete Representatives and the Athletes Committee, and shall
19 be responsible to see that the Athlete Representatives elections are held in accordance with these
20 Bylaws.
21

22 .5 SENIOR VICE-CHAIRMAN: The Senior Vice-chairman shall chair and have general charge of the
23 affairs and property of the Committee that develops and conducts the senior swimming program
24 of Metro.
25

26 .6 AGE GROUP VICE-CHAIRMAN: The Age Group Vice-chairman shall chair and have general
27 charge of the affairs and property of the Committee that develops and conducts the age group
28 swimming program of Metro,
29

30 .7 FINANCE VICE-CHAIRMAN: The Finance Vice-chairman is the chief financial officer of Metro.
31 The Finance Vice-chairman shall chair and have general charge of the affairs and property of
32 the division that includes the Treasury function, the development and implementation of an
33 investment program for Metro's working capital, funded reserves and endowment funds and the
34 development and implementation of a marketing and fund-raising plan for Metro. The Finance
35 Vice-chairman, with the assistance of the Finance Committee, shall prepare an annual budget
36 for Metro's operations and present the budget for approval by the Board of Directors and the
37 House of Delegates. In addition, the Finance Vice-chairman shall cause to be conducted the
38 audit required pursuant to Section 8.5 and shall review the annual audit report and recommend
39 acceptance and appropriate action, if any, with regard thereto by the Board of Directors and the
40 House of Delegates. The Finance Vice-chairman is responsible for the adequacy of Metro's
41 system of internal financial and accounting controls. The Finance Vice-chairman is the
42 chairman of the Finance Committees and a member of the Personnel Committee. Together with
43 the Treasurer, the Finance Vice-chairman is ultimately responsible for Metro's compliance with
44 Section 8.4.
45

46 .8 ATHLETE REPRESENTATIVES: The Athlete Representatives shall serve as the liaison between the
47 athletes who are members of Metro and the Board of Directors and House of Delegates. The
48 Senior Athlete Representative shall chair the Athletes' Committee.
49

50 .9 COACH REPRESENTATIVE: The Coach Representative shall serve as a liaison between the
51 coaches who are members of Metro and the Board of Directors and House of Delegates.
52

53 .10 METRO DELEGATES TO USS HOUSE OF DELEGATES -

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- A Officer and Representative Delegates - It shall be the duty and privilege of the General Chairman, the Administrative Vice-Chairman, the Age Group Vice-chairman, the Senior Vice-chairman, the Senior Athlete Representative and the Coach Representative to attend the USS annual meeting as representatives of Metro and voting delegates to the USS House of Delegates.
- B Officer Delegate Alternates - If officer delegates are unable to attend, their elected alternates, if any, shall attend in their places. In the event that there are no elected alternates or the elected alternates are unable to attend, then the General Chairman, with the advice and consent of the Board of Directors, shall appoint alternates who shall attend the USS annual meeting as delegates representing Metro.
- C Athlete Representative Alternates - If an athlete delegate is unable to attend, the Athlete Representative next most senior in term of office shall attend. If seniority cannot be established or there remain no additional Athlete Representatives or alternates able to attend, then the General Chairman, with the advice and consent of the Board of Directors, shall designate one or more Athlete Members to attend as a representative of Metro.
- D Coach Representative Alternates - If the Coach Representative is unable to attend the USS annual meeting, then the General Chairman, with the advice and consent of the Board of Directors, shall designate a Coach Member to attend as a representative of Metro.

6.8 RESIGNATIONS — Any officer may resign by orally advising the General Chairman or by submitting a written resignation to the Board of Directors specifying an effective date of the resignation. In the absence of a specified effective date, any such resignation shall take effect upon the appointment or election of a successor.

6.9 VACANCIES AND INCAPACITIES -

- .1 OFFICE OF GENERAL CHAIRMAN - In the event of a vacancy in the office of General Chairman, or of the General Chairman's temporary or permanent incapacity, the Administrative Vice-chairman shall become the Acting General Chairman until an election can be held at the next meeting of the House of Delegates to fill the remaining term, if any, of the former General Chairman, or until the General Chairman ceases to suffer from any temporary incapacity. While serving as Acting General Chairman, the Administrative Vice-chairman shall vacate the office of Administrative Vice-chairman, except in the case of the General Chairman's temporary incapacity. If the General Chairman is to be absent from the Territory, the General Chairman may, but is not obligated to, designate the Administrative Vice-chairman as Acting General Chairman for the duration of the absence.
- .2 OFFICES OF ATHLETE OR COACH REPRESENTATIVES - In the event of a vacancy in the office of Athlete Representative or Coach Representative, or of the permanent incapacity of a person holding the office of Athlete Representative or Coach Representative, the General Chairman may appoint, with the advice and consent of the Board of Directors, an Athlete Member or a Coach Member, as the case may be, to serve the remainder of the term of office or until the Athletes Committee or the Coach members, as the case may be, shall elect a successor.
- .3 OTHER OFFICES - In the event of a vacancy in, or permanent incapacity of, the person holding any office other than General Chairman, Athlete Representative, Coach Representative or member of the Board of Review, the General Chairman shall appoint a successor, with the advice and consent of the Board of Directors, to serve until the next regularly scheduled meeting

1 of the House of Delegates. In the event of a temporary incapacity, the General Chairman may
2 designate, with the advice and consent of the Board of Directors, an Individual Member to act
3 for the incapacitated officer for the duration of the incapacity.
4

- 5 .4 DETERMINATION OF VACANCY OR INCAPACITY - The determination of when an office becomes
6 vacant or an officer becomes incapacitated shall be within the discretion of the Board of
7 Directors or the House of Delegates with, in the case of an Athlete Representative or a Coach
8 Representative, the advice and consent of the Athletes Committee or the Coach members,
9 respectively. The determination as to when the General Chairman is temporarily incapacitated
10 shall be made, where the circumstances permit, by the General Chairman and otherwise shall be
11 within the discretion of the Board of Directors, subject to any subsequent action by the House of
12 Delegates.
13

14 6.10 OFFICERS' POWERS GENERALLY -
15

- 16 .1 AUTHORITY TO EXECUTE CONTRACTS, ETC. - The General Chairman, Administrative Vice-
17 chairman, and Finance Vice-chairman each may sign and execute in the name of Metro deeds,
18 mortgages, bonds, contracts, agreements or other instruments duly authorized by the Metro
19 Policies and Procedures Manual, the Board of Directors or the House of Delegates, except in
20 cases where the signing and execution thereof shall be expressly delegated by the Board of
21 Directors to another officer or agent, expressly requires two or more signatures or is required by
22 law to be otherwise executed. Additional signing authority may be provided by standing
23 resolutions of the Board of Directors or the House of Delegates.
24

- 25 .2 ADDITIONAL POWERS AND DUTIES - Each officer shall have other powers and perform other
26 duties as may be prescribed in Metro's Policies and Procedures Manual or by the House of
27 Delegates, the Board of Directors, the General Chairman, the respective division Vice-chairman,
28 the delegating officer or these Bylaws. The division Vice-chairmen shall have the additional
29 duties and powers set forth in Section 7.1 and 7.5.
30

- 31 .3 DELEGATION - Officers of Metro may delegate any portion of their powers or duties to another
32 Individual Member or to a committee composed of Individual Members, except that neither the
33 Finance Vice-chairman nor the Treasurer may delegate duties to the other without the consent of
34 the Board of Directors. In addition, the authority to sign checks, drafts, orders of withdrawal or
35 wire transfers shall not be delegated other than by the Board of Directors. Except as otherwise
36 provided in these Bylaws and with the consent of the Board of Directors, any officer may
37 delegate any portion of that officer's powers or duties to the paid staff of Metro. A delegation of
38 powers or duties shall not relieve the delegating officer of the ultimate responsibility to see that
39 these duties and obligations are properly executed or fulfilled.
40

- 41 .4 ASSISTANT AND DEPUTY OFFICERS - The House of Delegates or the Board of Directors by
42 resolution, or Metro's Policies and Procedures Manual, may create the office of deputy to one or
43 more of the elected officers. The resolution or the Policies and Procedures Manual shall give
44 the method of election or appointment and define the duties and powers of the respective
45 deputies, which may include the power to act for the officer when the officer is out of the
46 Territory or temporarily incapacitated. The elected officers may appoint one or more assistant
47 officers and define their respective duties.

1
2 6.11 DEPOSITORIES AND BANKING AUTHORITY —
3

- 4 .1 DEPOSITORIES, ETC. - All receipts, income, charges and fees of Metro shall be deposited to its
5 credit in the banks, trust companies, other depositories or custodians, investment companies or
6 investment management companies as the Board of Directors may select, or as may be selected
7 by the Finance Committee or any officer or officers or agent or agents authorized to do so by the
8 Board of Directors. Endorsements for deposit to the credit of Metro in any of its duly
9 authorized depositories shall be made in the manner determined by the Finance Vice-chairman,
10 the Finance Committee or the Board of Directors. All funds of Metro not otherwise employed
11 shall be maintained in the banks, trust companies, other depositories or custodians, investment
12 companies or investment management companies designated by the Finance Vice-chairman, the
13 Finance Committee, the Board of Directors or any officer or officers or agent or agents
14 authorized to do so by the Board of Directors.
15
16 .2 SIGNATURE AUTHORITY - All checks, drafts or other orders for the payment or transfer of
17 money, and all notes or other evidences of indebtedness issued in the name of Metro shall be
18 signed by the General Chairman, the Treasurer or other officer or officers or agent or agents of
19 Metro, and in the manner, as shall be determined by the Finance Vice-chairman, the Finance
20 Committee or the Board of Directors.
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23 **ARTICLE 7**
24 **DIVISIONS, COMMITTEES AND COORDINATORS**
25

- 26 7.1 DIVISIONAL ORGANIZATION AND JURISDICTIONS, STANDING COMMITTEES AND
27 COORDINATORS - The six divisions of Metro shall each be chaired by a Vice-chairman, the Senior
28 Athletes Representative, or the Coaches Representative, whose respective powers, duties, jurisdiction
29 and responsibilities are described in Section 6.7. Under each division Vice-chairman there are officers,
30 committees, coordinators and direct responsibilities as follows:
31

- 32 .1 ADMINISTRATIVE DIVISION - Administrative Vice-chairman
33
34 Bylaws/Legislation/Rules
35 Club Development
36 Computer
37 Elections
38 Legal (General Counsel, if applicable)
39 Officials
40 OVCs
41 Personnel
42 Public Relations
43 Publications/Newsletter
44 Policies and Procedures Manual
45 Safety
46 Swimguide/Parents Manual
47 Secretary
48 Special Events
49 Technical Planning
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- .2 AGE GROUP DIVISION - Age Group Vice-chairman
 - Adaptive Swimming
 - Age Group
 - Camps/Clinics
 - Program Development
 - Time Standards
 - Zone Team

- .3 SENIOR DIVISION - Senior Vice-chairman
 - Awards
 - Camps/Clinics
 - Meet Evaluation
 - Meet Management
 - Meet Sponsorship
 - Open Water
 - Senior
 - Time Standards

- .4 FINANCE DIVISION - Finance Vice-chairman
 - Budget
 - Finance
 - Marketing/Sponsorship
 - Tax
 - Treasurer

- .5 ATHLETES DIVISION - Senior Athlete Representative
 - Athlete Representatives
 - Athletes Committee

- .6 COACHES DIVISION - Coach Representative
 - Coach Representative
 - Coaches Committee

7.2 NON-OFFICER CHAIRMEN AND THEIR COMMITTEES; COORDINATORS

- .1 ELECTED, EX-OFFICIO AND APPOINTED NON-OFFICER CHAIRMEN AND COORDINATORS -
 - A Elected Chairmen and Coordinators - As provided in Section 6.2, certain non-officer committee chairmen and coordinators shall be elected by the House of Delegates. Their eligibility, terms of office, etc. shall be as provided in Sections 6.2, 6.3 and 6.6 These elected non-officer committee chairmen and coordinators of Metro are:
 - (1) the Safety Coordinator and
 - (2) the Technical Planning Chairman.
 - B Ex-officio Chairman - Pursuant to Section 7.3 certain other committee chairmen are designated ex-officio by virtue of an office currently held.
 - C Appointed Chairmen and Coordinators - The chairmen of all other standing committees

1 and all other coordinators shall be appointed by the General Chairman with the advice
2 and consent of the Board of Directors and the respective division vice-chairman. The
3 appointed standing committee chairman or coordinator shall assume office upon
4 appointment or the date designated by the General Chairman, and shall serve until sixty
5 (60) days after the next election of a General Chairman or until a successor is appointed
6 and assumes office.
7

8 D. When there is Metro permanent office staff, the staff shall fulfill the duties of the
9 following Chairman/Coordinators and have voice but no vote:

- 10 (1) Membership/Registration Coordinator
- 11 (2) Zone Team Coordinator;
- 12 (3) Top 16 Tabulation Coordinator.

13
14 E. Permanent Office Secretary - The Permanent Office Secretary shall maintain the
15 Metro records, be a resource for information and carry on communication as
16 necessary and/or directed. The Secretary shall also act as Registration/Membership
17 Coordinator, Top 16 Tabulator, Zone Team Coordinator, and issuer of Meet
18 Sanctions/Approvals. The Secretary shall have such other duties and responsibilities as the
19 Board of Directors shall determine.
20

21
22 .2 DUTIES AND POWERS OF NON-OFFICER CHAIRMEN AND COORDINATORS -
23

24 A Membership/Registration Coordinator - The Membership/Registration Coordinator shall
25 be responsible for the registration of Group and Individual Members and shall make the
26 reports required by Section 8.6 together with such additional reports as may be required
27 by USS, the Board of Directors or the Administrative Vice-chairman.
28

29
30 B Safety Coordinator - The Safety Coordinator shall be responsible for coordinating safety
31 enhancement and training opportunities as needed and for the dissemination of USS
32 safety education information to all Group Members, athletes, coaches and officials of
33 Metro. The Safety Coordinator shall develop safety education programs and policies for
34 Metro and make recommendations regarding those programs and policies and their
35 implementation to the Applicable Division Vice-chairmen and the Board of Directors.
36 When approved by the Board of Directors, the Safety Coordinator shall be responsible
37 for the coordination of their implementation by the Club Members. The Safety
38 Coordinator shall make the reports required pursuant to Section 8.7
39

40 C Technical Planning Chairman - The Technical Planning Chairman shall chair, and have
41 general charge of the business, affairs and property of the Technical Planning Committee,
42 which is responsible for long-range planning regarding the swimming programs
43 conducted by Metro, overseeing the setting of short and long course schedules, the
44 continuing review and development of the Metro philosophy and for advising other
45 committees and divisions regarding the implementation of that philosophy in the context
46 of Metro's swimming programs.
47

48 D Athletes Committee Chairman - The Senior Athlete Representative shall chair and have
49 general charge of the business, affairs and property of the Athletes Committee, which
50 shall be responsible for the publication of an athletes' newsletter and shall undertake such
51 other activities (a) delegated to it by the Board of Directors or the General Chairman or
52 (b) undertaken by the Committee as being in the best interests of the Athlete Members,
53 Metro, USS and the sport of swimming.

1
2 E Coaches Representative - The Coaches Representative shall chair and have general
3 charge of the business, affairs and property of, the Coaches Committee, which shall
4 undertake such activities (a) delegated to it by the Board of Directors or the General
5 Chairman or (b) undertaken by the committee as being in the best interests of the Coach
6 Members, Metro and the sport of swimming.
7

8
9 F Adapted Swimming Coordinator - The Adaptive Swimming Coordinator shall be a
10 resource to interpret Article 105 of the USS Rules and Regulations, provide
11 information relative to the Americans with Disabilities Act, and encourage the
12 participation of athletes with disabilities in the programs of Metro and USS.
13
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15

16 7.3 MEMBERS AND EX-OFFICIO MEMBERS OF STANDING COMMITTEES - Except as otherwise
17 provided in these Bylaws or by the Board of Directors, members of each standing committee shall be
18 appointed by the General Chairman with the advice and consent of the respective division vice-
19 chairman and the chairman of the committee. The division vice-chairman shall be an ex-officio
20 member (with voice and vote) of each standing committee within the respective division. The ex-
21 officio members and other designated members of certain standing committees shall be as follows:
22

23 .1 ATHLETES COMMITTEE - The Athletes Committee shall consist of the Athlete Representatives
24 and at least three other Athlete Members. The Senior Athlete Representative or the Athletes
25 Committee shall determine the number of additional Athlete Members. The Senior Athlete
26 Representative shall be the chairman of the committee.
27

28 .2 BUDGET COMMITTEE - The members of the Budget Committee shall be the General Chairman,
29 the Finance Vice-chairman, who shall serve as chairman, the Treasurer, the Administrative
30 Vice-chairman, the Senior Athlete Representative, the Coaches Representative, the Age Group
31 Vice-chairman and the Senior Vice-chairman.
32

33 .3 FINANCE COMMITTEE - The members of the Finance Committee shall be the General Chairman,
34 the Finance Vice-chairman, who shall serve as chairman, the Administrative Vice-chairman and
35 the Treasurer.
36

37 .4 OFFICIALS COMMITTEE - The members of the Officials Committee shall be the Officials
38 Chairman, who shall serve as chairman, and at least two other members each of whom shall be a
39 certified official of Metro. The Administrative Vice-chairman shall be an ex-officio member
40 (with voice and vote) of this committee.
41

42 .5 PERSONNEL COMMITTEE - The members of the Personnel Committee shall be the General
43 Chairman, who shall serve as chairman, the Administrative Vice-chairman and the Finance
44 Vice-chairman.
45

46 .6 TECHNICAL PLANNING COMMITTEE - The members of the Technical Planning Committee shall
47 be the Technical Planning Committee Chairman, who shall serve as chairman, an Athlete
48 Member and at least six (6) additional members of whom at least fifty percent (50%) shall be
49 Coach Members. The Athlete Member and the additional members shall be appointed by the
50 General Chairman with the advice and consent of the Board of Directors.
51

52 The General Chairman or the respective division vice-chairman may appoint the specified additional members
53 and any other members deemed appropriate or necessary for any of the foregoing standing committees, except

1 the Athletes, Coaches and Personnel Committees. Committee members appointed pursuant to the preceding
2 sentence, shall hold their appointments at the pleasure of the appointing officer
3 or successor.
4

5 7.4 DUTIES AND POWERS OF STANDING COMMITTEES AND COORDINATORS -
6

7 .1 BUDGET COMMITTEE - The Budget Committee is authorized and obligated to consult with the
8 officers, committee chairmen and coordinators and prepare and present a proposed budget for
9 consideration and approval by the Board of Directors and the House of Delegates. The officers,
10 committee chairmen and coordinators shall provide promptly such financial information (current
11 and projected) and budget proposals as the Budget Committee may request. The proposed
12 budget may contain alternatives.
13

14 .2 FINANCE COMMITTEE - The Finance Committee is authorized and obligated to develop, establish
15 where so authorized or recommend to the Board of Directors and supervise the execution of
16 policy regarding the investment of Metro's working capital, funded reserves and endowment
17 funds, within the guidelines, if any, established by the Board of Directors or the House of
18 Delegates. The Finance Committee shall also regularly review Metro's equipment needs (both
19 operational and office) and the various methods available to finance the acquisition of any
20 needed equipment, make a determination of the best financing method for Metro and make
21 recommendations to the Budget Committee and the Board of Directors.
22

23 .3 OFFICIALS COMMITTEE - The Officials Committee is authorized and obligated to recruit, train,
24 test, certify, evaluate, retest, recertify and supervise officials for Metro and such other activities
25 as may be necessary or helpful in maintaining a roster of qualified, well-trained and experienced
26 officials of the highest caliber.
27

28 .4 OPEN WATER COORDINATOR - The Open Water Coordinator shall be responsible for
29 encouraging open water competition and training, overseeing any Metro sanctioned open
30 water event, and being a resource on open water swimming.
31

32 .5 PERSONNEL COMMITTEE - The Personnel Committee is authorized and obligated to negotiate
33 and set wages, compensation and other terms of employment of Metro's staff (whether
34 employees or independent contractors) within established, budgetary guidelines and policies and
35 to review and approve the scope of duties delegated to the staff.
36
37

38 .6 TECHNICAL PLANNING COMMITTEE - The Technical Planning Committee shall be responsible
39 for long-range planning for the swimming programs conducted by Metro and for advice
40 regarding the technical aspects of those programs and of the sport of swimming generally. The
41 Technical Planning Committee shall oversee the awarding of meet sponsorships to member
42 clubs. The Technical Planning Committee shall be responsible for seeing that all levels of
43 swimming will be served within the yearly meet schedule.
44

45 7.5 DUTIES AND POWERS OF CHAIRMEN AND COORDINATORS GENERALLY - The duties and
46 powers of the General Chairman, the division vice-chairmen, committees or subcommittees (in
47 addition to those provided elsewhere in these Bylaws) and, when applicable, coordinators shall be as
48 follows:
49

50 .1 Preside at all meetings of the respective division, committee or subcommittee;
51

52 .2 See that all duties and responsibilities of the coordinator or the respective division,
53

1 committee or sub-committee in his charge are properly and promptly carried out;

- 2
- 3 .3 Appoint such committees or sub-committees as may be necessary to fulfill the duties and
- 4 responsibilities of the coordinator or division or committee, respectively;
- 5
- 6 .4 Communicate with the respective division, coordinator, committee or subcommittee
- 7 members to keep them fully informed;
- 8
- 9 .5 Keep the General Chairman, the respective division vice-chairman or committee
- 10 chairman and the staff of Metro's office informed of the respective coordinator, division,
- 11 committee or subcommittee actions and recommendations;
- 12
- 13 .6 Appoint a member as secretary of the division, committee or subcommittee charged with
- 14 taking minutes of each meeting and forward reports or minutes of all meetings to Metro's
- 15 office;
- 16
- 17 .7 Refer to the Board of Directors any recommendation for action which would establish or
- 18 change policies or programs for Metro, except as otherwise provided in these Bylaws or
- 19 by the Board of Directors; and
- 20
- 21 .8 Perform the other specific duties listed in Metro's Policies and Procedures Manual,
- 22 Guidebook or as may be delegated by the General Chairman, the respective division vice-
- 23 chairman or committee chairman, the Board of Directors or the House of Delegates.
- 24

25 7.6 DUTIES AND POWERS OF COMMITTEES AND COORDINATORS GENERALLY - Except as

26 otherwise provided in these Bylaws, the duties and powers of the standing committees and coordinators

27 shall be prescribed by Metro's Policies and Procedures Manual, the House of Delegates, the Board of

28 Directors, the General Chairman or the respective division vice-chairman. Except as otherwise

29 provided in the Bylaws, the duties and powers of any other committees and subcommittees shall be

30 prescribed by Metro's Policies and Procedures Manual, the House of Delegates, the Board of Directors

31 or the officer, coordinator or chairman pursuant to whose powers such committee or subcommittee was

32 created.

33

34 7.7 REGULAR AND SPECIAL MEETINGS - Regular and special meetings of divisions, committees or

35 sub-committees of Metro shall be held as determined by the respective Vice-chairmen or committee or

36 sub-committee chairman. In addition, meetings may be called where applicable by the division vice-

37 chairman, committee chairman or coordinator pursuant to whose authority a committee or sub-

38 committee was established.

39

40 7.8 MEETINGS OPEN; EXECUTIVE (CLOSED) SESSIONS - Meetings of divisions, committees and

41 sub-committees other than the Personnel Committee shall be open to all members of Metro and USS.

42 Matters relating to personnel, disciplinary action, legal, taxation and similar affairs shall be deliberated

43 and decided in a closed executive session which only the respective members are entitled to attend. By

44 a majority vote on a motion of a question of privilege a division, committee or sub-committee may

45 decide to go into executive session on any matter deserving of confidential treatment or of personal

46 concern to any member of the division, committee or sub-committee.

47

- 1 7.9 VOICE AND VOTING RIGHTS OF DIVISION, COMMITTEE AND SUB-COMMITTEE
2 MEMBERS - The voice and voting rights of Board Members and Individual Members shall be as
3 follows:
4
- 5 .1 MEMBERS - Each division, committee and sub-committee member shall have both voice and
6 vote in the respective meetings.
7
 - 8 .2 NON-VOTING COMMITTEE OR SUB-COMMITTEE MEMBERS - Unless entitled to vote under another
9 provision of these Bylaws, the General Chairman shall have voice but no vote in meetings of
10 divisions, committees and sub-committees.
11
 - 12 .3 INDIVIDUAL MEMBERS - Individual Members who are not members of the division, committee
13 or sub-committee may attend open meetings of the division, committee or sub-committee and be
14 heard in the discretion of the presiding officer. Unless entitled to vote under another provision
15 of these Bylaws, Individual Members shall have no vote in those meetings.
16
- 17 7.10 ACTION BY WRITTEN CONSENT - Any action required or permitted to be taken at any meeting of
18 a division, committee or sub-committee may be taken without a meeting if all the division, committee
19 or sub-committee members entitled to vote consent to the action in writing and the written consents are
20 filed with the records of the meetings. These consents shall be treated for all purposes as a vote taken
21 at a meeting.
22
- 23 7.11 PARTICIPATION THROUGH COMMUNICATIONS EQUIPMENT - Members of any division,
24 committee or sub-committee may participate in a meeting of the division, committee or sub-committee
25 through conference telephone or similar equipment by means of which all persons participating in the
26 meeting can hear each other at the same time. Participation by such means shall constitute presence in
27 person at a meeting.
28
- 29 7.12 QUORUM - Except as otherwise provided in these Bylaws or in the resolution or other action
30 establishing a committee or subcommittee, a quorum of any committee or subcommittee shall consist
31 of a majority of the members of the committee or subcommittee.
32
- 33 7.13 VOTING - Except as otherwise provided in these Bylaws or the Parliamentary Authority, all motions,
34 orders and other propositions coming before a division, committee or subcommittee shall be
35 determined by a majority vote.
36
- 37 7.14 PROXY VOTE - Voting by proxy in any meeting of a division, committee or sub-committee of Metro
38 shall not be permitted.
39
- 40 7.15 NOTICES
- 41
 - 42 .1 TIME - Except as otherwise provided in these Bylaws or the resolution or other action
43 establishing a committee or sub-committee, not less than forty-eight (48) hours notice in the
44 case of notice given by telephone, and six (6) days notice in all other cases, shall be given for
45 any meeting of a division, committee or sub-committee of Metro. Separate notices need not be
46 given for regular meetings that are scheduled well in advance. (See Section 16.1.5. for the
47 various forms of notice.)
48
 - 49 .2 INFORMATION - The notice of a meeting shall contain the time, date and site.
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- 51 7.16 ORDER OF BUSINESS - At all meetings conducted under the authority of this Article, the following
52 shall be included in the order of business to the extent applicable; the order in which subjects are taken
53 up may be varied:

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- Roll Call
- Reading, correction and adoption of minutes
- Reports of coordinators, committees and subcommittees
- Unfinished (old) business
- New business
- Resolutions and orders
- Adjournment

- 7.17 RESIGNATIONS - Any committee or subcommittee chairman or member or coordinator may resign by orally advising the General Chairman or by submitting a written resignation to the Board of Directors specifying an effective date of the resignation. If such date is not specified, the resignation shall take effect upon the appointment of a successor.
- 7.18 VACANCIES - The determination of when the position of an appointed committee or subcommittee chairman, committee member or a coordinator becomes vacant or the person becomes incapacitated, if not made by the person, shall be within the discretion of the Board of Directors. (See Section 6.9 for provisions applicable to elected committee chairmen and coordinators.) In the event of a vacancy or permanent incapacity the General Chairman, with the advice and consent of the Board of Directors and the respective division vice-chairman, shall appoint a successor to serve until the conclusion of the incumbent's term. A temporary incapacity may be left unfilled at the discretion of the General Chairman or an appointment may be made for the duration of the temporary incapacity.
- 7.19 DELEGATION - With the consent of the Board of Directors or the respective division Vice-chairman, a committee or subcommittee chairman or a coordinator may delegate a portion of the powers or duties to another officer of Metro, or to another committee, subcommittee or coordinator, or, with the consent of the Board of Directors or the Personnel Committee, to the paid staff of Metro. Notwithstanding any delegation, the ultimate responsibility for the delegated duties and obligations shall remain with the delegator.
- 7.20 APPLICATION TO EXECUTIVE AND NOMINATING COMMITTEES AND BOARD OF REVIEW - Sections 7.5 through 7.16 shall apply to the Executive Committee, the Nominating Committee and any other committee of the Board of Directors or the House of Delegates, unless otherwise provided in these Bylaws, in the resolution creating the committee or in the Metro Policies and Procedures Manual or Guidebook. These provisions shall also apply to Board of Review meetings, but shall not apply to its hearings or deliberations.

ARTICLE 8
ANNUAL AUDIT, REPORTS AND REMITTANCES

- 8.1 MINUTES - The Permanent Office Secretary shall, within thirty (30) days after each meeting of the Board of Directors and the House of Delegates, transmit a copy of the minutes of the meeting to the respective members and to USS national headquarters.
- 8.2 FINANCIAL AND FEDERAL TAX REPORTS - The Treasurer shall forward to USS national headquarters a copy of the annual closing Balance Sheet and Statement of Income and Expense for the preceding fiscal year following completion of the audit of the accounts and internal financial controls and procedures of Metro and the report thereon prepared in accordance with Section 8.5, within fifteen (15) days of receipt of the audit report and shall advise USS national headquarters within thirty (30) days following acceptance by the House of Delegates. Copies of any corresponding federal income tax return required to be filed by Metro under the IRS Code shall be included with the annual audit report

1 sent to USS national headquarters.
2

3 8.3 STATE AND LOCAL REPORTS AND FILINGS - The Permanent Office Secretary shall cause to be
4 made all reports and non-tax filings and shall requisition from the Treasurer checks with which to pay
5 any applicable fees required by its state of incorporation and by any other state or municipality in
6 which it operates.
7

8 8.4 PUBLIC AVAILABILITY OF CERTAIN INFORMATION - Metro shall cause to be made available
9 at Metro's permanent office by appointment to anyone requesting to see a copy of Metro's federal
10 income tax and information returns for each of the last three years, and a copy of the materials
11 submitted by USS to include Metro in USS's group exemption ruling as required pursuant to IRS Code
12 section 6104 and any similar requirements of applicable state or local laws.
13

14 8.5 ANNUAL AUDIT - An annual audit of the accounts, books and records of Metro shall be completed
15 no later than the end of the third month following the end of its fiscal year. The audit, or review, shall
16 be conducted by an independent auditor who shall be a certified public accountant or by the Finance
17 Committee. The audit shall cover any federal, state or local income tax return that Metro is required to
18 file under the IRS Code or applicable provisions of state or local law, rules or regulations, the balance
19 sheet, the statement of income and expenses, check register and bank statements and other records as is
20 deemed appropriate. If the audit, or review, is conducted by the Finance Committee, the treasurer shall
21 not be a member of the Audit Committee. The committee shall issue a report signed by all of its
22 members and stating that the financial records and reports of Metro have been reviewed and fairly
23 present the financial condition of Metro as of the date of the balance sheet and for the fiscal period of
24 the statement of income and expenses and the report is true and correct to the best of the Committee's
25 knowledge, information and belief. If the audit, or review, is conducted by an independent auditor, the
26 report shall be in accord with generally accepted auditing practices applicable to the audit or review, as
27 the case may be.
28

29 8.6 MEMBERSHIP AND REGISTRATION REPORTS - The Membership/Registration Coordinator, or a
30 delegate, shall forward in a timely manner all required reports to the Executive Director of USS. This
31 report shall be accompanied by a remittance of the appropriate membership and registration fees due to
32 USS. The Membership/Registration Coordinator shall make periodic summary reports to the
33 Administrative Vice-chairman, the Board of Directors and the House of Delegates.
34

35 8.7 SAFETY REPORTS -
36

37 .1 INCIDENT/OCCURRENCE REPORTS - An occurrence report providing all of the information
38 requested on any applicable USS form should be completed at the time of the occurrence by the
39 meet director, officer, coach or club officer with copies to USS national headquarters, the Safety
40 Coordinator the Administrative Vice-chairman, the Metro office and the currently designated
41 USS insurance carrier.
42

43 .2 REPORTS OF INJURIES - The Safety Coordinator shall present a report concerning swimming-
44 related injuries within the Territory at each House of Delegates and Board of Directors meeting.
45

46 A House of Delegates Reports - The report to the House of Delegates shall be written and
47 shall provide in summary form the pertinent information including whether the injured
48 party is a member of Metro and USS, the location of the occurrence and a brief
49 description of the incident, the resulting injury and the emergency-care steps taken,
50 together with any recommendation for action by Metro and its members to reduce the
51 likelihood of a re-occurrence and the status of that recommendation. The written report
52 shall include a review of the pertinent statistical information provided by USS national
53 headquarters. The Safety Coordinator is responsible for distribution of this report to each

1 Club Safety Coordinator. A copy of each House of Delegates report shall also be sent to
2 the USS national headquarters.
3

4 B Board of Directors Reports - The regular report to the Board of Directors may be a
5 summary addressing primarily any recommendation for action by Metro and its members.
6

7 .3 SAFETY EDUCATION - The Safety Coordinator shall be responsible for disseminating safety
8 information flowing from USS Headquarters, exploring safety education opportunities and
9 developing a safety education program tailored to Metro and its members and Territory.
10

11 8.8 MAILING ADDRESS - Metro shall notify in writing USS national headquarters of any change in its
12 regular mailing address within 14 days of the change.
13

14 8.9 REPORTS GENERALLY - Metro shall make all reports and remittances to USS as specified in the
15 USS Code or by the National Board of Directors or National House of Delegates, in such a manner and
16 on such written forms as may be requested by USS national headquarters. The General Chairman, the
17 Membership/Registration Coordinator, the Permanent Office Secretary, the Finance Vice-chairman and
18 the Treasurer shall be collectively responsible for seeing that all required reports and remittances are
19 made.
20
21

22 ARTICLE 9

23 MEMBERS' BILL OF RIGHTS

24

25 9.1 INDIVIDUAL MEMBERS' BILL OF RIGHTS - Metro, in furtherance of Article 301 of the USS
26 Code, shall respect and protect the right of every Individual Member who is eligible under Metro, USS
27 and FINA rules and regulations to participate in any competition as an athlete, coach, trainer, manager,
28 meet director or other official, so long as the competition is conducted in compliance with Metro, USS
29 and FINA requirements. Before any Individual Member is denied the right to participate in a
30 competition, the individual shall have the right to request and have a hearing before, and a
31 determination of, the Board of Review or the National Board of Review. If the Individual Member is
32 permitted to participate subject to a protest, a hearing and determination may take place after the
33 competition is concluded.
34

35 9.2 CLUB MEMBERS' BILL OF RIGHTS - Metro shall respect and protect the right of every Club
36 Member which is eligible under Metro, USS and FINA rules and regulations to participate in any
37 competition through its athletes, coaches, trainers, managers, meet directors and other officials, so long
38 as the competition is conducted in compliance with Metro, USS and FINA requirements. Before any
39 Club Member is denied the right to participate in a competition, the Club Member shall have the right
40 to request and have a hearing before, and a determination of, the Board of Review or the National
41 Board of Review. If the Club Member is permitted to participate subject to a protest, a hearing and
42 determination may take place after the competition is concluded.
43
44

45 ARTICLE 10

46 BOARD OF REVIEW, HEARINGS AND RIGHT OF APPEAL

47

48 10.1 INTRODUCTION - USS was organized as the National Governing Body for the sport of swimming
49 under the Amateur Sports Act of 1978, a federal law. That law requires USS to establish and maintain
50 provisions for the swift and equitable resolution of all disputes involving any of its members. This
51 Article, together with Section 2.2 and Article 9, and the USS Code of Ethics are intended to provide a

1 clear statement of member responsibilities, liabilities for infractions thereof and a mechanism for
2 resolving in an orderly and fair way all manner and kinds of disputes that may arise among its members
3 in connection with the sport of swimming. Accordingly, Metro has established the Board of Review to
4 hear complaints, protests and appeals regarding the administration and conduct (including acts and
5 failures to act) of the sport of swimming in the Territory, conduct that may violate the USS Code of
6 Ethics or otherwise violate the policies, procedures, rules and regulations adopted by USS or Metro, or
7 conduct that may bring USS, Metro or the sport of swimming into disrepute. This Article is intended
8 to provide a uniform method of appeal from any decision, act or failure to act to which a member of
9 Metro or, where the conduct occurred in the Territory, another LSC takes exception, and to provide an
10 opportunity for a fair hearing before a group of independent and impartial people. This Article shall be
11 construed accordingly.
12

13 10.2 DEFINITIONS FOR ARTICLE 10 - When used in this Article 10, the following terms shall have the
14 meanings indicated in this Section and the definitions of such terms are equally applicable to both the
15 singular and plural forms. Where a cross reference to another Section of the Bylaws appears within the
16 definition, the definition is qualified by the more complete definition found in that Section:
17

- 18 .1 "Answer" shall mean the written response to a Protest and Notice filed in accordance with
19 Section 10.6.1.C and served in the manner prescribed in Section 10.10.
20
21 .2 "Chairman" when standing by itself shall mean the Chairman of the Board of Review.
22
23 .3 "Notice" shall mean the writing addressed to the Respondent advising that the Respondent has
24 been named a respondent in a Protest and served in accordance with Section 10.10. The Notice
25 sets the hearing date and procedures and establishes the schedule to be followed leading to the
26 hearing, among other things. See Section 10.2.3.
27
28 .4 "Presiding Officer" shall mean the Chairman or another member of the Board of Review
29 designated by the Chairman to preside at a particular hearing or hearings. Where applicable the
30 term shall include an attorney so designated pursuant to Section 10.3.12.B.
31
32 .5 "Protest" shall mean a written complaint filed in accordance with Section 10.6.1.A by a Group
33 Member or an applicant for such status, or an Individual Member or applicant for such status or,
34 with regard to conduct occurring in the Territory, a member of another LSC, against a member
35 of Metro or a constituent element, officer or agent of Metro. The Protest may relate to an
36 applicant's having been denied membership in Metro or a member's alleged infraction against its
37 responsibilities under Section 2.2 or about a decision or action by someone acting under the
38 authority of Metro or USS or, with regard to conduct in the Territory, another LSC.
39
40 .6 "Protester" shall mean the Individual Member or Group Member that has filed a Protest with the
41 Board of Review.
42
43 .7 "Rebuttal" shall mean the written response to an Answer by a Protester filed in accordance with
44 Section 10.6.1.D and served in the manner prescribed in Section 10.10.
45
46 .8 "Respondent" shall mean the person against whom a Protest has been filed with the Board of
47 Review or who may be affected by a decision of the Board of Review regarding the Protest.
48
49 .9 "Vice-chairman" when used by itself shall mean the Vice-chairman of the Board of Review.
50

1 10.3 BOARD OF REVIEW ORGANIZATION -
2

3 .1 ESTABLISHMENT - The Board of Review of Metro shall be independent and impartial.
4

5 .2 MEMBERS - The Board of Review shall have at least six (6) regular members and at least three
6 (3) alternate members. The Board of Review, and any panel hearing a case, shall have a sufficient number of
7 athlete members to constitute at least 20% of its members. The House of Delegates may increase the number of
8 regular or alternate members by resolution but subsequent to the adoption of these Bylaws may only decrease
9 the number of regular or alternate members upon the expiration of the term of office of any incumbent members.
10 When a matter is being heard by less than the full Board of Review, the panel hearing the case shall include a
11 sufficient number of athlete members so as to constitute at least 20% of the hearing panel. No hearing shall
12 proceed without the required athlete representation.
13

14
15 .3 ELECTION; TERM OF OFFICE; ELIGIBILITY -

16 A Election - The House of Delegates shall biennially elect regular and alternate members of
17 the Board of Review in odd-numbered years.
18

19 B Term of Office - The term of office shall be two years. Each member and alternate
20 member shall assume office upon election and shall serve until a successor is chosen, the
21 exception being that any case in process at the time of election shall continue with the
22 same panel to conclusion.
23

24 C Eligibility - Each regular and alternate member of the Board of Review shall be an
25 Individual Member of Metro and USS. In no case shall elected members of the Board of
26 Directors constitute a majority of the Board of Review.
27

28 .4 CHAIRMAN; OTHER OFFICERS - The Chairman, who must be a regular member, shall be
29 appointed by the General Chairman with the advice and consent of the Board of Directors
30 biennially. The Chairman shall biennially appoint a Vice-chairman and a Secretary of the Board
31 of Review, each of whom must be regular members.
32

33 .5 MEETINGS - The Board of Review shall meet for administrative purposes at least once annually
34 to adopt rules and procedures and to conduct other business as may be helpful or necessary to
35 achieve the purposes of the Board of Review and efficiently exercise its duties and powers.
36 Other meetings may be called by the Chairman or any three regular members. When meeting
37 for administrative purposes, those provisions of Article 7 that are specified in Section 7.20 shall
38 apply to the Board of Review.
39

40 .6 PARTICIPATION THROUGH COMMUNICATIONS EQUIPMENT - Members of the Board of Review
41 may participate in a meeting or hearing of the Board of Review, and any hearing may be
42 conducted, in whole or in part, through conference telephone or similar equipment by means of
43 which all persons participating in the meeting can hear each other at the same time. Participation
44 by these means shall constitute presence in person at such a meeting or hearing.
45

46 .7 QUORUM - A quorum for any administrative meeting of the Board of Review shall be fifty
47 percent (50%) of its members. (The rule prescribed in Section 10.5.1.C governs the quorum for
48 hearings and rehearings conducted by the Board of Review.)
49

50 .8 RESIGNATIONS - Any member of the Board of Review may resign by orally advising the
51 Chairman or by submitting a written resignation to the Chairman, the General Chairman or the
52 Board of Directors specifying an effective date of the resignation. In the absence of a specified
53 effective date, any such resignation shall take effect upon the appointment or election of a

1 successor.

2
3 .9 INCAPACITIES AND VACANCIES -

4
5 A Office of Chairman - In the event of a vacancy in the office of the Chairman, or of the
6 Chairman's temporary or permanent incapacity, the Vice-chairman shall become the
7 Acting Chairman until an election can be held at a meeting of the Board of Directors to
8 fill the remaining term, if any, of the former Chairman, or until the Chairman ceases to
9 suffer from any temporary incapacity. If the Chairman is going to be absent from the
10 Territory, the Chairman may, but is not obligated to, designate the Vice-chairman as
11 Acting Chairman for the duration of the absence.

12
13 B Presiding Officer - In the event of the death, resignation or permanent incapacity of a
14 Presiding Officer, the Chairman shall appoint another member, an alternate member or an
15 attorney to serve until the completion of the hearings assigned to that Presiding Officer.
16 Generally that event and appointment should have no impact on those pending hearings
17 or rehearings other than delay for the benefit of the new Presiding Officer. The Chairman
18 or the new Presiding Officer may make such other orders as are in the interests of
19 fairness, justice and the sport of swimming. In the case of a temporary incapacity of a
20 Presiding Officer, the Chairman shall have discretion regarding appointment of a new
21 Presiding Officer, a delay of the hearing or rehearing or such other order as may serve the
22 interests of fairness, justice and the sport of swimming.

23
24 C Other Members - In the event of a death, resignation or permanent incapacity of a
25 member of the Board of Review, the General Chairman shall appoint an Individual
26 Member, with the advice and consent of the Board of Directors, to serve as a Board of
27 Review member until the next regularly scheduled meeting of the House of Delegates. In
28 the event of a temporary incapacity, the Chairman shall designate another member or an
29 alternate member to act for the incapacitated member for the duration of the incapacity.
30 If there are no alternate members available to serve, the General Chairman, with the
31 advice and consent of the Board of Directors, shall appoint one or more Individual
32 Members to serve as alternate members to serve until the next regularly scheduled
33 meeting of the House of Delegates.

34
35 D Determination of Vacancy or Incapacity - The determination of when a membership on
36 the Board of Review becomes vacant or a member becomes incapacitated shall be within
37 the discretion of the Board of Review, subject to any subsequent action by the House of
38 Delegates. The determination as to when the Chairman is temporarily incapacitated shall
39 be made, where the circumstances permit, by the Chairman and otherwise shall be within
40 the discretion of the Board of Review, subject to any subsequent action by the House of
41 Delegates.

42
43 .10 SUBSTITUTIONS FOR MEMBERS - In the event that a member of the Board of Review or a
44 Presiding Officer is unable or unwilling to promptly act for any reason, recuses herself or
45 himself or is disqualified in any particular circumstance, the General Chairman shall appoint
46 another regular member or one of the alternate members or, if none of the alternate or regular
47 members is available, a disinterested Individual Member to act in the member's place and stead
48 in respect of that circumstance.

49
50 .11 EXTENSIONS OF TIME - The time by which any act is required to be taken pursuant to this Article
51 10 may be extended or foreshortened by the Chairman, or the Presiding Officer for a particular
52 hearing, for good cause. (A single exception to this rule is provided in Section 10.6.4.) A
53 party's request for an extension of time prior to the time established without regard to the

1 requested extension will be accorded greater deference than a request made later. The time, date
2 and location of any hearing may be changed by the Chairman or the Presiding Officer for a
3 particular hearing on his or her own initiative, as required by the interests of the Board of
4 Review or in the interests of justice.
5

6 .12 ADVICE; ATTORNEY AS PRESIDING OFFICER -
7

8 A Legal and Other Advice - Where appropriate or helpful, the Chairman or Presiding
9 Officer may consult the USS General Counsel, any member of the USS Counselors
10 Committee, the Chairmen of the USS Legislation, Rules or Officials Committees or of the
11 Bylaws Subcommittee or an attorney (who need not be a member of Metro, USS or the
12 Board of Review) retained by the Board of Review or the Chairman regarding any issue
13 raised by a proceeding.
14

15 B Attorney as Presiding Officer - The Board of Review or the Chairman may retain an
16 attorney (who need not be a member of Metro, USS or the Board of Review) to act as
17 Presiding Officer at any hearing where it is appropriate or helpful. A Presiding Officer
18 who is not a Board of Review member may participate in the deliberations of the Board
19 of Review or the designated panel but shall not be counted in determining the existence
20 of a quorum and shall not have a vote.
21

22 C Attorney's Fees and Expenses - Prior to retaining an attorney on any basis requiring the
23 payment of fees to the attorney (the payment of expenses to an attorney providing
24 services at no charge (*pro bono publico*) shall not be considered as a payment of fees for
25 this purpose), the Chairman or the Presiding Officer shall consult with the General
26 Chairman and the USS General Counsel. The Treasurer is authorized and directed to pay
27 any fee and expenses charged by the attorney and approved by the Chairman.
28

29 .13 CODE OF CONDUCT FOR MEMBERS OF BOARD OF REVIEW; RECUSAL -
30

31 A Code of Conduct - Members of the Board of Review shall:
32

- 33 (1) uphold the integrity and independence of the Board of Review;
- 34 (2) avoid any impropriety or even the appearance of impropriety in connection with
35 service as a Board of Review member and swimming-related activities generally;
36 and
37 (3) perform the duties of Board of Review membership impartially and diligently.
38

39 B Grounds for Recusal - Members of the Board of Review shall recuse themselves from
40 participating in any matter pending before the Board of Review:
41

- 42 (1) in which their impartiality might reasonably be questioned;
- 43 (2) where they have a personal bias or prejudice concerning a party in the matter
44 pending before the Board of Review or have personal knowledge of disputed
45 evidentiary facts concerning the pending matter (other than knowledge obtained as
46 a Board of Review member);
47 (3) where they or a member of their household are a party or are likely to be a
48 material witness in the pending matter;
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1 (4) where they or a member of their household have an interest that could be
2 substantially affected by the outcome of the proceeding; or
3

4 (5) where they or a member of their household have served or are serving as counsel
5 in the pending matter or are members of a law firm that served or is serving as
6 counsel in the pending matter.
7

8 C Recusal by Member - Board of Review members shall recuse themselves as soon as they
9 become aware of facts that give rise to the duty to do so by giving notice to the Chairman,
10 or in the case of the Chairman, the Vice-chairman.
11

12 D Recusal/Disqualification Requested by Party - By written notice to the Presiding Officer
13 or the Chairman, or, in the case in which the Chairman is the subject of the notice, the
14 Vice-chairman, any party may request that the members recuse themselves or be
15 disqualified from serving on the pending matter stating the reasons for recusal or
16 disqualification. Such notice shall be given at least ten (10) Business Days prior to the
17 scheduled date of the hearing on such matter or later if the party sustains the burden of
18 proving good cause for the lateness of the notice. The named member shall reach a
19 decision on the matter and notify the Chairman or the Vice-chairman of that decision
20 within five (5) Business Days of receipt of the party's notice. If the member's decision is
21 not in favor of recusal, then the Chairman or the Vice-chairman may, but is not required
22 to, disqualify the member from participating in the pending matter. If there is no
23 disqualification, the hearing shall be conducted and the party giving the notice may
24 appeal the disqualification decision, together with the hearing decision, pursuant to
25 Section 10.5.2.
26

27 E Substitution for Recused or Disqualified Member - In the event of a recusal or a
28 disqualification, a substitute shall be appointed as provided in Section 10.3.10.
29

30 10.4 GENERAL JURISDICTION -
31

32 .1 ADMINISTRATIVE POWERS - The Board of Review shall have the powers and the duty to:
33

34 A administer and conduct the affairs and achieve the purposes of the Board of Review,
35

36 B establish policies, procedures and guidelines,
37

38 C elect or provide for the appointment of other officers, agents, committees or coordinators
39 to hold office for terms, and to have the powers and duties, specified,
40

41 D call regular or special meetings of the Board of Review,
42

43 E retain attorneys, agents and independent contractors and employ those persons which the
44 Board of Review may determine are appropriate, necessary or helpful in the
45 administration and conduct of its affairs and
46

47 F act as may otherwise be appropriate, necessary or helpful in the administration and
48 conduct of its affairs, the achievement of its purposes and the efficient exercise of its
49 duties and powers.
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.2 RULE MAKING POWERS - The Board of Review shall have the power and the duty to promulgate rules and procedures with respect to any matter within its jurisdiction or appropriate, necessary or helpful in the administration and conduct of its affairs. The rules and procedures adopted by the Board of Review shall have the same force and effect as if they had been adopted as part of these Bylaws.

.3 INVESTIGATIVE AND JUDICIAL POWERS - The Board of Review may investigate and conduct hearings, make and publish decisions and orders with regard to any matter affecting Metro, its status or conduct as a Local Swimming Committee or the administration of the sport of swimming in the Territory which involves:

A Metro and (1) a member or members of Metro or (2) a member or members of another LSC solely with respect to conduct or events occurring within the Territory or a combination of persons described in clauses (1) and (2), or

B only a member or members of Metro, or

C with respect to conduct or events occurring outside the Territory, (1) Metro and a member or members of Metro or (2) only a member or members of Metro.

The jurisdiction of the Board of Review is limited in the case of matters described in sections 401.3.1 and 401.3.3 of the USS Code (with regard to the original and exclusive jurisdiction of the National Board of Review) and may be further limited to the extent provided in an order issued pursuant to section 401.3.2 of the USS Code (pertaining to certain discretionary jurisdiction of the National Board of Review).

.4 EXERCISE OF POWERS AND DECISIONS - Except for authority and power granted to the Chairman or the Presiding Officer, the exercise of the authority and powers of the Board of Review and the decision on matters which are the subject of a hearing shall be decided by a majority vote of the panel, the rehearing panel or the regular membership of the Board of Review. The views of any dissenters shall be included in the record of the proceeding if requested by the dissenters. The exercise of the Board of Review's authority and power shall lie solely in its discretion and the interests of justice and the sport of swimming. However, the Board of Review shall exercise its power in response to a timely Protest filed with it, subject, in appropriate circumstances, to the power and discretion of the Chairman or Presiding Officer to dismiss a Protest with permission to re-file for a stated period. In connection with any preliminary investigation, the Chairman or Presiding Officer may offer the services of a Board of Review member to act as a mediator or similar positions under other alternative dispute resolution mechanisms.

.5 TIMELINESS OF PROTEST - The Board of Review need not exercise its jurisdiction with respect to a Protest the subject matter of which occurred, or concerns or is founded on events which occurred, more than ninety (90) days prior to the date the Protest is received (as determined under Section 10.10), or in the case of subject matter that relates to a conviction, or actions which could be the basis of a conviction, for a crime (including felony, misdemeanor and lesser crimes) involving sexual misconduct, child abuse, violation of a law specifically designed to protect minors or similar offenses, more than five (5) years prior to that date. A determination not to exercise its jurisdiction as a result of the untimeliness of a Protest may be the subject of a request for rehearing and, thereafter, appeal to the National Board of Review pursuant to Section 10.9.

.6 FILING FEES - The Board of Directors or the House of Delegates may impose a schedule of generally applicable fees to be collected at the time a Protest, Request for a Rehearing or Request for Formal Hearing following an Emergency Hearing is filed with the Board of

1 Review. If, on its own initiative or upon written request, the Board of Review determines it to
2 be in the interest of justice and the sport of swimming, the filing fee may be waived on a case-
3 by-case basis.
4

5 .7 POWER OF BOARD TO DEVISE REMEDIES AND IMPOSE PENALTIES -
6

7 A Remedies and Penalties - The Board of Review, after conducting such hearings as it may
8 determine to be necessary or helpful, may, among other remedies:
9

- 10 (1) dismiss the Protest with or without permission to re-file;
- 11 (2) censure or fine;
- 12 (3) establish a period of probation;
- 13 (4) prohibit or mandate future actions, inaction or conduct;
- 14 (5) determine the results of, or require a rerun of, any election held by Metro or any
15 constituent element thereof;
- 16 (6) vacate, modify, sustain, reverse, remand or stay any decision or order of a smaller
17 panel of the Board of Review, the House of Delegates, the Board of Directors, any
18 officer, division or committee, coordinator or official of Metro;
- 19 (7) interpret any provision of the FINA rules and regulations to the extent not pre-
20 preempted by FINA, the USS Code (except for Part One), the USS Code of
21 Ethics, these Bylaws, other policies, rules, regulations and procedures of USS or
22 Metro, the Amateur Sports Act of 1978, a federal law, and other applicable laws,
23 rules and regulations, and adjudicate alleged inconsistencies and claims of
24 supremacy and invalidity;
- 25 (8) deny, grant, suspend or restore the eligibility or right to compete of an Athlete
26 Member of Metro and USS;
- 27 (9) deny, grant, suspend or restore membership in Metro and USS for a definite or
28 indefinite period of time, with or without terms of probation, or expel any Group
29 Member or Individual Member of Metro and USS, including any administrator,
30 athlete, coach, trainer, manager, meet director, official, officer, Board Member,
31 House of Delegates representative of a Group Member, coordinator or chairman
32 or member of any committee or sub-committee;
- 33 (10) prohibit for a definite or indefinite period of time the participation by a non-
34 member volunteer or other person in any capacity whatsoever in the affairs of
35 USS, Metro, its Group Members or other LSCs and their Group Members;
- 36 (11) assess costs, including any filing fee and attorneys fees and expenses, to the
37 prevailing party or refund any filing fee paid by the prevailing party; and
- 38 (12) impose any combination of any of the foregoing or any other remedies deemed
39 appropriate in the circumstances.
40

41 B Preliminary Hearing and Temporary Orders - In appropriate cases, the Board of Review,
42 after an initial investigation and/or a preliminary hearing, may make in its discretion
43 temporary orders for the good of the sport of swimming. The temporary order may
44 encompass any remedy or order permissible in a final decision and may include, by way
45 of example, suspending membership, granting the right to participate or coach in a
46 competition, permitting an athlete to compete subject to protest or offering or ordering the
47 parties to attempt to resolve their differences pursuant to mediation or other alternative
48 dispute resolution mechanisms prior to any hearing before the Board of Review. These
49 orders may be made effective pending full hearings by the Board of Review or the
50 conclusion of administrative or judicial proceedings of other bodies addressing the same
51 or similar issues or on other terms as determined by the Board of Review. Instances in
52 which such temporary orders might be made include cases in which a member has been
53 indicted or otherwise formally charged with or accused of committing a crime (including

1 felony, misdemeanor and lesser crimes) involving sexual misconduct, child abuse, a
2 violation of a law specifically designed to protect minors or similar offenses. Temporary
3 orders may not be separately appealed prior to the decision being issued in the proceeding
4 unless the Chairman or the Chairman of the National Board of Review in their discretion
5 grant permission to an aggrieved party to appeal the temporary orders prior to the final
6 Board of Review decision in the matter.
7

8 C Grounds (Reasons) for Imposition - The Board of Review may fashion remedies and
9 orders and impose penalties with respect to any Group or Individual Member or non-
10 member volunteer of Metro or of a Group Member (1) who has violated any of the
11 regulations, rules, policies or procedures of Metro, USS or FINA, including any of the
12 responsibilities of membership set forth in Section 2.2, (2) who aids, abets, instigates or
13 encourages another to violate any of such regulations, rules or policies, (3) who is
14 responsible for any such violation by another under Section 2.2.2, (4) who has been
15 convicted of a crime (including felony, misdemeanor and lesser crimes) involving sexual
16 misconduct, child abuse, violation of a law specifically designed to protect minors or
17 similar offenses, or who is found by the Board of Review to have committed actions
18 which would be the basis for a conviction, or (5) who has acted in a manner which has
19 brought, or may bring, into disrepute Metro, USS or the sport of swimming.
20

21 D Power to Impose Conditional Remedies and Penalties, Etc. - The Board of Review may
22 stay its decision, in whole or in part, subject to specified conditions, with the decision
23 taking effect automatically if such conditions occur.
24

25 10.5 HEARINGS AND REHEARINGS GENERALLY -
26

27 .1 HEARINGS -
28

29 A Hearings Conducted by Chairman or Presiding Officer - Hearings of the Board of Review
30 shall be conducted by the Chairman or a Presiding Officer designated by the Chairman.
31

32 B Hearing by Panel - The Board of Review may, in the discretion of the Chairman, conduct
33 hearings either before the full Board of Review or before panels of its members, provided
34 that in any event each panel shall consist of at least three (3) members. A panel shall
35 have all of the powers of the Board of Review solely with respect to matter(s) assigned to
36 it by the Chairman.
37

38 C Quorum of Panel - At least three (3) members of a designated panel (or of the full Board
39 of Review) must be present at any initial hearing before the panel and at least the full
40 regular membership must be present at any rehearing.
41

42 D Permissible Hearing Formats - A hearing before the Board of Review may be conducted
43 through the receipt of the procedural documents and other written statements or a hearing
44 at which the parties may appear in person or by means of communications equipment
45 described in Section 10.3.6 and testimony may be taken and other forms of pertinent
46 information presented in addition to oral argument by the parties or their counsel, as
47 determined by the Chairman or Presiding Officer. In the discretion of the Chairman or
48 the Presiding Officer, the hearing may be conducted in part through written means and in
49 part by testimony and oral argument.
50

51 E Right to Counsel - The Protester, the Respondent and any other person participating in a
52 hearing conducted by the Board of Review shall be entitled to be represented by counsel
53 of their choice at their own expense.

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F Rules of Evidence - Judicial rules regarding admissibility of evidence shall not apply to the Board of Review. Thus, hearsay, letters, affidavits, news media articles and reports, etc., as well as direct testimony taken from witnesses present at a hearing, are all admissible to the extent the Presiding Officer is satisfied as to the relevance and non-repetitive nature of the evidence. Similarly, claims of privilege (other than attorney-client and privileges that under applicable Federal and state laws the Board of Review is required to recognize) shall not be entertained by the Board of Review, except in extraordinary circumstances. Proper weight shall be given to each type of evidence considering the source and other common sense factors.

.2 REHEARINGS -

A Circumstances Permitting; Rehearing Body - At the request of the Protester, the Respondent or any other interested party, any matter which was decided by a panel of less than seven (7) members may be reheard by the full Board of Review. Members of the initial hearing panel may be members of the rehearing panel.

B Right to a Rehearing; Discretion of Chairman - A rehearing shall be granted as a matter of right in instances in which the original panel consisted of less than seven members and the decision was not unanimous and at the discretion of the Chairman in all other instances.

C Time within which a Rehearing may be Requested - The Protester, each Respondent or other party may request, within ten (10) Business Days of the date of receipt of the initial written decision, that the decision of a Board of Review panel be reheard.

D Failure to Request a Rehearing - A person may not appeal pursuant to Section 10.9a decision of a panel of less than seven members without first making a timely request for a rehearing.

E Decision of Chairman on Request; Notice of Rehearing -

(1) Discretionary Rehearings - With respect to requests for a rehearing that are discretionary, the Chairman, in the same manner in which decisions are rendered, shall either grant or deny the request within ten (10) Business Days of the receipt of the request.

(2) Non-Discretionary Rehearings - With respect to requests for a rehearing that are not discretionary, within ten (10) Business Days of the receipt of the request, the Chairman shall schedule a rehearing.

(3) Rehearing Notice; Affect of Inaction - In either case, the Chairman shall notify all parties to the initial hearing of the rehearing, its time and date and the method by which the rehearing will be conducted. If the Chairman does not take action within ten (10) Business Days, the decision of the panel shall be considered final and any of the parties may appeal the decision in accordance with Section 10.9.

F Fresh Start Hearing or On the Record Rehearing - The rehearing panel at the discretion of the Chairman or the Presiding Officer may conduct an entirely new hearing or may make its decision based on the record created by the initial panel supplemented by whatever written memoranda or oral argument may be requested by the Chairman or the Presiding Officer. The record shall include the Protest, the Notice of Charges, the Answer, the

1 Rebuttal, any temporary orders or partial decisions made and the Notice of Decision,
2 together with any additional memoranda and written evidence filed by the parties. To the
3 extent applicable, the procedures for a formal hearing shall apply to a rehearing. See
4 Sections 10.5.1 and 10.6.1.E.
5

6 .3 CLOSED HEARINGS - Any hearing, or a part thereof, shall be closed to everyone except members
7 of the Board of Review, the Presiding Officer, an attorney advising the Presiding Officer, the
8 Protester, the Respondent, any other party, their counsel and any witnesses at the request of any
9 of the parties and may be closed at the discretion of the Chairman or the Presiding Officer as
10 being in the best interests of justice and the sport of swimming. If a hearing is closed, the Board
11 of Review may in its discretion direct the participants to keep the proceedings and the decision
12 confidential and all or parts of the record of the hearing to be kept confidential by Metro and
13 USS.
14

15 .4 EXTENSIONS OF TIME - The general rule regarding extensions of time within which any act is
16 required to be taken pursuant to this Article 10 appears in Section 10.3.11.
17

18 .5 ACCELERATED HEARING SCHEDULE - With the agreement of all parties to a hearing, the
19 Chairman, or the Presiding Officer for the hearing, may order an accelerated hearing schedule in
20 the interest of justice and the sport of swimming.
21

22 10.6 HEARING PROCEDURES - The procedures to be followed in connection with all hearings shall be as
23 follows:
24

25 .1 FORMAL HEARING -
26

27 A Protest - The Protester shall submit to the Chairman of the Board of Review (if submitted
28 to the General Chairman the statement is not defective, but the allowable period of time
29 for the Notice shall not commence until the statement is received by the Chairman) a
30 written statement setting forth a description of the action, inaction or conduct that is
31 believed to have been improper or incorrect, and the name of the person or group
32 believed to have acted improperly or the circumstances believed to require answers,
33 explanation or clarification. This written statement becomes the Protest under Section
34 10.2.5. The Protest shall be accompanied by any filing fee due under Section 10.4.6 or
35 by an application for waiver of the fee.
36

37 B Notice - Each Respondent shall be given a written notice of the Protest. This written
38 notice becomes the Notice under Section 10.2.3. The Notice shall be sent to each
39 Respondent's last known address (determined in accordance with the provisions of
40 Section 10.10) by certified or express mail, return receipt requested, by Federal Express,
41 signature required, or by personal service. If the Respondent is Metro or an officer,
42 Board Member, committee or sub-committee chairman or coordinator or an official, the
43 Notice shall be also given to the General Chairman, the Administrative Vice-Chairman
44 and the Secretary at Metro's office. The Notice shall be given as soon as practical
45 following the conclusion of any preliminary investigation made by or on behalf of the
46 Board of Review, but in no event later than fourteen (14) Business Days (twenty (20)
47 Business Days if advice is sought under Section 10.3.12.A) after the receipt of the Protest
48 by the Chairman. The form of Notice (an example of which can be found in Appendix B
49 to these Bylaws) shall include:
50

51 (1) a statement in reasonable detail of the charges against each Respondent, or of the
52 circumstances that are believed to require answers, explanation or clarification. A
53 copy of the Protest received by the Board of Review, if any, shall be attached to

1 the Notice;

- 2
- 3 (2) a statement that the Respondent has the right to have counsel of his own choice to
- 4 represent him, at his own expense, at any hearing;
- 5
- 6 (3) a description of the type of hearing to be held. In the case of an in-person hearing,
- 7 the Notice shall request each Respondent to appear before the Board of Review
- 8 with counsel and witnesses, if any;
- 9
- 10 (4) a date, time and location at which the hearing will be held. The date of the
- 11 hearing shall be not less than thirty (30) days nor more than sixty (60) days after
- 12 the date of transmission of the Notice;
- 13
- 14 (5) a request that each Respondent answer in writing all of the charges set forth in the
- 15 Notice. The Notice shall state that this answer is to be delivered at least ten (10)
- 16 Business Days prior to the date of the hearing, to the Presiding Officer designated
- 17 in the Notice, at the specified address, with a copy to the Protester and the
- 18 Protester's counsel, if any, and anyone else specified in the Notice at the addresses
- 19 designated in the Notice with delivery in accordance with Section 10.10.2; and
- 20
- 21 (6) a statement of the right of appellate review (including the right, if any, to a
- 22 rehearing) in the event the decision is rendered against the Respondent.
- 23

24 C Answer by Respondent - Each Respondent's response to the Notice and Protest shall be in

25 writing and delivered to the Presiding Officer designated in the Notice, at least ten (10)

26 Business Days prior to the date of the hearing, with a copy to the Protester and his

27 counsel and anyone else specified in the Notice at the addresses designated in the Notice.

28 This written statement becomes the Answer under Section 10.2.1. The Answer shall be

29 delivered in accordance with Section 10.10.2.

30

31 D Rebuttal by Protester - The Protester may, but is not required to, offer a rebuttal to the

32 Respondent's Answer. Any rebuttal shall be in writing and delivered to the Presiding

33 Officer designated in the Notice, at least five (5) Business Days prior to the date of the

34 hearing, with copies to each Respondent and his counsel at the addresses specified in the

35 Answer and to anyone else specified in the Notice at the addresses designated in the

36 Notice. This written statement becomes the Rebuttal under Section 10.2.7. The Rebuttal

37 shall be delivered in accordance with Section 10.10.2.

38

39 E Conduct of Hearing -

40

- 41 (1) Generally - Hearings shall be conducted in an orderly fashion, but without regard
- 42 for the formalities of traditional court room procedures. The hearing shall be
- 43 conducted in a manner conducive to the establishment of the truth and the interests
- 44 of fairness, justice and the sport of swimming. The Presiding Officer is
- 45 responsible for keeping the parties and their counsel, if any, focused on the issues
- 46 at hand and the necessary elements of proof and for enforcing the ordinal rule that
- 47 no one may speak who has not been recognized by the Presiding Officer. For
- 48 hearings conducted other than entirely through the receipt of written statements,
- 49 the Board of Review shall cause a recording or transcription to be made of the
- 50 hearing. No record of the deliberations of the Board of Review need be kept and,
- 51 if kept, shall not be available to anyone other than the members of the Board of
- 52 Review, the Presiding Officer and counsel to the Board of Review.
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- (2) Absence of a Party - The hearing may proceed in the absence of any party who fails to be available at the appointed time and judgment shall not be reached merely because of that person's absence. If the Presiding Officer determines that in the interests of justice and the sport of swimming, the hearing cannot proceed without the absent party, the Presiding Officer may adjourn the hearing and reschedule it for such time as the absent party can be present. Any subsequent absence may be taken into account by the Board of Review in reaching its decision.

 - (3) Sequence - The hearing shall be opened by the recording of the place, time and date of the hearing and the presence of the members of the Board of Review, the parties, counsel, if any, and any other witnesses or observers. Each party (Protester first, Respondent second) may then present a brief opening statement setting forth the party's view of the issues in dispute, the relief sought and what they hope to prove by the presentation of evidence. The Protester's claims, evidence and witnesses shall be presented. The Respondent's defenses, claims, evidence and witnesses shall then be presented. In the discretion of the Presiding Officer, the Protester may then be allowed to rebut any testimony or evidence presented by the Respondent after the Respondent's initial presentation. In the discretion of the Presiding Officer, the Respondent may be permitted to rebut any testimony or evidence presented by the Protester during the Protester's rebuttal presentation. Finally, each party (in the same order) shall be entitled to make a brief summation of that party's case.

 - (4) Rules of Evidence; Witnesses' Testimony - The rules of evidence governing the hearing are set forth in Section 10.5.1.F. Each witness may present testimony initially either in the form of questions and answers between the witness and counsel or in uninterrupted narrative. The Presiding Officer and the members of the Board of Review may question any person at any time during the hearing. Thus, for example, in an exercise of discretion, the Presiding Officer could call a witness who has not yet been called or whom no party intended to call and propound questions to, or elicit narrative testimony from, that witness. Witnesses shall be subject to cross examination by the other party and to questioning by the Presiding Officer and members of the Board of Review. All parties will be expected to be available for questioning by the Board of Review, whether or not they may have given other testimony at the hearing.

 - (5) Variance of Procedures - The Presiding Officer shall have wide discretion to vary these procedures in the interests of justice, the sport of swimming and efficiency, but in doing so shall afford all parties a full and substantially equal opportunity to present any material or relevant proofs. A hearing may be adjourned by the Presiding Officer at the request of a party or on the Presiding Officer's initiative where an adjournment will serve the interests of fairness, justice and the sport of swimming. If a hearing is adjourned, the continuance shall be scheduled for any early date of mutual convenience, but in the discretion of the Presiding Officer. Justice and the sport of swimming ordinarily will be best served by an expeditious resumption and conclusion to the hearing.
- F Decision of Board of Review - The decision of the Board of Review may be rendered at the time of the hearing and, if not so rendered, as soon as possible thereafter and in no event more than ten (10) Business Days after the conclusion of the hearing. The decision shall include findings of facts and a statement of remedies ordered or penalties imposed, if any, and a statement setting forth the rights of the parties to appeal the decision. The

1 decision shall be in writing, or in case of a decision rendered at the hearing, reduced to
2 writing promptly, and delivered to the Protester, each Respondent, their respective
3 counsel, any other party to the proceeding, the General Chairman and the Secretary of
4 Metro, the Chairman of the National Board of Review and the General Counsel of USS
5 in accordance with Section 10.10.2.
6

7 .2 EMERGENCY HEARING -
8

9 A Reasons for Emergency Hearing - When compliance with the formal hearing procedures
10 would be likely not to produce a sufficiently early decision to provide justice to the
11 affected parties or to be in the best interest of the sport of swimming, the Board of
12 Review is authorized to summarily hear and decide any matter relating to a scheduled
13 competition or other matter of similar urgency.
14

15 B Notice of Emergency Hearing - Each Respondent shall be given such notice of the
16 hearing as time and circumstances may reasonably dictate. The notice may be oral or in
17 writing, and shall substantially comply with the notice requirements set forth in Section
18 10.2.3 insofar as the emergent nature of the issue permits.
19

20 C Conduct of Emergency Hearing - The hearing may be conducted at any location likely to
21 contribute to expeditious resolution of the Protest, including the site of a swimming
22 competition, but in any event under such circumstances so as to fairly protect the right of
23 procedural due process of the Respondent. All or some of the participants in the hearing
24 may participate by telephone conference equipment. If at least three regular or alternate
25 members of the Board of Review are not available due to time constraints, the Chairman,
26 the Vice-chairman or the General Chairman is authorized to appoint one or more
27 Individual Members to serve as the Board of Review solely for the purpose of conducting
28 this emergency hearing. The hearing shall substantially comply with the hearing
29 procedures set forth in Section 10.6.1.E insofar as the emergent nature of the hearing
30 permits.
31

32 D Decision of Board of Review - The decision of the Board of Review shall be rendered at
33 the time of the hearing or as soon as possible thereafter in keeping with the emergent
34 circumstances. The decision shall include findings of facts and a statement of remedies
35 ordered, if any, and a statement of the right to request a subsequent formal hearing. The
36 decision shall be in writing, or in case of a decision rendered orally at the hearing,
37 reduced to writing within ten (10) Business Days thereafter and delivered to the Protester,
38 the Respondent, their counsel, any other parties to the proceeding, the Chairman, the
39 General Chairman and the Secretary of Metro, the Chairman of the National Board of
40 Review and the General Counsel of USS in accordance with Section 10.10.2.
41

42 E Right to a Subsequent Formal Hearing - If either the Protester or the Respondent shall
43 deliver to the Chairman a written request for a further hearing within ten (10) Business
44 Days of the date of receipt of the written decision resulting from the emergency hearing, a
45 formal hearing shall be held as a new proceeding in accordance with Section 10.6.1, as
46 though the emergency hearing had not taken place. Failure to make this request in a
47 timely manner shall preclude the aggrieved party from making an appeal as provided in
48 Section 10.9.
49

1 .3 STAY OF DECISION PENDING APPEAL - The Board of Review shall have the authority and
2 discretion, but not the duty, to stay its decision, in whole or in part, subject to specified
3 conditions, during the time allowed to demand a further hearing after an emergency hearing, a
4 rehearing or to appeal as provided in Section 10.9, with the decision going into effect
5 automatically if those conditions occur or if no demand or appeal is filed during the allowable
6 period or at such time as a perfected appeal is terminated without the decision being modified by
7 the appellate authority.
8

9 .4 EXTENSIONS OF TIME - The general rule regarding extensions of time within which any act is
10 required to be taken pursuant to this Article 10 appears in Section 10.3.11. Nevertheless, the
11 time within which the Notice required by Section 10.2.3 must be transmitted may not be
12 extended without the consent of the Protester or the USS General Counsel.
13

14 10.7 FINALITY OF BOARD OF REVIEW DECISIONS - Except as otherwise provided in this Article 10
15 with regard to rehearings, appeals and emergency hearings or in Article Nine of the Constitution of the
16 United States Olympic Committee and in Chapter Nine of its bylaws with respect to binding arbitration
17 in disputes involving the rights of certain individuals to participate in competition, the decision of the
18 Board of Review shall be final in all cases.
19

20 10.8 FULL FAITH AND CREDIT TO BOARD OF REVIEW DECISIONS - Final decisions of the Board
21 of Review of another Local Swimming Committee or the National Board of Review shall, where
22 relevant and necessary, be recognized and fully enforced by Metro. Those final decisions may not be
23 attacked or reopened in any proceeding before the Metro Board of Review other than one seeking
24 enforcement of that decision.
25

26 10.9 APPEAL FROM BOARD OF REVIEW DECISIONS - Except to the extent that any appeal is
27 precluded by Sections 10.5.2.D or 10.6.2.E, any person, including the Protester and the Respondent,
28 having an actual, direct interest in any matter decided by the Board of Review under this Article may
29 appeal the decision to the National Board of Review. An appeal must be taken within thirty (30)
30 Business Days from the date of the written notice of the decision of the Board of Review. The appeal
31 to the National Board of Review must be in writing, timely filed with the USS Executive Director and
32 accompanied by the appellate filing fee established by USS. Upon timely request to the Chairman of
33 the National Board of Review and upon a showing of good cause, the time for appeal from the decision
34 of the Board of Review may be extended.
35

36 10.10 NOTICE TO HEARING PARTICIPANTS, TRANSMISSION OF DOCUMENTS AND
37 DETERMINATIONS OF TIMELINESS -
38

39 .1 NOTICE TO HEARING PARTICIPANTS WHO ARE MEMBERS OF METRO -
40

41 A Metro Members Generally - In each case, where notices or other hearing-related
42 documents are to be delivered to a member of Metro, it shall be sufficient to deliver the
43 notice or other document to the member's last known address in accordance with Section
44 16.1.5.
45

46 B Minors - In the case of notices directed to Metro members less than eighteen (18) years of
47 age on the date of the alleged infraction (determined by reference to the member's latest
48 registration application), a second copy shall be sent by registered mail with delivery
49 restricted to the child's parent or guardian at the same address or such other address as can
50 reasonably be ascertained.
51

52 .2 METHODS OF TRANSMISSION OF HEARING RELATED DOCUMENTS - With the exception of the
53 Notice (see Sections 10.2.3 and 10.6.2.B), all documents transmitted pursuant to this Article 10

1 shall be transmitted to each of the parties, their respective counsel, if any, the Presiding Officer
2 and anyone else specified in the Notice. Documents shall be delivered to the persons specified
3 at the addresses specified in the Notice or later documents or as determined in accordance with
4 Section 10.10. Documents may be delivered by any of the following methods of service: by
5 personal service, by certified or express mail, return receipt requested, by Federal Express,
6 signature required, by electronic mail or facsimile transmission with receipt of the transmission
7 confirmed orally or by other methods of transmission permitted by this paragraph.
8

- 9 .3 DETERMINATIONS OF TIMELINESS - The rules provided in Section 16.1.5 shall apply in the
10 determination of the timeliness of any notice or other action under this Article 10.
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12

13 ARTICLE 11

14 ORGANIZATION, AMENDMENT OF BYLAWS AND DISSOLUTION

15

- 16 11.1 NON-PROFIT AND CHARITABLE PURPOSES - As stated in Section 1.2, Metro is organized
17 exclusively for charitable and educational purposes and for the purpose of fostering national or
18 international amateur sports competition within the meaning of section 501(c)(3) of the IRS Code.
19 Notwithstanding any other provision of these Bylaws, Metro shall not, except to an insubstantial
20 degree, (1) engage in any activities or exercise any powers that are not in furtherance of the purposes
21 and objectives of Metro or (2) engage in any activities not permitted to be carried on by: (A) a
22 corporation exempt from federal income tax under such section 501(c)(3) of the IRS Code or (B) a
23 corporation to which contributions, gifts and bequests are deductible under sections 170(c)(2),
24 2055(a)(2) and 2522(a)(2) of the IRS Code.
25
- 26 11.2 DEDICATION OF ASSETS, ETC. - The revenues, properties and assets of Metro are irrevocably
27 dedicated to the purposes set forth in Sections 1.2 and 11.1 of these Bylaws. No part of the net
28 earnings, properties or assets of Metro shall inure to the benefit of any private person or any member,
29 officer or director of Metro.
30
- 31 11.3 AMENDMENTS - Any provision of these Bylaws not mandated by USS may be amended at any
32 meeting of the House of Delegates by a two-thirds vote of the members present and voting.
33 Amendments so approved shall not take effect until reviewed and approved by the USS Legislation
34 Sub-committee. These Bylaws shall be deemed amended ninety (90) days after the conclusion of any
35 annual meeting of USS at which the corresponding provisions of Part Six of the USS Code of Rules
36 and Regulations are amended (or such later effective date established in the amending USS legislation)
37 to the extent that such amendment affects a provision required to be included herein or is itself required
38 to be included herein, unless Metro shall have requested permission of the USS Legislation Sub-
39 committee not to have such amendment take effect with respect to these Bylaws.
40
- 41 11.4 DISSOLUTION - Metro may be dissolved only upon a two-thirds majority vote of all the voting
42 members of the House of Delegates. Upon dissolution, the net assets of Metro shall not inure to the
43 benefit of any private individual, unincorporated organization or corporation, including any member,
44 officer or director of Metro, but shall be distributed to United States Swimming, Inc., to be used
45 exclusively for educational or charitable purposes. If United States Swimming, Inc., is not then in
46 existence, or is not then a corporation which is exempt under section 501(c)(3) of the IRS Code and to
47 which contributions, bequests and gifts are deductible under sections 170(c)(2), 2055(a)(2) and
48 2522(a)(2) of the IRS Code, the net assets of Metro shall be distributed to a corporation or other
49 organization meeting those criteria and designated by the House of Delegates at the time of dissolution,
50 to be used exclusively for educational or charitable purposes.
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ARTICLE 12 INDEMNIFICATION

- 12.1 INDEMNITY - Metro shall indemnify, protect and defend, in the manner and to the full extent permitted by law, any Indemnified Person in respect of any threatened, pending or completed action, suit or proceeding, whether or not by or in the right of Metro, and whether civil, criminal, administrative, investigative or otherwise, by reason of the fact that the Indemnified Person bears or bore one or more of the relationships to Metro specified in Section 12.3 and was acting or failing to act in one or more of those capacities or reasonably believed that to be the case. Where specifically required by law, this indemnification shall be made only as authorized in the specific case upon a determination, in the manner provided by law, that indemnification of the Indemnified Person is proper in the circumstances. Metro may, to the full extent permitted by law, purchase and maintain insurance on behalf of any Indemnified Person against any liability that could be asserted against the Indemnified Person.
- 12.2 EXCLUSION - The indemnification provided by this Article 12, shall not apply to any Indemnified Party whose otherwise indemnified conduct is finally determined to have been in bad faith, self-dealing, gross negligence, wanton and willful disregard of applicable laws, rules and regulations, of the USS Code, of the USS Code of Ethics or these Bylaws or who is convicted of a crime (including felony, misdemeanor and lesser crimes) involving sexual misconduct, child abuse, violation of a law specifically designed to protect minors or similar offenses, or who is found by the Board of Review or the National Board of Review to have committed actions which would be the basis for a conviction and, in each case, the otherwise indemnifiable conduct (or failure to act) was, or was directly related to, the predicate acts of the conviction or finding.
- 12.3 INDEMNIFIED PERSONS - As used in this Article 12, "Indemnified Person" shall mean any person who is or was a Board Member, Board of Review Chairman, Vice-chairman, Presiding Officer or member, Group Member Representative, officer, official, coach, committee chairman or member, coordinator, volunteer, employee or agent of Metro, or is or was serving at the direct request of Metro as a director, officer, Group Member Representative, meet director, official, coach, committee chairman or member, coordinator, volunteer, employee or agent of another person or entity involved with the sport of swimming.
- 12.4 EXTENT OF INDEMNITY - To the full extent permitted by law, the indemnification provided in this Article shall include expenses (including attorneys' fees, disbursements and expenses), judgments, fines, penalties and amounts paid in settlement, and, except as limited by applicable laws, these expenses shall be paid by Metro in advance of the final disposition of such action, suit or proceeding. If doubt exists as to the applicability of an exclusion to Metro's obligation to indemnify, Metro may require an undertaking from the Indemnified Person obliging him to repay such sums if it is subsequently determined that an exclusion is applicable. In the case of any person engaged in the sport of swimming for compensation or other gain, if Metro determines that there is reasonable doubt as to such person's ability to make any repayment, Metro shall not be obligated to make any payments in advance of the final determination. This indemnification shall not be deemed to limit the right of Metro to indemnify any other person for any such expenses to the full extent permitted by law, nor shall it be deemed exclusive of any other rights to which any Indemnified Person may be entitled under any agreement, vote of members or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office.
- 12.5 SUCCESSORS, ETC. - The indemnification provided by this Article shall continue as to an Indemnified Person who has died or been determined to be legally incompetent and shall apply for the benefit of the successors, guardians, conservators, heirs, executors, administrators and trustees of the

1 Indemnified Person.
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5 **ARTICLE 13**
6 **PARLIAMENTARY AUTHORITY**
7

- 8 13.1 **ROBERT'S RULES** - The rules in the then current edition of Robert's Rules of Order Newly Revised
9 shall govern Metro and any of its constituent or component parts, committees, etc., in the conduct of
10 meetings in all cases to which they apply and in which they are not inconsistent with these Bylaws and
11 any special rules of order Metro, the House of Delegates, the Board of Directors or its divisions,
12 committees, etc., may adopt or as set forth in the next paragraph.
13
14 13.2 **VOICE AND VOTE** - Where in these Bylaws an Individual Member is described as having voice but
15 not the right to vote, that Individual Member may participate in debate and ask pertinent questions in
16 the discretion of the presiding officer, but may not make or second motions, orders or other proposals.
17
18 13.3 **SPECIAL RULES OF ORDER** - [This Section reserved for future use.]
19
20

21 **ARTICLE 14**
22 **PERMANENT OFFICE AND STAFF**
23

- 24 14.1 **OFFICE** - Metro shall maintain an office in the Territory for the storage and maintenance of the books
25 and records and equipment of Metro and for other purposes as may be determined by the House of
26 Delegates or the Board of Directors in accordance with these Bylaws.
27
28 14.2 **STAFF** - Metro shall retain paid staff at the Metro Office as the Board of Directors may determine to
29 be appropriate or necessary. The staff shall be under the general supervision of the General Chairman
30 and the Administrative Vice-chairman. With respect to delegated functions of the officers, committee
31 chairmen and coordinators, the staff shall be responsible to the respective officer, committee chairman
32 or coordinator. The powers and duties of the paid staff shall be established in Metro's Policies and
33 Procedures Manual, by resolution of the Board of Directors, by delegation approved by the Personnel
34 Committee, or as provided in these Bylaws.
35
36 14.3 **APPROPRIATIONS** - The Budget Committee shall include in its proposed budget a line item for the
37 costs of Metro's Office inclusive of the compensation and benefits costs of the paid staff. Once
38 appropriated by the House of Delegates, the Personnel Committee shall be responsible, together with
39 the General Chairman, for the administration of those funds. The compensation of the staff shall to the
40 extent possible be treated as confidential.
41
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43 **ARTICLE 15**
44 **MISCELLANEOUS**
45

- 46 15.1 **EFFECT OF STATE LAW CHANGES (SEVERABILITY)** - If any portion of these Bylaws shall be
47 determined by a final judicial decision to be, or as a result of a change in the law of the State of New
48 York become, illegal, invalid or unenforceable, the remainder of these Bylaws shall continue in full
49 force and effect.
50

- 1 15.2 FISCAL YEAR - The fiscal year of Metro shall end on August 31st of each year.
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 3
 4 15.3 TAX STATUS; INTERPRETATION OF BYLAWS - It is intended that Metro shall have and continue
 5 to have the status of an organization which is exempt from federal income taxation under section
 6 501(c)(3) of the IRS Code and to which contributions, bequests and gifts are deductible for federal
 7 income, estate and gift tax purposes under sections 170(c)(2), 2055(a)(2) and 2522(a)(2) of the IRS
 8 Code, respectively. Similarly, it is intended that Metro shall have that or similar status under the
 9 applicable state and local laws as will exempt it from taxation to the maximum extent possible to the
 10 extent not contrary to applicable federal requirements. These Bylaws shall be interpreted accordingly.
 11
 12 15.4 METRO SEAL - The Metro corporate seal shall be circular in form and shall bear the name of Metro
 13 and words and figures denoting its organization under the laws of the State of New York and the year
 14 thereof and otherwise shall be in such form as may be required the laws of the State, the
 15 Articles/Certificate of Incorporation or as shall be approved from time to time by the Board of
 16 Directors.
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20 **ARTICLE 16**
 21 **DEFINITIONS, CONVENTIONS AND RULES OF INTERPRETATION**

- 22
 23 16.1 CONVENTIONS AND RULES OF INTERPRETATION -
 24
 25 .1 TERMS GENERALLY - Whenever the context may require, any pronoun or official title shall
 26 include the corresponding masculine, feminine and neuter forms. The words "include",
 27 "includes" and "including" shall be deemed to be followed by the phrase "without limitation".
 28 The singular shall include the plural and the plural shall include the singular as the context may
 29 require. Where the context permits, the term "or" shall be interpreted as though it were
 30 "and/or". Captions have been used for convenience only and shall not be used in interpreting
 31 the Bylaws.
 32
 33 .2 CAPITALIZED TITLES - Capitalized titles, such as Secretary or Treasurer, when appearing alone
 34 shall refer to Metro positions and not to USS or another organization.
 35
 36 .3 PRINCIPAL RULE OF INTERPRETATION - The principal substantive rule of interpretation
 37 applicable to these Bylaws is set forth in Section 15.3.
 38
 39 .4 RULE OF INTERPRETATION APPLICABLE TO ARTICLE 10 - Article 10 shall be interpreted
 40 generously in order to achieve the intent expressed in Section 10.1.
 41
 42 .5 NOTICE DEEMED GIVEN; WRITINGS DEEMED DELIVERED; LAST KNOWN ADDRESS -
 43
 44 A Notice by Mail - Notice given and other writings delivered by first class mail, postage
 45 prepaid, and addressed to the last address shown on the records of Metro shall be deemed
 46 given or delivered upon the postmark date for all purposes under these Bylaws.
 47
 48 B Notice by Fax or Email - Notice given and writings delivered by facsimile or electronic
 49 mail shall be deemed given or delivered upon oral, telephonic, electronic or written
 50 confirmation of recipient for all purposes under these Bylaws.
 51
 52 C Notice by Telephone - Notice given by telephone shall be deemed given only when

1 actually transmitted to the person entitled thereto for all purposes under these Bylaws.
2 (Thus, for example, a message left on an answering machine or similar equipment or with
3 a person other than the intended recipient shall not be notice given prior to the actual
4 receipt by the intended recipient.)
5

6 D Last Known Address - For all purposes under these Bylaws, the last known address of a
7 member of Metro shall be the address given in the latest application for registration or
8 membership in Metro and USS filed with the Membership/Registration Coordinator; or
9 the address given in a written notice of change of residence filed with that Coordinator.
10 In all other cases the records maintained by the Secretary of Metro shall be used to
11 ascertain the last known address.
12

13 .6 TIME PERIOD CONVENTION - In computing time periods established by these Bylaws, the initial
14 time period (days or hours) shall not be included but the last period shall be included.
15

16 .7 WAIVER OF NOTICE CONVENTION - Untimely or insufficient notice for any meeting held under
17 the authority of these Bylaws shall be considered to have been waived if a member attends or
18 participates in the meeting to which such notice referred or to which notice was lacking without,
19 at the earliest opportunity, raising an objection of untimely or insufficient notice having been
20 given for such meeting. If the member is a Group Member Representative, then the relevant
21 Group Member shall be treated as having waived the untimely or insufficient notice to the same
22 extent.
23

24 16.2 DEFINITIONS - When used in these Bylaws, the following terms shall have the meanings indicated in
25 this Section, and the definitions of such terms are equally applicable both to the singular and plural
26 forms thereof. Where a cross reference to another Section of the Bylaws appears within a definition,
27 the definition is qualified by the more complete definition found in that Section. Additional definitions
28 applicable solely to Article 10 are set forth in Section 10.2. For an additional definition applicable
29 solely to Article 12 see Section 12.3:
30

31 .1 "Active Individual Member" shall mean an individual other than a Coach Member, or an Athlete
32 Member who is a trainer, manager, official, meet director, marshal, Board Member, At-Large
33 House Member, officer or committee chairman or member, coordinator, or a Group Member
34 Representative or alternate and any other individual actively participating in the affairs of Metro
35 or the sport of swimming and who is in good standing as an Individual Member of Metro and
36 USS. (See Section 2.1.2.A.)
37

38 .2 "Affiliated Group Member" shall mean any organization which supports the sport of swimming
39 and the objectives and programs of Metro and USS, but which does not have Athlete Members
40 and Coach Members, which is in good standing as a Group Member of Metro and USS, and
41 which is not a Club Member of Metro. (See Section 2.1.1.B.)
42

43 .3 "Affiliated Group Member Representative" shall mean the individual appointed to represent a
44 Affiliated Group Member in the House of Delegates. See Section 4.1.1.
45

46 .4 "Affiliated Individual Member" shall mean any individual interested in the objectives and
47 programs of Metro who resides, formerly resided or participated in the sport of swimming in the
48 Territory, who is in good standing as a member of Metro and USS and who is not an Active
49 Individual, Athlete or Coach Member. (See Section 0.)
50

51 .5 "Article" shall mean the principal subdivisions of these Bylaws.
52

53 .6 "Certificate of Incorporation" shall mean the document filed with the Secretary of State of the

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State of New York pursuant to which Metro was formed.

- .7 "At-Large House Member" shall mean the Individual Members appointed by the General Chairman to be members of the House of Delegates. (See Section 4.1.2.)
- .8 "Athlete Member" shall mean any individual who competes or has competed during any part of the three (3) immediately preceding years in the sport of swimming and is in good standing as an Individual Member of Metro and USS. (See Section 2.1.2.A.)
- .9 "Athlete Representative" shall mean the Athlete Member elected to represent athletes in the House of Delegates and on the Board of Directors pursuant to Section 4.1.3.
- .10 "Board Member" shall mean a member of the Board of Directors. Where the contexts requires, the term shall not include the Athlete Representatives or the Coach Representative.
- .11 "Board of Directors" shall mean the Board of Directors of Metro.
- .12 "Board of Review" shall mean the investigative and judicial body of Metro established pursuant to Section 10.3.
- .13 "Business Day" shall mean a calendar day which is not a Saturday, a Sunday or a legal federal or state holiday anywhere within the Territory.
- .14 "Bylaws" shall mean these bylaws as adopted by, and in effect for, Metro.
- .15 "club" shall mean an organization that has athletes and coaches engaged in the sport of swimming.
- .16 "Club Member" shall mean any club or other organization which is in good standing as a Group Member of Metro and USS and has athletes and coaches and participates in the sport of swimming. All athletes and coaches of the club or organization must be Individual Members in good standing with Metro and USS. (See Section 2.1.1.A.)
- .17 "Club Member Representative" shall mean the individual appointed to represent a Club Member in the House of Delegates pursuant to Section 4.1.1.
- .18 "Club Safety Coordinator" shall mean the Active Individual Member designated by each Club Member to serve as its liaison with Metro and USS concerning safety matters. (See Section 2.2.3.)
- .19 "Coach Member" shall mean any individual, whether or not affiliated with a Group Member, who has satisfactorily completed all safety and other training required by Metro and/or USS and who is in good standing as a member of Metro and USS. (See Section 4.1.4.)
- .20 "Coach Representative" shall mean the Coach Member elected to represent the coaches in the House of Delegates and the Board of Directors. (Section 4.1.4.)
- .21 "Executive Committee" shall mean the committee of the Board of Directors which may act for the Board of Directors between meetings. (See Section 5.7.)
- .22 "FINA" shall mean the Federation Internationale de Natation Amateur, the international governing body for the sport of swimming.

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- .23 "Group Members" shall mean Club Members and Affiliated Group Members.
 - .24 "Group Member Representative" shall mean the individual appointed to represent a Group Member in the House of Delegates. See Section 4.1.1.
 - .25 "House of Delegates" shall mean the House of Delegates of Metro as established by Article 4 of these Bylaws.
 - .26 "Immediate Past General Chairman" shall mean the individual who is the immediate past General Chairman of Metro, except when that person became immediate past General Chairman by virtue of the House of Delegates taking action pursuant to Section 4.4.10, the Board of Directors taking action pursuant to Section 5.6.10 or the House of Delegates failing to reelect that person to another term sought by that person. The Immediate Past General Chairman shall serve for the duration of the successor General Chairman's term. If the office of Immediate Past General Chairman becomes vacant for any reason, including the exception set forth in the initial sentence of this definition, it shall not be filled by appointment or election, but shall remain vacant until another individual becomes Immediate Past General Chairman.
 - .27 "Individual Members" shall mean Athlete Members, Coach Members, Active Individual Members, USS Life Members and Affiliated Individual Members.
 - .28 "IRS Code" shall mean the United States Internal Revenue Code of 1986, as amended from time to time, or the corresponding provision of any future United States internal revenue law, and shall, when appropriate, also include a reference to the Treasury Regulations issued thereunder.
 - .29 "Life Member" shall mean any individual who is a life member of USS and a member of Metro and who resides, formerly resided or participated in the sport of swimming in the Territory and who is in good standing as a member of Metro and USS. (See Section 2.1.2.E.)
 - .30 "Local Swimming Committee" or "LSC" shall have the meaning ascribed thereto in the USS Code. Metro is a Local Swimming Committee.
 - .31 "Member" shall mean a Group Member or an Individual Member.
 - .32 "Metro" shall mean the New York not-for-profit corporation to which these Bylaws pertain.
 - .33 "Metro Office" shall mean the permanent office of Metro maintained in accordance with Article 14.
 - .34 "National Board of Review" shall mean the Board of Review of USS established pursuant to Part Four of the USS Code. Where the context requires, a reference to the National Board of Review shall include a reference to the USS Board of Directors when that body is acting upon an appeal from the National Board of Review.
 - .35 "Nominating Committee" shall mean the committee of the House of Delegates charged with nominating candidates for elective offices of Metro. (See Section 4.8.)
 - .36 "Policies and Procedures Manual" shall mean the policies and procedures in the Guidebook of Metro, as amended, adopted by the Board of Directors or the House of Delegates.
 - .37 "Parliamentary Authority" shall mean the authority and any special rules of order designated in Article 13.

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- .38 "Section" shall mean the subdivisions of the Articles of these Bylaws.
- .39 "Senior Athlete Representative" shall mean the Athlete Representative senior in term of office or, in cases where there are more than two Athlete Representatives, the Athlete Representative designated in accordance with Section 4.1.3.
- .40 "Standing Committee" shall mean a committee of Metro listed in Sections 7.1, 7.2 or 7.3.
- .41 "Territory" shall mean the geographic territory over which Metro has jurisdiction as a Local Swimming Committee. (See Section 1.3.)
- .42 "USS" shall mean United States Swimming, Inc., an Ohio not-for-profit corporation which is the national governing body for the United States for the sport of swimming.
- .43 "USS Board of Directors" shall mean the Board of Directors of USS.
- .44 "USS Code" shall mean the code of rules and regulations, as adopted and amended by USS.
- .45 "USS House of Delegates" shall mean the House of Delegates of USS.
- .46 "USS Legislation Committee" shall mean the Legislation Committee of USS created pursuant to Article 512 of Part Five of the USS Code.
- .47 "USS Legislation Sub-committee" shall mean the sub-committee of the Legislation and Redistricting Committee of USS created pursuant to Section 6202 of Part Six-C of the USS Code.
- .48 <The remainder of this page intentionally left blank.>

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1
2 APPENDICES TO THE LSC BYLAWS

3
4 APPENDIX A

5
6 QUESTIONS AND ANSWERS ABOUT RESOLVING DISPUTES

7
8
9 INTRODUCTION

10
11 The form of the LSC Bylaws was revised by USS in September of 1995. However, the basic
12 structure used for resolving disputes has not changed. Members of USS who disagree with a decision or an
13 action taken by a meet official or any other LSC officer or who have a swimming-related dispute with another
14 member may appeal that decision, or may submit that dispute, for resolution to the LSC Board of Review
15 (formerly, the Review Section). The Board of Review is responsible for resolving these disputes quickly, fairly
16 and with *due process*.

17
18 The purpose of this Appendix is to help with the details of preparing and filing protests and
19 appeals, and handling a protest as a Board of Review member. Violation and interpretations of the rules and
20 regulations of USS and the LSC can have serious consequences or involve relatively minor matters. The
21 consequences can range from being barred from Olympic competition for drug use to whether a club should be
22 penalized for being slow in distributing final meet results. Yet, to the people involved, each dispute, each
23 incident is just as important as the other.

24
25 Because serious matters are being handled by the Board of Review, the Bylaws have been
26 expanded and made more comprehensive. Many of the sections may appear to be written in "legalese," but that
27 was done to insure that--as much as possible--they would be interpreted uniformly, consistently and correctly.
28 While the language may be technical, the ideas behind the ByLaws' Board of Review provisions are simple and
29 basic. Anyone with a problem should get a fair, impartial hearing and have the problem resolved promptly and
30 with *due process*.

31
32 The rules and procedures in Article 10 of the Bylaws are meant to provide:

- 33
34
- a quick and effective remedy for the Protester and the Respondent;
 - a hearing by objective unbiased persons, at first a panel of the elected members of the Board of
35 Review, consisting of at least three people (Article 10.5.1 B);
 - several levels of appeal are provided; from the initial Board of Review panel to a rehearing by
36 all the members of the Board of Review (or at least seven people, Section 10.5.2); from a
37 rehearing decision to a National Board of Review (Section 10.9); to an appeal to the United
38 States Olympic Committee under its Constitution in cases where an athlete is denied the right to
39 compete in international competition.
- 40
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43

44 COMMON QUESTIONS ASKED ABOUT PROTESTS AND THE BOARD OF REVIEW PROCESS

45
46 WHAT IS DUE PROCESS?
47

1 Due process is the administration of applicable rules and regulations so that no member is
2 denied his or her legal rights and the application of those rules and regulations in conformance with the
3 fundamental and accepted legal principles. It is the way you would want to be treated if you were charged with
4 misconduct. It includes:
5

- 6 • Notice, in writing, if at all possible, of the specific things that you are being charged with doing
7 or not doing;
- 8 • The opportunity to defend yourself against the charges;
- 9 • A reasonable amount of time to prepare and present your position;
- 10 • The right to have an attorney represent you, if you wish;
- 11 • A hearing before disinterested, fair and knowledgeable persons at a time and under
12 circumstances that give everyone a full and fair opportunity to present their position;
- 13 • Notice of how to appeal from a decision that you feel is wrong.

14 15 16 WHAT KIND OF PROTESTS CAN BE DECIDED BY THE LSC BOARD OF REVIEW? 17

18 The responsibility of the Board of Review is broad but does not cover every possible dispute
19 that might come up. If a decision is made which affects your ability to compete in swim meets or how you place
20 in swim meets and you think the decision is wrong you may appeal to the Board of Review. If you are
21 prevented from participating in the administration of the sport of swimming or being an official you may appeal
22 to the Board of Review. If a decision is made by the LSC that affects your ability to coach swimmers you may
23 appeal to the Board of Review. There are some matters that should be submitted directly to the National Board
24 of Review. Read Sections 10.4.1, 10.4.2 and 10.1 and Sections 401.2 and 401.3 of Part Four of the USS Code
25 to determine where your appeal should go. Remember that the Board of Review does not involve itself in
26 disputes involving the administration of individual clubs unless it affects the ability of members to participate in
27 competition.
28
29

30 WHAT KIND OF PROTESTS WILL BE DECIDED BY THE NATIONAL BOARD OF REVIEW? 31

32 Section 401.3 lists the kinds of protests that may, or in some cases, must go directly to the
33 National Board of Review. They include, most matters where members of more than one LSC are involved,
34 matters which come up at a regional, national or international swimming competition; matters involving moral
35 turpitude, and matters in which the National Board of Review determines that a fair hearing will not be held
36 quickly enough at the LSC Board of Review level to do justice to the affected parties.
37
38

39 HOW DO I CONDUCT A BOARD OF REVIEW HEARING? 40

41 The new Bylaws have expanded the sections that explain hearing procedures. The By- Laws
42 now provide a step by step outline of the steps to be taken and procedures to be used when a protest occurs
43 (Sections 10.5 and 10.6). The purpose of the Article remains the same, *i.e.*, to give **due process to any**
44 individual or **any** entity, club or organization participating in **any** activity of any kind of the LSC or United
45 States Swimming - not just athletes, but coaches, officers, committee chairmen and members, officials, clubs
46 and all classes of members as well.
47

48 The process can be summarized as follows:
49

50 A The Protester must give a written protest to the Chairman of the Board of Review. (See
51 Section 10.6.1 A.) [If the LSC has a filing fee, this should be noted here.] (Check to see if your LSC has an
52 office that will transmit the protest to the Chairman of the Review Section and follow up to find out when the
53 Chairman actually received the protest.)

1
2 B The Chairman of Board of Review *may* have an investigation made to see if the dispute
3 can be resolved before a hearing. It is not unusual to have disputes cleared up when an impartial party listens to
4 both sides and tries to mediate a dispute. This kind of informal resolution is to be encouraged.
5

6 C A written Notice must be prepared and delivered by the Chairman to the Respondent.
7 (See Section 10.6.1 B and the suggested form of Notice which is in Appendix B.)
8

9 D Written statements of position may be filed by all parties to the appeal. (See Section
10 10.6.1 C and D.)
11

12 E A hearing must be scheduled by the Chairman to take place within 74 days from the date
13 when the Chairman of the Board of Review received the Protest.
14

15 F A hearing may be held (if **everyone** involved agrees the protest can be considered on the
16 written statements that have been submitted without a formal hearing). Use common sense in conducting the
17 hearing. (See Sections 10.5.1 D and 10.6.1 E.) Make all parties feel that they have a fair chance to state their
18 position and that the Board has an open mind as it listens to their position. In all events **give the athlete the**
19 **benefit of the doubt!**
20

21 G The Board of Review must decide the matter within ten (10) Business Days of the
22 conclusion of the hearing. (If time is not critical, it may be advantageous to delay the decision for a few days
23 after the hearing to give full consideration to all the facts presented in a hearing rather than making a ruling
24 immediately upon conclusion of the hearing.)
25

26 H The Board must send copies of its decision to the parties involved and certain
27 administrators. See Section 310.6.1 F of Part Three of the USS Code and Section 10.6.2 D of the Bylaws as to
28 who must get copies of the decision.
29

30 I The parties must be given a statement telling them what they must do to appeal the Board
31 of Review's decision and how long they have to appeal.
32

33 THE MEET DIRECTOR JUST TOLD ME THAT MY SWIMMER'S PROOF OF TIME IS NOT
34 ADEQUATE AND THE SWIMMER WON'T BE IN THE EVENT LATER THIS MORNING. THE MEET
35 DIRECTOR IS WRONG AND WE CAN'T WAIT FOR A HEARING FROM THE BOARD OF REVIEW.
36 WHAT DO I DO?
37

38 First, you should review the meet information to see if it provides for any kind of appeal such as
39 the Eligibility Jury provided for at the National Championships. (Article 206.5, Part Two of the USS Code.) If
40 you still believe your swimmer is being improperly kept out of the meet you should ask for an emergency
41 hearing from the Board of Review. The Bylaws give the Board of Review a great deal of flexibility in handling
42 emergency situations. Get on the telephone to the Chairman of the Board of Review or the LSC General
43 Chairman and make arrangements to set up an emergency hearing under Section 10.6.2 of the Bylaws.
44

45 The Federal law which created National Sports Governing Bodies such as United States
46 Swimming states that an athlete cannot be suspended from competition, *even temporarily*, without a hearing.
47

48 Members of the Board of Review should keep in mind their responsibility to conduct emergency
49 hearings whenever they are at a swim meet and should alert the Meet Manager of their presence. The Chairman
50 of the Board of Review should always make arrangements in advance to see that a panel can be available at
51 championship meets.
52

53 A meeting at the swim meet or an exchange of information by telephone and fax can be

1 arranged to permit a timely decision even if the athlete must compete under protest. (See Section 102.11 of Part
2 One of the USS Code.)

3
4 After the meet is concluded, a full formal hearing may be conducted at the request of the
5 Protester or the Respondent.

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APPENDIX B

FORM OF BOARD OF REVIEW NOTICE

SAMPLE NOTICE OF HEARING UNDER SECTION 10.6.1 B

(Form may, and should, be modified to fit the actual circumstances)

NOTICE OF HEARING

To:

[INSERT RESPONDENT'S NAME AND MAILING ADDRESS]

SUBJECT:

You are charged with having committed the following acts [or with having failed to act in circumstances] which are detrimental to the objectives, programs or ideals of United States Swimming and which tend to bring disrepute upon the sport of swimming:

[Insert details of charge; may be a summary if Protest is unnecessarily lengthy.]

This charge is based upon a protest that was filed by [Insert Protester's name and address and the name and address of Protester's counsel, if any]. Attached hereto is a copy of the Protest filed with Metropolitan Swimming, Inc. Board of Review.

ANSWER:

You are requested to file an answer in writing to these charges with the Presiding Officer of the Board of Review whose mailing address is [Insert Name and Address of the Chairman of the Board of Review or other person designated as the Presiding Officer in this case]

and to

[Insert Protester's name and address or that of its counsel, if so requested.]

at least ten (10) days prior to the date of hearing that is set in this Notice of Hearing. The hearing will proceed whether or not you file this reply. (See Sections 10.6.1 C and 10.10.2.)

HEARING DATE, TIME AND PLACE:

The initial date set for the formal [or other type - see Section 10.5.1 D] hearing is (insert date, time and place of hearing) or to such other date, time or place as the Presiding Officer continues, adjourns or reschedules the hearing. You are requested to appear at that time with counsel and any witnesses. [This part would need to be rephrased if the proceeding were to be conducted entirely in writing or in writing with only oral argument at a hearing.]

HEARING AUTHORITY:

The power and authority of Metropolitan Swimming, Inc. Board of Review is established in, and this hearing shall be held pursuant to, Article 10 of the Bylaws of Metropolitan Swimming, Inc. A copy of Article 10 is enclosed for your information.

1 **HEARING BODY:**
2

3 The hearing body will be the three member panel of the Board of Review of Metropolitan
4 Swimming, Inc. [insert names of members of the Board of Review designated to serve on this panel] or such
5 other persons as are appointed pursuant to the Bylaws of Metropolitan Swimming, Inc.
6 [This should be rephrased if the initial panel is of more than three or is the full Board of Review.]
7

8 **POSSIBLE PENALTIES:**
9

10 The Protester has requested that (here insert what the protester has asked for). In addition the
11 Board of Review has a broad range of sanctions, penalties and suspensions that it may impose on you if it
12 believes that such are appropriate either in addition to or in lieu of those that the protester is seeking. (See
13 Section 10.4.5.)
14

15 **APPEAL:**
16

17 If you are dissatisfied with the decision, you must file a request for a rehearing before the full
18 Board of Review within ten (10) Business Days of your receipt of the decision, unless the initial panel was the
19 full Board of Review or had seven members. (See Section 10.5.2) The request must be filed with the Chairman
20 of the Board of Review [here give name and address]. [If your LSC has imposed a filing fee applicable to a
21 request for a rehearing, this should be noted here.] Your request must be granted if the decision was rendered
22 by a panel of fewer than seven members and the decision was not unanimous. Otherwise the Board of Review
23 may either grant or deny a rehearing in its discretion. If the decision is not subject to a request for a rehearing, a
24 rehearing request is denied or the decision is the decision on a rehearing, an appeal may be made to the National
25 Board of Review. The appeal must be filed with the USS Executive Director along with an appellate filing fee
26 of \$50.00 within thirty (30) Business Days after the postmark date of written notice of the decision of the Board
27 of Review. (Section 10.9.) The address of the USS Executive Director is United States Swimming, Inc., One
28 Olympic Plaza, Colorado Springs, CO 80909-5770.
29

30 **GENERAL INFORMATION:**
31

32 You are entitled to be represented by counsel at your own cost, or by such other representative
33 as you may choose, to have witnesses testify in your behalf, to question witnesses testifying at the hearing and to
34 submit any and all evidence in your defense, including hearsay and documentary evidence, so long as it is
35 relevant to the issues. You are entitled to ask that the hearing date be rescheduled so that you may attend, secure
36 witnesses or otherwise respond. Please direct all questions or correspondence to Chairman of the Board of
37 Review of Metropolitan Swimming, Inc., [insert name] at [insert mailing address].
38

39 Dated (Insert date on which notice is mailed)
40

41
42 Signed _____
43 Chairman of the Board of Review
44

45 [If the notice is signed by the designated Presiding Officer, the title line should be changed accordingly.]
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1 **Changes to by-laws**

2
3 As of October 20, 2007, in compliance with notification from Bruce Stratton, Chair, Rules &
4 Regulations Committee, and pursuant to adoption of R-29 by the USA Swimming House of
5 Delegates on September 29, 2007, the following changes were made on page 31:

6 Article 10, BOARD OF REVIEW, HEARINGS AND RIGHT OF APPEAL

7 - - -

8 10.3 BOARD OF REVIEW ORGANIZATION

9 .1 ESTABLISHMENT - [unchanged]

10 .2 MEMBERS – The Board of Review shall have at least six (6) regular members and at least
11 three (3) alternate members. The Board of Review, and any panel hearing a case, shall have a
12 sufficient number of athlete members to constitute at least 20% of its membership. The House - - -
13 of any incumbent members. When a matter is being heard by less than the full Board of Review,
14 the panel hearing the case shall include a sufficient number of athlete members so as to constitute at
15 least 20% of the hearing panel. No hearing shall proceed without the required athlete
16 representation.
17